



49th EIFCA Statutory Meeting

To Be Held at:

Assembly Room, Kings Lynn Town Hall, Saturday Market Place, Kings Lynn,
Norfolk, PE30 5DQ

Attendance by members of the public will be managed to account for COVID-19 safeguards. Anyone wishing to attend as spectators should contact Eastern IFCA on 01553 775321 or via e-mail: mail@eastern-ifca.gov.uk.

**Wednesday
14th September 2022**

1000 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: **49th Eastern IFCA Meeting**

Date: 14th September 2022

Time: 1000hrs

Venue: Assembly Room, Kings Lynn Town Hall, Saturday Market Place, Kings Lynn, Norfolk, PE30 5DQ

Revised Agenda

- 1 Declaration of Members' interests – *Chair / Senior IFCO (Regulation)*
- 2 To resolve that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for item 3 on the grounds that it involves the likely disclosure of exempt information, in this case legal advice provided to officers regarding the replacement of the Wash Fishery Order 1992 and associated matters, as defined in Schedule 12A of the Act
- 3 Wash Fishery Order replacement update – *CEO / Senior IFCO (Regulation)*

Members of the public will not be admitted to the meeting until the conclusion of agenda item 3

- 4 To accept apologies for absence – *Chair*

Action items

- 5 To receive and approve as a true record, minutes of the:
 - a. 48th Eastern IFCA Meeting, held on 8th June 2022 – *Chair*
 - b. Extraordinary Eastern IFCA Meeting, held on 7th July 2022 – *Chair*
- 6 Matters arising (including actions from previous meetings) – *Clerk*
- 7 To receive a report to consider Health and Safety risks and mitigation – *Hd Operations*
- 8 To receive a report on the meeting of the Finance and HR sub-committee held on 2nd August 2022 - *Hd Finance & HR*
- 9 Wash Cockle and Mussel Byelaw 2021 – managing access – *Senior IFCO (Regulation)*
- 10 Wash Fisheries Transition and Wash Fisheries Appeals sub-committees – *CEO*
- 11 Wash cockle fishery update – *Hd Operations / Senior MSO (Research)*
- 12 Annual report 2021-2022 – *CEO*
- 13 Quarterly review of annual priorities and Risk Register – *CEO*

Information items

- 14 CEO update (verbal) – *CEO*
- 15 Head of Operations update
 - a. Marine Protection (verbal)
 - b. Marine Science Quarterly report

Any other business

- 16 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
6th September 2022

48th Eastern IFCA Meeting

“Eastern IFCA 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”.



A meeting of the Eastern IFCA took place on Wednesday 8th June at 1000 hours in the Assembly Rooms, King's Lynn Town Hall.

Members Present:

Cllr T FitzPatrick	(Chair)	Norfolk County Council
Cllr M Vigo Di Gallidoro	(Vice Chair)	Suffolk County Council
Cllr E Back		Suffolk County Council
Mr S Bagley		MMO Appointee
Mr I Bowell		MMO Appointee
Cllr Chenery of Horsbrugh		Norfolk County Council
Cllr P Coupland		Lincolnshire County Council
Mr J Davies		MMO Appointee
Mr P Garnett		MMO Appointee
Mr T Goldson		MMO Appointee
Ms J Love		Natural England Representative
Mr J Rowley		MMO Representative
Ms I Smith		MMO Appointee

Eastern IFCA (EIFCA) Officers Present:

Matt Breathwick	IFCO
Jon Butler	Head of Operations
Jason Byrne	IFCO
Luke Godwin	Senior IFCO (Regulation)
Julian Gregory	Chief Executive Officer (CEO) & Clerk
Elena Jaxtheimer	Marine Science Officer
Ron Jessop	Senior Marine Science Officer
Fletcher Noble	Marine Science Officer
Judith Stoutt	Senior Marine Science Officer

Minute Taker:

Jodi Hammond

EIFCA22/20 Item 1: Election of the chair

The Clerk to the Authority requested nominations for the role of Chair. One nomination was received.

Members Resolved to elect Councillor FitzPatrick to the role of Chair of the Authority.

Proposed: Cllr Chenery or Horsbrugh
Seconded: Cllr Vigo Di Gallidoro
All Agreed
Cllr FitzPatrick took the Chair

EIFCA22/21 Item 2: Welcome

The Chair welcomed both members and the large number of representatives from the fishing industry who were present in the public gallery.

EIFCA22/22 Item 3: Apologies for Absence

Apologies for Absence were received from Cllrs Adam (NCC), and Skinner (LCC), Dr I Hirst (EA Representative), Ms Davey, Messrs Mogford and Williamson (MMO Appointees).

EIFCA22/23 Item 4: Election of the Vice-Chair of the Authority

One nomination was received for the role of Vice-Chair of the Authority.

Members Resolved to elect Councill Vigo Di Gallidoro to the position of Vice-Chair of the Authority
Proposed: Cllr Chenery of Horsbrugh
Seconded: Mr T Goldson
All Agreed

EIFCA22/24 Item 5: Declarations of Members Interest

Members were reminded pre-recorded Declarations of Interest had been noted, those affected would be able to comment on agenda items affected but not vote.

No additional Declarations of Interest were put forward.

In view of the large numbers present in the public gallery the Chair asked everyone seated around the main table to introduce themselves.

EIFCA22/25 Item 6: Minutes of the 47th EIFCA Meeting, held on 8th March 2022

Members Resolved these were a true record of the meeting.
Proposed: Cllr Chenery of Horsbrugh
Seconded: Cllr Vigo Di Gallidoro
All Agreed

EIFCA22/26 Item 7: Matters Arising (including actions from previous meeting)

The CEO updated members on the following:

EIFCA22/08 BUSINESS PLAN: Metrics being drawn up by Defra for the continuation of funding in conjunction with AIFCA were still not

complete but would be added to the Business Plan once they were concluded.

EIFCA22/09 WASH MUSSEL FISHERY: The handwork mussel fishery had been opened and the TAC expended. Opening of the dredge mussel fishery would be addressed under the Agenda item relating to the 2022 cockle fishery.

EIFCA22/10 WASH FISHERIES ECONOMIC ASSESSMENT: Members were advised the Assessment report was available on the website.

EIFCA22/11 WASH COCKLE & MUSSEL PERMIT BYELAW 2021: There were some minor amendments to be made, it was anticipated consultation would commence the following week.

EIFCA22/27 Item 8: Health & Safety Risks and Mitigation

The Head of Operations advised Covid measures had been scaled back, officers were no longer undertaking regular Lateral Flow Tests, although they continued to be a requirement for anyone working in confined spaces such as onboard vessels. Anyone testing positive would be expected to work from home.

During the last quarter there had been 5 incidents reported one had resulted in an officer being taken to A&E and two required minor first aid.

Effective risk assessments and associated mitigation measures were in place for most activities there was ongoing work to assess risks associated with working on ladders on quaysides.

Members Agreed to note the content of the report.

EIFCA22/28 Item 9: Meeting of the Finance & HR Sub-Committee held on 3rd May 2022

The Head of Finance & HR advised all the relevant information was included in the papers provided.

Members Agreed to note the report

A number of industry members had attended in the public gallery and had protested outside the meeting venue about the work of Eastern IFCA. The group asked if some of their number could address the Authority directly and the Chair allowed five to do so (NB the Chair initially allowed a smaller number but due to the insistence of industry members present ultimately allowed all five to speak):

Mr David Chambers objected to the introduction of iVMS and asked why whelks were managed and required a permit to fish. He also asked why

Eastern IFCA weren't talking to industry about cockles and said that if they are left, they would die and concluded by calling for a vote of no confidence in Eastern IFCA.

Mr Wayne Brewster said that he didn't think that Eastern IFCA were getting the views of industry, that industry was being by-passed and that he wanted co-management. He said that he had asked for a meeting regarding the byelaw to replace the WFO but subsequently found the byelaw had been sent for Q&A to Defra with no consultation. He felt that vessel costs were high, that the current fisheries couldn't sustain fishermen and that once skilled fishermen left, they wouldn't return. He demanded that the Authority arrange a meeting with industry representatives and said they had failed to do so previously.

Mr Neil Lake introduced himself as the owner of a processing factory and 10 vessels. He described fishing as being the worst it's ever been due to such issues as the climate and cost of living and said that this had been exacerbated by Eastern IFCA. He said that the cockle survey was carried out too early, in March whereas the Le Strange fishery survey started in June. With regard to shrimp, he wanted the permit year to start in January, but it would run from August, which would mean that the fishery could be closed for six months. He said there was too much 'red tape' such as nil returns for no fishing. Overall, he thought there needed to be a reset.

Ms Ashley Mullenger read a pre-prepared letter from Wells and District Fisherman's Association. She said that not opening the Wash cockle fishery would be disastrous for those concerned and would also have a knock-on effect for the wider fishing community. She expressed concerns about the loss of skills in the catching sector in the context of it being difficult to attract new entrants to the industry. She was concerned about whelk fishing being restricted in the Wash resulting in more effort in areas fished by other industry members and asked what measures would be introduced in addition to iVMS to manage this. She said that consultation with industry was important and concluded by saying that consultation had been poor and that there was little consideration of the impact upon the fishing industry.

Mr Paul Lines introduced himself as being from the Lowestoft Fishmarket Alliance. He said that there was no industry in Lowestoft any more due to mismanagement and he could see other ports losing their industry. He saw Eastern IFCA as spending millions of pounds of taxpayer's money on mismanagement and abject failure. On cockles he questioned whether the science was right and said that if IFCA wants to close the fishery then men will be gone as they have got families to feed. A more practical approach was needed and Eastern IFCA need to remember they work for the industry, they are appointed and paid by the taxpayer.

The Chair thanked them for their contribution and making Members aware of their views. He advised that he and Cllr Skinner had met with local MPs regarding the issues with the cockle fishery and to investigate any available help for the fishing

industry in this area. He emphasised that the Wash was a highly regulated area and decisions must be made in accordance with the regulations and statutory duties.

Following the points made by the industry members, which questioned the level of consultation made with the Industry, the CEO advised the consultation process for the Wash cockle and mussel byelaw was extensive and duplicated. He recognised the importance of face to face meetings, however he believed small meetings were more productive, a series of in person meetings with small groups had been offered but the industry had chosen not to attend during the first such consultation. During the second consultation some chose to attend, which had been productive. Throughout much of the process there had been regular 'without prejudice' meetings with the professional representatives of the Wash fishing industry and their views had been taken into account.

Mr Davies felt it was apparent the industry wanted to meet face to face with Officers, it seemed the majority of them didn't look at the website to find information, there needed to be more interaction and the strength of feeling amongst the industry needed to be addressed.

The CEO acknowledged there were difficulties faced by the industry and was conscious of the difficulty that not opening the cockle fishery would create. He said that the supporting explanations would provide clarity on why there may not be a cockle fishery, the need for additional management measures in the whelk fishery as well as the necessity for iVMS to be brought in ahead of the national rollout.

EIFCA22/29 Item 10: Wash Cockle Fishery

Senior MSO Jessop presented members with the results of the 2022 cockle surveys which had been carried out between March 17th and April 30th, he acknowledged this was prior to any growth spurt but advised that as the annual surveys were always carried out at this time it gave a true comparison of figures on which to assess whether the stock levels would meet the Conservation Target Objective. The whole management structure was based on stock being assessed at the same time each year. It was also done relatively early to ensure if there was sufficient stock for a fishery it could open in June.

Members were advised 1043 sample stations had been surveyed, the sampling process and the results were explained. The result indicated that if the year 0 cockle were removed from the total stock it would leave the available stock below the threshold in the bird food model. As the Wash is a SSSI there is an obligation to meet Conservation Objective Targets which ensure there is sufficient food for over-wintering birds. Most recent data suggested there were 26,586 oystercatchers reliant on Wash mussel and cockle to make up about 80% of their diet. This number was higher than previous years which explained why additional stock was required to meet the requirements of the Bird Food Model, which equated to 40kg of ash free dry mass per bird to prevent mortality exceeding 2%. The calculations used to

ascertain stock required to meet this level did not include small (year 0) cockles.

It was believed a HRA would prevent a fishery from opening as the indication would be significant risk to the oystercatcher population.

Members were advised that whilst the SSSI covers the whole of the Wash only the stock on the public beds was taken into account when looking to open a fishery as the stock in private fisheries could not be managed.

Members questioned why the 2022 situation was so different from previous years when there had been similar stock levels, apart from the additional bird food requirement, there was concern that the very low density of available stock would leave year 0 cockle vulnerable to being fished which would leave no stock for future years.

The possibility of a further cockle surveys was raised and whether it might highlight additional tonnage that could allow a small fishery. It was accepted there might be small dense patches that fell between the sample sites, the industry had already been asked to notify EIFCA if they came across any such sites in order for them to be assessed, but for it to be of any impact on the overall stock it would need to be cockle that EIFCA was not already aware of. This had proved useful in the past when notification of an area of cockle on Friskney in 2019 had resulted in an area of additional stock being opened for fishing later in the year.

Industry members expressed their concern that the welfare of the birds was being put before their own livelihoods and the impact that closure of a fishery could have on the fishing industry in the long term.

Members were advised that the Bird Food Model did take account of birds being able to feed on the land but due to the nature of the oystercatcher it was believed that 80% of their diet consisted of mussel and cockle. Ms Love advised that NE had a remit to protect the features of the site.

The CEO advised that whilst not meeting the biomass threshold in the Bird Food Model effectively precluded a fishery, it was important to recognise that the low levels and density of adult cockles was also a driver for not opening the fishery. Industry representatives did not feel EIFCA could decide what density of cockle would be viable, if the cockle price was particularly high there wouldn't be the need for so much stock. They were also frustrated that areas had been closed the previous year to enable a fishery this year, which had proved ineffective, and they believed the industry needed more input to the management of the stocks.

SMSO Jessop acknowledged that areas of cockles on slower growing beds were closed during the previous year in the hope it would provide a fishing opportunity in the current year. Unfortunately, mortality occurred in those areas resulting in the patches of cockle being thin, however they had boosted the overall TAC and had it been possible to meet the BFM threshold then a small fishery might have been possible. Members were also reminded that in 2020 beds on the Dills, Toft and Inner Westmark Knock had been closed, the outcome of which was that they formed the bulk of the 2021 fishery.

At this point Ms Smith left the meeting.

Mr Davies questioned whether it was possible for members of the fishing industry sitting in the public gallery to make a contribution. It was pointed out that the meeting had to be held in accordance with the Constitution and Standing Orders and that the Chair has the ability to allow members of the public to make a contribution, which had already been done. The decision was taken to suspend the meeting for 10 minutes to allow Authority Members to speak to industry representatives in the Public Gallery.

The Meeting was suspended at 1132 hours and resumed at 1202 hours.

Mr Garnett advised that he had already expressed his concern about the Bird Food Model, in the past stocks had been sufficient for it not to impact on the cockle fishery, he believed it was time for the BFM to be re-looked at with consideration being given to taking account of Year 0 cockles which by the Autumn would be of a size suitable for bird food. He believed that if the spring cockle data was rolled forward using information of cockle growth there could potentially be a fishery this year. Mr Garnett also queried whether the data on bird numbers was accurate.

The CEO reminded members that even without the issue of bird food there remained the question of whether the stock was sufficient to support a fishery. He advised that there had already been some engagement with a small group of fishing industry members and with Natural England about the BFM and suggested that if EIFCA, the fishing industry and NE could get together there may be potential for a very small fishery with small patches of cockles available to pursue, which might prevent a loss of skill from the industry due to lack of fishery opportunity.

Ms Love advised that the BFM was written in such a way that growth during the season was taken in to account, but it may be possible to explore the inclusion of year 0 stock. Referring to the number of oystercatchers, Ms Love advised that numbers were high this year but there was no data since 2019. It was anticipated the 2021/2022 count data would be available by the end of July, if data indicated a decline in bird numbers it would mean less stock needed to be put aside for the birds.

Members debated the accuracy of the bird count, when it took place, the possibility of birds being counted twice and the potential make-up of their diet coming from elsewhere.

Mr Bowell remained uncertain that EIFCA had a full evidence base on which to make the decision not to open the fishery, Mr Goldson also remained concerned and ask how it could be possible to make some tonnage available for the industry to fish.

The CEO advised that if the industry can locate areas of ground which have not already been surveyed that contain cockle stock EIFCA will be happy to go and assess it. If additional stock was identified, it may be possible to recommend a small fishery.

Cllr Vigo Di Gallidoro acknowledged oystercatchers as relevant to the site but felt they had the opportunity to fly elsewhere in search of food, she felt options needed to be considered rather than leaving families without a living, she felt the fishing industry should be encouraged to continue producing food for the country. People needed to be put before birds.

Mr Goldson questioned whether legally the BFM guidance could be ignored. Ms Love advised legislation had to be adhered to, most recent evidence was applied but she was prepared to enquire whether year 0 cockles could be included in the stock. The CEO added that a HRA would have to be completed which would include the BFM, a fishery could not be opened if it didn't meet the Conservation Objectives.

Members discussed in detail ways to move forward, the necessity for a decision to be made within a three-week period to prevent loss of industry members and ways to get any additional survey work done in relatively short timescales. The CEO said that following the engagement with Natural England and some industry members he had drafted revised recommendations prior to the meeting to add the words 'unless further evidence becomes available' so as to leave open the possibility of a fishery. He also said that in discussion during the break Cllr Coupland had suggested that a meeting of a small group of members, officers and industry members to discuss the cockle fishery might be beneficial. It was agreed that such a meeting of 6 Authority Members, 6 Industry members as well as EIFCA Officers would be beneficial.

Mr Bowell requested an amendment to the proposed recommendations to add the words 'unless further evidence becomes available' which would allow for a fishing opportunity if additional stock was identified.

Proposed: Chair

Seconded: Cllr Chenery of Horsbrugh

With 1 abstention the motion to amend the recommendations was carried.

Members Resolved to:

- **Note** the contents of the 2022 Wash intertidal cockle survey report, describing the current low levels of cockle stock in the regulated fishery
- **Note** that the combined stocks of cockles and mussels within the regulated fishery have failed to achieve the SSSI Conservation Objective target regarding food availability for over-wintering oystercatchers.
- **Note** that having failed to achieve the SSSI Conservation Objective target, a Habitats Regulations Assessment for a proposed cockle fishery this year would have to conclude that the fishery was likely to cause a significant adverse effect to the site features and as such is unlikely to be approved.
- **Agree** that unless further evidence becomes available the stocks have failed to achieve the SSSI Conservation Objective target and are in too low densities to support a viable fishery without threatening the juvenile stocks, the Wash cockle fishery should not open in 2022.
- **Agree** that unless further evidence becomes available the 2022 mussel re-laying dredge fishery is not opened
- **Agree** the decision making of the 2022 cockle/mussel fishery should be delegated to the Chair, vice-Chair and CEO.
- **Proposed:** Cllr Chenery of Horsbrugh
- **Seconded:** Mr Goldson
- **All Agreed**

EIFCA22/30 Item 11: Whelk Management in the Wash

Senior IFCO Godwin provided a presentation on whelk fishing in the Wash, highlighting the potential effect additional effort, as a result of no cockle fishery, could have on the fishery. It was proposed risk management measures should be put in place.

Initial thought was to limit access to the fishery by limiting vessel access or by limiting the amount each vessel could land.

The proposal was to consult the industry on potential management measures with the responses from the consultation being taken into account before deciding whether or not to implement the proposed or alternative measures.

At this point Mr Garnett made the point that he had an interest in the fishery.

Mr Garnett urged caution, the whelk fishery had a degree of seasonality in the Wash with the season starting in August, so data needed to be considered in this context. Members were advised that restricting landings to a level below 4-4.5t/week would not be viable, and the fishery would close by default. He also felt as the data reported did not include the area fished and some of the taken stock may have been from the Lincolnshire and North Norfolk coast, not just

the Wash. He believed the proposals being put forward needed substantial amendment before they went for consultation. The CEO emphasised the need to make the Authority aware of the potential situation and that various proposals had been worked up but all had negative connotations, however, the point of consultation was to explore alternative options.

Mr Bagley felt the fishery should be self-managed without the need for further legislation particularly as there was already an obligation for riddling and a MLS in place. Mr Bagley also questioned how the officers could say damage was being done, if no undersize whelk was taken there should be no problem, unless the Authority thought the MLS was not working.

IFCO Godwin advised that the Wash Working Group had discussed the effectiveness of MLS usually worked in conjunction with other regulation, Cefas had acknowledged that size limit alone was not enough to protect the whelk fishery.

Mr Davies felt the movement of whelk from area to area meant there would never be a sustainable whelk fishery, he believed the small number of areas fished seemed to repopulate a year after appearing to be fished out. Mr Davies was concerned the proposals could make EIFCA a laughing stock, particularly when the fishermen were scared for the future.

Mr Wayne Brewster was permitted to speak on behalf of the industry. He questioned the level of consultation that had taken place for the WFO replacement, and the introduction of whelk permits. Referring to the proposed whelk management measures Mr Brewster felt the proposed measures would put the industry out of business.

Mr Bowell believed the situation had become adversarial, but he felt if the wording of the proposals was more inclusive the situation could be changed. The CEO advised that the recommendations had to start somewhere. Mr Bowell felt only one recommendation was required.

Mr Bowell put forward an amendment to the proposed recommendations, for an evidence based consultation to be carried out with the outcome being put to the Authority at the next Authority meeting.

Proposed: Cllr Bowell

Seconded: Mr Goldson

Members voted for the amended recommendations.

Members Resolved that having noted the content of the paper the Authority would undertake an evidence based consultation, working with the industry to produce a sustainable way forward for the whelk fisheries.

Proposed: Mr Bowell

Seconded: Mr Goldson

There were two abstentions, all other votes in favour, the motion was carried.

The meeting was suspended at 1435 hours and reconvened at 1445 hours.

At the point of reconvening the CEO advised he had received enquires about a live stream of the meeting. This meeting was not being live-streamed as there were no longer restrictions on attendance.

EIFCA22/31 Item 12: Inshore Vessel Monitoring System Emergency Byelaw

Senior IFCO Godwin advised that consideration was being given to introducing an Emergency Byelaw for IVMS to be a requirement for vessels below 12m. There were plans for IVMS to be a requirement at a national level, but this was unlikely to come in to place until the end of the year or even the following year. In view of the possibility of there being no cockle fishery this year the impact on the whelk and shrimp fisheries could be significant, IVMS would enable effort to be monitored, to prevent overfishing. Officers did not believe there would be any significant impact on the industry as grant funding was available for IVMS units and it was understood that many vessel already had them fitted.

Members questioned whether vessels could transit through closed areas without there being an assumption they were fishing, and how officers would be able to tell whether a vessel was in fact fishing or just passing through the area. The CEO advised the introduction of IVMS was not intended to penalise fishers unnecessarily, but it could be a significant mitigating factor to ensure landings met the MLS, which was different inside and outside the district. He believed it should be possible to determine whether a vessel was fishing by the speed at which they were travelling through the area.

Mr Davies explained that he fished both inside and outside the district and could not see how IVMS having would benefit him, who would know where his catch had been caught. Senior IFCO Godwin advised that fishing inside the WNNCSAC there would be a requirement to have the unit turned on, knowing whether catch came from inside or outside was key to having confidence in the effectiveness of measures. Mr Davies believed this was a rushed job and more red tape being applied by EIFCA when it was coming in at a National level anyway. The CEO advised the suggested measures were a genuine desire to have a protective effect on the fisheries. Mr Davies felt there was a genuine need to protect the Sabellaria reef but he felt having to switch on a unit just to travel through was a hassle that would be of little benefit.

Members Agreed to Note the report including the rationale for introducing an emergency byelaw and the associated initial Regulatory Impact Assessment.

At this point Cllr Chenery of Horsbrugh left the meeting

EIFCA22/32 Item 13: Cromer Shoal Chalk Beds Marine Conservation Zone Update

There being no comments or questions on the paper Members Agreed to note the content of the report.

EIFCA22/33 Item 14: Quarterly review of annual priorities and Risk Register

Members had been provided with a report showing progress of annual priorities and the updated Risk Register.

Members Agreed to note the content of the report.

EIFCA22/34 Item 15: Wash Fishery Order licence transfers

Members Agreed to note the content of the report.

EIFCA22/35 Item 16: CEO Update

- Members were advised that Defra funding had been approved for the current financial year and the following 2 years. A bid had been made for additional funding for work on MPAs, there was also the possibility that funding may become available for vessel funding.
- Members were advised that every four years a report was compiled on the conduct of IFCA's, the latest report would be compiled this year.
- Marine Science and IFCO reports which were usually submitted as information items in the meeting papers would in future be sent either monthly or quarterly, separate from the meeting papers.
- Work on the vessel to replace Three Counties was about to begin, it was anticipated there would be delays due to supply chain issues.

EIFCA22/36 Item 17 Head of Operations Update

Mr Bowell advised that he had attempted to spend a day at sea with Officers but unfortunately it had fallen through, he would attempt to arrange another day.

Members Agreed to note the content of the report.

EIFCA22/37 Item 18 Any Other Business

There were no other matters for discussion

The Chair thanked everyone for attending. He hoped that the industry would be forthcoming in taking part in the upcoming consultations and reminded everyone that if the industry were not satisfied with responses they received, they could contact either the Chair, Vice Chair or the CEO.

Mr Garnett suggested small groups would be the best way to communicate with the industry.

The meeting closed at 1522 hours.

Note: Throughout the meeting there were various interventions from industry members present in the public gallery, which made it difficult to conduct some parts of the meeting in an orderly manner. Behaviours included shouting/jeering and individuals interrupting the meeting and insisting on saying what they wanted to say, some of which was derogatory to officers and questioned their integrity.

Extraordinary Eastern IFCA Meeting

"Eastern IFCA 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".



A meeting of the Eastern IFCA took place on Thursday 7th July at 1040 hours in the Boathouse Business Centre, Wisbech, Cambs.

Members Present:

Cllr T FitzPatrick	(Chair)	Norfolk County Council
Cllr M Vigo Di Gallidoro	(Vice Chair)	Suffolk County Council
Cllr E Back		Suffolk County Council
Mr S Bagley		MMO Appointee
Cllr Chenery of Horsbrugh		Norfolk County Council
Mr K Copeland		MMO Appointee
Mr J Davies		MMO Appointee
Mr P Garnett		MMO Appointee
Mr T Goldson		MMO Appointee
Ms J Love		Natural England Representative
Mr K Shaul		MMO Appointee
Ms I Smith		MMO Appointee
Mr S Williamson		MMO Appointee

Eastern IFCA (EIFCA) Officers Present:

Jason Byrne	IFCO
Luke Godwin	Senior IFCO (Regulation)
Julian Gregory	Chief Executive Officer (CEO) & Clerk
Ron Jessop	Senior Marine Science Officer
Jason Pegden	IFCO

Minute Taker:

Jodi Hammond

EIFCA22/38 Item 1: Welcome

The Chair welcomed members and thanked them for travelling to the additional meeting.

EIFCA22/39 Item 2: Apologies for Absence

Apologies for Absence were received from Cllrs Adams (NCC), Coupland (LCC) and Skinner (LCC), Messrs Bowell and Mogford (MMO Appointees), and Mr J Rowley (MMO Representative)

EIFCA22/40 Item 3: Declaration of member's interests

The Chair reminded members that pre-recorded Declarations of Interest and been registered meaning Messrs Bagley, Garnett and Williamson had a dispensation to take place in discussion but would not be able to vote.

EIFCA22/23 Item 4: Wash Cockle Fishery and mussel Re-Laying Fishery 2022

Cockle Fishery

The CEO began the meeting by reminding members on the route that had been gone down to reach the current situation. Following the previous Authority Meeting Officers had met with industry members and NE Representatives, further investigation had concluded the number of birds being catered for in the Bird Food Model was inaccurate, industry had identified areas of stock not previously taken into account and Year0 cockle could now be included in the stock for the model. These combined suggested there would be sufficient stock for a cockle fishery, although there was still concern about the density of adult stock.

Members were then faced with risk management balanced against industry viability if a fishery was not opened in the current year, as it was anticipated a large number of fishers would move to alternative employment.

SMSO Jessop gave a presentation on the survey results for an area of mussel which had been identified by fishers and a further 51 cockle stations, he then indicated the areas which he felt were most at risk and should remain closed due to low density of adult's and high levels of juvenile cockles and spat. SMSO Jessop expressed concern that by taking Year 0 stock there was a risk for future fisheries as they will have less chance to spawn and future fisheries could become reliant on annual spatfall which the Wash did not get every year, and stock levels became too low the fishery would not be a viable option for fishers.

When considering the Risk Management SMSO Jessop advised that whilst not opening the fishery would produce difficulties for the industry, it should also be acknowledged that with the stock available even an open fishery may prove to be unviable for fishers. He also expressed concern about displacement of fishing effort to other fisheries if there was no cockle fishery which could put those fisheries in jeopardy.

Members questioned what effect thinning out an area by fishing would have on the growth of cockles, if it was felt it would not encourage growth but may prevent loss of stock through ridging out. It was noted that usually the Authority are informed by the industry of areas likely to be

lost due to ridging out and measures can be taken for the stock to be fished during the cockle season, rather than lost.

Members discussed the Bird Food Model and whether fishing this year would leave enough for the birds in future years, SMO Jessop advised it was not possible to state with certainty as there was no indication of how many birds there would be next year, the only thing EIFCA could do as Managers was to ensure there was enough dominant year class left each year.

Mr Goldson acknowledged to ensure fisheries in the future decisions made this year could be crucial, he questioned what mitigation was being looked into to ensure the small cockle was left on the ground for future growth and spawning. The CEO advised that taking year 0 cockles which had yet to spawn was inevitable this year, if a fishery went ahead, but if the Authority became aware of areas where large numbers of small cockle were being taken the area could be closed, he felt opening a fishery this year might protect the industry, but it may not be protecting a fishery next year.

Senior IFCO Godwin advised members a consultation had taken place with industry members regarding the proposed management measures for a fishery this year which included some voluntary measure such as using rakes and nets only, no shovels, nothing smaller than 10mm being landed and use of iVMS on all u10m vessels. The latter would be ahead of the national roll out for iVMS and would require an additional ping rate which would incur a cost of around £150/year. Of the consultation letters sent out the response was only 18% and many of the answers were not unified, with so few responses it was questioned how representative they were.

Members discussed in detail the responses received and ways to enforce the suggested management measures, whether iVMS or drones would prove a deterrent to bad behaviours, the effects of prop-washing, the benefits of nets and rakes to prevent the taking of very small cockle, the additional cost of iVMS and could vessels fish if a unit was broken, whether processors could refuse to buy small cockle and whether other areas were encountering the same issue with die-off in their cockle stocks.

Ms Smith was particularly concerned that taking cockle below 14mm would affect future spawning, she did not think 10mm was large enough to be fished. SMO Jessop advised that 44% of the very small stock would be protected and a lot of the remaining 56% would probably not been seen by a fisherman but it would have to be accepted that some of the small cockles would be taken. He did, however, advise that the cycle of taking smaller and smaller cockles needed to be broken as the taking of small cockles was partly the reason the fishery was where it was now.

Mr Bagley expressed concern about adult stock not being replaced, this was an ongoing problem every year, but leaving them closed they

could be lost, he felt they should be fished. SMSO Jessop gave members a resume of the thought process for closing certain areas.

Discussion was also had on the possibility of a standard size riddle, but it was noted there is no MLS as the growth rates are so variable and unpredictable.

Mr Williamson expressed concern about opening a fishery this year but felt the Authority would be wrong not to open it, and wrong to have opened it if it affects next year's fishery. He felt if there was some growth in August it could enable a good fishery in September/October.

General consensus was that if a fishery was opened it would require both fishers and processors to be conscious of the management measures and to adhere to the voluntary measures, to help protect the future of the fishery.

Members Resolved to:

- **Note the contents of the report and the presentation on results of the consultation with fishery stakeholders**
- **Agree to option 2 in relation to a cockle fishery**
- **Agree to delegate authority to the CEO in consultation with the Chair and Vice-Chair to introduce, vary or revoke all management measures for the Wash Fishery Order cockle fishery including the TAC, open dates, areas open or closed to the fishery, the operating times, Licence Conditions, including without 7-days' notice, where it is judged necessary to do so to meet the conservation objectives of the marine protected areas of The Wash or for the sustainability or the viability of the fishery**
- **Agree to close the Wash Fishery Order cockle fishery on the exhaustion of the Total Allowable Catch or to enable the start of the 2023 cockle surveys**
- **Agree to delegate authority to the CEO, in consultation with the Chair and Vice-Chair, to close the Wash Fishery Order cockle fishery, including without 7-days' notice, where it is judged necessary to do so to meet the conservation objectives of the marine protected areas of The Wash or for the sustainability or the viability of the fishery**

Proposed: Mr Goldson

Seconded: Mr Shaul

All those who were able to vote voted in favour.

The meeting was stopped for 5 minutes to allow members a break. It reconvened at 1242 hours

Kieran Copeland left the meeting

Mussel Fishery

Members were advised the consultation responses indicated that in general there was little support for a dredge mussel relaying fishery, but there was recognition such a fishery supported a small number of industry members.

Key concerns expressed were that taking stock now for seed may remove the potential for a harvestable fishery next year and would removal of seed affect the Bird Food Model in 2023 and therefore the potential for a cockle fishery next year. It was suggested the proposed 900t tac could be reduced to 200t as the end product of these re-laid mussels would be of high value.

The CEO reminded members the Authority were duty bound to balance the needs of all involved in the fisheries, whilst noting a large number of fishers would not pursue such a fishery and therefore would not support the opening of it, there was a need to balance the needs of the small business models who rely on re-laid seed mussel to operate.

Mr Bagley stated that he would like a 200t handworked mussel relaying fishery for the North Norfolk Coast Mussel fishers, he felt a 900t dredge mussel fishery would soon be mopped up and the mussels would be best left on the sands to spawn.

Some members were not aware of the dredge method of fishing and enquired how destructive it was, the CEO advised that before a fishery could be opened it would have to pass a HRA which would mean the fishery was within acceptable environmental parameters.

Members Resolved to:

- **Agree to option 2, subject to satisfactory completion of a Habitats Regulations Assessment and agreement with Natural England, to open a mussel re-laying fishery**
- **Agree to delegate authority to the CEO in consultation with the Chair and Vice-Chair to introduce, vary or revoke all management measures for the Wash Fishery Order mussel re-laying fishery including the TAC, open dates, areas open or closed to the fishery, the operating times or Licence Conditions, including without 7-days' notice, where it is judged necessary to do so to meet the conservation objectives of the marine protected areas of The Wash or for the sustainability or the viability of the fishery**
- **Agree to close the Wash Fishery Order mussel re-laying fishery on the exhaustion of the Total Allowable Catch or to enable the start of the 2022 mussel surveys**
- **Agree to delegate authority to the CEO, in consultation with the Chair and Vice-Chair, to close the Wash Fishery order mussel re-laying fishery, including without 7-days' notice, where it is judged necessary to do so to meet the conservation objectives**

of the marine protected areas of The Wash or for the sustainability or the viability of the fishery

Proposed: Mr Goldson

Seconded: Mr Shaul

All those who could vote were in favour.

The meeting closed at 1300 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



Action Item 7

49th Eastern Inshore Fisheries and Conservation Authority meeting

14th September 2022

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:

There have been three incidents to report during this period

Risks/Mitigation

COVID-19 Absence due to COVID within the team did increase following the last Authority meeting. The mitigations in place prevented further spreading across the team, although it created additional pressure during a very busy period, business continuity was maintained. Officers continue to work from home if they test positive for COVID or are suffering from respiratory illness, carefully consideration is given if the officer lives with someone who has tested positive with regards to their work and necessity to come into the office or work on a vessel.

Conditions of Quayside ladders/working at height has been highlighted as a potential risk to officers when working in ports across the district. Further investigation is being carried out and discussions will take place with our Health and Safety advisors as to what can be done to mitigate the risks identified.

Appendix 1

Date	Nature of incident	Injury / damage occurred	Action Taken	RIDDOR MAIB Y/N	Investigation complete Y/N	Name of investigating Officer	Follow-up action required Y/N. If Y then what?
24/06/2022	Near miss	None	Review SOP	No	Yes	Jon Butler	Yes, Review of SOP, recommendations made to skippers and crew when operating ROV
04/07/2022	Grounding	None	Vessel re-floated with assistance of Harbour Master	Yes	Ongoing	Jon Butler	Yes, Training for all skippers around pilotage in unfamiliar harbours by local HM.
11/07/2022	ROV cabled snagged	None	Review SOP	No	Yes	Jon Butler	Yes, Review of SOP, additional cutting equipment purchased

Appendix 2

Eastern IFCA Health and Safety risks

Risk	Intervention	Residual Risk	Risk rating* (Current)	Risk rating* (Previous)
1. Whole Body Vibration	<ul style="list-style-type: none"> • Risk awareness training to manage impacts. • Health monitoring process to be developed. 	<ul style="list-style-type: none"> • Personal injury from boat movement owing to lower resilience as a result of individual physiology 	Tolerate	Treat
2. Staff stress through exposure to unacceptable behaviour of stakeholders	<ul style="list-style-type: none"> • Introduction of Unacceptable Behaviour policy • Stakeholder engagement plan and activity delivered in pursuit of corporate communications strategy. • Dialogue with Stakeholders to ensure appropriate tone of communications • Conflict resolution training for “front line” Officers • Introduction of Body worn Camera’s and Sky Guard Alarms. 	<ul style="list-style-type: none"> • No change in behaviour of some stakeholders. • Long term sickness caused by stakeholder hostility 	Treat	Tolerate
3. Damage to vehicles, trailers and/or equipment through	<ul style="list-style-type: none"> • Formal trailer training for unqualified officers 	<ul style="list-style-type: none"> • Failure to adhere to training 	Tolerate	Treat

inappropriate operation.	<ul style="list-style-type: none"> • Refreshers for those with previous experience • Periodic vehicle maintenance checks training • In-house assessment for drivers using unfamiliar vehicles (crew transport, 4x4) 	<ul style="list-style-type: none"> • Mechanical failure of vehicle or trailer 		
4. Physical fitness of personnel to undertake arduous duty	<ul style="list-style-type: none"> • Staff briefing • Management overview to ensure rostered duties are appropriate and achievable • Reasonable work adjustments • Routine periodic medical assessment (ML5) 	<ul style="list-style-type: none"> • Individual health fragilities • Individual lifestyle choice 	Tolerate	Tolerate
5. COVID 19	<ul style="list-style-type: none"> • Information • Guidance • Staff Briefing • Risk Assessments 	<ul style="list-style-type: none"> • Developing understanding of COVID 19 and rapidly changing guidance 	Tolerate	N/A

6. Working at Height	<ul style="list-style-type: none"> • Staff briefing • Scoping of all quayside ladders • Risk Assessment • Training to be provided if required 	<ul style="list-style-type: none"> • Failure of quayside ladders 	Treat	N/A
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Risk Rating
High
Medium
Low

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

Vision

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Action Item 8

49th Eastern Inshore Fisheries and Conservation Authority meeting

Report by: Andrew Bakewell – Head of Finance & HR

Meeting of the Finance & HR Sub-committee held on 2nd August 2022

Purpose of report

To inform members of the key outputs and decisions from the Finance & HR Sub-Committee meeting held on 2nd August 2022.

Recommendations

Members are asked to:

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

F&HR 22/15 Minutes of the F&HR Meeting held on the 3rd May 2022

- Signed as a true record

F&HR 22/16 Matters Arising

- Members advised that the only matter was covered by a later agenda item.

Finance Matters

Re minute F&HR 22/17 Quarter 1 Payments and Receipts

- Members were advised of the following exceptions:
 - Vessel and vehicle insurance for the year appeared in Quarter 1 as expected.

Members Agreed to:

- **Note** the content of the report

Re minute F&HR 22/18 Quarter 1 Management Accounts

- The Head of Finance & HR advised of the following:
 - The quarter showed savings overall which was largely due to unfilled vacancies and the budgeted pay increase not actioned (negotiations ongoing)
 - A contingency for increased energy costs (inc. fuel) had been included
 - Minor overspend (Marine Science) not detailed as considered insignificant
 - Most expenses as anticipated

Members Agreed to:

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

Re minute F&HR 22/19 Annual Accounts (Draft)

- **Head of Finance and HR outlined the report and asked for questions**
 - Accounts comprised several schedules
 - Of particular note was expenditure on asset, being 30% stage payment (TC replacement) and 3 replacement patrol vehicles
 - Expenditure had been partially offset by the sale of John Allen which had been sold for £142k.
 - Reserve for Vessel replacement now £1.6 million.
 - Cllr Chenery of Horsbrugh was advised that vehicle selection was based upon reputation, price, availability, and functionality as opposed to country of manufacture.
 - The Operational Fund Reserve was held to be paid for the use of Sutton Bridge moorings once the final agreement was in place between LCC and FDC. This payment was in lieu of paying annual rent for the moorings. Cllr Skinner agreed to pursue the matter with LCC.
 - A question was asked as to why the Fixed Asset Register did not show depreciation and Fixed Assets were excluded from the balance sheet. The Head of Finance & HR advised that Financial Regulations relating to Joint Committees meant Assets were not depreciated and cost of replacement was built into the Reserves. Joint Committees were only obliged to report income received and expenditure made.

Members Resolved to:

- **Approve the Statement of Accounts for submission for external examination.**
- **Authorise the Chairman and Chief Executive to sign the Annual Return before submission to the auditors for review.**
- **Authorise in accordance with the Authority's Financial Regulation 3.4, transfers of funds to and from 'ear-marked' reserves as outlined in the Statement of movement in reserves.**

Proposed: Chair

Seconded: Cllr Skinner

All Agreed

Re minute F&HR 22/20 Exclusion of the Public

Members Resolved that under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for item 10 on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 1 of Schedule 12A of the Act

Re minute F&HR 22/21 New Vessel Update

- Following a request at the previous meeting and budget changes for the new vessel the CEO had prepared a paper highlighting the events since the 2017 decision to purchase a new vessel. When submitting his apologies for the meeting Cllr Coupland advised *"the agenda item concerning the costs of the new boat looks fine by me, it clarifies all the variations as it's progressed"*.

Members were advised of the many challenges (mainly engine related) and that 4 further items outstanding would be unlikely to significantly alter the final cost.

One previously unspecified item, a Vessel Performance Monitoring System, known as iRAMS, was deemed essential as it will provide comprehensive performance and monitoring of a wide range of variables.

Having considered the content of the paper, queried the suggested wiring system, the anticipated longevity of the vessel and its parts, the location of the pot hauler, the need to carry an additional freshwater store onboard for trips involving several nights at sea, as well having the decision to place the RIB on the roof explained, members were satisfied with the progress to date.

Members Agreed to:

- **note the content of the report**
- **dispense with the requirement to seek alternative quotes and to procure the iRAMS system.**

Proposed: Cllr Skinner

Seconded: Cllr Vigo Di Gallidoro

All Agreed

FHR22/12 HR Update

The Head of Finance and HR reported:

- **RECRUITMENT:** An MSO (Grade 6) and Project Officer had been appointed and that Two IFCO candidates had been selected for practical assessment.
- **CEO** advised that additional Defra Funding may be available for it was hoped that if the grant was received it might be possible to employ both candidates, providing they also excelled at the practical assessment being set for them. Cllr Skinner felt he would like to see some investment in the fisheries with perhaps research into the cause of the early die off in cockles and some re-seeding of closed areas.

PREVIOUS EMPLOYEE: Members were advised an Officer who had been retired on ill-health in September 2021 had suffered ongoing health issues but and made some improvement recently.

Members Agreed to note the content of the report

Re minute F&HR 22/23 Any Other Business

No items raised

Background Documents

Unconfirmed minutes of the Finance and HR sub-committee meeting held on the 2nd August 2022

Vision

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Action Item 9

49th Eastern Inshore Fisheries and Conservation Authority

14 September 2022

Wash Cockle and Mussel Byelaw: Managing Access

Report by: Luke Godwin (Senior IFCA – Regulation)

Purpose of Report

The purpose of this report is to present Members with the outcomes of the consultation and impact assessment on access policy for the Wash cockle and mussel fisheries previously approved by the Authority and to recommend adoption of the revised policy which has been informed by the consultation and impact assessment.

Recommendations

It is recommended that members:

- **Agree** to limit the number of permits issued under the Wash Cockle and Mussel Byelaw 2021 as follows:
 - For the purpose of the ‘transition’ under section 4 of the Eligibility Policy:
 - 61 hand-work cockle permits
 - 61 hand-work mussel permits
 - 61 mussel dredge permits
 - For permits issued as a result of a successful appeal under section 13 of the Eligibility Policy there is no maximum; and
 - Following the transition, the maximum number of permits will be 61 of each permit plus the number of any permits issued as a result of a successful appeal in connection with the transition
- **Note** the outputs of the consultation and impact assessment at Appendices 1 and 2 respectively
- **Note** the changes to the Eligibility Policy set out in Appendix 4
- **Agree** to adopt the Eligibility Policy at Appendix 3 under paragraph 17 of the Wash Cockle and Mussel Byelaw 2021

Background

The Wash Fishery Order 1992 (WFO) expires on 3 January 2023 and a replacement has been developed. This includes a byelaw under the Marine and Coastal Access Act 2009 (‘MaCAA’) which primarily addresses management of the cockle and mussel fisheries for the protection of stock sustainability and Marine Protected

Areas, and separately consideration of the permit limitation and Eligibility Policy which will manage access to the fishery.

The matter of managing access has been the central issue for stakeholders, particularly WFO Licence holders and Nominated Representatives, and in particular the matter of securing access to the fishery over time. The development of access policy was informed by significant informal consultation and dialogue with industry, including at the earliest stage of development (the Aim and Objectives). More information on previous consultations was presented at the 44th and 47th Eastern IFCA meetings.

At the 47th Eastern IFCA Meeting, Members directed officers to undertake formal consultation on the wording of Eligibility Policy and the permit limitation, and to report the results and any recommended changes to a subsequent Authority meeting.

Report

Formal consultation

The formal consultation was undertaken in accordance with the process set out in the Wash Cackle and Mussel Byelaw 2021 (Schedules 4 and 5). Invitation to respond in writing or by way of a meeting or call was provided between 13 June and 18 July 2022 initially, and this was extended twice, closing on 26 August, to ensure that stakeholders were able to properly consider the proposals and to respond to the consultation.

18 responses to the consultation were received, including 8 written responses, 6 via meetings (with a total of 26 people) and 5 via phone calls with individuals. One response relates to the views of 32 separate individuals which was provided by Peter Scott and Jim Andrews on behalf of the 'coalition of interests.' In addition, further dialogue with the representatives of the coalition of interests has taken place, including one meeting at the cost of the Authority to provide industry with every opportunity to relay responses to the consultation.

Reports were received that there were some active attempts to discourage engagement with the consultation, which had the potential to impact on outputs from the consultation.

In addition, responses appear to indicate that the response from the coalition of interests does not necessarily fully reflect the views of all those whom the coalition represents, possibly because of the groups construct.

However, because of the extended time allowed for the consultation and the efforts of officers to seek a broad range of views it is judged that the consultation exercise captured a range of views that is representative.

Outcomes of the consultation

A full report considering the responses in detail is at Appendix 1.

In summary, responses indicate that the key areas of concern and related recommendations are as follows.

Permit limitation

Responses included suggestions of reducing the limit (to 50) and increasing the number (to 68). Overall, most appear to agree that the number should not increase significantly as this would proportionally reduce the fishing opportunity of those currently involved in the fishery, which could impact the viability of each individual permit holder.

The economic assessment indicates that the fishery is presently viable within which there are 61 Entitlements to Licences, however it is noteworthy that the assessment preceded the current cost of living crises and fuel price increases which are likely to have increased overheads for fishing operations.

It is also noteworthy that, through the transition under the policy, a small number of permits (potentially 2) are likely to be issued to 'new entrants' because the associated WFO licence had not been actively used and the Licence Holder is no longer an active fisherman. Therefore, maintaining the limit at 61 is likely to increase the number of participants in effect, as it will replace inactive licences with active ones.

Overall, it is considered unlikely that the increase 'in effect' caused by maintaining access to 61 vessels will not be of significant impact to the industry, as it would represent a proportional reduction of only 2/61 (3.2%) in fishing opportunity / income from the fishery. Furthermore, reducing the number of permits to below the current number would effectively mean excluding some people who currently have access, which will impact their viability given that many are reliant on the cockle fishery to maintain viability as a fishing business. Therefore, it is recommended that the number of vessels permitted access remains at 61 for the purpose of the transition.

However, to enable an effective appeals process (further detail below), it is recommended that further permits can be issued in addition to the above limit as a result of an appeal, and that no limit should be placed on this number to avoid fettering the decision-making ability of the Authority.

Addressing 'renting out'

The term 'renting out' is commonly used to describe the practice of Licence Holders coming into the possession of the majority of the shares of a vessel so as to name that vessel and its 'genuine owner' (i.e. the person financially and practically responsible and dependant on the vessel) on the licence providing them access and effectively circumventing the access policy.

The consultation indicates that the preference of industry is that the matter is addressed within the policy, however the responses highlighted concern with the approach including that it would impact existing business models and prevent normal business practices, such as investment via the purchasing of majority shareholding of a business, which is not the intention of the policy.

Wording has been amended which addresses both issues, but which still requires the permit holder to be the 'vessel owner' insomuch as they have some legal interest in the vessel and that they are at least practically responsible for its management across all the fisheries it operates within. This is considered likely to increase the risk

of 'renting out' occurring under the policy but is also considered the least likely to cause impacts highlighted by the response.

In addition, to cater for the vagaries of the transition including the possibility that there will be some dispute over the 'ownership' of vessels, an appeals mechanism has been drafted which will enable re-consideration of any applications where there are grounds to do so (Eligibility Policy, section 13). The grounds for appeal include where a person has lost access to the fishery through the transition (i.e. because they were renting out a Licence) and such loss will adversely affect business continuity. This could result in more than 61 permits being issued, with a proportional reduction of income for others within the fishery. However, it is considered appropriate that, where there is a case that resolving 'renting out' will cause impact business continuity, this is given due consideration. This is intended to address the concern that the measures to address 'renting out' will impact business continuity of some business models.

Providing continued access

There is still concern that the use of a byelaw and the policy will not ensure continued access to the same extent as the WFO did. Many believe that under the WFO, their access was 'guaranteed' which is not the case. As a result, some are very strong in their view that an Order is preferred to a Byelaw. That decision sits outside the scope of this report, but the policy sets out a clear and predictable framework for providing an appropriate level of surety of continued access and the byelaw sets out process for reviewing and changing the Policy to ensure industry are represented when the Authority considers any change which may undermine continued access.

Ultimately the fishery operates within several Marine Protected Areas which the Authority is legally required to protect from the impacts of fishing, in addition to the sustainability of the fishery itself and our duty to balance the different needs of all those engaged in the fishery. This is only possible through continued review and consideration for the policy (in accordance with Defra Guidance on managing fisheries¹) against the changing needs of the environment and the industry which rely on exploiting it. The 'flexibility' of the policy is therefore necessary to meet our duties and legal obligations, it will be to the benefit of the industry and is justified and reasonable.

Other key issues raised

- Some have set out a preference that permits should be a tradable commodity, but the prevailing view appears to be to the contrary. The policy is written from the perspective of preventing permits being transferred or traded in accordance with the aim and objectives agreed by the Authority (44th Eastern IFCA meeting).
- It is proposed that the requirement for an eligibility fee is changed from annually to biannually where the person does not seek access to a permit each year to mitigate impacts (costs) on those who do not routinely access

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/182346/2011-ifca-guide-marinemanage.pdf

the fisheries or rely primarily on mussel fisheries (which do not occur as frequently as cockle fisheries).

- The points system for new permits and the transitional provisions has been revised to further prioritise those with experience of cockle and mussel fishing in The Wash.
- Eligibility under Phase 1 (transition) has been revised to take into account the owner of a vessel named on a WFO Licence prior to the 22 February 2022 only. This is to enhance the protection against potential circumvention of the new policy.
- Activity requirements for maintaining eligibility have been lowered to account for smaller business models which operate within the fishery less often and which do not utilise a registered fishing vessel.
- The 'permit penalty' (suspension of fishing) applies to the permit and the skippers / masters of vessel used in the commission of a relevant offence but not vessel owners (who were not the skipper at the time). This follows feedback from the consultation that suspending vessel owners (from fishing) would be disproportionate.
- An appeals process is proposed which provides reasonable grounds for appeal in relation to applications to enhance transparency and accountability and avoid unintended impacts as a result of the transition.
- The permit succession policy has been revised to ensure that successors have been active within the fisheries to be eligible.
- The wording and structure have been revised generally to ensure clarity and ease of reading.

Impacts

The impacts of the policy are considered in detail in the Impact Assessment at Appendix 2.

In summary, the policy (incl. the permit limit) is unlikely to impact industry generally, as the most likely outcome of the policy is that the persons engaged in fishing under a WFO Licence will be provided with access via a permit.

It is, however, likely that some WFO Licence Holders will not receive permits on the basis that they were being 'rented out', but rather that the 'genuine' owner of the vessel named on the Licence (i.e. the beneficial owner or manager of the vessel) is provided the permit instead. Whilst the Licence Holder is likely to receive some sort of financial or other incentive for 'renting' the permit, this cannot be estimated as the information is understandably not forthcoming from those involved. In terms of impacts as they relate to being able to prosecute the fishery, they are considered negligible or nil as the most likely outcome is that the person currently fishing under the WFO Licence will receive a permit and be able to continue fishing to support their fishing business and / or vessel.

Criteria for considering impacts were inserted into the byelaw as a result of consultation (schedule 5) and these are as follows:

- The stability, continuity and succession of businesses of the permit holders
- The continuing ability of permit holders to finance their businesses

These are referred to in the Impact Assessment and in summary, the Policy is not considered to adversely affect either criteria on the basis that the Policy includes a mechanism for maintaining access over time which is clear and predictable, permit succession policy is included which enables the continuation of businesses where a permit holder retires or is unable to hold the permit, and because the permit limitation will ensure that each individual has a viable share of the fishing opportunity.

In addition, it is considered that policy which addresses 'renting out' is the most effective means of ensuring that both criteria are met, as the policy provides the manager / 'genuine owner' of the vessel with a permit as opposed to the WFO system whereby such were unable to hold a Licence in their own right.

Financial Implications

Changing the eligibility fee requirement from annual to bi-annual may lead to modest reduction in income generated via permit fees, compared to the original proposal. The impact is likely to be minimal as the fee is required each year if a permit is used, which is likely to be the case for the vast majority of permit holders and because it will effectively continue to regime under the WFO.

Legal Implications

There is an inherent legal risk to implementing policy and particularly in this case as the development of the policy has generated significant concerns and objections from those affected.

The key area of challenge is likely to be in relation to current WFO Licence holders who does not receive a permit under the policy because of measures which address the issue of 'renting out'.

In mitigation to these risks, due diligence has been undertaken in developing the policy and considering the permit limit including consultation with industry, the consideration of impacts and obtaining relevant legal advice.

Conclusion

The Policy has been developed and informed through consultation and general dialogue with industry including at the earliest point in its development when deciding the aim and objectives of the policy.

Legal advice concludes that the policy provides a clear and predictable framework within which permit holders can carry on their fishing businesses and which considers the commercial realities of such. It prioritises access to those who rely on it the most and addresses the key concerns of stakeholders by seeking to resolve 'renting out' but otherwise preserving the qualities of the regime under the WFO which stakeholders perceive as beneficial, including a means of providing continued access. In addition, the policy provides for greater representation of industry where the Authority reviews and revises the policy including as a result an appeals process.

The Policy is therefore considered reasonable and justifiable, within the *vires* provided by MaCAA and the associated byelaw and to achieve the aim and objectives agreed by the Authority. The recommended Eligibility Policy is at Appendix 3. The key changes proposed as a result of further consideration are highlighted at Appendix 4. It should be noted that only changes that have a substantive effect on the policy are included in Appendix 4 and that other changes that are grammatical or of no consequence to the effect of the Policy have been recorded but are not included in this paper.

Appendices

1. Wash Cockle and Mussel Byelaw: Eligibility Policy and Permit Limitation formal consultation - Outcome document
2. Impact Assessment
3. Eligibility Policy and Permit Limitation
4. Version Control Document – substantive revisions to Eligibility Policy and Permit Limitation

Background Documents

Papers and Minutes of the 39th Eastern IFCA meeting (11 March 2020), Action Item 10, Wash Fishery Order Replacement

Papers and Minutes of the 43rd Eastern IFCA meeting (10 March 2021), Action Item 10, Wash Fishery Order Replacement

Papers and Minutes of the 44th Eastern IFCA meeting (09 June 2021), Action Item 13, Wash Cockle and Mussel Fisheries Policy Development

Papers and Minutes of the 45th Eastern IFCA meeting (08 September 2021), Action Item 12, Wash Cockle and Mussel Byelaw 2021 – Update

Papers and Minutes of the 46th Eastern IFCA meeting (08 December 2021), Action Item 7, Wash Cockle and Mussel Byelaw Policy

Papers and minutes of the 47th Eastern IFCA meeting (09 March 2022), Action item 11, Wash Cockle and Mussel Byelaw 2021 Access Policies

Appendix 1

Wash Eligibility Policy and Limitation of the Number of Permits

Formal Consultation June 2022: Outcome Document

This document presents the outcome of the formal consultation on the proposed Wash Eligibility Policy and the limitation on the number of permits issued under the Wash Cockle and Mussel Byelaw 2021 ('the byelaw').

The consultation was open from 13 June to 26 August (following two extensions to receive further information). The consultation was intended to inform the development of our policy to manage access to Wash cockle and mussel fisheries and was undertaken in accordance with Schedules 4 and 5 of the byelaw.

We asked

We consulted on our proposed Eligibility Policy and the limit to the number of permits issued under the byelaw. The draft policy wording was provided along with summary information and a questionnaire.

Results of the Consultation

18 responses to the consultation were received, including 8 written responses, 6 via meetings (with a total of 26 people) and 5 via phone calls with individuals. One response relates to the views of 32 separate individuals which was provided by Peter Scott and Jim Andrews on behalf of the 'coalition of interests.' In addition, further dialogue with the representatives of the coalition of interests has taken place, including one meeting at the cost of the Authority to provide industry with every opportunity to relay responses to the consultation.

There were reports of some industry members using misinformation to dissuade stakeholders from attending meetings and responding which is in line with reports from previous consultations on the replacement of the Wash Fishery Order 1992 (WFO). This has been problematic during this and previous consultations because detailed consideration of fishing operations were required to test the Policy and to identify unintended impacts as a result of policy wording. It has led to people being less likely to respond and contribute to the work.

Responses also indicate that there are differing views amongst the industry and current WFO licence holders on some key issues (discussed below).

Overall, the response rate was good and there was general agreement with what the policy was seeking to achieve. The consultation highlighted several areas where revisions would enhance the effectiveness of the policy and some instances where the policy would have unintended impacts on industry. The key issues were identified, and revisions are proposed in this regard (below).

Addressing 'renting out'

The practice of 'renting out' a licence under the WFO is whereby a Licence holder obtains the majority of the registered shares in a vessel in order to name it, and its 'genuine' owner, on their licence to provide them access to the Wash cockle and mussel fisheries.

Historically this has been the key concern of WFO licence holders who feel that this prevents 'genuine fishermen' from gaining access to the fishery and has been the subject of complaint from industry.

In general, responses indicate that 'renting out' is considered to be a risk to the fishery and should be addressed under the Policy. However, there is concern that in addressing the issue, some business models within the Wash will be jeopardised unintentionally. This is primarily as a result of the policy restricting the issue of a permit to a person who is the registered and beneficial owner of a vessel.

The consultation identified that some established business models are not compatible with the wording of the Policy and would be at risk of not retaining access through the transition (from the WFO to the Byelaw). Furthermore, concern was raised that 'normal business transactions' could result in the cancellation of a permit under the policy which prevents 'renting out'.

It has also been suggested that addressing 'renting out' goes beyond the vires provided by MaCAA byelaw making powers (in particular, it is viewed as the Authority attempting to dictate what business arrangements are acceptable), would prevent 'investment' into the industry, and that some within industry will attempt to circumvent any such policy in any case.

Permits becoming a tradeable commodity

In accordance with the Aim and Objectives for the Policy, the Policy seeks to prevent the permit from becoming a tradable commodity.

In general, responses indicate agreement with this objective on the basis that this would prioritise Wash-based fishermen in obtaining access, succeeding current licence holders to the benefit of local businesses and the fishery's sustainability. It is also suggested that 'monopolisation' of the industry by a small number of larger companies would be to the detriment of the fishery and restrict a competitive market. Some responses suggest that fishermen operating on behalf of larger business models lack the investment in the fishery which promotes best practice and sustainable fishing.

In contrast, some responses indicate that allowing a permit to be 'sold' would increase the value of vessels which could be sold on retirement, providing the fishermen with 'a pension'. It was also suggested that this is normal business practice and would be of overall benefit to industry as it would enable investment.

Maintaining eligibility for permits

In general, there was a concern that the Policy would not provide enough surety that permits would be re-issued. This was however often based on an inaccurate

comparison to the current system under the WFO. Generally, there is an incorrect assumption that under the WFO, a licence to fish provides 'guaranteed access' for the lifetime of the Order, which is not the case.

In particular, there was concern about the six-year review period and the ability of the Authority to review access policy generally.

In addition, it was highlighted that the proposed policy for maintaining eligibility includes fishing activity requirements (i.e. a number of fishing trips per year) which were too high for certain business models and that the annual 'eligibility fee' (of £758 per year) may be too high for some business models to maintain eligibility.

Concern was also raised that excessive evidence of vessel ownership was required which was disproportionately burdensome.

Prioritising Wash-based fishermen

Responses generally favoured prioritising access to fishermen who were involved in the fishery already, for example, the points system for eligibility for a 'new permit' should provide more points to those fishing within the Wash cockle and mussel fisheries than other fisheries.

It was also suggested that permit succession policies, which enable access to effectively be 'passed on' to someone else, should be restricted to 'close family' who are also active within the fishery.

We did (proposals)

Consideration of the responses has identified the following revisions (proposals) to the Policy.

Addressing 'renting out'

Addressing the practice of renting out is considered important for three reasons:

1. It is identified as a key concern of industry.
2. Someone who has gained access to the fishery through 'renting out' is financially dependent on access to the fishery but not 'protected' by policy which enables continued access which is not in keeping with the objective to 'prioritise the continuity of active participants in the fishery'; and
3. The Authority should be responsible for allocating fishing opportunity under powers afforded by MaCAA, for the purpose of meeting its main duties and to ensure fair and equitable access.

The wording of the policy consulted on was identified as likely to cause unintentional impacts on businesses which currently operate WFO Licences. This is primarily as a result of the policy seeking to restrict a permit to being issued to the 'genuine' owner of a vessel, i.e. the registered and beneficial owner of the vessel but that in reality, this is not simple to determine nor is it necessarily the best indicator of a licence / permit being rented out.

Therefore, the policy wording has been revised to be more permissible in this regard, with a permit holder determined as someone who is at least legally and practically

responsible for the vessel named on the permit. The intention is to ensure that the permit holder is at least the 'manager' of the vessel and has some (if not the majority) legal interest in the vessel.

The effect is that the policy that impacts on current business models are less likely to be disrupted. In addition, this reduces the 'evidence' requirement / burden on applicants to provide evidence of vessel ownership as wording is aligned with requirements under for vessel ownership documentation (MSF 4728 – declaration of vessel eligibility).

The policy is not intended to preclude or prioritise any particular business model to operate within the fisheries, but only to ensure that the permit holder is the 'vessel owner'. The revised policy is less prescriptive and therefore less likely to inadvertently exclude certain business models or go beyond its *vires*.

The revisions will also enable investment into existing business models to the effect that the beneficial owner has changed provided that the permit holder is still responsible for the vessel in a practical sense and has some legal responsibility for the vessel.

To further mitigate impacts on business models reliant on access to the fisheries an appeal process is also included. This includes a ground for appeal whereby a person loses access as a result of the transition policy which has an impact on business continuity.

Permits being a tradeable commodity

It is considered crucial to the management of the fishery that the issuing of fishing opportunities is at the discretion of the Authority. This will ensure that permits are issued in a manner that meets the Authority's duties under MaCAA and general duty to undertake functions in a fair and equitable way.

Many stakeholders consider the ability to buy and sell fishing opportunities (including generally in relation to Defra licences and quotas) to have impacted inshore fishing businesses in particular as these tend to be less able to 'buy in' access.

Therefore, policy has not been revised in this regard.

Maintaining eligibility for permits

The policy is intended to provide an appropriate level of surety to permit holders of continued access to the fishery. It sets out a clear and predictable framework for businesses to operate under and which also seeks to acknowledge the commercial realities of fishing industry.

Significant safeguards have been inserted into the byelaw, under which the policy is issued and reviewed. These safeguards require the Authority to consult and consider the impact of any changes to policy given specific regard to impacts on business continuity as a result of any changes. Permit holders and the fishing industry in general will therefore be better represented under policy issued via the byelaw compared to the same issued under the WFO.

The Authority cannot, and has not under the WFO, guarantee access to a fishery over a period of 30 years. This would not be appropriate in these fisheries given that they operate within Marine Protected Areas (MPAs) and the ability to review access policy would be required under an Order which manages fisheries within this area in any case. In addition, inshore fisheries are dynamic and change over relatively short timescales. Therefore, the Authority requires some flexibility, albeit with appropriate safeguards to industry, to ensure that policy which manages access is fit for purpose and effective over time.

However, the following amendments are intended to ensure the requirements to maintain eligibility for a permit are reasonable and reduce the burden of annual applications for permits:

1. The number of days fishing required to meet activity requirements outside of the Wash cockle and mussel fishery has been reduced and includes fishing other than from a licenced vessel.
2. The eligible fee has been changed from an annual, to a bi-annual requirement to reduce the cost to businesses which rely on less frequent access to the fisheries.
3. Vessel ownership documents will not ordinarily be required after the first year a permit is issued but may be checked at any time.

Prioritising Wash-based fishermen

Point systems for allocating permits have been amended to provide additional points for fishermen with experience fishing in The Wash cockle and mussel fisheries and as a nominated deputy of a permit. This recognises that these fishermen will have more experience fishing in the Wash and be more likely to undertake fishing activity in accordance with best practice and relevant regulations to protect the features of the MPAs concurrent with the fishery.

Permit succession policy has also been amended with the effect that to be eligible to be issued with a permit you must have participated in the fishery for at least 5 years. This also recognises the importance of experience when fishing in The Wash to protect the site.

Other amendments

Other feedback from the consultation has also led to minor amendments to enhance the clarity of the Policy and to ensure it will achieve its intended effect.

Support for the proposals

There appears to be general support for the proposals and particularly their intention. However, the issue of replacing the WFO with a byelaw (instead of an Order under the Sea Fisheries (Shellfish) Act 1967), which is not the subject of this consultation, has continued to remain the focal point for some industry members and detract from their meaningful engagement with the policy.

It is noteworthy that several respondents indicated that they would support the policy if it had been put into effect via an Order.

It is also noteworthy that some have felt unable to express support for the Policy as a result of peer pressure and concern that doing so would lead to ill feeling amongst others.

DRAFT

Appendix 1 – Detailed consideration of consultation responses

The following table sets out the key points from the consultation and our consideration of these.

<i>Table 1. objections / comments summaries are paraphrased from responses to the formal consultation on the Wash Cockle and Mussel Byelaw 2021: Eligibility Policy and Permit Limit; June to August 2022. The table is divided into sections on each key theme</i>	
Objection / Comment	Consideration and amendments (if applicable)
Number of permits	
Summary: <i>There was general consensus that the number of permits issued should be limited, but little consensus on what the level of access should be, with representations calling for reductions and increases along with maintaining the status quo.</i>	
There is a fundamental error in the statement about the number of permits in the guidance document – Eastern IFCA say the limit is 61 but in reality, it is 183 because there are three types of permit.	<p>The guidance referred to the limit on the number of permits as 61 because it was felt this was the clearest way to express the limit on access and because in effect, the limit will be 61 different vessels / permit holders which are provided access.</p> <p>It is noted that this could have caused confusion and it is correct to say that 183 permits is the maximum (because there are three different permits) but eligibility relates to all three types of permit and this is described in the wording of the policy for clarity.</p> <p>The intention however is to get across that the maximum issued will be the same level as is the case in the WFO.</p>
The number of permits should be reduced to 59 as two are thought to be inactive.	<p>It is acknowledged that issuing permits in the place of inactive licences would effectively reduce individual fishing opportunity proportionately. It is thought that the number of 'inactive' WFO licences is small and the relative impact on fishing opportunity to those currently fishing would be similarly small in scale.</p> <p>We intend to balance that with the impact of excluding people who would benefit from access.</p>
The Policy has no vision for the future i.e. how many vessels should be in the fishery in 20 years time.	<p>The flexibility provided under the byelaw will enable changes to be made to the number of permits should circumstances change and it is appropriate to do so. The policy is intended to cater for the current situation and the Wash Fisheries Economic Assessment 2021² indicated that the fishery was currently viable for the number of participants.</p>

² The Wash Fisheries Economic Assessment was undertaken by MarFishEco and commissioned by Eastern IFCA. The report is available here: https://www.eastern-ifca.gov.uk/wp-content/uploads/2022/06/2022_06_09_Wash_Economic_Assessment.pdf

<p>The number of permits issued needs to be reduced (potentially over time) to keep the fishery sustainable – 50 permits is more sustainable</p>	<p>Limiting the number of permits to below the current number of WFO Licence holders would remove access from some individuals. Typically, those who participate in the Wash cockle fisheries rely on these either solely, or to a very large extent for their income and so impacts on individuals would be high.</p>
<p>The daily quota should be reduced to 1 tonne to allow younger fishermen enter into the fishery</p>	<p>Reducing the Daily Catch restriction is outside the scope of this Policy, but it is intended that ‘new entrants can gain access to the fishery via the ‘new permits’ policy when such become available.</p>
<p>The number of permits should increase to 68 as the impact on each individual permit holder would be limited</p>	<p>Increasing the number of permits is less likely to impact each individual than reducing the number of licences and removing some individuals from the fishery.</p> <p>However, this needs to be balanced against the proportional reduction in earnings likely to each individual where the number of participants is increase and the recent cost of living increases and fuel price increases which are likely to have increased the overheads of fishing businesses.</p>
<p>There should be no review of the number of permits after the transition. The uncertainty caused by the current review has impacted industry viability and the potential for additional permits extends this threat</p>	<p>It is acknowledged that any increase in the number of permits will effectively reduce individual fishing opportunity proportionately.</p> <p>It is important that the Authority can review and revise the number of permits issued under the byelaw to ensure that the fishery does not impact the Wash MPAs and remains sustainable and viable over time.</p> <p>Any review and proposals for change will have the safeguards set out in process under Schedule 5 of the Byelaw inasmuch as industry consultation will be a key element and business continuity an important consideration.</p>
<p>Renting Out</p>	
<p>Summary: <i>The prevailing general view is that ‘renting out’³ limits the ability for new entrants and in particular, does not provide local, experienced fishermen with the opportunity to enter into the fishery. Whilst there is a prevailing view that the matter should be addressed, some responses highlight the concern that doing so will inadvertently impact ‘legitimate’ business models.</i></p>	
<p>Renting out has been a key issue for all the</p>	<p>The Policy intends to address the issue of ‘renting out’ in the following ways:</p>

³ ‘Renting out’ is where a WFO Licence Holder obtains the majority of the registered shares in a vessel to provide the beneficial owner (i.e. the person financially responsible for and dependant on the vessel and who typically held all the shares originally) with access to the fishery. This practice has been the subject of complaints from industry for many years

<p>fishermen for years and should be stopped</p> <p>Renting out prevents new entrants into the fishery as they can be maintained by letting someone else use it</p> <p>Renting out means that fishermen from other areas can enter the fishery at the expense of fishermen who have been working in the Wash their whole lives</p> <p>If there was an effective way of people getting new Licences / Licences would be re-issued, fewer Licence holders would have rented out</p> <p>Some people renting out have been fishermen their whole lives and should be able to get their own permit</p>	<ul style="list-style-type: none"> • During the transition, any WFO Licences which are rented out will not be considered for issue of a Permit in Phase 1 • During phase 2, these permits will be available via a points system which will prioritise applicants who were the beneficial owner of a vessel named on a WFO licence • After the transition, permits will only be issued to persons who have some legal and practical responsibility for a vessel • Any changes to vessels named on permits or the ownership of such vessels will be investigated to ensure that the permit holder is the registered and beneficial owner. <p>In addressing renting out, the Policy intends to ensure that where a person no longer requires a permit to participate in a fishery, that access can be reissued in accordance with a fair and objective system which will prioritise those with experience and knowledge of Wash-based fisheries.</p>
<p>Those renting a permit from someone else need a permit in their own right to carry on their business</p>	<p>It is recognised that established business models rely on 'renting' their access from WFO Licence holders and removal of access would have significant impacts on their business models. Therefore, where this is the case, the policy intends to prioritise these in getting a permit in their own right.</p> <p>It is important for effective business planning that those who rely on access to finance the vessel used to fish and carry on a fishing business are the permit holder and therefore able to 'maintain eligibility' over time. The policy intends to prevent the situation, which persists under the WFO, whereby the person reliant on access is not 'protected' by the policy.</p>
<p>Attempts to prevent 'renting out' will have adverse and unintended consequences, particularly on family companies.</p>	<p>The policy intends to ensure that the permit holder is legally and practically responsible for the vessel named on the permit. It is not intended to prescribe or prevent certain business models.</p>

<p>Preventing renting out should not impact genuine partnerships / LLPs etc.</p> <p>Renting out is not an issue as it enables investment</p> <p>Attempts to prevent renting out are to give Eastern IFCA “more control of the fishing industry”</p> <p>Fishermen will find a loophole which allows them to ‘rent out’ a permit</p>	<p>The wording of associated policy has been the subject of significant consideration to ensure that the business models of WFO licence holders are not unintentionally impacted.</p> <p>Wording is revised in the ‘Permit Holder’ and ‘Transition’ sections to reduce the likelihood of unintended impacts and to accommodate known business models which are not ‘renting out’. The potential for impacts is further reduced with the introduction of an ‘Appeals Process’ which provides grounds for appeal specifically in relation to where access is lost via the ‘Transition’.</p> <p>In addition, wording is included in the Policy which specifically refers to cancellation of permits where permit holders attempt to enable another person to use the permit as a vessel owner / permit holder and policy wording can be revised (in accordance with the process set out in Schedule 5 of the Byelaw) to address and ‘loopholes’ exploited over time.</p>
<p>Eligibility Fee</p>	
<p>Summary: <i>Understandably, the fees associated with maintaining eligibility are not favoured by industry. In general, objection is raised in relation to paying a fee where a person does not use the access provided in any given year, rather than the level of the fee itself. Some who rely on access to the mussel fisheries (which are much less frequent than cockle fisheries) believe that the cost will be too high to maintain eligibility.</i></p>	
<p>Paying an eligibility where there is no fishery is unaffordable for some (particularly smaller) business models.</p> <p>£100 is suggested as appropriate.</p> <p>Eligibility fee is too high for people who only rely on less regular mussel fisheries</p> <p>Eligibility fee should be refunded if there is no fishery</p>	<p>The policy has been revised to require bi-annual, rather than annual, payment of the eligibility fee to reduce the impact on permit holders who do not participate in the fishery each year or where the fishery is not open. This effectively reduces the minimum annual fee requirement by 50%, to £378.87.</p> <p>This will reduce the likelihood of achieving the 50% cost recovery which was previously agreed by the Authority but is considered a reasonable balance to prevent undue impacts on industry.</p> <p>It is considered appropriate that maintaining eligibility to access the fishery requires a contribution to the costs incurred annually by the Authority even where a fishery is not opened (i.e. the survey costs) because that access is provided at the expense of other potential applicants.</p> <p>A fee of £100 is not considered appropriate given that it would be a significant reduction and diminish the ability to recover appropriate costs.</p>

<p>The Eligibility fee is 'not a problem' as it enables a survey of the fishery each year</p>	<p>The contribution of each permit holder to the costs of managing the fishery is a relatively small proportion (161 of 50% of the costs) and it is likely that this can be recovered by most business models after 1 or 2 days access into the fishery.</p> <p>The revised fee is intended to balance the recovery of costs by the Authority with the potential impact, particularly on smaller business models or those who rely on less frequent mussel fisheries.</p>
<p>The Eligibility fee should be based on the standard price of a cockle / mussel survey and Eastern IFCA should tender the survey to other companies to ensure value for money</p>	<p>The cost of managing the fishery was considered in 2018, and cost savings were found via revised survey methodology. Importantly, only 50% of actual costs are recovered and as such the survey costs to licence/permit holders are competitive.</p> <p>Because surveys are undertaken by Eastern IFCA they provide a reliable and credible evidence set to inform stock assessments and Habitat Regulation assessments annually and are considered good value for money.</p>
<p>Appeals Process</p>	
<p>Summary: <i>No Appeals Process was included in the Policy put to consultation however, several responses indicated a preference for such. In general, this is seen as a means of ensuring objective and transparent decision making and is considered to enhance 'trust' in the process.</i></p>	
<p>There should be an 'independent' appeals process to consider decisions made under the Policy</p>	<p>An 'Appeals Process' has been added to the policy which may consider appeals where there are grounds to do so, which include where there is a procedural error or mistake of law or the application of the policy or new information to support an application becomes available. In addition, grounds specifically relating to the transition are included to mitigate impacts on business continuity as a result of the loss of access.</p>
<p>Officers will not act fairly when considering applications if they do not like the applicant</p>	<p>The appeals process is intended enhance trust in the application of the policy through a transparent and objective process for reconsidering applications where there are grounds to do so. However, the Authority and its officers are expected to act with integrity and objectivity in carrying out their duties and are already held to account via internal and external processes.</p>
<p>The appeals process should include independent (non-IFCA) decision makers and a panel of local fishermen to help inform decisions.</p>	<p>The process for decision making has been designed to provide objectivity and integrity. Officers will collate evidence to support individual applications and decisions will be taken by Authority members who do not have a pecuniary interest in the Wash fisheries in a sub-committee. The appeals process will enable further consideration of an application where there are grounds to justify this. Such cases will be considered by an appeals sub-committee that comprises</p>

	<p>members who were not involved in decision making with regards to the original application and who do not have a pecuniary interest in the Wash fisheries. This sub-committee will include the Chair and Vice-Chair of the Authority.</p> <p>It is not considered appropriate to include non-members as the sub-committee structure is used to ensure that decision making is clear and transparent (i.e. duties are undertaken in accordance with the constitution and standing orders). In addition, involving industry members may reveal personal or commercial information to those with a financial interest in the fishery and as such, Authority members are best placed to ensure that there is no perception of bias.</p> <p>Any decision made by the Authority can ultimately be challenged (including for example via judicial review). This means that all decisions made by the Authority subject to independent scrutiny.</p>
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Section 2 – Issuing permits

Summary: *Key concerns raised relate to the wording of provisions which define ‘vessel ownership’, with the intention being to ensure that permit holders are legally and practically responsible for the vessel. In particular, the wording was considered to unintentionally exclude certain people from holding permits by virtue of their business and ownership arrangements including where they were not ‘renting out’ a Licence.*

In addition, there appears to be no consensus with regards to whether a company or business should be able to hold a permit and / or whether these should be a ‘tradeable commodity’. In general, there appears to be a concern amongst most that this would be to the detriment of most business models in The Wash and particular smaller fishing operations.

<p>Permits should be issued to natural persons only – not companies.</p> <p>The intention of the Order was that the Licence / Entitlement was on the person, not the vessel or company</p> <p>The fishermen should be in ‘control’, not the companies</p> <p>Large companies owning permits / having access causes monopolisation</p>	<p>The Policy intends to enable the full range of business models established within The Wash recognising the benefit these have to the industry overall. It does not intend to prioritise or favour any particular business model.</p> <p>Consideration has been given to the Policy’s effect on markets and competition and particularly with regards to mitigating the risk of monopolisation through a cap on the number of permits a business or person can have a financial interest in.</p>
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<p>including on prices (of catch)</p> <p>Fishermen earn less money if they work for a company vs owning their own vessel</p> <p>Processors should not be allowed to hold multiple permits as they control the price</p> <p>Fishermen, rather than companies, should be prioritised</p>	
<p>Companies take fishing opportunities / jobs away from local fishermen / families</p> <p>Companies taking over will mean fewer smaller business models</p> <p>Fishermen behave more responsibly when they are invested in the vessel rather than work for someone else – if they are invested in the permit they are more likely to fish sustainability as they need the fishery to continue to pay for the vessel</p>	<p>The 'new permit' policy is intended to prioritise applicants who are active fishermen and who do not already have access or have less access than other applicants. This in part recognises the industry's views that 'genuine' fishermen who are themselves invested in the industry are more likely to act responsibly to ensure a sustainable fishery.</p> <p>However, it is not considered appropriate to prevent existing companies from gaining access by virtue of their size.</p>
<p>Section 4 – Transition</p>	
<p>Summary: Generally, responses appear to support this policy - note that addressing 'renting out' is a key element of the transition which is considered separately (above).</p>	
<p>Phase 2 (transitional provisions)</p> <ul style="list-style-type: none"> • There should be no cap on criterion 2 of 10 points • The time period for accruing points is shorter for fishing in WFO fisheries than fishing generally, 	<p>The transitional provisions are intended to have two phases:</p> <ol style="list-style-type: none"> 1. Phase 1 will provide access to WFO Licence holders where that Licence is not being 'rented out' and is being actively used. 2. Where there are permits available after Phase 1, these will be allocated to applicants under a points system. An applicant will get more points if they were the beneficial owner of a

<p>these should be aligned</p> <ul style="list-style-type: none"> • The term “participation” in fisheries should be defined • Convictions (criterion 5 & 6) should have time limits • Criterion 7 (which includes a points penalty for having an interest in permits already granted) should be subject to <i>de minimis</i> and clarified (e.g. how does it relate to permits held on behalf of a family company?). 	<p>vessel named on a WFO licence which did not result in an associated permit under phase 1, if they have participated in WFO fisheries or other Wash and N. Norfolk Coast based fisheries, have not been convicted of relevant fisheries offences and have no permits issued to them already.</p> <p>Following consideration of feedback on the points system, the following revisions have been made:</p> <ul style="list-style-type: none"> • The cap on criterion 2 has been increased to 20 points with the effect that fishing under a WFO licence will provide more points than fishing in other areas. • The time period for fishing activity which can result in allocation of points is removed. • The term ‘participation’ is removed and replaced with “fishing”. • A time limit of 3 years has been added in relation to convictions. • The wording of Criterion 7 (now 6) is revised to from clarity. A <i>de minimis</i> is not considered appropriate because such would diminish the effect of policy to prevent ‘renting out’, noting that some responses have indicated an intention to circumvent the policy in this regard.
<p>The current waiting list should be considered during the transition</p>	<p>Active participation in Wash fisheries is prioritised (where evidence of such can be provided) and this is considered the most appropriate means of ensuring those who would benefit the most from gaining access are prioritised.</p>
<p>For the beneficial owner to be eligible for a permit under phase 2, they will need to obtain the registered shares in the vessel which has a cost implication</p>	<p>Wording is revised (to section 2) which means that the permit holder does not need to hold the majority shares in the vessel but will require nomination from the majority shareholder (of the vessel) to meet the criteria. This is intended to have the effect of enabling vessel ownership arrangements to persist even where the permit holder changes because of the transition but where the owners are in a genuine partnership.</p>
<p>Section 5 – Maintaining eligibility</p>	
<p>Summary: <i>The issue of maintaining access over time appears to remain the central concern of stakeholders. Many of the concerns raised arise from an inaccurate comparison to the system under the WFO whereby many mistakenly hold the view that access was ‘guaranteed’ for the lifetime of the Order. Overall, responses highlight the importance of a clear and predictable framework for maintaining access to the fisheries which can accommodate changes to business models.</i></p>	
<p>Should be able to retain a permit if the fishery is not opened or accessed at</p>	<p>The Policy requires that the permit holder or vessel named on the permit is active within Wash and North Norfolk Coast fisheries. However, criteria do not</p>

<p>the preference of the permit holder in any given year</p> <p>Fishing every year is not responsible or sustainable</p> <p>Activity requirements are too high – 30 days fishing per year (outside of the Wash cockle and mussel fisheries)</p>	<p>require participation in cockle and mussel fisheries every year and include exceptions where a fishery is not opened or performing poorly. In addition, the requirements have been lowered to reflect that some business models fish at sea less often.</p> <p>Wording has been revised to accommodate fishermen who do not ordinarily use a registered fishing vessel as they are tending to private fisheries or work on other larger vessels when not using their own permit.</p>
<p>The additional evidence required for proving vessel ownership is burdensome.</p> <p>There is too much 'red-tape'.</p>	<p>The policy is intended to ensure that permit holders remain eligible over time and do not sell or otherwise allocate the access afforded by a permit. Therefore, evidence of vessel ownership is required however, these will primarily relate to vessel registration documents which are already in existence (e.g. a 'declaration of eligibility' which is generated as a result of vessel registration) to minimise burdens on applicants.</p> <p>Wording has been amended to set out that evidence requirements in this regard will not ordinarily be required for annual applications with the intention of reducing the burden on permit holders.</p>
<p>IFCA should send out reminder letters to all Permit holders to remind them of the need to apply each year</p>	<p>The Authority will write annual reminders to permit holders.</p>
<p>The term 'entitlement' should be used instead of 'eligibility' as it will be of reassurance to the industry.</p>	<p>The term 'entitlement' has been used under the WFO since its coming into effect in 1992 and its popular meaning has, over time, deviated from that which was intended (from our understanding) within the WFO. The term 'eligibility' is preferred as it does not carry with it these historical and sometimes incorrect perceptions.</p> <p>The intention is for permit holders to be able to maintain eligibility in a predictable and transparent way and we have included wording in the policy which will have the intended effect.</p>
<p>No one should be penalised for paying the entitlement fee too early.</p>	<p>The policy does not intend to penalise anyone for paying fees 'too early' and associated wording has been revised to make this clearer.</p>

<p>A person should not lose their eligibility to a permit for late payment of the associated fee.</p>	<p>It is considered necessary to have in place a form of deadline for the eligibility fee to prevent licences being maintained without contributing the cost recovery for managing the fishery (which is intended to recover 50% of the costs to the Authority).</p> <p>This has however been revised to align with the requirements in place under the WFO (i.e. it is required to be paid at least every-other year).</p>
<p>The permit should be viewed as a means of managing the fishery and not a guarantee of access</p>	<p>This is the intention of the policy and byelaw and this aligns with the WFO.</p>
<p>The Policy should guarantee 30 years of access to the fishery</p>	<p>It is not considered appropriate to ‘guarantee’ access for 30 years. Defra guidance to IFCA’s includes reference of regular review of management to ensure it is fit for purpose and is in keeping with IFCA’s main duties.</p> <p>In the context of the fishery occurring within several MPA designations and variability of inshore fisheries over relatively short time periods, the IFCA requires the ability to revise access to policy to ensure sustainability, viability and the prevention of impacts to MPAs.</p> <p>The WFO included provisions to reduce or increase the number of licences issued and for the IFCA to issue licences to ‘such persons as it considered appropriate’.</p>
<p>Section 6 - New Permits</p>	
<p>Summary: <i>The ‘new permits’ policy is generally well received and has been developed in consultation with stakeholders and aligns with the general values of current licence holders.</i></p>	
<p>The loss of 11 points for previous convictions is disproportionate</p>	<p>The cockle and mussel fisheries operate within several MPA designations and best practice is required to ensure the fishery can continue whilst maintaining site integrity. Convictions are rare and generally constitute non-compliance of a serious nature and therefore it is considered appropriate for these to be reflected in an objective way when issuing access.</p>
<p>Points system should prioritise wash cockle and mussel fishermen</p>	<p>The points available to those with experience of wash cockle and mussel fisheries have been increased and now outweighs the points available in relation to other fisheries.</p>
<p>Section 7 – Permit Succession</p>	
<p>Summary: <i>Responses indicate that there is a polarised view within industry on this matter, with some in favour of enabling permits to be sold and become a tradeable commodity and others considering such as being a risk to the fishery.</i></p>	

<p><i>Many of those in favour of the policy also had concerns about companies holding permits and were fearful of a fishery monopolised by a few larger business interests.</i></p>	
<p>Permit holders should be able to pass access on to family members</p> <p>Only close family who are active within the fishery should be eligible for a permit under succession policy.</p>	<p>Permit succession policy includes the ability to pass on access to a family member. Wording has been revised to require that the family member is an active participant in the fishery.</p>
<p>Buying and selling access (including in other fisheries) has been to the detriment of industry.</p> <p>Larger companies can take away access from local families.</p> <p>Concern that companies can buy all the access from independent and control the fishery.</p>	<p>The policy is intended to prevent the permit becoming a tradeable commodity such that the Authority can exercise its discretion in determining who to issue permits to in line with the 'new permits' policy.</p>
<p>A permit should stay with the vessel / company / nominated deputy</p> <p>Permits should be a tradeable commodity to enable investment.</p> <p>Selling a permit provides a pension and some 'dignity' to retiring fishermen</p>	<p>The ability to trade permits or transfer them as the result of a vessel sale would mean that the Authority cannot use its discretion to issue fishing opportunities. The 'New Permits' policy is intended to objectively and fairly determine who can have access after a permit becomes available and was developed taking into account what the fishing industry thought were important considerations.</p>
<p>In the event of the death of a permit holder, they cannot be notified in writing</p>	<p>The policy does not require notification in exceptional circumstances, but this section has been amended to make this clearer.</p>
<p>The Authority does not need a permit holder to surrender a permit for it to be succeeded by another, it can be cancelled.</p>	<p>Our intention is to ensure that the cancellation of a permit under the permit succession policy is fair and transparent, and this is required to ensure that it is the will of the permit holder to surrender the permit.</p>
<p>Section 8 – Change of Vessel / Ownership</p>	
<p>Summary: <i>The key concerns about this section relate to the loss of continued access as a result of selling shares in a vessel or business associated with a</i></p>	

permit. There was a concern that fishermen would inadvertently lose access as a result of transactions which were not attempts to 'rent out'.

Section 8 is unsatisfactory because:

- It will prevent businesses from obtaining investment in them through selling the majority shares in their vessels to an investor.
- The byelaw prohibits the transfer of permits to other vessels which is inconsistent with the policy and needs to be changed.
- Reference to the 'intentions of the policy' is not clear and subject to interpretation.
- There should be an appeals process where appeals are subject to consideration by an impartial and independent review.

Each point considered as follows:

- The Policy is not intended to be a disincentive for investment into the fishery. The wording has been revised to enable the permit holder to sell the majority ownership of their vessel to another provided they retain some registered interest in the vessel and are practically responsible for the vessel in all its operations.
- The intention of the provision in the byelaw is to prevent the automatic transfer of a permit to a new vessel (for example when it is sold). It is not intended to prevent us from naming a different vessel on a permit.
- The reference to the 'intentions' of the policy has been clarified.
- An appeals process has been included in the policy.

Section 7 and 8 taken together are 'entirely negative' and a disincentive to invest in the industry, key elements being:

- Under the Order, the licence holders can sell this licence along with the vessel which provides an 'exit' from the fishery
- The policy blocks off the normal modes of investment which is for a major or controlling share of a family business to be obtained by an investor in a family company

The intention of this section is to ensure that changes to vessels named on permits is not to enable someone else to use that permit (i.e. the genuine owner of the new vessel named on the permit). The Authority considers and investigates applications for the same under the WFO to detect attempts to circumvent the rules and the approach in the policy is consistent with this. In addition, the Authority also intends to consider where a vessel named on a permit changes ownership to ensure that the permit holder remains the owner of the vessel.

This is not considered likely to hinder investment in industry as a clear and predictable framework is provided, which can be used to inform investment decisions. Ultimately, the policy is not intended to prevent investment but to prevent a permit holder from effectively transferring the permit to someone else via buying or selling a vessel named on a permit.

Each bullet point considered in turn:

<ul style="list-style-type: none"> • The nominated representative should be able to obtain the permit but there is no mention of this in the policy • The policies do not provide enough assurance that access is assured to incentivise investment • The current models which fishermen operate under are at risk from the policy and could result in the loss of fishing businesses. 	<ul style="list-style-type: none"> • The current Policy (under the WFO) does not permit a vessel to be sold with its licence and therefore the licence has no value in this sense. It is common practice to prevent permits from having their own value or becoming a tradeable commodity and this is understood as being one of the industry's main concerns and is reflected in the aim and objectives. Enabling permits to be 'sold' or carried over as a result of the transfer of ownership of a vessel would prevent new entrants being provided access under the points system which is intended to prioritise issuing of permits in accordance with the preferences of the fishing industry (i.e. they operate in local fisheries, they have good compliance etc.). • The Policy has been revised to accommodate investment, including through the purchasing of the controlling stake in a vessel or business associated with a permit, provided that the permit holder remains eligible by having some legal and practical interest in the vessel named on the permit. • The nominated deputy can obtain a permit under the succession section (7) if they are eligible to do so. • The Policy provides a clear and predictable framework for businesses to operate in and a way a person can remain eligible to hold a permit. Changes to policy require consultation and consideration of impacts and the reasons for reviewing them are restricted by Schedule 5 (which includes elements added having been suggested through consultation). By contrast, most policy which deals with permit allocation or business licences are reviewed entirely at the discretion of the relevant authority and do not require consultation. • The intention of the Policy is set out in the aim and objectives and includes reference to continuity of business models in The Wash. In order to address 'renting out' and ensure permits are issued in a fair and equitable way, the transitional provisions may result in some changes with regards to who holds a permit (vs a WFO Licence) but it is likely that those engaged in fishing and ultimately reliant on access to the WFO fisheries will be issued permits under phase 2 of the transition. Dialogue with industry has been extensively undertaken to identify any unintended consequences which may arise, and which have resulted in several revisions to the policy. Therefore, the policy should not result in
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	the loss of businesses and will ultimately better protect those who rely on access to finance their business particularly as a result of the transitional provisions. An appeals process is available which will mitigate impacts on business continuity as a result of the transition.
There should be 'emergency provisions' to allow the replacement of a vessel in unforeseen circumstances	There are provisions which cater for vessel replacement in 'exceptional circumstances' including, but not limited to, the total loss of a vessel etc.
Section 9 – Nominated deputies	
Experience requirements to skipper a vessel are too restrictive – can we revise to enable others to enter into the fishery?	The experience requirements are considered important mitigation against potential for impacts to the MPAs concurrent with the cockle and mussel fisheries particularly in the context of the unique fishing method ('prop-washing'). The requirement is also in line with the situation under the WFO.
Skippers should have experience of wash cockle and mussel fisheries to be a skipper.	As above
Only one person should be named as a nominated deputy	Naming more than one nominated deputy provides resilience especially for business models where the permit holder is the owner of the vessel and not the skipper. It is considered appropriate that more than one suitably qualified person could fish under the authority of a permit.
Section 11 – Permit Penalties	
Section 11 (permit penalties) is disproportionate because it prevents a vessel owner from fishing under a permit – the effect should be limited to the permit used to commit the offence.	<p>The intention of the provision is to ensure personal accountability for non-compliance and act as a deterrent to such non-compliance noting that the fisheries are concurrent with several MPAs.</p> <p>The wording has been revised to remove the suspension applying to the vessel owner where they were not the master / skipper of the vessel involved in the commission of the offence.</p>
Section 14 – Policy Review	
Summary: Responses to this section often compare the review process in the policy with inaccurate perceptions of the review of WFO access policy and associated decisions. In particular, most WFO Licence holders are of the view that the Authority could not vary the number of licences issued under the WFO without the consent of the Minister, which is incorrect. There is however a general preference for longer 'guarantees' that policy will not change and some would prefer to insert additional checks and balances during review, including receiving the consent of the Minister.	
Notification that Eastern IFCA intends to undertake a review would	The process for review of the Eligibility Policy and permit limitation is set out in the Wash Cockle and Mussel Byelaw 2021 (Schedule 5 and 4 respectively).

<p>prevent financial losses to industry.</p> <p>Industry should be notified 1 year before a review is taking place.</p>	<p>It requires a review of the policy at least every 6 years but more often as necessary.</p> <p>Review of Eligibility policy must include consultation with industry and consideration of impacts. The Authority requires the ability to undertake reviews to ensure that the policy is effective and necessary and regular reviews ensure that this will be the case over time.</p> <p>Notification of a review would be required to advertise the associated consultation, however it may not always be possible to give 1 years' notice of such, for example, if a review is required as a result to changes in the fishery or the environment.</p>
<p>The ability for the Authority to change the policy 'overnight' is seen as a threat to all business models. There should be a clause inserted that Ministerial approval is needed to change the eligibility criteria (within the Byelaw) as pr 7(1) of the WFO</p>	<p>There is significantly more process involved in reviewing and changing this policy than is the case in most other similar policies we have considered. This includes a requirement to consult for at least 4 weeks, to undertake an impact assessment of any changes including in relation to the continuity of business models as a result and a requirement for any decisions on such to be made by the Authority or a relevant sub-committee (i.e. not delegated to officers). As a result of these provisions (which are within the byelaw rather than the policy itself) industry will have a greater degree of representation than in most cases including in relation to policy decisions made under the WFO.</p> <p>Ministerial consent to revise the policy is not appropriate given that the Marine and Coastal Access Act 2009 provides an IFCA with the ability to determine access to permitted fisheries.</p>
<p>The review period should be longer than 6 years.</p> <p>Six years is not long enough to make good an investment into the fishery (e.g. buying a vessel) and this will mean no one will invest into the industry because of the risk they could have their access removed.</p>	<p>A review period of six years is in keeping with review periods for Eastern IFCA's other byelaws. This will ensure that changes to the fishery, environment and inshore fishing practices can be accommodated and considered over time.</p> <p>A review of the policy does not mean that a change in the policy is necessary, and the impacts of any changes will be considered in any case. The aim and objectives for the policy set out an intention to maintain business continuity or active participants.</p>
<p>Miscellaneous</p>	
<p>The 'at a glance' guide and text of the policy do not include sufficiently</p>	<p>The 'at a glance' information is intended to assist in stakeholders understanding of the key parts of the policy and the intended effects of it without providing</p>

<p>precise information to ascertain what the Policy means.</p>	<p>detailed wording, which some can find inaccessible. The full wording of the draft policy was provided along with the guides, and we offered the opportunity for people to call or arrange meetings with us to explain anything about the draft policy.</p> <p>We will continue to listen to any feedback on how to make our consultation materials clear and accessible to assist people in engaging with us.</p>
<p>No vessels from outside of The Wash should be allowed into the fishery unless there is a high TAC</p>	<p>Industry preference is that the policy enables consistent access to the fishery to enable effective business planning. The uncertainty relating to enabling access only when there is a high TAC is unlikely to support business models in the long term.</p>
<p>Eastern IFCA has done everything they can to get the policy right</p>	<p>The consultation and dialogue with industry on this matter has been significant over the last 2 ½ years as a reflection of the importance of the fisheries to the local industry. This has informed the policy development and led to refinements which will mean the policy is more effective and reduces the likelihood of unintended consequences.</p>
<p>Rumours and misinformation from some fishermen has caused anxiety amongst industry</p> <p>Fishermen have been actively discouraged to participate in consultations</p>	<p>It is recognised that the process of reviewing access to the cockle and mussel fisheries has generated some anxiety amongst industry.</p> <p>Reports to this effect have been received during several consultations on the matter and the Authority has sought to allay concerns through continued dialogue including with individuals.</p> <p>The approach to consultation has also sought to provide confidentiality and protect the rights of persons who engage with us to encourage fishermen to contribute to the process.</p>
<p>Historically, the issuing of licences has been viewed by industry as unfair.</p>	<p>The Eligibility Policy is intended to ensure that decisions about access to the fishery are transparent and fair.</p>
<p>Permit scheme will be 'a lot better' than the current system</p>	<p>The access policy under the WFO was developed and revised over the lifetime of the Order and various changes were made to address industry concern at different times. The Eligibility Policy intends to address the current concerns of industry and has a structured review process to ensure it remains fit for purpose in the future.</p>
<p>An Order would be the preferred legal mechanism – strong opposition to a byelaw</p>	<p>The legal mechanism is not within the scope of this consultation but the preference for an Order by some is noted.</p>

Everyone would agree with the policy if it was put into place under an Order	
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Appendix 2

Title: Wash Cockle and Mussel Byelaw 2021: Eligibility Policy and Limitation on the number of permits IA No: WCMB01 RPC Reference No: N/A Lead department or agency: Eastern Inshore Fisheries and Conservation Authority Other departments or agencies: N/A	Impact Assessment (IA)		
	Date: 28/08/2022		
	Stage: Final Stage		
	Source of intervention: Domestic		
	Type of measure: Other		
Contact for enquiries: CEO, Eastern IFCA			
Summary: Intervention and Options	RPC Opinion: Not Applicable		

Cost of Preferred (or more likely) Option (in 2019 prices)

Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
£m0	£m0	£m0	Not a regulatory provision

What is the problem under consideration? Why is government action or intervention necessary?

Access to cockle and mussel fisheries in The Wash is currently managed under the Wash Fishery Order 1992 and associated policy. The Order expires on 3 January 2023 and is to be replaced with a permit scheme under an IFCA byelaw under the Marine and Coastal Access Act (c.23).

Intervention is necessary to ensure the fishery is managed in accordance with Eastern IFCA's main duties and to redress market failures which increase risks to fisheries sustainability, industry viability and the conservation objectives of the Marine Protected Areas concurrent with the fisheries.

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

Access to fisheries under the Wash Cockle and Mussel Byelaw is managed to ensure sustainable and viable fisheries which do not impact site integrity of concurrent Marine Protected Areas. The policy and limitation on the number of permits issued will provide a clear and predictable framework for businesses who rely on access and the fair and equitable allocation of fishing opportunities.

It is intended that the Eligibility Policy will ensure continuity of access to businesses operating under the authority of a Wash Fishery Order 1992 Licence whilst addressing key issues identified by stakeholders.

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

The preferred option is to limit access to the fisheries to 61 vessels prioritising access to persons who have established a reliance on access under the Wash Fishery Order 1992.

Other options considered include having no limit on the number of permits issued, the continuation of policy under the Wash Fishery Order 1992 and the 'do nothing' option.

The preferred option is considered the most likely to enable the Authority to manage access to the fisheries in a manner consistent with its duties and to address the concerns of stakeholders.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 09/2028 (latest)

Is this measure likely to impact on international trade and investment?	No		
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: n/a		Non-traded: 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 2019	PV Base Year 2020	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£0	£0	£0

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

No costs can be 'monetised' as they cannot be quantified but Financial impacts are expected and explored in more detail in the 'non-monetised' section.

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

The Policy may remove access for some licence holders but which is provided to the person actively using the Licence to prosecute the fishery (transition). Additional vessels may be permitted access compared to the current number which may reduce an individual's income proportionately but there will be no impact to the industry overall (i.e. the value of the fishery will not change).

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	£0	£0	£0

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

None identified

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

The policy will provide access to persons who presently rely on such to finance their businesses through fishing providing more surety of continued access. It provides a clear and predictable framework for permit holders to manage their businesses.

Key assumptions/sensitivities/risks

Discount rate (%)

Under the Wash Fishery Order 1992, licence holders held the perception that access to associated fisheries was guaranteed for the lifetime of the Order, but this is incorrect. This has led to a strong concern (and objection) from fishery stakeholders on the basis that management under a byelaw will provide less surety of continued access. The Authority has sought to reduce the risk of unintended impacts to stakeholders through extensive consultation.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m: n/a
Costs: 0	Benefits: 0	Net: 0	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 million¹. 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), however this does constitute an important source of income for several fishers within the District. Cockles are processed at three separate processing factories within the District, supporting the wider local economy.

Eastern IFCA currently manages the Wash cockle and mussel fisheries under the Wash Fishery Order 1992 (WFO) and limits access to the fishery under using the provisions of the WFO and Eastern IFCA policies². The current limit on the number of vessels able to access the fishery each year is 61. The majority of the licence holders rely heavily or entirely on access to the cockle fishery in particular.

The WFO has enabled 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. This includes setting annual management measures as informed by an annual stock assessment and an annual Habitat Regulations Assessment (HRA). It also provides for the Authority to issue licences to such persons, and in such numbers as the Authority considers appropriate. The matter of access to the fishery is also considered the key concern of stakeholders.

The WFO expires on 3 January 2023 and has given cause to review the access policy (including the appropriate number of permits to issue and the manner in which they are issued).

IFCAs have a duty to ensure that fish stocks are exploited in a sustainable manner, to seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources and to ensure 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.

¹ Estimate based on Eastern IFCA catch return data from 2015 to 2021

² https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/2017_02_15_WFO_Interim_Policy.pdf

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 competitors do not take all the benefits. This can lead to an inefficient amount of effort, an impact on the economic viability of the fishery and unsustainable exploitation.

Without management of access to the fishery, it is likely that these market failures will lead to impacts on fisheries sustainability, industry viability and the associated MPAs. In particular, the key future harms being tackled are:

- Potential for increases in the number of participants which, in the context of a finite resource (i.e. annual Total Allowable Catch), will reduce the economic viability of those with established reliance on the fishery;
- Inequity of access as a result of permits being used in unintended ways, including being sub-leased, rented or otherwise reallocated outside of the Authority's discretion to generate an income from holding the permit;
- Instability and uncertainty of access leading to inefficient (excessive) effort. The policy intends to provide a clear and predictable framework under which business can operate including providing a means to retaining access over-time to enable effective business planning and a sense of ownership which incentivises good practice and sustainable fishing;
- Impacts to fisheries sustainability and site integrity of associated MPAs as a result of market failures which encourage poor practice and over-exploitation.

The Authority is best placed resolve these issues because it can provide a fair and objective framework for allocating access uninfluenced by the factors leading to market failures using an evidence-based approach.

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

This impact assessment considers evidence from three structured consultations and ongoing dialogue since March of 2020 and an economic assessment³ of the cockle and mussel fisheries in The Wash. The three consultations were as follows:

- Consultation on the Aim and objectives of the Policy: 5 November 2020 to 18 December 2020
- Informal consultation on the wording of Eligibility Policy: 9 September 2021 to 11 October 2021
- Formal consultation on the wording of Eligibility Policy and Permit limitation: 13 June 2022 to 26 August 2022

Consultation has been used to identify and address the key concerns of stakeholder and to ensure that the wording of the policy achieves the intended effects.

³ The 2021 Wash Fisheries Economic Assessment was carried out by MarFishEco, commissioned by Eastern IFCA and is available here: https://www.eastern-ifca.gov.uk/wp-content/uploads/2022/06/2022_06_09_Wash_Economic_Assessment.pdf Eastern IFCA consideration of the findings and how they have influenced the development of the policy manage access is set out here: https://www.eastern-ifca.gov.uk/wp-content/uploads/2022/06/2022_05_16_MarFishEco_consideration.pdf

The following aspects have been given specific consideration in accordance with the Wash Cockle and Mussel Byelaw 2021 as they are considered to be of specific importance to fishery stakeholders (as determined through the associated consultation):

- the stability, continuity and succession of businesses of the permit holders; and
- the continuing ability of permit holders to finance their businesses.

The evidence gathered from consultations is primarily qualitative and does not support the estimation of monetised costs. The economic assessment addresses viability of the Wash based fisheries but does not lend itself to estimating monetary costs for the purpose of this impact assessment. Despite this, the evidence base (particularly in relation to the extensive consultation) is considered to be of high confidence as a reflection of the amount of consultation and opportunity provided to stakeholders to indicate their concerns and potential impacts. In addition, the effect of the preferred option is most likely to be that those who currently fish under the authority of a WFO Licence will still be permitted to do so, and therefore the impacts will be minimal.

Description of options considered

1. The “do nothing” option

The WFO expires and it is intended that it will be replaced by the Wash Cockle and Mussel Byelaw 2021. The “do nothing” option would effectively be to not limit access to the fishery or specify how a permit can be obtained or maintained over time. This option would not address the potential future harms as a result of market failures and would not be in keeping with the Authority’s main duties and would likely result in the fishery being over prescribed with the effect of being unviable for each participant until market forces cause the fishery to reach equilibrium. This would be particularly impactful to existing business models.

2. Maintain the “status quo”

Management of access under the WFO requires review as a result of the expiry of the WFO (3 January 2023). Continuation of access management policy under the WFO would not address the concerns raised by stakeholders during its lifetime and is unlikely to address market failures leading to inequalities of access. In particular, the existing policy does not enable new entrants into the fishery, provides a mechanism (unintentionally) for access to be ‘rented’ or otherwise allocated outside of the Authority’s discretion.

3. Voluntary / non-regulatory measures

This option would essentially result in a “do nothing” option and incentives to manage access in a fair and equitable way which meets the Authority’s duties under MaCAA will be unlikely as a consequence of the market failures described above.

4. Proposed Eligibility Policy and Limitation on the number of Permits

The preferred option is to adopt the proposed Eligibility Policy and permit limitation (resulting in access to 61 vessels). These have been developed in consultation with fishery stakeholders and informed in part by an economic assessment of the Wash cockle and mussel fisheries.

This option is the most likely to deliver the desired outcomes as it addresses the fishing industry’s concerns with the existing access policy (under the WFO) and mitigates the risks of market failures likely to lead to impacts on fisheries sustainability, industry viability and the site integrity of the MPAs concurrent with the fisheries.

The Policy and permit limitation is intended to be issued under the Wash Cockle and Mussel Byelaw 2021 (for which ministerial confirmation is pending) and have been developed in accordance with the process set out in the schedules of that byelaw.

Policy objective

An aim and objectives to guide the development of the Policy were developed in consultation with stakeholders and agreed by the Authority at the 44th Eastern IFCA meeting⁴.

Aim: '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'

Objectives:

1. To limit access to the fishery to a number of persons which will meet the aim.
2. To support effective business planning and continuity.
3. To enable a range of business models to operate within the fishery.
4. To prioritise the continuity of active participants in the fishery.
5. To enable appropriate permit turnover to create opportunity for suitably qualified new permit holders.
6. To prevent the permit from having its own value or becoming a tradable commodity.

The Eligibility Policy and Permit limitation is intended to replace that in place and used to manage access within the WFO.

The level of access potential access to the fishery will not change given that the permit limitation is aligned with the current number of 'entitlement' to fish under the WFO. It will potentially increase in effect however, as a small number (thought to be 1 or 2) permits will be issued in place of inactive WFO Licence which, if used, would increase participation proportionally. However environmental and sustainability of fisheries are managed in such a way that the number of participants are unlikely to directly impact these.

The Eligibility Policy will change the following key elements compared to the Policy in place under the WFO⁵:

- Vessel ownership is defined in the Eligibility Policy to provide clarity on its meaning for the purpose of holding a permit. It will change the requirement from being the 'Registered' owner of the vessel (i.e. holding the majority of shares in the vessel) to being a registered owner of the vessel (i.e. holding at least 1 registered share in the vessel) and being the beneficial owner or person practically responsible for the vessel. The intention is to ensure that the permit is held by the 'genuine' owner of a vessel or person who effectively manages the vessels' activity and to prevent permits being allocated to another person outside of the 'new permits' or 'permit succession' policy by means of changing registered ownership in a vessel (addressing the key concern of stakeholders);
- Permits will be cancelled where a person seeks to circumvent the Policy by enabling another to use the permit through changes to vessel ownership or as a result of fraudulent applications;
- 'New permits' will be issued up to the maximum (61 vessels) when available in accordance with a points system which prioritises those active in Wash-based fisheries (so as to reduce

⁴ Minutes and papers for Action Item 13 of the 44th Eastern IFCA meeting, 9 June 2021

⁵ https://www.eastern-ifca.gov.uk/wp-content/uploads/2022/03/2022_03_09_Revised_WFO_Interim_Policy.pdf

reliance on a single or limited number of species or fishery) who have good compliance, do not already have access to the fishery and are capable of using the permit in the near future;

- The eligibility policy will limit the number of permits a person or business can have an interest in to 10 if allocated under the transition and 8 for any new permits;
- 'Permit succession' policy enables access to be succeeded by a person practically involved in fishing from the vessel and who would otherwise lose access under the permit where the permit holder retires or otherwise surrenders the permit;
- 'Permit succession' also caters for 'exceptional circumstances' by issuing temporary permits to enable a business to carry on using the permit whilst a permanent successor is considered;
- In order to maintain access to the fishery, the permit, or vessel or person named on the permit, must continue to be active in the fishery or other Wash and North Norfolk Coast-based fisheries.

The Eligibility Policy and limitation on the number of permits will be reviewed at least every six years in order to measure the success of these measures in delivering the aim and objective and in accordance with Defra guidance to IFCA's to ensure evidence-based fisheries management⁶ and byelaw making powers⁷. This will in part be measurable through consultation with industry to inform a review and through consideration of the sustainability and viability of the associated fisheries and the impacts on the concurrent MPAs.

Summary and preferred option with description of implementation plan

The preferred option will be given effect via the Wash Cockle and Mussel Byelaw 2021 (if confirmed) after the expiry of the WFO via Eligibility Policy and a limit on the number of permits issued thereunder.

The Eligibility Policy will lead to the achievement of the Policy objective by:

- Limiting the number of participants to 61 which will enable adequate resource is available to all participants (as determined through the economic assessment and consultation with industry).
- Providing a clear and predictable framework for fishing businesses to operate in including through the 'maintaining eligibility' policy which sets out how eligibility for a permit can be maintained annually.
- Providing stakeholder representation during the review of the Eligibility Policy and limit on the number of permits issued.
- Addressing the key concerns of industry expressed through consultation including:
 - Preventing Permits becoming a tradeable commodity.
 - Providing a mechanism for 'new entrants' to the fishery which prioritises persons with experience in the Wash based fishery and who do not already have access to the fishery.
 - Preventing access being allocated to another person by a permit holder outside of the 'new permits' policy.
 - Prioritising access to persons who presently rely on such and enabling business continuity through 'permit succession' policy.

⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/182346/2011-ifca-guide-marinemanage.pdf

⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/182343/ifca-byelaw-guidance.pdf

- Enabling normal business transactions (such as investment into businesses which carry on using access provided by a permit) and vessel replacements without losing access to the fishery via a clarification on what is meant by 'vessel ownership' for the purpose of holding a permit.

The Authority will be responsible for the enforcement of the Eligibility Policy and permit limitation.

The approach enables sufficient flexibility to ensure that it remains effective over time but also ensures appropriate stakeholder representation to inform any review or changes to the Policy, including consideration of impacts. A degree of flexibility is required to account from changes to Government policy on environmental or fisheries management and to reflect the dynamic nature of the marine environment and businesses which exploit it in accordance with Defra guidance to IFCA⁸.

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

Overall, the costs and impacts of the Policy and limitation on the number of permits is considered to be negligible as they effectively maintain the status quo established under the WFO, with the exception of addressing the issue of 'renting out' (more information below). The effect of addressing this issue will be of benefit to the industry and particularly the individuals who are 'renting' access from someone else as the most likely outcome is that they will have access in their own right.

The policy and permit limitation were developed in conjunction with the industry and all concerns have been given due consideration resulting in either amendments to the policy or rationale as to why a change is not appropriate. The Policy been the subject of three separate consultations and considered by the Authority. Full consideration of the responses to these consultations can be found at the following:

- Consultation on the Aim and objectives of the Policy: 5 November 2020 to 18 December 2020, considered at the 43rd Eastern IFCA meeting, 10 March 2021 (Action Item 10) and 44th Eastern IFCA Meeting, 9 June 2021 (Action Item 13)
- Informal consultation on the wording of Eligibility Policy: 9 September 2021 to 11 October 2021, considered at the 45th Eastern IFCA Meeting, 8 September 2021 (Action Item 12), the 46th Eastern IFCA Meeting, 8 December 2021 (Action Item 7) and the 47th Eastern IFCA Meeting, 9 March 2022 (Action Item 11).
- Formal consultation on the wording of Eligibility Policy and Permit limitation: 13 June 2022 to 26 August 2022 considered at the 49th Eastern IFCA meeting, 14 September 2022 (Action Item 9).

The benefit of the proposal is that it will provide a clear and predictable framework for operating a fishing business within the Wash cockle and mussel fisheries which accounts for the commercial realities of such and is fair and equitable.

Costs and impacts

Key costs and impacts identified including through consultation are set out below. No monetised costs can be estimated.

Limitation on the number of permits

The limit on the number of permits (participants) can impact the viability of the businesses which participate because the fisheries are managed through a total allowable catch (i.e. there is a finite resource) which is available to all permit holders. If the number of participants increases,

⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/182346/2011-ifca-guide-marinemanage.pdf

this would reduce the proportion available to each, potentially impacting industry viability. The number of permits issued will not impact the overall value of the fishery or result in a monetised impact as ultimately this is influenced by the available Total Allowable catch. Rather, its distribution amongst individuals may change (reduce) where additional permits are issued.

The current limit on the number of vessels issued licences under the WFO and its associated policy is 61, and this limit is carried over in the new limit. There is at least however thought to be some inactive licences which would be reallocated under the transitional provisions of the Eligibility Policy. Assuming that the permit is then actively used within the fishery, this would in effect increase the number of 'active participants' in the fishery, with a proportional reduction in the resource being available to each individual (i.e. a reduction of 1/61 for each participant for each inactive permit reissued). This impact is not considered of significant scale to each individual to risk business continuity.

An appeals process has been included in the Eligibility Policy which may result in the issuing of additional permits (i.e. more than 61). This is intended to cater for the transition in particular where it is likely that there will be some dispute over vessel ownership and to cater for where removal of access as a result of the current holder 'renting out' (effectively not using the licence) results in an unforeseen impact on business continuity. The impact associated with this would be reductions in the earnings of each individual permit holder proportional to the number of additional permits issued, with potential impacts on the viability of the fishery to each individual.

Some responses from the consultation suggested that the fishery is not viable as a result of the number of participants in addition to the daily catch restriction of 2-tonnes per day. The daily catch restriction is not within the scope of this assessment, but the number of permits is currently thought to be appropriate (as indicated through the general view of respondents and the economic assessment) and, given that the number of permits would effectively maintain the access already afforded under the WFO, the effect of reducing the limit would be an impact on individuals who previously had access.

On balance, it is considered appropriate to provide some additional permits where not doing so would result in an effect on business continuity (as per the grounds for appeal, section 13) as the impact on that individual is potentially high whereas the impact on other participants is relatively small.

Ultimately, impacts resulting from the number of permits issued is mitigated because such can be revised if necessary (subject to consultation and consideration of the impacts under schedule 4 of the Wash Cockle and Mussel Byelaw 2021) and must be reviewed within six years in any case.

Addressing 'renting out'

The practice of 'renting out' is whereby a WFO licence holder becomes the registered owner of a vessel for the purpose of naming it on a licence to provide the 'genuine owner' (i.e. the beneficial owner of the vessel who is financially responsible for the vessel and themselves rely on fishing from the vessel for their income) access to the fishery. This practice is potentially fraudulent in some cases and has been the subject of concern of stakeholders historically and is considered to be the key issue faced by the industry under the WFO access policy. The key impacts of this practice are:

4. Someone who has gained access to the fishery through 'renting out' is ordinarily financially dependent on access to the fishery but not 'protected' by policy which enables continued access which is not in keeping with the objective to 'prioritise the continuity of active participants in the fishery'; and
5. The Authority must be responsible (and accountable) for allocating fishing opportunity under powers afforded by MaCAA and for the purpose of meeting its main duties⁹ and to

⁹ S.153 of the Marine and Coastal Access Act 2009

ensure fair and equitable which including balancing the different needs of those engaged in exploiting sea fisheries resources.

The policy seeks to address this issue by ensuring that the permit holder is legally and practically responsible for the vessel, rather than only being the majority 'registered owner'. In effect, the policy is only a clarification and strengthening of the existing access provisions under the WFO and the associated policy which requires the Licence holder to be the 'vessel owner' but which was not defined within the Order. The policy clarifies who the 'vessel owner' is for the purpose and basis this on existing registration requirements e.g. Part 2 of requirements to register on the UK Ship Register¹⁰.

The effect of this policy being that during the transition a number of WFO licence holders will not be allocated permits on the basis that the Licence is being 'rented out'. Where this is the case, a permit will be made available to be applied for and issued in accordance with a points system. The points system prioritises those who were the 'beneficial owner' of a vessel named on a WFO licence or are otherwise practically responsible for the vessel and so, in effect, the most likely outcome is that a permit will be issued to the active participant who relied on the access afforded them by renting out.

The impact of this policy will therefore depend on the arrangements between current licence holders and the person(s) they are 'renting out' to. It is reasonable to assume that, in some cases, access is provided via 'renting out' on the basis of a financial incentive to the Licence Holder, which will be lost. This cannot be monetised, but consultation identified that some business models may be impacted by this and for which further detail cannot be provided without breaching confidentiality of the responded. However, such arrangements are considered to be outside the purview of the Authority and permitting such would not be in keeping with the aim or objectives or the intention of a permitting scheme which is to provide access to a fishing resource rather than a means of generating income by allocating such access to another. Overall, the impact is considered of low scale because the most likely outcome is that the person afforded access to the fishery under the WFO and is presently reliant on access to fish for cockle and mussel for the continuation of their livelihood will retain access via the transitional arrangements.

The development of the 'renting out' provisions has been the subject of particular attention during consultation to ensure that in addressing the issue, existing business models are not disrupted and to enable 'normal business transactions', such as the changing of the majority shareholding of a vessel which is associated with a permit, as may be required for business continuity. It is not the intention of the policy to dictate which business models are 'acceptable' but only to ensure that a permit is issued to the person who relies on fishing using the permit to carry on their fishing business, rather than to generate an income from only holding the permit.

Suspending permits

The Policy includes provisions which suspend access (in relation to the permit and the master skipper) for 14 days per relevant offence resulting in a conviction, up to a maximum of 42 days (Permit Penalty – section 11). Relevant offences include non-compliance with the Byelaw, s.292 of the Marine and Coastal Access Act 2009 (so far as it related to enforcement of the Byelaw), contravention of the Conservation of Habitats and Species Regulations 2017 and contravention of the Wildlife and Countryside Act 1981 (so far as such relate to Wash MPAs). This is intended to replace provisions in the WFO which removed an entitlement after 2 relevant convictions within 24 months, which effectively meant permanent removal from the fishery.

The measures are likely to cause a financial impact on any effected persons but are considered to be proportionate given that the fisheries are concurrent with several MPA designations and good practice is crucial to ensuring the fisheries can continue in this context. The policy has been the subject of consultation and industry are generally in support of the policy. The wording

¹⁰

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/790792/MSF_4727_Re_v_0319_Dec_of_Eligibility_to_register_a_vessel_on_Pt_1.pdf

has been revised as a result of the recent formal consultation to remove the penalty applying to the owner of a vessel who was not the master / skipper of the vessel noting that under the Marine and Coastal Access Act 2009, the vessel owner is also liable to any effect.

The cost of the measure cannot be monetised because non-compliance cannot be estimated. However, the cost per offence would be circa £14,000 per offence in lost fishing opportunity (at approximate first sale value of cockles and a 2-tonne daily catch restriction).

The stability, continuity and succession of businesses of the permit holders

The policy supports the above factors in the following ways:

- The limitation on the number of permits is considered to enable viable fishing activity by the participants (as indicated by the economic assessment and responses to the consultation).
- It provides a clear and predictable framework for maintaining eligibility for permits over time.
- Measures which require the permit holder to be 'legally and practically responsible' for vessels named on permits have been amended as a result of the consultation (and legal advice) to enable permit holders to maintain their permit where they are no longer the 'majority owner' of a vessel as may be required for the purpose of securing investment for the continuation of a business for example.
- Permit succession policy enables the continuation of businesses in exceptional circumstances (for example, the death of a permit holder) by providing for a permit to be issued to enable continued access to others associated with the permit and ultimately a nominated permit successor.
- Permit succession enables application for a family member or nominated deputy to receive a permit on the retirement of the permit holder.
- The policy enables vessel replacement.
- Permits are not transferable between persons and cannot be held in the name of a business (i.e. a permit holder can be natural person only) to prevent them from becoming a tradeable commodity. This maintains the *status quo* under the WFO but would impact any person intending to 'sell' their access in the future. Consultation with industry however indicates that generally it is the preference of stakeholders that permits are not tradeable commodities and permits are issued at the discretion of the Authority and in accordance with 'new permit' policy.
- An appeals process will consider cases where the loss of access as a result of the transition has caused an impact on business continuity.

The continuing ability of permit holders to finance their businesses

The policy supports the above factors in the following ways:

- The permit holder is able to maintain access to the fishery under this policy and a clear and predictable framework is provided to achieve this which takes into account the commercial realities of fishing businesses.
- The limitation on the number of permits ensures that there is sufficient resource (Total Allowable Catch) over time to support business which relies on access.

Other key costs and impacts

- The byelaw requires a fee to be issued a permit and the policy requires bi-annual payment of an 'eligibility fee' of £758.78 to maintain eligibility. This was reduced from an annual requirement to pay the eligibility fee proposed originally to reduce the impacts on persons who do not use the permit on an annual basis, and it now aligns with the requirements under the WFO, therefore no additional costs are anticipated.

- The policy must be reviewed at least every six years, or more frequently if there is an urgent and compelling reason to do so (Schedule 5, Wash Cockle and Mussel Byelaw 2021). This is seen as a risk to business continuity by some stakeholders who incorrectly perceive that the WFO provided 'guaranteed access' for the lifetime of the Order (i.e. 30 years). In particular, stakeholders consider that 6-yearly reviews will prevent investors or banks from providing finance to procure vessels etc. The ability to review and revise the Eligibility Policy and permit limitation is not considered to be a cost to the industry as suggested in consultation responses and Schedule 5 provides significant representation on the part of industry to mitigate this risk in any case. The 'flexibility' of the measures will ultimately benefit the effective management of the resource in accordance with the IFCA's main duties.
- The policy limits the number of permits with which a business interest can be associated with to 10 for existing permits and 8 in relation to any 'new' permits issued. This is intended to prevent monopolisation by a single or few business interests and preserve the diversity of business models within the Wash and prevent impacts on markets and competitions. This is consistent with the views of many stakeholders, who are fearful of monopolisation of the industry impacting their smaller / family business models as a result of reducing the competitiveness of the market, particularly in relation to businesses which buy and sell cockles holding permits themselves as is the case in the Wash. No impacts are anticipated as a result of this through the transition and responses to the view provided by some stakeholders is that generally, smaller business models are less impactful to the environment and the fishery as they (the fishermen) are directly invested in the sustainability of the fishery to a greater extent than a skipper employed on behalf of a larger business model. The policy does not intend to make a judgment on this, but it is considered appropriate to limit the number of permits a single business interest can have in relation to permits to ensure that it limits the impacts on micro and small business models and does not impact on the competitiveness of the associated market.

Benefits

No monetised benefits can be estimated in relation to the policy.

Key non-monetised benefits are:

- Participation in the fishery is limited to a level which provides each individual with an economically viable share of the available resource.
- Transitional provisions enable the continuation of business models established under the existing management of the fishery which rely on access and use of the permit in order to take catch to finance their vessel and business.
- There is a clear and predictable framework for maintaining access to the fishery including in relation to succession and exceptional circumstances to enable business continuity.
- The Eligibility Policy and Permit Limitation must be reviewed so as to ensure it is effective and meeting the duties of the Authority including through consultation with stakeholders and consideration of the impacts on them.

Direct costs and benefits to business calculations

None identified

Risks and assumptions

Limitation on the number of permits

The current limit on the number of permits is considered to be appropriate to ensure each individual active within the fishery can remain viable and this is based on consultation with the fishing industry and an economic assessment. However, fisheries are dynamic and the Wash cockle fishery performed poorly in 2022. In addition, increased fuel costs and the 'cost of living crisis' has increased costs associated with operating a fishing business. Both of these factors

may have the effect of reducing the viability of operating in the fishery on the basis of receiving a 1/61 share of the available Total allowable Catch over time.

This risk will be mitigated through review of the limitation on the number of Permits issued in accordance with the process in Schedule 4 of the Wash Cockle and Mussel Byelaw 2021 and in particular, through consultation with industry on any changes to the limit in addition to consideration of the impacts of such.

Eligibility Policy

Responses from the consultations highlighted that there is no consensus from industry on the key issues addressed by this policy. In particular, the manner in which 'renting out' is addressed and whether the policy provides sufficient surety of access to enable investment and attract new entrants. The consultations in particular have sought to identify and address any wording which inadvertently impacts existing business models whilst still addressing 'renting out'.

Determining if there is a general view or consensus is difficult on the basis that many respondents have represented themselves as individuals and as part of a wider 'coalition of interests' with views expressed by each case sometimes being in conflict.

Ultimately, the potential risks and assumptions highlighted are mitigated through the ability of the Authority to review and revise the policy to ensure that their effects are in keeping with the intentions and the Aim and Objectives including as a result of changes to the fishery over time.

Impact on small and micro businesses

The Eligibility Policy and permit limitation will impact small and micro businesses which cannot be scoped out or exempted because these are the only business models active within the fishery.

Wider impacts (consider the impacts of your proposals)

The policy seeks to establish a fair and equitable system for the allocation of fishing opportunities with the effect of enhancing transparency and trust in the decision making in this regard. It is intended that this will promote more effective and productive relationships with stakeholders including those presently excluded from the fishery under the WFO.

The Eligibility Policy will enable the allocation of 'new permits' when available and within the permit limitation. WFO policy has not enabled new entrants for some time and previously allocated Licences on the basis of the position of a waiting list which was not able to prioritise providing fishing opportunities in a fair and equitable way (for example, many of those in line for Licences already held multiple licences or were not active fishermen). This will benefit the industry overall with new entrants being able to gain access and practise those who are reliant on the very limited Wash and north Norfolk Coast based fisheries. It is intended that this will reduce the reliance on these limited fisheries (primarily shrimp and whelk) and provide for more resilient business models and more sustainable fisheries.

The consultation has highlighted that some hold the perception that fishing practices are improved whereby the permit holder's business model is reliant on the fishery to a greater extent. This is likely to invoke a sense of ownership and responsibility the likes of which is often associated with the use of an Order. It is intended that the rules to address 'renting out' and limiting the number of permits a single business interest can be associated with will mitigate to an extent the market failures relating to 'public good and services' and common goods' (as described above) and this is consistent with the views of some stakeholders.

A summary of the potential trade implications of measure

The measures do not create different requirements for domestic or foreign businesses, or differing requirements for businesses from different countries. Therefore, trade implications are

scoped out of the assessment, and it is not considered likely that the measures will be inconsistent with the UK's international obligations.

Monitoring and Evaluation

The impact and effectiveness of the Eligibility Policy and permit limitation will be considered as part of a review at least every six years or more frequently where there is a need to do so, including if there is an urgent and compelling need in relation to eligibility policy. These reviews will assess whether the Aim and Objectives are being met.

The key external factors which may impact success are the productivity of the Wash cockle and mussel fisheries, the market value of catch from these fisheries and the overheads and costs associated with carrying on a fishing business. Material changes in these may impact the viability of the fishery, and in particular require consideration of review of the permit limitation.

It has been recommended (from the economic assessment) that the Authority gathers additional financial information from permit holders to enable continued monitoring and evaluation of the economic viability of the Wash fisheries and is a consideration going forward which may provide better evidence to consider the effectiveness of the measures.

DRAFT



Wash Cockle and Mussel Byelaw 2021

Eligibility Policy and Limitation on the Number of Permits

Last Updated: September 2022

V.30

1. Overview

- 1.1.** The following policy shall act as guidance for the administration of permits for the Wash Cockle and Mussel Byelaw 2021 ('the Byelaw') and should be regarded as the eligibility policy referenced in paragraph 17 of the Byelaw.
- 1.2.** As per paragraph 10 of the Byelaw, the Authority restrict the number of permits issued in relation to each of the permits issuable. Section 3 ("Limit to the number of permits") should be regarded as the restriction in accordance with that paragraph.
- 1.3.** Allocation of fishing opportunities under the Byelaw and this policy is a matter for the Authority only and the application of the policy is subject to the discretion of the Authority.
- 1.4.** Any permit issued under the Byelaw shall not to be rented, leased, exchanged or otherwise traded.
- 1.5.** This policy was adopted by the Authority at their meeting on 14 September 2022.
- 1.6.** The purpose of this policy is to enable the Authority to fulfil its obligations under s.153(2) of the Marine and Coastal Access Act 2009 to:
 - i. Seek to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way,
 - ii. Seek to balance the social and economic benefits of exploiting the sea fisheries resources of the district with the need to protect the marine environment from, or promote its recovery from, the effects of such exploitation,
 - iii. Take any other steps which in the authority's opinion are necessary or expedient for the purpose of making a contribution to the achievement of sustainable development, and
 - iv. Seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district.
- 1.7.** The Authority will fulfil these obligations by:
 - i. Limiting the number of permits to a level that is viable, sustainable and equitable,
 - ii. Stating with clarity its procedure and criteria for the annual consideration of applicants for permits, and
 - iii. Setting out its procedure for changing the eligibility policy in future years should it become necessary to do so
- 1.8.** The policy is written to meet the aim and objectives for managing access to the fisheries, as follows:

i. Aim: 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.

ii. Objectives:

- a) To limit access to the fishery to a number of persons which will meet the aim,
- b) To support effective business planning and continuity,
- c) To enable a range of business models to operate within the fishery,
- d) To prioritise the continuity of active participants,
- e) To enable appropriate turnover to create opportunity for suitably qualified new permit holders; and
- f) To prevent the permit from having its own value or becoming a tradable commodity.

1.9. For the purposes of this policy, the term 'person' refers to natural persons only.

1.10. For the purposes of this policy, a 'relevant offence' is where a person fails to comply with:

- a) The Wash Fishery Order 1992; *or*
- b) the byelaw; *or*
- c) 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; *or*
- d) contravention of the Conservation of Habitats and Species Regulations 2017 so far as it relates to protection of a Wash Marine Protected Area; *or*
- e) contravention of the Wildlife and Countryside Act 1981 so far as it relates to the protection of a Wash Marine protected Area; *or*
- f) in relation to the use of I-VMS when fishing under the authority of a permit issued under the byelaw.

1.11. Guidance as to the intended effect of the policy is written in a box at the start of each policy section.

2. Issuing permits

Section 2: Guidance

This section is intended to ensure that a permit is held for the purpose of providing the holder with access to a fishery to carry on a business in that regard and to prevent access being sub-leased, rented or otherwise allocated to another. A permit holder can be the registered and beneficial owner of a vessel or a person nominated by such as the person practically responsible for the operation of the vessel but who also owns some registered shares in the vessel. The Authority is to retain sole control of the allocation of fishing opportunity to meet its duties and ensure equitable distribution of permits.

- 2.1. There are three categories of permits issuable under the Wash Cockle and Mussel Byelaw 2021. The permits are:
 - 2.1.1. A hand-work cockle permit
 - 2.1.2. A hand-work mussel permit
 - 2.1.3. A dredge mussel permit
- 2.2. Permits are intended to provide access to the above fisheries, and it is intended that the permit holder is the person who requires access to the fishery granted by the permit for the purpose of carrying on their business in that regard (including in relation to their function within a business in accordance with 2.4) and is primarily responsible for the vessel associated with the permit across all the fisheries it operates within. It is expected that this shall be the case during the lifetime of the permit and any deviation from this may result in the permit being cancelled (in accordance with 2.9) and / or loss of eligibility to further permits under section 5 (“Maintaining Eligibility”).
- 2.3. The permit will be issued to a natural person only who is the owner of the vessel that is to be named on the permit.
- 2.4. For the purpose of the policy, the owner of the vessel shall be deemed to be the person who can demonstrate to the satisfaction of the Authority that they have a practical and legal interest in the vessel as a registered **and** beneficial owner of the vessel as follows:
 - 2.4.1. They are a registered owner of the vessel because:
 - a) they hold the majority of shares in the vessel; or
 - b) they have been nominated in writing for that purpose by the shareholder(s) who hold a majority of shares in the vessel and that they themselves are a shareholder.
 - 2.4.2. They are the beneficial owner of the vessel because:

- a) they are the primary beneficiary of, and financially responsible for the vessel in relation to all the fisheries it operates in, including as a result of having a shareholding in a company that appears on the register as the registered owner of the vessel: or
 - b) they are the person named as the manager of the vessel or the person directing and controlling the vessel and otherwise practically responsible for the operation of the vessel in all of the fisheries it operates in and nominated as such by a person or company who meets 2.4.2(a).
- 2.5.** Final determination of the a person’s ability to meet 2.4 in relation to ownership of the vessel will be at the discretion of the Authority who may consider evidence including; form MSF 4728 - Declaration of Eligibility to Register a Fishing Vessel, or any replacement or substitute form issued by the UK Ship Register, and filed in respect of the vessel, documentation from the UK Ship Register (the Registry of Shipping and Seamen), payments for maintenance of the vessel, vessel ownership certificates and transcripts, vessel insurance payments, Maritime and Coastguard Agency certification and documentation, and any other documentation demonstrating financial responsibility for the vessel in its operation.
- 2.6.** A person must be certified by the Eastern IFCA Wash Training Course to hold or be named on a permit.
- 2.7.** Only persons named on the permit are permitted to fish under the authority of a permit, including nominated deputies, in accordance with section 9 (“Nominated Deputies”).
- 2.8.** A permit will only be issued once the applicant has demonstrated to the satisfaction of the Authority that the relevant conditions and criteria under this policy contained herein have been met and the relevant fee(s) has been received by the Authority.
- 2.9.** The Authority may investigate whether a permit holder meets the requirements of this section at any time including, but not limited to, in relation the circumstances set out in 2.10 and may, on the basis of that investigation, cancel a permit, subject to section 7 (“permit succession”) and section 10 (“business continuity and exceptional circumstances”) if it has reasonable grounds to do so. The Authority reserves the right to investigate any circumstances which it has reasonable grounds to believe are an attempt to circumvent this policy, and without prejudice to any breach of the general criminal law it may cancel any associated permit.
- 2.10.** The circumstances referred to in 2.9 may include but are not limited to:
- 2.10.1.** You applied for a permit using fraudulent documents and/or using a fraudulent identity; or
 - 2.10.2.** You allow someone not named on the permit to engage in activity authorised by the permit; or

- 2.10.3. Any change in ownership of the vessel named on the permit to the extent that the permit holder no longer meets 2.4; or
- 2.10.4. The death of the permit holder; *or*
- 2.10.5. The bankruptcy of the permit holder or the insolvency and / or winding up of any business which is the vessel owner; *or*
- 2.10.6. Where the permit holder no longer meets the requirements of this section (2).

3. Limit to the number of permits

Section 3: Guidance

There are three categories of permits available and these should be considered as a set of permits, with eligibility under this policy providing eligibility for all three categories of permits. The maximum number of permits issued under section 4 (transition) is 61. However, further permits may be issued as a result of appeals under section 13. The limit thereafter will be the number issued after the transition and as a result of any issued as a result of appeals. The limit will not vary annually based on the Total Allowable Catch of a fishery, but the number will be reviewed in accordance with the Byelaw procedure at least every six years.

- 3.1. There are three categories of permits as follows:
 - 3.1.1. Hand-work cockle permit
 - 3.1.2. Hand-work mussel permit
 - 3.1.3. Dredge mussel permit
- 3.2. A person who is eligible to hold one category of permit shall automatically be eligible to hold all three categories of permit. The three permits should be considered as a set for the purpose of this policy and consequently reference to the maximum number of 'permits' hereafter is to be taken as the maximum number of 'sets' of the three permits.

Permits issued as a result of the transition (section 4)

- 3.3. The maximum number permits issued under section 4 ("Transition") will be 61.
- 3.4. There is no maximum number of permits which may be issued as a result of appeals which consider applications under section 13 ("Appeals Process").

Permits issued after the transition

- 3.5. The maximum number of permits issued subsequent to the transition shall be 61 plus any further permits issued upon appeal under section 13 ("Appeals Process").

- 3.6. The maximum number of permits issued may vary in accordance with the procedure set out in Schedule 4 (“Transition”) of the Wash Cockle and Mussel Byelaw 2021.

4. Transition

Section 4: Guidance

This policy is to provide continuity for businesses and livelihoods that rely on access to The Wash cockle and mussel fisheries under the WFO in transitioning to the new system. Where a WFO Licence has been actively used, and the vessel owner (in accordance with 2.4) is the Licence holder, it will transition into a permit. Where this is not the case, an equal number of permits will be available on application to others based on a points system. The points system will prioritise persons who were the beneficial owner of a vessel named on a WFO licence which did not transition into a permit.

- 4.1. In the first year of the fishery, application periods for permits issued under Phase 1 and Phase 2 (below) will be determined and specified by the Authority and WFO Licence holders will be notified of such in writing. Only applications received within the notified period will be considered..
- 4.2. Eligibility will be determined in two phases in the first year of the fishery.
- 4.3. **Phase 1 – eligibility with respect to a WFO Licence**
- 4.3.1. Permits under Phase 1 will be issued to WFO Licence holders, up to the maximum number of permit holders under section 3.3. A maximum of one permit will be issuable with respect to each WFO Licence issued within 24 months of 22 February 2022.
- 4.3.2. To be eligible for a permit in Phase 1, the applicant must demonstrate to the satisfaction of the Authority that they meet the WFO Licence holder requirement (4.3.3) and the activity requirement (4.3.4).
- 4.3.3. The WFO Licence holder requirement is:
- a) subject to any changes made under the WFO Interim policies¹⁴, they were, within 24 months of the 22nd February 2022 the Holder of the WFO licence; *and*
 - b) they were, on and prior to 22nd February 2022, the registered and beneficial owner of the vessel named on the WFO ‘entitlement’ in accordance with section 2.4 (Issuing Permits).
- 4.3.4. The Activity requirement is that either:

¹⁴ <https://www.eastern-ifca.gov.uk/wash-fishery-order-1992-interim-policies/>

- a) the WFO licence was used to fish for at least 16 days per year for at least two separate years between 1 Jan 2015 and 1 Jan 2022; *or*
- b) the person or vessel named on the WFO licence fished within Wash and North Norfolk Coast fisheries for at least 16 days per year for at least three years between 1 Jan 2010 and 1 Jan 2022.

4.3.5. Applications which do not meet the requirements of 4.3.3. or 4.3.4. will not be considered any further under phase 1.

4.4. Phase 2 – remaining permits issuable in Year 1

4.4.1. Where the number of permits issuable under phase 1 is less than the maximum set out in section 3.3, a number permits up to that maximum may be issued under Phase 2.

4.4.2. Subject to 4.4.3, the person(s) with the most points in accordance with table 1 below will be eligible for permits under Phase 2. A person must be awarded a minimum 2 points to be eligible and the applicant must demonstrate to the satisfaction of the Authority that the criteria in table 1 is met to be awarded the associated points.

4.4.3. Where the number persons with the most points exceeds the maximum number of permits issuable under phase 2, the Authority will make the final decision on whom is eligible for the permit(s) taking into account the circumstances of each application, including the number of permits an applicant holds, or is eligible to hold (with preference given to those with fewer permits). The Authority may use a ballot to decide who to issue a permit to in circumstances where there is no clear case for the permit being issued to a particular applicant.

4.4.4. A person eligible for a permit under Phase 2 will be notified of such and must meet the requirements of section 2 (“Issuing Permits”) within 12 months of the date of notification. If the applicant is not eligible within 12 months, subject to section 11 (“Business continuity and exceptional circumstances”), the permit may be made available to other applicants.

Table 1 – criteria and points awarded under Phase 2		
Criterion		Points
1	Applicant was the beneficial owner (2.4.2) of a vessel named on a WFO Entitlement which was not issuable as a permit under Phase 1.	+ 31 points
2	Fished in WFO fisheries as a Nominated Representative or Deputy.	+ 2 points for each year of participation up to 20 points

3	Fished in Wash and North Norfolk Coast based fisheries.	+ 2 points for each year participation up to 10 points
4	Conviction of a relevant offence within 3 years of the date of application. Each information (offence) on the face of a Magistrates' Court summons shall represent an individual relevant offence; and each separate Magistrates' Court Summons issued (i.e. one that is not linked to the same incident) shall be treated as a new matter.	- 11 points for each offence
5	Conviction of a fisheries offence (other than a relevant offence) within 3 years of the date of application, including in relation to: the use of I-VMS other than in relation to fishing under the authority of a permit under the byelaw, any byelaw made by Eastern IFCA under s.155 or 157 of MaCAA which are in effect and 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 any such byelaw. Each information (offence) on the face of a Magistrates' Court summons shall represent an individual relevant offence; and each separate Magistrates' Court Summons issued (i.e. one that is not linked to the same incident) shall be treated as a new matter.	- 5 points for each offence
6	Any ownership (registered or beneficial) in vessels named on other permits and / or which are eligible to be named on a permit under phase 1. Ownership includes any financial interest in companies or businesses which have any ownership (registered or beneficial) of such a vessel.	- 6 points in relation to each permit issued or issuable under Phase 1.

5. Maintaining eligibility

Section 5: Guidance

This section is intended to provide continued access to the fisheries in consecutive years where permit holders actively use their permit, pay the eligibility and the permit holder remains the 'vessel owner'.

- 5.1. Applications to maintain eligibility for consecutive permits must be received by the Authority by 1 February each year.

- 5.2.** A person will maintain their eligibility if:
- 5.2.1.** The eligibility fee has been paid at least once in the 24 months preceding the date of application; and
 - 5.2.2.** The applicant remains eligible to hold a permit under section 2 (“Issuing Permits”); and
 - 5.2.3.** The ‘Activity Requirement’ has been met. The ‘Activity Requirement’ is either:
 - a) That the vessel named on the permit has been used to fish under the authority of a permit on at least five separate occasions within 24 months prior to the application; *or*
 - b) The applicant can demonstrate to the satisfaction of the Authority that they (permit holder) or the vessel named on the permit has been used to fish for other species within The Wash and North Norfolk Coast on at least 16 separate occasions within the last 12 months.
- 5.3.** If the eligibility fee is paid but the applicant is otherwise ineligible under this section, the eligibility fee will be refunded.
- 5.4.** An applicant does not need to meet the Activity Requirement (of 5.2.3) where they can demonstrate to the satisfaction of the Authority that they could not do so due to exceptional circumstances. Exceptional circumstances include, but are not limited to:
- 5.4.1.** Medical conditions of persons named on the permit; *and/or*
 - 5.4.2.** Loss of vessel; *and/or*
 - 5.4.3.** Reasonable need for vessel repair; *and/or*
 - 5.4.4.** Poor fisheries performance of the season preceding the application; *and/or*
 - 5.4.5.** Vessel replacement.
- 5.5.** A person will not be eligible for a permit under this section if any of the following apply:
- 5.5.1.** The permit was cancelled under 2.9; *or*
 - 5.5.2.** The permit was surrendered under section 7 (“permit succession”); *or*
 - 5.5.3.** They are the holder of a temporary permit issued under 7.8 or 7.11; *or*
 - 5.5.4.** Subject to section 8 (“change of vessel and ownership”), the vessel named on the application that is to be named on the permit differs from the vessel named on the last permit issued.

6. New Permits

Section 6: Guidance

This section sets out how any available permits will be issued when they become available. Applicants will be prioritised where they are active participants Wash and North Norfolk Coast fisheries, if they will have a vessel ready to participate within 12 months of application, if they are compliant with fisheries and environmental regulations and if they do not already have access to the fishery.

- 6.1. Where the number of permits issuable is less than the maximum set out in section 3.5, a number of permits up to the maximum may be issued as new permits under this section up to the maximum.
- 6.2. The Authority will hold a 'register of applicants' on which persons will be recorded as wanting to be considered for a new permit if they become available. To be considered for a new permit, the applicant must be listed on the register of applicants at the time the new permit is available for allocation.
- 6.3. Application periods for new permits will be determined and specified by the Authority and persons listed on the register of applicants will be notified of such in writing. Only applications received within the notified period will be considered.
- 6.4. A person will not be eligible to apply for a new permit whilst under a penalty period under section 11 ("Permit Penalty") and this includes in relation to the permit holders, or nominated representatives as the case may be, of a permit so affected.
- 6.5. Applicants must accrue at least 2 points in accordance with Table 2 to be eligible for a new permit in the first instance. Where the number of applications to be considered is greater than the number of new permits available, subject to 6.6, the applicant(s) who has accrued the most points in accordance with table 2 will be eligible for an available permit.
- 6.6. Where the number of persons with the most points exceeds the number of new permits available under this section, the Authority will make the final decision on to whom the permit shall be issued by considering the circumstances of each application which may include the length of time a person has been registered on the 'register of applicants' and existing access to the fishery (with preference given to applicants with fewer permits). The Authority may use a ballot to decide who to issue a permit to in circumstances where there is no clear case for the permit being issued to a particular applicant.
- 6.7. In all cases, points will only be awarded where the applicant can demonstrate to the satisfaction of the Authority that the criteria have been met.

- 6.8. A successful applicant will be notified of such in writing and must meet the requirements of section 2 (“Issuing permits”) within 24 months of notification. If the permit is not issued within 24 months, the Authority reserves the right to reallocate it in to other eligible applicants. The eligibility fee is required to be paid during this time in accordance with 5.2.1.

Table 2 – criteria and points awarded under Section 6 - New Permits		
Criterion		Points
1	Fished in Wash and North Norfolk Coast fisheries	+ 2 points for each year participation up to 10 points
2	Applicant has, or is in the process of acquiring, a vessel which will be able to operate within the Wash cockle or mussel fisheries within 12 months of application	+ 10 points
3	Fished in fisheries as a Nominated Representative or Deputy on a WFO licence or as a Nominated Deputy under a permit under the byelaw.	+ 2 points for each year participation up to 20 points
4	Conviction of a relevant offence within 3 years of application. Each information (offence) on the face of a Magistrates' Court summons shall represent an individual relevant offence; and each separate Magistrates' Court Summons issued (i.e. one that is not linked to the same incident) shall be treated as a new matter.	-11 points for each offence
5	Conviction of a fisheries offence (other than a relevant offence) within 3 years of application, including in relation to: the use of I-VMS other than in relation to fishing under the authority of a permit under the byelaw, any byelaw made by Eastern IFCA under s.155 or 157 of MaCAA which are in effect and s.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 any such byelaw. Each information (offence) on the face of a Magistrates' Court summons shall represent an individual offence; and each separate Magistrates' Court Summons issued (i.e. one that is not linked to the same incident) shall be treated as a new matter.	-5 points for each offence
6	Any ownership (registered or beneficial) in vessels named on other permits and / permits which are issuable under section 5	-5 points in relation to each permit issued or issuable.

	<p>(“Maintaining Eligibility”). Ownership includes any financial interest in companies or businesses which have any ownership (registered or beneficial) of such a vessel.</p>	
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7. Permit succession

Section 7: Guidance

This section is intended to provide business continuity where permit holders retire, or where “exceptional circumstances” (section 11) mean they are unable to meet requirements of this policy.

The issue of a temporary permit is intended to ensure business continuity whilst a permanent solution is considered and the particulars of the situation are resolved (for example, vessel ownership considerations during probate etc.). A permit may be issued in exceptional circumstances even if the applicant would not meet the criteria for permit succession where business continuity is at risk.

- 7.1. A permit is not transferable from the permit holder to another person.
- 7.2. Permit holders may notify the Authority in writing of a person they wish to succeed them (the ‘Permit Successor’).
- 7.3. The permit holder (the applicant) may make application for a new permit to be issued to a person (the Permit Successor) to succeed the permit they hold provided that they are not under investigation for non-compliance of a relevant offence or are currently ineligible to fish as a result of a permit penalty under section 11.

Permit succession under normal circumstances

- 7.4. At the absolute discretion of the Authority a successor will be eligible for a permit to be issued under this section if that person can demonstrate to the satisfaction of the Authority that (subject to section 10 ‘business continuity and exceptional circumstances’) on receipt of a permit they are either;
 - 7.4.1. A relative of the holder of the permit holder who has been practically involved in fisheries managed under the byelaw and for the purpose of continuing a family business; *or*
 - 7.4.2. Have been named as a nominated deputy on the permit for at least five years preceding the application.
- 7.5. Where the successor meets the requirements of 7.4, the successful applicant and permit holder will be notified in writing. Within 24 months of notification:
 - 7.5.1. The successor must meet the requirements of section 2 (“Issuing permits”); *and*

- 7.5.2.** The applicant must formally surrender, in writing, the permit they hold (or are eligible to hold under section 5 – “maintaining eligibility”).
- 7.6.** If the permit is not issued within 24 months, the Authority reserves the right to make the permit available for allocation in accordance with Section 6 (“New Permits”). The eligibility fee is required to be paid during this time in accordance with 5.2.1.
- 7.7.** Where an application under this section includes changing the vessel named on the original permit or a change in the ownership of the vessel named on the original permit, section 8 (“change of vessel and ownership”) applies.

Permit succession under exceptional circumstances

- 7.8.** Where a permit is cancelled under section 2.9 as a result of reasons relating to 2.10.4 and / or 2.10.5 and due to exceptional circumstances, including but not limited to those listed in section 10.1, the Authority will use its best endeavours to issue a ‘Temporary Permit’ immediately with the effect of maintaining access to the fishery for those who remain named on the permit or the business associated with the permit. In the first instance the Authority will seek to issue a ‘Temporary Permit’ to the Permit Successor (named under 7.2).
- 7.9.** If there is no notified Permit Successor provided, or the Permit Successor is not able or does not wish to hold the Temporary Permit, the Authority will use its best endeavours to liaise with those associated with the permit to determine who, if anyone, could hold the Temporary Permit in the first instance.
- 7.10.** Where no Permit Successor is identified, no Temporary Permit will be allocated.
- 7.11.** A Temporary Permit (under 7.8) is valid only until such time as the original permit would have expired and a further temporary permit will not be issued in relation to it. In exceptional circumstances, including but not limited to those listed in section 10, and at the discretion of the Authority, a further temporary permit may be issued where the matter is yet to be resolved.
- 7.12.** The Authority will endeavour to issue a permit to replace the temporary permit to an appropriate successor. Where more than one claim to hold the permit is identified, the process set out in section 6 (“New Permits”) will be applied in relation to these to determine the appropriate successor.
- 7.13.** The Authority specifically draws attention to the fact that the issue of a permit or a Temporary Permit is in the absolute discretion of the Authority and the issue of a permit or Temporary Permit shall not be regarded as creating any legitimate expectation of the grant of any permit in the future.

8. Change of vessel and vessel ownership

Section 8: Guidance

This section is intended to provide business continuity by enabling changes to vessels named on permits where the genuine owner of the vessel (and therefore permit holder) does not change.

To prevent this mechanism from being used by permit holders to effectively provide access to someone else, all applications will be examined to determine if the application relates to such.

Changing a vessel named on a permit

- 8.1. A permit holder may apply to change the vessel named on a permit.
- 8.2. A vessel is eligible to be named on a permit under this section if:
 - 8.2.1. The applicant submits a completed application form; and
 - 8.2.2. The applicant remains eligible to hold a permit under section 2 (“Issuing Permits”) as the vessel owner of this vessel and provides evidence to the satisfaction of the Authority to this effect; and
 - 8.2.3. The applicant sets out in writing how the change is required for reasons of business continuity; and
 - 8.2.4. The vessel meets all of the requirements set out in the Byelaw or associated permit conditions.
- 8.3. A vessel is not eligible to be named on a permit under this section if:
 - 8.3.1. granting the application results in any one person or business having ownership (registered or beneficial) in more than 10 vessels named on permits issued or eligible to be issued under this policy. Ownership includes any financial interest in companies or businesses which have any ownership (registered or beneficial) of such a vessel; or
 - 8.3.2. The vessel was or is named on a permit which is, at the time of application, the subject of a permit penalty (Section 11).

Changing the ownership of a vessel named on a permit

- 8.4. Where vessel ownership changes to the extent that the permit holder is no longer the ‘vessel owner’ (in accordance with 2.4) the permit will be cancelled.

- 8.5.** Where vessel ownership changes to the extent that the permit holder is the vessel owner (in accordance with 2.4) but under different qualifying provisions under 2.4, then they must notify the Authority of such a change and the Authority may investigate the change in ownership to ensure that the requirements of 2.4 are fulfilled. Where this is not the case, the permit may be cancelled.
- 8.6.** Changes in vessels named on permits or changes to the ownership of vessels named on permits shall not be used as a means of circumventing the Authority's discretion to manage access to the fisheries. Accordingly, applications will be examined to determine if this is the case, and the Authority will not grant any such application unless the applicant can satisfy the Authority that such is in accordance with the policy and in particular section 2.2.

9. Nominated deputies

Section 9: Guidance

This section is intended to enable fishing under the authority of a permit by a person other than the permit holder and to ensure such are suitably qualified and experienced to do so for the protection of the Wash Marine Protected Areas and fishery sustainability.

- 9.1.** The holder of a permit may apply to nominate up to two persons to be a nominated deputy who may skipper a vessel under the authority of that permit.
- 9.2.** The skipper of a vessel fishing under the authority of a permit must either be the permit holder or a nominated deputy.
- 9.3.** A person is eligible to act as the nominated deputy if they can demonstrate to the satisfaction of the Authority that:
- 9.3.1.** They have completed the Eastern IFCA Wash Training Course as demonstrated by certification; *and*
 - 9.3.2.** They have fished within The Wash on at least 16 separate occasions within a year and within three separate years; *and*
 - 9.3.3.** They are qualified to act as skipper of a licensed fishing vessel and that they hold all relevant safety certifications in line with the requirements under the Merchant Shipping Act 1995 and the Regulations made thereunder.

10. Business continuity and exceptional circumstances

Section 10: Guidance

The policy will reasonably cater for continued access in the event of exceptional circumstances to avoid impacts on business continuity.

- 10.1. The Authority will consider exceptional circumstances in relation to decisions made under this Policy.
- 10.2. Exceptional circumstances include, but are not limited to;
 - a) Death of a person named on a permit
 - b) Medical condition of the permit holder
 - c) Total loss of vessel
 - d) Reasonable need for vessel repair
 - e) Evidenced poor fishery performance in preceding season
 - f) Insolvency or bankruptcy
- 10.3. The Authority will consider circumstances outside those listed in section 10.2 where there is a genuine and significant risk to business continuity as a result of those circumstances.

11. Permit penalty

Section 11: Guidance

Access to the fishery under a permit will be suspended on the conviction of a court for a relevant offence (1.10). It is intended that the permit is not used during the penalty period. The skipper or master of the vessel will not be eligible to fish from another permit during that period. Suspensions relate to a number of days during which a fishery is open.

- 11.1. Where a permit is used in the commission of a relevant offence (described at section 1.10) which results in a conviction by a court, that permit or a permit issued consecutively in relation to that permit under section 5 (“consecutive permits”), cannot be used to fish for a period of penalty days in accordance with Table 3 from the date of conviction.
- 11.2. The person(s) convicted of a relevant offence (under section 1.10) as the skipper or master of the vessel associated with the offence are not permitted to fish under the authority of any permit issued under the Byelaw whilst under the penalty period.

- 11.3.** For the sake of clarity each information (offence) laid before a Magistrates' Court shall represent an individual relevant offence.
- 11.4.** Penalty days refer to open days of the fishery. If penalty days are not exhausted within one season of the fishery, they will be carried over to subsequent seasons in accordance with section 5 (“consecutive permits”).

Table 3 – Permit Penalty	
Offence	Penalty
Conviction for 1 offence	14 days
Conviction for 2 offences	28 days
Conviction for 3 or more offences	42 days

12. Application process

12.1. Applications should be made using the ‘Wash Cockle and Mussel Byelaw Permit Application Form’.

12.2. Completed applications should be sent to:

By Mail: Eastern Inshore Fisheries and Conservation Authority
 Unit 6 North Lynn Business Village
 King’s Lynn
 Norfolk
 PE30 2JG

By email: mail@eastern-ifca.gov.uk

12.3. Only completed application forms will be considered and must include any documentation required relevant to the application.

12.4. Applications may also require copies of proof of address and photo ID, for both the permit holder and any named nominated representatives.

12.5. Completed application forms must be received by the Authority within the time period set out by the Authority.

12.6. Completed application forms should be received by Eastern IFCA no later than:

12.6.1. In the case of a consecutive permit application (under section 5), 1 February in any given year; or

12.6.2. In the case of a new permit application (under section 7), within the timeframe published when new permits become available.

Any applications submitted thereafter will not be considered.

- 12.7.** Vessel ownership documentation and evidence will not ordinarily be required in each years' application (to maintain access) subsequent to the first permit issued but a declaration of vessel ownership must be signed by relevant parties and the Authority reserves the right to require evidence to satisfy the requirements of this policy at any time, including to consider an application under section 5 ("maintaining Eligibility") or as a result of an investigation under section 2.9.
- 12.8.** After receiving notification by Eastern IFCA of a successful application, the permit will not be valid until all relevant fees from the successful applicant have been received by Eastern IFCA.
- 12.9.** Where permits are issued, this will be from the 1st April, in each year, expiring after no more than 12 months or as otherwise stated on the permit.

13. Appeals Procedure

Section 13: Guidance

This section sets out how a person can appeal in relation to decisions made under this policy. Appeals will be heard by Authority members who were not involved in the decision which is the subject of the appeal. This is intended to ensure independence in decisions made under this policy.

- 13.1.** Where there are grounds to do so, any person who is dissatisfied with any decision made by the Authority in relation to the operation of this policy is to have the right of appeal in accordance with this section.
- 13.2.** The grounds for appeal shall be;
- a) A procedural mistake in the application of this policy
 - b) An error of fact and or law that may have affected the decision
 - c) New information is available that may change a decision
 - d) As a result of the loss of access to the fishery resulting from the application of the transitional provisions set out at section 4 above that will adversely affect business continuity
- 13.3.** The appeal may be heard in writing or in person (at the appellant's choice), and if in person either alone or accompanied by a qualified legal advisor to the Wash Appeals Sub-Committee. The Wash Appeals Sub-Committee will consist of 3 Members of the Authority who:
- 13.3.1.** Are not Members of the Wash Fisheries sub-committee
 - 13.3.2.** Do not have any Disclosable Pecuniary Interest in the relevant fishery; and

- 13.3.3.** Did not take part in any discussions or vote on any relevant recommendation of the Wash Fisheries sub-committee.
- 13.4.** An appeal will only be heard if a request is received in writing within 21 days of written confirmation of an Authority decision. The request must set out the grounds for the appeal.
- 13.5.** This section does not apply to any decisions made in relation to section 11 (“Permit Penalty”).
- 13.6.** For any appeal, the Authority and the appellant will each be responsible for their own costs.
- 14. Policy review**
- 14.1.** This policy will be reviewed only in accordance with the schedule 4 (limitation on the number of permits) and 5 (Eligibility Policy) of the Byelaw.

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Appendix 4

Version control Document – substantive revisions to Eligibility Policy Ver 29

September 2022

This document sets out the changes made to the WCMB Eligibility Policy and Limit to the Number of Permits (as presented to the 47th Eastern IFCA Meeting, 7 March 2022) having considered responses to the Formal consultation and further internal and legal consideration.

This document sets out the substantive changes to the policy which change the effect and does not include amendments for the purpose of clarity or ease of reading.

Section	Wording in version 29 (presented at the 47 th Eastern IFCA meeting)	Recommended wording (49 th Eastern IFCA meeting)	Rationale
Title	Eligibility Policy	Eligibility Policy and Limitation on the Number of Permits	This includes the limit set for the number of permits which is a separate provision within the Byelaw and as such is referred to separately to avoid confusion and to acknowledge the distinction
Guidance (all sections)	n/a	n/a	Guidance has been updated throughout the documents to reflect any changes to the policy to which it relates.
2.2	[Additional sub-section]	Permits are intended to provide access to the above fisheries, and it is intended that the permit holder is the person who	Clarify the position with regards to the intention of issuing permits

		<p>requires access to the fishery granted by the permit for the purpose of carrying on their business in that regard (including in relation to their function within a business in accordance with 2.4) and is primarily responsible for the vessel associated with the permit across all the fisheries it operates within. It is expected that this shall be the case during the lifetime of the permit and any deviation from this may result in the permit being cancelled (in accordance with 2.9) and / or loss of eligibility to further permits under section 5 (“Maintaining Eligibility”).</p>	<p>particularly with regards to preventing a permit holder from circumventing policy intended to enable new entrants and providing access by circumventing the 'new permits' policy.</p>
<p>2.4 (previously 2.3 & 2.4)</p>	<p>16.3. The ‘majority registered owner’ is:</p> <p>16.3.1. The person who owns the majority of the shares of a vessel, as recorded on the vessel’s certificate of registry; <i>or</i></p> <p>16.3.2. The person who owns the majority shares in the company or business which is the majority registered owner of the vessel as recorded on the certificate of registry; <i>or</i></p>	<p>2.4 For the purpose of the policy, the owner of the vessel shall be deemed to be the person who can demonstrate to the satisfaction of the Authority that they have a practical and legal interest in the vessel as a registered and beneficial owner of the vessel as follows:</p> <p>2.4.1 They are a registered owner of the vessel because:</p> <ul style="list-style-type: none"> a) they hold the majority of shares in the vessel; or b) they have been nominated in writing for that purpose by the shareholder(s) who hold a majority of shares in the 	<p>Revised to reduce the likelihood of unintended impacts as a result of addressing ‘renting out’ and aligning permit holders with vessel ‘ownership’.</p> <p>The description is intentionally less prescriptive to ensure that the Policy does not impact investment into industry and to recognise ‘normal’ business transactions and relationships noting</p>

	<p>16.3.3. Where there is no single person holding a majority as described above, the representative person or the managing owner as declared on the vessel's Declaration of Eligibility to Register a Fishing Vessel as filed with the UK Ship Register.</p> <p>16.4. The 'majority beneficial owner' is the person that:</p> <p>16.4.1. Receives the majority of financial benefit from the first sale of fish caught from the vessel, in relation to all fish caught from the vessel; <i>and</i></p> <p>16.4.2. Is primarily financially responsible for the vessel in its operation.</p>	<p>vessel and that they themselves are a shareholder</p> <p>2.4.2 They are the beneficial owner of the vessel because;</p> <p>a) they are the primary beneficiary of, and financially responsible for the vessel in relation to all the fisheries it operates in, including as a result of having a shareholding in a company that appears on the register as the registered owner of the vessel: or</p> <p>b) they are the person named as the manager of the vessel or the person directing and controlling the vessel and otherwise practically responsible for the operation of the vessel in all of the fisheries it operates in and nominated as such by a person or company who meets 2.4.2(a)</p>	<p>how complicated these can be.</p>
2.5	[section added]	Final determination of the a person's ability to meet 2.4 in relation to ownership of the vessel will be at the discretion of the Authority who may consider evidence including; form MSF 4728 - Declaration of Eligibility to Register a Fishing Vessel, or any replacement or substitute form issued	This has been added to clarify that the Authority retains its discretion on issuing permits including in relation to a person's ability to meet the criteria set out in the Policy.

		by the UK Ship Register, and filed in respect of the vessel, documentation from the UK Ship Register (the Registry of Shipping and Seamen), payments for maintenance of the vessel, vessel ownership certificates and transcripts, vessel insurance payments, Maritime and Coastguard Agency certification and documentation, and any other documentation demonstrating financial responsibility for the vessel in its operation	It makes specific reference to documentation which would provide evidence of a vessel's ownership, including the 'declaration of eligibility' which is a requirement of vessel registration.
2.6	A Person must have completed the Eastern IFCA Wash Training Course to hold a permit. Completion of the course shall be evidenced by certificate of attendance.	A person must be certified by the Eastern IFCA Wash Training Course to hold or be named on a permit.	Simplified wording for ease of reading and clarified that the requirement extends to any person named on the permit (i.e. a nominated representative).
2.7	No person can have any interest in more than 10 vessels named on any permit. An interest in a vessel is any registered or beneficial ownership in a vessel and includes any shareholding of any company or business which ultimately has any registered or beneficial interest in a vessel.	Removed	Included in the points system for the transition (section 4) and new permits (section 6) with the same effect and now referred to in considerations of changes to vessels and vessel ownership (section 11).

<p>2.10 (now 2.9 & 2.10)</p>	<p>16.10. A permit will be cancelled under the following circumstances:</p> <p>16.10.1. Any change in majority registered or majority beneficial ownership of the vessel named on the permit which would have the effect of changing the person or business who has majority beneficial or registered ownership of the vessel; <i>or</i></p> <p>16.10.2. The death of the permit holder; <i>or</i></p> <p>16.10.3. The bankruptcy of the permit holder or the insolvency and or winding up of any business which has a majority beneficial or registered ownership; <i>or</i></p> <p>16.10.4. Where the permit holder no longer meets the requirements of this section.</p>	<p>2.9 The Authority may investigate whether a permit holder meets the requirements of this section at any time including, but not limited to, in relation the circumstances set out in 2.10 and may, on the basis of that investigation, cancel a permit, subject to section 7 (“permit succession”) and section 10 (“business continuity and exceptional circumstances”) if it has reasonable grounds to do so. The Authority reserves the right to investigate any circumstances which it has reasonable grounds to believe are an attempt to circumvent this policy, and without prejudice to any breach of the general criminal law it may cancel any associated permit.</p> <p>2.10 The circumstances referred to in 2.9 may include but are not limited to:</p> <p>2.10.1 You applied for a permit using fraudulent documents and/or using a fraudulent identity; <i>or</i></p> <p>2.10.2 You allow someone not named on the permit to engage in activity authorised by the permit; <i>or</i></p> <p>2.10.3 Any change in ownership of the vessel named on the permit to the extent that the permit holder no longer meets 2.4; <i>or</i></p> <p>2.10.4 The death of the permit holder; <i>or</i></p>	<p>Amended for ease of reading and to include additional grounds to consider cancellation of a permit. The intention is to mitigate potential circumvention of the Policy given the changes to policy which addresses ‘renting out’ in section 2.4.</p>
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		<p>2.10.5 The bankruptcy of the permit holder or the insolvency and / or winding up of any business which is the vessel owner; or</p> <p>2.10.6 Where the permit holder no longer meets the requirements of this section (2).</p>	
<p>3.1 and 3.2</p>	<p>3.1 The number of each permit issued under the byelaw will be limited as follows from the first year that the byelaw has effect:</p> <p>3.1.1 Hand-work cockle permit: 61</p> <p>3.1.2 Hand-work mussel permit: 61</p> <p>3.1.3 Dredge mussel permit: 61</p> <p>3.2The limit on the number of permits issued thereafter may vary in accordance with the procedure set out in Schedule 4 of the Wash Cockle and Mussel Byelaw 2021.</p>	<p>3.1 There are three categories of permits as follows:</p> <p>3.1.1 Hand-work cockle permit</p> <p>3.1.2 Hand-work mussel permit</p> <p>3.1.3 Dredge mussel permit</p> <p>3.2 A person who is eligible to hold one category of permit shall automatically be eligible to hold all three categories of permit. The three permits should be considered as a set for the purpose of this policy and consequently reference to the maximum number of ‘permits’ hereafter is to be taken as the maximum number of ‘sets’ of the three permits.</p> <p>Permits issued as a result of the transition (section 4)</p> <p>3.3 The maximum number permits issued under section 4 (“Transition”) will be 61.</p>	<p>The number of permits issued is revised to enable additional permits to be issued as a result of appeal (under section 13).</p>

		<p>3.4 There is no maximum number of permits which may be issued as a result of appeals which consider applications under section 13 (“Appeals Process”).</p> <p>Permits issued after the transition</p> <p>3.5 The maximum number of permits issued subsequent to the transition shall be 61 plus any further permits issued upon appeal under section 13 (“Appeals Process”).</p> <p>3.6 The maximum number of permits issued may vary in accordance with the procedure set out in Schedule 4 (“Transition”) of the Wash Cockle and Mussel Byelaw 2021.</p>	
4.1	In the first year of the fishery, completed application forms, which will be provided by the Authority, must be received by the Authority by 1 Jan 2023.	In the first year of the fishery, application periods for permits issued under Phase 1 and Phase 2 (below) will be determined and specified by the Authority and WFO Licence holders will be notified of such in writing. Only applications received within the notified period will be considered.	Removed the deadline set in the policy to accommodate the potential need to amend timescales, depending on the timing of the byelaw coming into effect.
4.3 (previously 4.2)	<p>4.2.1 The applicant must demonstrate to the satisfaction of the Authority that:</p> <p>a) On 22nd February 2022, they were the ‘entitlement holder’ of the WFO licence; <i>and</i></p>	4.2.2 The WFO Licence holder requirement is:	The requirement to be the ‘vessel owner’ on a vessel named on a WFO entitlement is changed such that it does not take

	b) They are and were, on and prior to 22 nd February 2022, the majority registered <u>and</u> majority beneficial owner of the vessel named on the WFO licence as so described in section 2.3 and 2.4.	a) subject to any changes made under the WFO Interim policies ¹⁵ , they were, within 24 months of the 22 nd February 2022 the Holder of the WFO licence; <i>and</i> b) they were, on and prior to 22 nd February 2022, the registered and beneficial owner of the vessel named on the WFO 'entitlement' in accordance with section 2.4 ("Issuing Permits").	into account any changes after the 22 nd February 2022. This is intended to reduce the likelihood of circumvention of 'renting out' provisions.
4.3.4(b) – (previously 4.2.5 (b))	The vessel named on the WFO licence was used to fish within Wash and North Norfolk Coast fisheries for at least 30 days per year for at least three years between 1 Jan 2010 and 1 Jan 2022	the person or vessel named on the WFO licence fished within Wash and North Norfolk Coast fisheries for at least 16 days per year for at least three years between 1 Jan 2010 and 1 Jan 2022.	Reduced the 'activity requirement' to 16 days to reflect the likely fishing activity levels of smaller business models, and included reference to fishing other than from a 'registered vessel' as some smaller operations fish from unlicensed skiffs to work private lays.
Table 1 – criteria and points awarded under Phase 2 (1)	Applicant is a majority beneficial owner of a vessel named on a WFO Licence + 20 points	Applicant was the beneficial owner (2.4.2) of a vessel named on a WFO Entitlement which was not issuable as a permit under Phase 1. + 31 points	Amended for clarity and ease of reading. The number of points is increased to 31 to ensure that priority is provided to applicants who were the beneficial

¹⁵ <https://www.eastern-ifca.gov.uk/wash-fishery-order-1992-interim-policies/>

			owner of a vessel name don a WFO Licence in the context of increasing the number of points available for having fished in the WFO generally.
Table 1 – criteria and points awarded under Phase 2 (2)	Participation in WFO fisheries as a Nominated Representative or Deputy from 2015: + 2 points for each year of participation up to 10 points	Fished in WFO fisheries as a Nominated Representative or Deputy: + 2 points for each year of participation up to 20 points	Amended for clarity and ease of reading. The number of points allocated for fishing experience in the WFO fisheries is increased such that it will outweigh 'other' fishing activity. The period for accruing the points is removed to reflect that many in the industry have fished for a significant amount of time.
Table 1 – criteria and points awarded under Phase 2 (3)	Applicant is a majority registered owner of a vessel named on a WFO Licence (not eligible if points under 1 have already been allocated)	[removed]	Removed to prioritise applicants who were not 'renting out' and risks to business continuity as a result are addressed through the appeals process (section 13)
Table 1 – criteria and points awarded	Participation in Wash and North Norfolk Coast based fisheries from 2010 onwards	Fished in Wash and North Norfolk Coast based fisheries.	Amended for clarity and ease of reading.

<p>under Phase 2 (4) (now 3)</p>			<p>The relevant time period was removed to enable consideration of more historic fishing activity noting the variability of inshore fisheries and the diversification of inshore fishermen over long time periods.</p>
<p>Table 1 – criteria and points awarded under Phase 2 (5) (now 4)</p>	<p>Conviction of each offence under the WFO within 12 months of application. Each information (offence) on the face of a Magistrates' Court summons shall represent an individual relevant offence; and Each separate Magistrates' Court Summons issued (i.e. one that is not linked to the same incident) shall be treated as a new matter.</p>	<p>Conviction of a relevant offence within 3 years of the date of application. Each information (offence) on the face of a Magistrates' Court summons shall represent an individual relevant offence; and each separate Magistrates' Court Summons issued (i.e. one that is not linked to the same incident) shall be treated as a new matter</p>	<p>Added a relevant time period of three years to limit impact of historical offences.</p>
<p>Table 1 – criteria and points awarded under Phase 2 (6) (now 5)</p>	<p>Conviction of each fisheries offence (other than under the WFO), including in relation to the use of I-VMS, of obstruction within 12 months of application. Each information (offence) on the face of a Magistrates' Court summons shall represent an individual relevant offence; and each separate Magistrates' Court Summons issued (i.e. one that is not linked to the same incident) shall be treated as a new matter.</p>	<p>Conviction of a fisheries offence (other than a relevant offence) within 3 years of the date of application, including in relation to: the use of I-VMS other than in relation to fishing under the authority of a permit under the byelaw, any byelaw made by Eastern IFCA under s.155 or 157 of MaCAA which are in effect and 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 any such byelaw. Each information (offence) on the</p>	<p>Added a relevant time period of three years to limit the impact of historical offences. Included reference to additional offences associated with fishing within the Wash.</p>

		face of a Magistrates' Court summons shall represent an individual relevant offence; and each separate Magistrates' Court Summons issued (i.e. one that is not linked to the same incident) shall be treated as a new matter.	
Table 1 – criteria and points awarded under Phase 2 (7) (now 6)	Business interests in vessels named on other permits where already eligible under phase 1. - 10 points per permit where any person with an interest in the vessel (as per 2.7) has an interest in a vessel already named on a permit.	Any ownership (registered or beneficial) in vessels named on other permits and / or which are eligible to be named on a permit under phase 1. Ownership includes any financial interest in companies or businesses which have any ownership (registered or beneficial) of such a vessel. -6 points in relation to each permit issued or issuable under Phase 1.	Amended to clarify and for ease of reading. Revised the associated points to effectively limit a person to associated with 10 permits.
5.2 (previously 5.2 and 5.3)	<p>19.2. The eligibility fee must be paid by the 31st March of each year to be eligible for a permit within 12 months from the following 1st April.</p> <p>19.3. A person is eligible for a 'consecutive permit' if:</p> <p>19.3.1. The applicant can demonstrate the 'Activity Requirement' has been met, to the satisfaction of the Authority. The 'Activity Requirement' is either:</p>	<p>5.2A person will maintain their eligibility if:</p> <p>5.2.1 The eligibility fee has been paid at least once in the 24 months preceding the date of application; and</p> <p>5.2.2 The applicant remains eligible to hold a permit under section 2 ("Issuing Permits"); and</p> <p>5.2.3 The 'Activity Requirement' has been met. The 'Activity Requirement' is either:</p> <p>a) That the vessel named on the permit has been used to fish under the authority of a permit on at least five</p>	<p>Revised to enable biannual payment of eligibility fee. This is intended to reduce impacts of permit holders who do not fish regularly but also makes the policy less likely to achieve 50% cost recovery.</p> <p>Amended activity requirements to account for smaller business models which do not</p>

	<p>c) That the vessel named on the permit has been used to fish under the authority of a WCM Permit on at least five separate occasions within the last 24 months; <i>or</i></p> <p>d) That the vessel named on the permit has been used to fish for other species within The Wash and North Norfolk Coast on at least 30 separate occasions within the last 12 months; and</p> <p>The applicant remains eligible to hold a permit under section 2 (issuing permits) to the same extent as they were at the time of last application.</p>	<p>separate occasions within 24 months prior to the application; <i>or</i></p> <p>b) The applicant can demonstrate to the satisfaction of the Authority that they (permit holder) or the vessel named on the permit has been used to fish for other species within The Wash and North Norfolk Coast on at least 16 separate occasions within the last 12 months.</p>	<p>routinely fish from the licenced fishing vessel but instead fish using skiffs on private lays etc.</p>
5.5.5	The eligibility fee has not been paid by 31 st March in the year preceding application.	[removed]	Amended to prevent loss of eligibility for a 'late' payment and the deadline is not set out within 5.2 (i.e. within 24

			months of having last paid it).
6.5	Where more applicants are received than there are permits available for allocation, permits will be allocated to applicants who have accrued the most points in accordance with table 2	Applicants must accrue at least 2 points in accordance with Table 2 to be eligible for a new permit in the first instance. Where the number of applications to be considered is greater than the number of new permits available, subject to 6.6, the applicant(s) who has accrued the most points in accordance with table 2 will be eligible for an available permit.	Amended to include a minimum threshold of points with the effect of limiting the number of permits a person or company can have an interest in as a result of losing points.
6.6 (previously 6.7)	Where more than one person is eligible for a permit by virtue of the number of points they accrued, the Authority will make the final decision on who the permit shall be issued to considering the circumstances of each application which may include the length of time a person has been registered on the 'register of applicants' and existing access to the fishery. The Authority may use a ballot to decide who to issue a permit to in circumstances where there is no clear case for the permit being issued to a particular applicant.	Where the number of persons with the most points exceeds the number of new permits available under this section, the Authority will make the final decision on to whom the permit shall be issued by considering the circumstances of each application which may include the length of time a person has been registered on the 'register of applicants' and existing access to the fishery (with preference given to applicants with fewer permits). The Authority may use a ballot to decide who to issue a permit to in circumstances where there is no clear case for the permit being issued to a particular applicant.	Amended for clarity and ease of reading. Included Policy that a decision on the matter will take into account the amount of access the person already has (i.e. the number of permits for which they have an interest).
6.8	A successful applicant will be notified of such in writing and must meet the requirements of Section 2 (Issuing permits)	A successful applicant will be notified of such in writing and must meet the requirements of section 2 ("Issuing	Amended to include requirement for the eligibility fee to be paid

	within 24 months of notification. If the permit is not issued within 24 months, the Authority reserves the right to reallocate it in accordance with eligible applicants	permits”) within 24 months of notification. If the permit is not issued within 24 months, the Authority reserves the right to reallocate it in to other eligible applicants. The eligibility fee is required to be paid during this time in accordance with 5.2.1.	during the period they are eligible for.
Table 2 – criteria and points awarded for new permits (1)	Participation in Wash and North Norfolk Coast based fisheries from 2010 onwards + 2 points for each year participation up to 20 points	Fished in Wash and North Norfolk Coast fisheries + 2 points for each year participation up to 10 points	Amended for clarity in relation to ‘participation’ in the fishery. Reduced the points allocated to prioritise applicants who have experience of fishing within Wash cockle and mussel fisheries.
Table 2 – criteria and points awarded for new permits (3)	Participation in fisheries as a Nominated Representative or deputy on a WFO licence or permit under the WCMB. + 2 points for each year participation up to 10 points	Fished in fisheries as a Nominated Representative or Deputy on a WFO licence or as a Nominated Deputy under a permit under the byelaw. +2 points for each year participation up to 20 points	The amount of points available to applicants with experience in Wash cockle and mussel fisheries is increased to prioritise these applicants.
Table 2 – criteria and points awarded for new permits (4)	Conviction for each fisheries offence under the WCMB, or the WFO where still relevant, within 12 months of application. Each information (offence) on the face of a Magistrates' Court summons shall represent an individual relevant offence; and each separate Magistrates' Court Summons issued (i.e. one that is not linked to the	Conviction of a relevant offence within 3 years of application. Each information (offence) on the face of a Magistrates' Court summons shall represent an individual relevant offence; and each separate Magistrates' Court Summons issued (i.e. one that is not linked to the	Amended to include a relevant time period for considering convictions

	same incident) shall be treated as a new matter.	same incident) shall be treated as a new matter.	
Table 2 – criteria and points awarded for new permits (5)	Conviction for each fisheries offence (other than under the WFO), including in relation to I-VMS, within 12 months of application. Each information (offence) on the face of a Magistrates' Court summons shall represent an individual relevant offence; and each separate Magistrates' Court Summons issued (i.e. one that is not linked to the same incident) shall be treated as a new matter.	Conviction of a fisheries offence (other than a relevant offence) within 3 years of application, including in relation to: the use of I-VMS other than in relation to fishing under the authority of a permit under the byelaw, any byelaw made by Eastern IFCA under s.155 or 157 of MaCAA which are in effect and s.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 any such byelaw. Each information (offence) on the face of a Magistrates' Court summons shall represent an individual offence; and each separate Magistrates' Court Summons issued (i.e. one that is not linked to the same incident) shall be treated as a new matter.	Amended to include a relevant time period for considering convictions and to include other relevant offences.
Table 2 – criteria and points awarded for new permits (6)	Business interests in vessels named on other permits already issued. -10 points per permit where any person with an interest in the vessel (as per 2.7) has an interest in a vessel already named on a permit.	Any ownership (registered or beneficial) in vessels named on other permits and / permits which are issuable under section 5 (“Maintaining Eligibility”). Ownership includes any financial interest in companies or businesses which have any ownership (registered or beneficial) of such a vessel.	Amended for clarity and to put into effect a cap on the number of permits a person or individual can have an interest in (of 8).

		-5 points in relation to each permit issued or issuable.	
7.2	[provision added]	Permit holders may notify the Authority in writing of a person they wish to succeed them (the 'Permit Successor').	Policy added to assist in permit succession process

7.3 (now 7.4 & 7.5)	<p>21.3. At the absolute discretion of the Authority a successor may be eligible for a permit to be issued under this section if that person can demonstrate to the satisfaction of the Authority that:</p> <p>21.3.1. The applicant is eligible under:</p> <p>a) section 2 (issuing permits)</p> <p>b) sections 6.5 and 6.7 (new permits); <i>and</i></p> <p>21.3.2. They are either;</p> <p>a) A close relative of the holder of the permit holder; <i>or</i></p> <p>b) Have been named as a nominated deputy on the permit for at least three years preceding the application.</p>	<p>21.4. At the absolute discretion of the Authority a successor will be eligible for a permit to be issued under this section if that person can demonstrate to the satisfaction of the Authority that (subject to section 10 'business continuity and exceptional circumstances') on receipt of a permit they are either</p> <p>21.4.1. A relative of the holder of the permit holder who has been practically involved in fisheries managed under the byelaw and for the purpose of continuing a family business; <i>or</i></p> <p>21.4.2. Have been named as a nominated deputy on the permit for at least five years preceding the application.</p> <p>21.5. Where the successor meets the requirements of 7.4, the</p>	Amended to require family members to have been 'active' within the fishery to be eligible and increased the time period that a Nominated Deputy must have been named on the permit to be eligible. Both are intended to further restrict use of the provision to prevent abuse of the system to effectively circumvent the 'new permits' system at the expense of those on the 'register of interests'.
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		<p>successful applicant and permit holder will be notified in writing. Within 24 months of notification:</p> <p>21.5.1. The successor must meet the requirements of section 2 (“Issuing permits”); <i>and</i></p> <p>21.5.2. The applicant must formally surrender, in writing, the permit they hold (or are eligible to hold under section 5 – “maintaining eligibility”).</p>	
Sections added	[sections added]	<p>21.6. If the permit is not issued within 24 months, the Authority reserves the right to make the permit available for allocation in accordance with Section 6 (“New Permits”). The eligibility fee is required to be paid during this time in accordance with 5.2.1.</p> <p>21.7. Where an application under this section includes changing the vessel named on the original permit or a change in the ownership of the vessel named on the original permit, section 8 (“change of vessel and ownership”) applies.</p>	<p>Added to ensure that the Authority can reallocate permits where the person eligible has not taken the permit out within a reasonable time period, noting that this would be at the exclusion of others who may want access in their own right.</p> <p>Reference to a change of vessels is added to provide for where permit succession includes a change of vessel (which is often the case).</p>

7.10	[section added]	Where no Permit Successor is identified, no Temporary Permit will be allocated.	Added to provide the Authority with the ability to not issue a permit is appropriate.
Whole section	<p>22.1. A permit holder may apply to change the vessel named on a permit.</p> <p>22.2. A vessel is eligible to be named on a permit under this section if:</p> <p>22.2.1. The applicant remains eligible to hold a permit under section 2 (issuing permits) to the same extent as they were in relation to the previous vessel so named; and</p> <p>22.2.2. The vessel meets all of the requirements set out in the Byelaw or Permit conditions.</p>	<p><u>Changing a vessel named on a permit</u></p> <p>8.1 A permit holder may apply to change the vessel named on a permit.</p> <p>8.2 A vessel is eligible to be named on a permit under this section if</p> <p>8.2.1 The applicant submits a completed application form; and</p> <p>8.2.2 The applicant remains eligible to hold a permit under section 2 (Issuing Permits) as the vessel owner of this vessel and provides evidence to the satisfaction of the Authority to this effect; and</p> <p>8.2.3 The applicant sets out in writing how the change is required for reasons of business continuity; and</p> <p>8.2.4 The vessel meets all of the requirements set out in the Byelaw or associated permit conditions.</p> <p>22.3. A vessel is not eligible to be named on a permit under this section if:</p> <p>22.3.1. granting the application results in any one person or business having ownership (registered or</p>	<p>Amendments to this section include a requirement for changes in ownership of a vessel to be considered by the authority where it would change the extent to which the permit holder is eligible under section 2 and to check that they are still eligible (i.e. still the vessel owner). This is intended to reduce the risk of circumvention of the permit holder's eligibility and 'renting out' rules which are a consequence of revisions to the vessel ownership policy (section 2). Overall, the amendments to vessel ownership are more permissive and increase the likelihood of 'renting out' and therefore a greater level of scrutiny is considered</p>

		<p>beneficial) in more than 10 vessels named on permits issued or eligible to be issued under this policy. Ownership includes any financial interest in companies or businesses which have any ownership (registered or beneficial) of such a vessel;</p> <p>22.3.2. The vessel was or is named on a permit which is, at the time of application, the subject of a permit penalty (Section 11).</p> <p><u>Changing the ownership of a vessel named on a permit</u></p> <p>8.4 Where vessel ownership changes to the extent that the permit holder is no longer the 'vessel owner' (in accordance with 2.4) the permit will be cancelled.</p> <p>8.5 Where vessel ownership changes to the extent that the permit holder is the vessel owner (in accordance with 2.4) but under different qualifying provisions under 2.4, then they must notify the Authority of such a change and the Authority may investigate the change in ownership to ensure that the requirements of 2.4 are fulfilled. Where</p>	<p>appropriate to detect changes which might circumvent the policy.</p>
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		<p>this is not the case, the permit may be cancelled.</p> <p>8.6 Changes in vessels named on permits or changes to the ownership of vessels named on permits shall not be used as a means of circumventing the Authority's discretion to manage access to the fisheries. Accordingly, applications will be examined to determine if this is the case, and the Authority will not grant any such application unless the applicant can satisfy the Authority that such is in accordance with the policy and in particular section 2.2.</p>	
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11.2	[sub-section added]	The person(s) convicted of a relevant offence (under section 1.10) as the skipper or master of the vessel associated with the offence are not permitted to fish under the authority of any permit issued under the Byelaw whilst under the penalty period.	This sub-section is added to ensure personal accountability for non-compliance given that the fisheries operate within several MPAs.
13.5 (now 12.5)	In the first year of the fishery, completed application forms, which will be provided by	Completed application forms must be received by the Authority within the time period set out by the Authority	Removed reference to a set date to allow for changes to timescales

	the Authority, must be received by the Authority by 1 Jan 2023		as may be required (depending on the confirmation of the byelaw etc.)
13.6.2 (now 12.6.1)	In the case of a new permit application (under section 7) the last day of February in each year with respect to permits issuable from the following 1 st April.	In the case of a new permit application (under section 7), within the timeframe published when new permits become available.	Removed reference to a set date to allow for changes to timescales as may be required, for example, if a permit becomes available mid-year.
12.7 (section added)	[sub-section added]	Vessel ownership documentation and evidence will not ordinarily be required in each years' application (to maintain access) subsequent to the first permit issued but a declaration of vessel ownership must be signed by relevant parties and the Authority reserves the right to require evidence to satisfy the requirements of this policy at any time, including to consider an application under section 5 ("maintaining Eligibility") or as a result of an investigation under section 2.9.	Added to reduce the burden on applicants to provide 'evidence' of vessel ownership each year. Acknowledges that the Authority may require it however so as to ensure the effective compliance with the Policy as required.
13.7	The 'eligibility fee' must be paid prior to the 1 st April with respect to a permit issuable from that date.	[removed]	Removed to prevent impacts as a result of 'late payment' and to enable biannual payments (as per the amendment to section 5)

		After receiving notification by Eastern IFCA of a successful application, the permit will not be valid until all relevant fees from the successful applicant have been received by Eastern IFCA.	
13 Appeals Procedure	[section added]	<p>27.1. Where there are grounds to do so, any person who is dissatisfied with any decision made by the Authority in relation to the operation of this policy is to have the right of appeal in accordance with this section.</p> <p>27.2. The grounds for appeal shall be;</p> <ul style="list-style-type: none"> a) A procedural mistake in the application of this policy b) An error of fact and or law that may have affected the decision c) New information is available that may change a decision d) As a result of the loss of access to the fishery resulting from the application of the transitional provisions set out at section 4 above that will affect business continuity <p>27.3. The appeal may be heard in writing or in person (at the appellant's choice), and if in person either alone or accompanied by a qualified legal</p>	Appeals process has been added to enhance transparency and accountability. It also provides the ability to consider any loss of access via the transition.

		<p>advisor to the Wash Appeals Sub-Committee. The Wash Appeals Sub-Committee will consist of 3 Members of the Authority who:</p> <p>27.3.1. Are not Members of the Wash Fisheries Transition sub-committee</p> <p>27.3.2. Do not have any Disclosable Pecuniary Interest in the relevant fishery; and</p> <p>27.3.3. Did not take part in any discussions or vote on any relevant recommendation of the Wash Fisheries Transition sub-committee.</p> <p>27.4. An appeal will only be heard if a request is received in writing within 21 days of written confirmation of an Authority decision. The request must set out the grounds for the appeal.</p> <p>27.5. This section does not apply to any decisions made in relation to section 11 (Permit Penalty).</p> <p>27.6. For any appeal, the Authority and the appellant will each be responsible for their own costs.</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

14 September 2022

Wash Fisheries Transition and Wash Fisheries Appeals sub-committees

Report by: J. Gregory, CEO

Purpose of Report

To recommend the establishment of a sub-committee to deal with the appeals relating to decisions taken under the Wash Cockle and Mussel Byelaw Eligibility Policy regarding access to the fisheries and to recommend changes to the name and functions of the Wash Fisheries Transition sub-committee.

Recommendations

It is recommended that members:

- **Agree** to establish the Wash Appeals sub-committee and adopt the associated scheme of delegations (Appendix A)
- **Agree** to the proposed change in name of the Wash Fisheries Transition sub-committee (to the Wash Fisheries sub-committee) and adopt the revised scheme of delegations (Appendix B)
- **Agree** to appoint the members named in this paper to serve on the Wash Appeals sub-committee and to revise membership of the Wash Fisheries sub-committee as proposed in this paper
- **Agree** that meetings of both the Wash Fisheries Transition and Wash Appeals sub-committees will be arranged by the CEO as required to fulfil their functions

Background

The Authority is replacing the Wash Fishery Order 1992 (WFO) with the Wash Cockle and Mussel Byelaw 2021 (the byelaw) and will manage access to the fisheries using a policy under that byelaw. The proposed policy sets out transitional arrangements for access to the fisheries under the WFO to the byelaw and is addressed at agenda item 9. The policy also provides for the issue of permits in consecutive years, how access can transition from one person to another for business continuity and for considering new applications for permits where the overall cap on numbers allows this. The byelaw itself also provides the ability for the Authority to amend the policy following a process that includes industry consultation.

At the 47th meeting of the full Authority in March 2022 the Authority agreed to establish a Wash Fisheries Transition sub-committee to consider relevant evidence and make determinations in relation the issue of permits. It was considered appropriate to separate the evidence gathering and decision-making functions with officers responsible for evidence gathering and Members responsible for decision making.

Decision making under the policies will involve considering commercially sensitive information within the fishing industry. It was therefore accepted that it would not be appropriate that members with an interest in the fisheries concerned are privy to that information or party to the decision-making process to ensure that there is no perception of bias. To that end the following members were appointed to the sub-committee:

Cllr FitzPatrick

Cllr Vigo Di Gallidoro

Cllr Skinner

Cllr Coupland

Cllr Chenery

Cllr Back

Cllr Adams

Mr Copeland

Mr Bowell

Mr Mogford

Report

Ongoing engagement with industry via a consultation on the draft Eligibility Policy and 'without prejudice' meetings with the professional representatives of the coalition of interests has resulted in various changes to the draft Eligibility Policy considered by the Authority at the 47th meeting in March 2022. These are addressed at agenda item 9 of this meeting.

One such change is the introduction of an appeals procedure in relation to decisions taken under the Eligibility Policy. It is proposed that a small Wash Fisheries Appeals sub-committee is established for this purpose (Appendix A refers) and that membership of that sub-committee comprises the Chair of the Authority, the Vice-Chair and one other elected member.

The Eligibility policy provides that members of the Wash Appeals sub-committee are:

- Not Members of the Wash Fisheries Transition sub-committee
- Do not have any Disclosable Pecuniary Interest in the relevant fishery; and
- Did not take part in any discussions or vote on any relevant recommendation of the Wash Fisheries Transition sub-committee.

It is therefore proposed that Cllr FitzPatrick, Cllr Vigo Di Gallidoro and Cllr Back are removed from the membership of the Wash Fisheries Transition sub-committee and are appointed to the Wash Fisheries Appeals sub-committee.

The inclusion of an appeals process within the Eligibility Policy has prompted further consideration of overall decision making under the policy. It is suggested that the Wash Fisheries Transition sub-committee should become permanent and that the word 'transition' be removed from the title. It is also suggested that all decision making under the policy should fall to the sub-committee aside from administrative elements such change of vessel and vessel ownership (section 8) and nominated deputies (section 9) (Appendix B refers), which should fall to the CEO. In the case of

changes of vessel or vessel ownership the CEO may refer decisions to the sub-committee if it is considered appropriate to do so e.g. in cases that involve some doubt or degree of complexity.

Noting that the functions of both sub-committees are likely to require them to meet as required during the transition following expiry of the WFO1992, it is proposed that set meeting dates are not agreed by the Authority and that, instead, meetings of both the Wash Fisheries and Wash Fisheries Appeals sub-committees will be arranged by the CEO as required to fulfil their functions. In subsequent years it may be preferable to schedule regular meetings of the Wash Fisheries sub-committee and cancel them if there is no business to transact.

Financial Implications

There are no notable financial implications in establishing another sub-committee and any associated costs will be absorbed within existing budgets.

Legal Implications

Establishing the sub-committee is in accordance with the Constitution and Standing Orders and is not judged to have any legal implications.

Appendices

Appendix A – scheme of delegation for the Wash Fisheries Appeals sub-committee
Appendix B – scheme of delegation for the Wash Fisheries sub-committee

Background Documents

Eastern IFCA Constitution and Standing Orders

Papers and Minutes of the 39th Eastern IFCA meeting (11 March 2020), Action Item 10, Wash Fishery Order Replacement

Papers and Minutes of the 43rd Eastern IFCA meeting (10 March 2021), Action Item 10, Wash Fishery Order Replacement

Papers and Minutes of the 44th Eastern IFCA meeting (09 June 2021), Action Item 13, Wash Cockle and Mussel Fisheries Policy Development

Papers and Minutes of the 45th Eastern IFCA meeting (09 June 2021), Action Item 12, Wash Cockle and Mussel Byelaw 2021 – Update

Papers and Minutes of the 46th Eastern IFCA meeting (08 December 2021), Action Item 7, Wash Cockle and Mussel Byelaw Policy

Papers and minutes of the 47th Eastern IFCA meeting (09 March 2022), Action item 11, Wash Cockle and Mussel Byelaw 2021 Access Policies

Appendix A

MATTERS WHICH IT IS THE RESPONSIBILITY OF THE WASH APPEALS SUB-COMMITTEE TO DISCHARGE
<p>To consider appeals either in writing or in person against decisions taken under the Wash Cockle and Mussel Byelaw 2021 Eligibility Policy insofar as appeals are permitted under that policy.</p>

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Appendix B

MATTERS WHICH IT IS THE RESPONSIBILITY OF THE WASH FISHERIES SUB-COMMITTEE TO DISCHARGE
<p>Decision making in the matters set out below under the Wash Cockle and Mussel Byelaw 2021 Eligibility Policy:</p> <ul style="list-style-type: none">• Transition from the entitlement to licences under Wash Fishery Order 1992 to eligibility for permits under the Wash Cockle and Mussel Byelaw 2021• Allocation of new permits• Permit succession• Permit allocation in exceptional circumstances• Cancellation of a permit• Change of vessel or vessel ownership referred to the sub-committee by the CEO
<p>The Sub-Committee may delegate any of its powers to an individual member of the Sub-Committee or to the CEO except where the power falls to be discharged by a panel.</p>
<p>The Chair of the Sub-Committee, or the CEO in consultation with the Chair, may refer any of the matters set out above to the full Authority for determination, where this is in the Authority's interests.</p>

Vision

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Action Item 11

Eastern Inshore Fisheries and Conservation Authority Meeting

14 September 2022

Wash Cockle Fishery Update

Report by: Ron Jessop, Senior Marine Science Officer; Jon Butler, Head of Operations

Purpose of Report

To update members on the 2022 cockle fishery following the decision to open a fishery at the extraordinary meeting of the full Authority held on 7th July 2022.

Recommendations

It is recommended that members:

- **Note** the content of the report

Background

At the 48th Eastern IFCA meeting, members were presented with the results of the 2022 annual cockle survey. The results identified very low stocks of adult cockle at low densities, primarily as a result of a poor spatfall in 2019 and 2020. At that time, the cockle stocks were considered unable to support a cockle fishery on two fronts. The low cockle biomass was not considered sufficient to satisfy conservation objectives related to bird food requirements (i.e. the Bird Food Model) and densities were too low to support a viable fishery.

Members agreed that, unless further evidence became available, the cockle fishery should not be opened.

The Wash Fishery Stakeholder Group was established and consisted of six industry representatives, Authority Members and officers. The group met on three occasions to discuss and consider the potential for a fishery with a view to consider if a cockle fishery was possible.

At the extraordinary meeting of 7 July 2022, members were presented with the findings of additional surveys, further consideration of the bird food model and the results of consultation with industry on proposals from the Wash Fishery Stakeholder Group to open a fishery. In summary, issues relating to meeting the 'Bird Food Model' were resolved, but the density of adult cockle was still considered too low to support a viable fishery and any fishery was considered likely to target smaller, juvenile cockles (the 2021 cohort) which would ordinarily represent the mainstay of the following years cockle fishery with potential impacts on its viability. The consultation identified that there was no consensus within the industry as to whether

there should be a fishery and although the majority of respondents were in favour, others were concerned about the impact on future fisheries.

Members agreed to open the fishery with mitigation in place to limit the removal of smaller cockle and protect some cockles for the following year.

Report

Fishing activity and productivity

Approximately 22 vessels have been prosecuting the fishery per open day, less than half the number ordinarily active with the cockle fishery. The average landed weight per vessel is 1.5 tonnes which is also lower than usually seen but not significantly so (noting a daily catch restriction of 2 tonnes).

Reports suggest, however, that landed weights are not a good reflection of the productivity of the fishery, with observations and reports of catch having high proportions of shell and cockle yields (i.e. the ratio of meat to total cockle weight) being low for adult cockles. Reports also indicate that the 'yield' of smaller cockles is better than for adult cockles, making them economically more attractive given their higher density.

Cockle bio sampling

Samples of catch were analysed from the beginning of the fishery (from 9 separate vessels landing on 31 July 2022) and the findings are set out in Appendix 1. Samples from a further 8 separate vessel landings on 31 August 2022 were also collected and analysed.

Most catch was dominated numerically by juvenile cockles and the predominate size of cockle was 10 to 13mm. The proportion of debris (shell, mud etc.) in catch (by weight) varied from 11% to 55%. Few samples contained cockles belonging to the 2022 year class of cockles.

Overall, bio sampling indicates that the size of cockles being landed is consistent with that predicted at the time of the survey, with fishermen relying on removal of juvenile cockle to make up the daily catch restriction.

Industry comments

Views from industry on the cockle fishery remain polarised with some calling for additional areas to be open to the fishery and others calling for its closure. There have been requests to open areas on the East and West of 'the Mound' due to concerns that the adult cockles are dying.

Other fishermen have reported their concern about the quantity of small cockles being landed and that some involved in this year's fishery are deliberately targeting small cockles below 10mm. and are putting at risk future fisheries. Meat counts of 3000-4000 are being reported by processors.

General size of cockles landed has decreased over the last set of spring tides.

Fishermen are not riddling catch effectively leading to small cockles being landed along with shell and mud

Reports were also received that some fishermen have been fishing from inside closed area but there is no evidence to support this claim.

In addition, the market value for small cockles is reported to be enabling the retention of juvenile cockle as a viable means of prosecuting the fishery, in line with the trend seen over recent years.

Some fishermen who decided not to enter the fishery as they didn't believe it to be viable are now considering entering over a perceived lack of enforcement.

Financial Implications

None

Legal Implications

None

Conclusion

It appears that market forces are enabling the removal of juvenile cockles, which are being targeted in the fishery and which is consistent with the risks considered in opening the fishery. The risk to stock sustainability remains low given the inefficiency of the hand-work cockle fishery and its inability to remove sufficient cockle to impact the spawning stock to the extent that it cannot replace losses over time.

However, the removal of the 2021 year class is likely to impact the prospects for the 2023 fishery, as these cockles would ordinarily be targeted after at least a further years' growth. Therefore, maintaining closed areas and continuing to monitor landing is crucial to increasing the likelihood of a viable fishery next year.

Appendices

None

Background Documents

Minutes and papers for Action item 10, 48th Eastern Inshore Fishery and Conservation Authority meeting, 8th June 2022

Minutes and papers for Action Item 4 Extraordinary Eastern Inshore Fisheries and Conservation Authority meeting, 7th July 2022

Appendix 1 – Cockle bio sampling 31 July 2022

Samples of cockles that had been harvested on July 31st by 9 vessels were measured on August 1st. Table 1 shows the proportions of ≥ 14 mm width cockles, < 14 mm width cockles and debris weighed in each sample. Figures 1 and 2 are images of samples 1 and 5.

Table 1 – Percentage weights of cockles ≥ 14 mm width, < 14 mm width and debris within the measured samples.

Vessel	Gtr 14mm	Less 14mm	Debris
1	16.3	28.7	55.0
2	46.3	29.3	24.4
3	84.3	4.5	11.2
4	35.7	22.1	42.3
5	85.6	2.1	12.4
6	33.1	32.4	34.4
7	24.1	30.0	45.9
8	45.8	38.3	16.0
9	44.0	6.4	49.6

The sampling showed a wide variation in the amount of debris that had been landed among the catch, from 11-16% by weight in samples 3, 5 and 8 to 46-55% in samples 1, 7 and 9.

In all but samples 3 and 5, which were composed predominantly of larger (≥ 14 mm width) cockles, the samples were dominated numerically by juvenile cockles from the 2021 cohort. However, due to their smaller size and weight, this is not so noticeable in terms of the biomasses shown in table 1. The majority of the 2021 year-class cockles that were measured ranged in size between 10-12mm width.

Although samples 3 and 5 contained the highest proportions of larger cockles and were the cleanest in terms of debris, they were the only two samples that contained any 2022 year-class spat.



Figure 1 – Photograph of Sample 1



Figure 2 – Photograph of Sample 5

Vision

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Action Item 12

49th Eastern Inshore Fisheries and Conservation Authority Meeting

14 September 2022

Annual Report 2020-21

Report by: Julian Gregory, CEO

Purpose of Report

To present the Annual Report 2021-22 for consideration by members.

Recommendations

It is recommended that members:

- **Approve** the Annual Report 2021-22.
- **Direct** the CEO to publish the report and distribute to Defra.

Background

The Marine and Coastal Access Act 2009 requires Eastern IFCA to produce an Annual Report at the end of each financial year and that a copy of the report be sent to the Secretary of State (via Defra).

Report

Officers have prepared an Annual Report, which is at Appendix 1 (available online). The report details the Authority's work over the last financial year, progress against the priorities set for that year and other organisational metrics.

Financial Implications

N/A

Legal Implications

It is a legal requirement for the Authority to produce and publish an Annual Report.

Appendices

Appendix 1 – Eastern IFCA Annual Report 2021-22 available online at:
[Eastern Inshore Fisheries and Conservation Authority \(eastern-ifca.gov.uk\)](http://eastern-ifca.gov.uk)

Vision

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Action Item 13

49th Eastern Inshore Fisheries and Conservation Authority Meeting

14th September 2022

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 2022-23 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.

The Authority has a rolling five-year Business Plan that incorporates annual priorities informed by the annual Strategic Assessment. The plan also includes the high-level objectives agreed with Defra.

The 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 beginning of April the end of August 2022.

The tables at Appendix 1 detail the progress against the key priorities for 2022-23, as set in the Business plan for 2022-27.

The Risk Register is set out at Appendix 2 and the current status of each risk area is shown at Appendix 3.

Appendices

Appendix 1 – Update on priorities set for 2022-23

Appendix 2 – Risk Register

Appendix 3 – Update on Risk Register

Background documents

Eastern Inshore Fisheries and Conservation Authority Business Plan 2022-27.

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APPENDIX 1 - Progress against Annual Priorities – April 2022 to August 2022

Four key priorities are established for 2022-23.

Financial Year 2022-23		
Priorities 2021-22	Progress	Comment
<p>1. To ensure that the conservation objectives of Marine Protected Areas in the district are furthered by:</p> <p>a) Implementation of management measures for ‘red-risk’ gear/feature interactions.</p> <p>b) Continued implementation of the Adaptive Risk Management approach for the Cromer Shoal Chalk Beds MCZ</p> <p>c) Development of priority Monitoring and Control plans as identified by the strategic assessment (shrimp, pot and trap fisheries).</p> <p>d) Completion of amber/green gear/feature interactions and development / Implementation of management measures where required.</p> <p>e) Effort Monitoring within the Wash SAC including implementation of new catch returns system.</p>		<p>1.a) Ongoing. <i>Haisborough, Hammond & Winterton SAC</i>: The Closed Areas Byelaw 2021 (agreed by the Authority in December 2021, awaiting implementation) will supersede the Marine Protected Areas Byelaw 2019 and incorporate the previously agreed measures to protect red risk features in Haisborough, Hammond & Winterton SAC.</p> <p><i>Inner Dowsing, Race Bank & North Ridge SAC</i>: Measures to protect red risk features in this site are also included in the Closed Areas Byelaw 2021. NE have advised that an additional area should be closed within this site; officers considered that evidence showed the red risk feature (<i>Sabellaria</i> reef) is absent in that area but re-surveyed the area in May and July 2022 to obtain additional evidence. An acoustic (side-scan sonar) survey was undertaken in May 2022, and associated video ground-truthing in July 2022; the data will be analysed by officers and findings reported to the Authority and Natural England. If evidence shows the presence of the feature, officers will present recommendations to the Authority for management of that area.</p> <p>1.b) Ongoing. Management of bottom-towed fisheries within the MCZ has been agreed – originally in the Marine Protected Areas Byelaw 2019, now superseded by the Closed Areas Byelaw 2021. The byelaw includes exemption for small artisanal shrimp fishery. Officers will update their 2018 assessment of the impact of non-potting fisheries on Cromer Shoal Chalk Beds MCZ to incorporate new information on netting activity. This could potentially lead to</p>

management measures for netting within the MCZ, but the work has been delayed whilst officers focus on the much more significant potting fishery.

An Adaptive Risk Management (ARM) approach was agreed with Natural England as the most suitable approach to assess and manage the interaction between potting fisheries and the site features. This allows research to be conducted alongside the development of management measures. Under the direction of a Project Board, two Task and Finish groups are operating to undertake the research and management workstreams, while a Stakeholder Group enables wider engagement.

Since April 2022, officers have continued with various research workstreams as part of the ARM approach, including:

- (i) habitat mapping using video cameras mounted on remotely operated vehicles (ROVs),
- (ii) video assessment of interactions between deployed potting gear and rugged chalk,
- (iii) preparation of adapted potting gear to be used to test impacts on chalk,
- (iv) monitoring tracks of potting vessels (those signed up to voluntary use of trackers) to better understand fishing patterns within and around the MCZ,
- (v) economic comparison of landings from rugged chalk vs other areas.

A more detailed update on research work undertaken as part of the ARM approach is provided at Agenda Item 16b (Marine science quarterly report).

With regards to the management aspects of ARM, further to the endorsement of the *Code of Best Practice*¹⁶ for potting in the MCZ with fisheries stakeholders and Natural England, officers have been engaging directly with fishers to discuss management of the potting fishery via a crab and lobster permitting byelaw. Members of the Eastern IFCA project team and IFCOs have held several productive meetings with local fishing industry groups and with individuals, to gauge views around management and listen to suggestions / concerns relating to different management options. It is intended that this dialogue can inform the need for any wider measures (i.e. which do not relate to the MCZ) which may lend themselves to sustainable fisheries in the district too. The intention is to continue to engage closely with fishery stakeholders to ensure any measures developed will be evidence-based and proportionate.

1.c) **Delayed.** This work has not progressed since the last update, because resources have been directed towards priority MCZ work, Wash cockle fishery management, and recruitment / induction of new members of the Marine Science team (two officers recruited in April 2022 to replace officers that left the team in August 2021 and January 2022; one Grade 6 Marine Science Officer recruited in August 2022 following the loss of a further team member in April 2022, and one Project Officer following the loss of a Project Officer in February 2022). However, it is re-iterated that fisheries monitoring and control comprise routine work for the Authority and continue despite formal monitoring and control plans not yet being produced.

1.d) **Delayed / Ongoing.** Management has been agreed for “highest risk” amber/green gear/feature interactions, i.e. towed

¹⁶ https://www.eastern-ifca.gov.uk/wp-content/uploads/2022/05/Code_of_Best_Practice_MCZ.pdf

		<p>demersal fishing on subtidal sediment habitats. Amber/green assessments to be completed for more recently designated MPAs and management developed if found to be required. Officers are planning to review the original suite of amber/green assessments (originally produced in 2015-16), but this work has been delayed because of the need to focus resource on MCZ research, assessment and management, cockle surveys, assessment and management, and team churn.</p> <p>The Shrimp Permit Byelaw 2018, which will be the mechanism for managing the 'amber' interactions between shrimp fishing and MPAs, was confirmed by the Secretary of State on 31st May 2022. The permitting elements will be implemented when officers have capacity to do so.</p> <p>1.e) Ongoing. Monitoring of compliance of the new catch return system (implemented 1 January 2022) is ongoing as are enforcement actions (in accordance with the Enforcement Policy) to seek compliance. A process for monitoring effort in relation to the shrimp permit effort limitation scheme is in development.</p>
<p>2. To develop management of the fisheries regulated under the WFO (regulated and several fishery)</p> <p>a) Replacement of the Wash Fishery Order/Several Order with the Wash Cockle and Mussel Byelaw 2021 and the Wash Several Order 2022.</p> <p>b) Finalise and implement policy on access to the fisheries</p>		<p>2.a) Ongoing. Defra has received the Several Order application and supporting evidence and subsequently sought further information to support the application. A new Several Order has been drafted by Defra. The Wash Cockle and Mussel Byelaw was re-submitted to the MMO, along with additional information to support the confirmation of the byelaw, as part of the formal QA process.</p>

		<p>2.b) Ongoing. The Wash Fisheries Economic Assessment¹⁷ (MarFishEco, 2021) was published on 9 June 2022 and the findings were considered as part of the continued development of the Wash cockle and mussel access policy¹⁸. Formal consultation with industry on the Policy was launched in June of 2022, for which the deadline for responses was extended (to the end of August) to enable further consideration by stakeholders. This consultation, in addition to the economic assessment, legal advice and previous dialogue with industry informed the development of the Policy (including the permit limitation).</p>
<p>3. Obtaining better fisheries data a. Implementation of I-VMS for all fisheries specifically the Wash Shrimp fishery (dependent on partnership working with MMO led project).</p>		<p>4.a) Ongoing. National roll-out of I-VMS is underway (led by the MMO). Consideration of implementing I-VMS requirements and increased reporting rates in relation to VMS+ devices (used by vessels with a length of 12m and over) will depend in part on the achievement of the roll-out with regards to the published timelines and the risk associated with the shrimp fishery with regards to the level of fishing activity. The MMO recently announced that timescales for roll out are to be extended due to a need to undertake testing on devices offered by companies involved.</p>

Key:

■	Complete
■	In progress
■	Progress stalled

¹⁷ https://www.eastern-ifca.gov.uk/wp-content/uploads/2022/06/2022_06_09_Wash_Economic_Assessment.pdf

¹⁸ https://www.eastern-ifca.gov.uk/wp-content/uploads/2022/06/2022_05_16_MarFishEco_consideration.pdf

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Eastern IFCA fails to secure funding to replace assets	CEO	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"> • Current level of reserves provides sufficient funding to cover replacement of <i>RV Three Counties</i> • The open RHIB, FPV Seaspray, was procured using EMFF funding • Seek efficiencies and promote cost effectiveness. • Demonstrate value for money. • Advertise/promote Eastern IFCA output and effectiveness to funding authorities through regular engagement with Council leaders and Financial Directors. • Engage with partner agencies to identify alternative funding sources • Explore asset sharing initiatives • Agreement in place with funding authorities for capital funding contributions each year. Confirmed at the annual meeting with representatives of the Finance Directors. 	Tolerate
			Reputation	Financial				
			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	Potential changes in several areas, including: - regulatory framework - fisheries management methodology - regulations (enforcement) - environment conservation	3		3	High	<ul style="list-style-type: none"> Monitor developments in the post-EU exit landscape, particularly fish and shellfish exports Engage in national I to help inform and influence developments (e.g. IFCA Chief Officers Group, Association of IFCAs) Continue "business as usual" Maintain communication with partners Eastern IFCA is fully engaged with the MMO in terms of operational readiness, with a MoU in place for the provision of vessels and joint patrols. Eastern IFCA is engaged with Cefas and the FHI in engaging industry regarding export and import of shellfish and works with NNDC to facilitate registration of food premises as a result of EU exit related requirements Officers engaged in future of inshore fisheries management work with Defra and other stakeholders. The Authority is supportive the REAF initiative. 	Tolerate
			Reputation	Financial	EU exit will have an inevitable but currently unpredictable impact. Eastern IFCA responsibilities unchanged in the short term to medium term			
			3	3	Eastern IFCA may be affected by developments beyond their control (fisher's expectations were high and were not fully met). Blame for change and or lack of change.			

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Eastern IFCA fails to maintain relevance amongst partners	CEO	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		2	Yellow	<ul style="list-style-type: none"> Provide a leadership function. Be proactive and identify issues early. Engage with all partners routinely. Use Business Plan to prioritise and communicate outputs, Measure progress/deliver outputs Represent community issues to higher authorities Recent revisions undertaken to the ARM project for the MCZ to address wider stakeholders concerns about engagement Effective business planning process in place. 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. 	Tolerate
			Reputation 4	Financial 4	Possible – Whilst positive relationships have been established the existence of disparate partner aspirations introduces complexities which may drive perceptions of bias or inefficiency.			
Negative media comment	CEO	Negative perceptions of Eastern IFCA utility and effectiveness created at MMO/Defra Loss of Partner confidence Media scrutiny of individual Authority members	3		4	Red	<ul style="list-style-type: none"> Actively and regularly engage with all partners including media outlets. Utilise full potential of social media and web-based information. Embed professional standards and practices. Deliver change efficiently and effectively. Promote activity Assure recognition and understanding through community events Routine updating of news items on website. Active on social media with demonstrable improvements in 'reach'. Parliamentary Review (above). Monitor media presence and engage where appropriate. Letters written in response to adverse articles regarding the WFO replacement in October 2021. 	Treat
			Reputation 4	Financial 2	Likely – disenfranchised partners seeking to introduce doubt as to Eastern IFCA professionalism, utility and effectiveness			
			Eastern IFCA perceived to be underperforming	Negative perceptions introduce risk to continued funding				
			Eastern IFCA considered poor value for money					
			Eastern IFCA perceived as irrelevant					

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Degradation of MPAs due to fishing activity	CEO	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"> Proposed fishing activities authorised by Eastern IFCA are assessed per Habitats Regulations Eastern IFCA is fully engaged in national fisheries/MPA project, prioritising management of highest risk fisheries in MPAs and implementing new management measures Effective monitoring of fishing activity and enforcement of measures 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 Ongoing, close liaison with Natural England regarding all conservation matters Review agreed Wash Cockle & Mussel Policies Develop the use of I-VMS as a management tool by the Authority, >12m implementation expected in 2022. 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. MPA management has been a high priority since 2012 with substantial progress made. Current workstreams (e.g. Cromer Shoal MCZ, remaining 'red risk' sites and Closed Areas Byelaw 2021) are a high priority and are being progressed. 	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	Risk of significant negative impact upon industry viability with associated social and economic problems	3		3		<ul style="list-style-type: none"> Annual stock assessments of bivalve stocks in Wash Annual review of the level of threat via the Strategic Assessment Ability to allocate sufficient resources to monitoring of landings and effective enforcement Consultation with industry on possible management measures Use Project Inshore Phase 4 output to inform MSC pre-assessment review of fisheries and validate management measures Develop stock conservation measures for crab and lobster fisheries through engagement with Cefas and fishing industry. Continue support for industry led Fisheries Improvement Plan SWEEP research into primary productivity levels within the Wash Regular engagement with the industry to discuss specific matters Continued research into the cockle and mussel mortality events. Whelk research is ongoing to identify level of risk posed and potential mitigation for sustainability concerns. Consider bass management measures if necessary, in light of EU/UK measures Annual surveys of Wash cockle and mussel stocks alongside innovative approach to management of the cockle fishery e.g. closure of cockle fishery in Nov 2019 due to emerging findings of mussel surveys in order to mitigate impact on 2020 cockle fishery. Consideration given to an engagement plan to educate and inform about small cockles, including engagement with processors for officers to better understand the market context. 	Treat
			Reputation	Financial	Possible - Bivalve stocks have high natural variation; "atypical mortality" affecting stocks despite application of stringent fishery control measures. Crustacean stocks not currently subject to effort control. Bass stocks nationally and internationally under severe pressure. Regional whelk fisheries effort becoming unsustainable. Regional crab and lobster stocks being potentially exploited beyond maximum sustainable yield and limited data set to consider stock health at local level.			
			3	3				
		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 into the cause of collapsed stocks and increased engagement and discussion with partners				

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Failure to secure data	CEO	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	Possible - Limited staff access to both electronic and paper files Office secure with CCTV, keypad entry system and alarm	<ul style="list-style-type: none"> All computers are password protected. Individuals only have access to the server through their own computer. Secure wireless internet Remote back up of electronic files Access to electronic files is restricted Up to date virus software installed on all computers Important documents secured in safes ICT equipment and policies provided by public sector provider – including encrypted laptops/secure governmental email system All Eastern IFCA personnel undergo DPA training Electronic backup of all Eastern IFCA documents held by ICT provider offsite Policies and processes developed to ensure compliance with GDPR. 	Tolerate
			Reputation	Financial				
			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	Substantial reduction in Eastern IFCA capability with consequential inability to fulfil full range of duties or additional burden on funding authorities.	4		2	Defra have continued to roll over new Burdens funding in recognition of the value that IFCA's provide in meeting national policy objectives.	<ul style="list-style-type: none"> Association of IFCA's has consistently lobbied for the continuation of funding Association of IFCA's 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 and SR2020 (both on hold due to the Covid-19 pandemic) Finance Directors representatives briefed and understood that in the event that the funding is discontinued there may be a desire to increase levies Defra funding settlement for 2022-23 includes NBF at existing level for this year and indicatively for 23-24 and 24-25. Additional function specific funding also included on the same basis for each year. 	Treat
			Reputation	Financial				
			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.	

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
The Wash Fishery Order 1992 is not replaced in time when it expires in January 2023	CEO	Inability to manage the fishery with consequential impact upon industry viability and associated social and economic issues	4		3 The Authority agreed to replace the WFO 1992 with a byelaw in March 2020 and work is underway to introduce such a byelaw. There is judged to be sufficient time to get a byelaw approved but industry opposition may adversely affect this. If a replacement Regulating Order were applied for then the likelihood rating would increase to 4 and it is thought that it would be very unlikely that a new Order would be in place in time		<ul style="list-style-type: none"> • Early decision taken to replace the WFO 1992 with a byelaw • Engagement with industry to address misgivings about the use of a Byelaw • Engagement with industry to develop policies that will sit under the Byelaw • Byelaw has been 'made' by the Authority (Sept 2021) and submitted for QA to MMO and Defra legal teams • Dialogue maintained with Defra teams about short-term solutions for the replacement of the Several Order 	Treat
			Reputation	Financial				
			4	4				
			The effective management of all fisheries within the Wash is important in terms of industry viability, sustainability of stocks and managing the impact of fishing activity in a heavily designated MPA. Loss of confidence in Eastern IFCA's ability to manage the cockle and mussel fisheries is likely to be significant if the WFO 1992 is not replaced in a timely way	Potential for legal challenge against Eastern IFCA				

Appendix 3 – Risk Register Update April 2022 to August 2022

Risk Description	Update
Eastern IFCA fails to secure funding to replace assets	<p>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 Friday 19th November 2021.</p> <p>No change from previous quarter</p>
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. Officers engaged in future of inshore fisheries management work with Defra and other stakeholders.</p> <p>No change from previous quarter</p>
Eastern IFCA fails to maintain relevance amongst partners	<p>Effective business planning process in pace. Leading role taken where appropriate e.g. CEO is one of two IFCA representatives on the IFCA/MMO Strategic Operations Group. Recent revisions to the Adaptive Risk Management project for Cromer Shoal MCZ to address wider stakeholder concerns about engagement with the project.</p> <p>No change from previous quarter</p>
Negative media comment	<p>Since the decision to replace the WFO 1992 with a byelaw there has been negative comment in a fishing industry publication. More recently issues associated with the annual Wash cockle fishery combined with other issues such as the replacement of the WFO led to a demonstration at the 48th Authority meeting and some adverse publicity in local media and the fishing industry publication. The grading has been increased to Treat to reflect this as there is a likelihood for continued criticism, which include the views of a minority but vocal group of stakeholders including allegations relating to the professionalism and integrity of officers.</p> <p>Increased risk given the proximity of the quadrennial review of IFCA's which may be disproportionately influenced by the more recent increase in negative media comment.</p>

<p>Degradation of MPAs due to fishing activity</p>	<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 established priorities in the Business Plan and are being progressed.</p> <p>No change from previous quarter</p>
<p>Shellfish and fish stocks collapse</p>	<p>Annual cockle surveys indicated poor recruitment to the fishery with stocks available to hand-working fisheries predominantly being juvenile (pre-spawning). A fishery was opened despite this and the risk of impact on future fisheries on the basis that the stock is likely to remain sustainable even where a fishery does occur (because hand-working is relatively inefficient and unlikely to remove enough stock to cause an impact) but which will potentially impact that which is available to the fishery in 2023 as they will removing stock which would ordinarily be fished the following year. Additional measures were implemented in opening the fishery which sought to mitigate some of this risk and the fishery is monitored to detect if disproportionately large volumes of small cockles are being landed.</p> <p>The risk associated with Wash-based whelk fisheries is reduced, to an extent, because of opening the cockle fishery as fishermen will not be solely reliant on these stocks and the fishery is subject to monitoring to detect risks to sustainability.</p>
<p>Failure to secure data</p>	<p>Policies and processes developed to ensure compliance with GDPR.</p> <p>No change from previous quarter</p>
<p>New Burdens funding discontinued</p>	<p>Defra previously advised that 2020-21 would be the last year that New Burdens funding would be paid in its current form. Defra and the IFCAs worked 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 was a single year funding settlement for 2021-22, which did include funding for IFCAs. Budget planning had 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 10th November 2020 and updated on 19th November 2021.</p> <p>Defra subsequently advised that they intend to continue to provide some funding and had included it in the spending plans, but it may be associated with the development of new metrics to demonstrate that the funding achieves value. More recently Defra asked IFCAs to submit funding proposal linked to specific areas of work in anticipation of a government wide comprehensive spending review that is being</p>

	<p>conducted during Autumn. As a consequence, the Association of IFCAs on behalf of all IFCAs, submitted their anticipated spending requirements for the next three years to Defra.</p> <p>Defra subsequently secured £3 million in New Burdens Funding for 2022/2023 and indicatively for 23/24 and 24/25. Funding for specific functions for 2022/2023 and indicatively for 23/24, including developing Fisheries Management Plans, MPA management and licensing, planning and consents. Detail on how the funding can be utilised is awaited from Defra.</p>
<p>The Wash Fishery Order 1992 is not replaced in time when it expires in January 2023</p>	<p>Mechanisms to replace the WFO are in the process of being considered for confirmation. The severity and likelihood remain unchanged at this stage, but work has progressed in accordance with the intended timescale. Further evidence requirements in relation to both the Wash Several Order 2021 and the Wash and Cockle Mussel Byelaw 2021 have been sought by Defra and the MMO (respectively) and officers continue to engage with both to mitigate any undue delays.</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



Information Item 16

49th Eastern Inshore Fisheries and Conservation Authority Meeting

14 September 2022

Operational Update

Report by: Jon Butler Head of Operations

Purpose of Report

To provide members with an overview of the work carried out by the Marine Protection (verbal) and Marine Science teams during the period of June, July, August.

Recommendations

It is recommended that members:

- **Note** the content of the reports

Financial Implications

None

Legal Implications

None

Appendices

Appendix 1 – Marine Science Report

Background Documents

Not Applicable

Managing Fisheries in MPAs

Impacts of potting on chalk in the MCZ

Officers have completed a literature review of interactions between potting fisheries and seabed rock features, but there are few studies of potting on relatively soft rocks like chalk. An assessment has been made of the sensitivities to damage of chalk communities found in the MCZ, their resilience and recoverability. The assessment is a live document that will be updated by outputs from the ARM process (see below). Officers are now awaiting formal advice from Natural England on the updated assessment submitted to them on the 28th April 2022.

Adaptive Risk Management (ARM)



The Authority has applied an Adaptive Risk Management (ARM) approach for managing the potting fishery in the Cromer Shoal MCZ for almost a year now. This has involved conducting research cooperatively with other organisations to gain a better understanding of where the sensitive chalk features are located, where the potting activity occurs with respect to these features and to better understand the interaction between potting and the site's sensitive features.

Research Updates:

- Officers are continuing to collect and process tracker data from fishermen voluntarily using trackers on their vessels to gather information about potting activity across the site.



- Video footage collected during the 2021 ROV surveys has now been analysed by an external contractor (funded by Natural England) and the results have been presented in a final report.

- ROV surveys recommenced in June this year and are currently ongoing. These surveys aim to collect further habitat data to build on the current evidence base inform the extent of the rugged chalk;

collect footage of potting gear interacting with chalk features to assess the level and severity of impacts across the site and collect footage of experimental gear interacting with chalk features to investigate the effects of gear adaptations.

- Trials into possible gear adaptations will commence in September. The focus is on trialling viable gear adaptations or technologies which could potentially reduce the interactions between potting gear and rugged chalk.



We have purchased a shank of pots so that we are able to have more control over experimental design. Upcoming trials aim to test two gear adaptations; **soft armouring on pots (rubberised pots)** to see if this reduces impacts from pot strikes; and **floats on drop lines** to see if this lifts ropes above rugged chalk features and reduces the chance of rope interactions.

The Evidence Group is continuing to identify datasets collected by stakeholders and explore opportunities for further data collection in order to bridge data gaps and enhance data collection methods. Research and Development Task and Finish Group Project Plan: <https://www.eastern-ifca.gov.uk/wp-content/uploads/2022/03/2021-2022-Research-Development-Task-Finish-Group-Project-Plan.pdf>

No updates have been made to the impacts of netting in the MCZ assessment at this time.

Management Updates:

The Code of Best Practice on potting in the MCZ has now been launched. The Code aims to reduce the risk that lost gear poses to the environment, fisheries' sustainability, and the viability of fisheries livelihoods by building upon and promoting existing best practice.

- Officers have been working closely with fisheries and conservation stakeholders to develop a Voluntary Partnership Agreement on reporting, recovery and disposal of ALDFG (Abandoned Lost or Discarded Fishing Gear) in the MCZ. This is a stakeholder led initiative which intends to facilitate collaboration between fishermen, divers and beach cleaners who wish to work together and to facilitate and monitor their reporting and recovery actions.
- We are now at a stage where we need a regulatory mechanism (a byelaw) in place through which we can implement and adapt management measures as identified through ARM. Officers are undertaking a scoping exercise with the fishing industry to get initial views on management. A wider informal consultation will follow to gather the views of all stakeholders to inform development of the byelaw with a view to present this to the Authority in December of this year.

Determining the Economic Importance of Cromer Rugged Chalk



In an attempt to understand and quantify the importance of rugged chalk across the Cromer Chalk MCZ to local fishermen and its link to higher quality catches, Eastern IFCA is conducting a study investigating the difference in catch quality and value of crabs and lobsters on the rugged chalk compared to non-rugged chalk. To achieve this, officers are conducting a twice monthly bio-sampling survey of both the rugged and non-rugged chalk at Cromer. This research started in June 2022 and will continue

until the end of May 2023, collecting a full year's worth of data. Over 1500 individuals have been measured and recorded thus far and preliminary analysis suggests the average crab size is larger on the rugged chalk compared to the non-rugged chalk where crab are typically undersized, with the reverse apparent for lobsters. More detailed analyses will be conducted after a full year's worth of data has been collected.

Shrimp effort monitoring in The Wash and North Norfolk Coast

EIFCA continues to manage the brown shrimp fishery in the district using the TAE (Total Allowable Catch), which, after having performed various analyses based on how the fishery operated in the last 20 years, will now include a 5-years rolling average and a maximum peak for each year. This way, it will be able to monitor effort on a monthly basis based on the TAE of a given year, set prior to the beginning of each fishing permit year.

Marine Protected Area casework

- Cromer Shoal Chalk Beds Marine Conservation Zone: multiple workstreams;
- Habitats Regulations assessment (HRA) of the proposed Wash Several Order (to enable bivalve shellfish cultivation to continue after the Wash Fishery Order expires);
- HRA's for dredge and hand-worked mussel relaying fisheries in The Wash;
- "Amber & Green" assessments: officers have started to review the Authority's assessments of fishing activities in marine protected areas throughout the Authority district, but progress has been slow because of the need to focus on other MPA

casework. The Amber and Green work includes ensuring feature data, fishing activity evidence and gear/feature interaction evidence used in the assessments is up to date.

- Monitoring and Control Plans: this workstream has been put on hold as officers have needed to focus on core work relating to Cromer Shoal Chalk Beds MCZ and replacement of the Wash Fishery Order.

District-wide partnership work and stakeholder engagement

Eastern IFCA officers participate in a range of partnership and stakeholder groups, with significant focus given to relationships with fishery stakeholders, Natural England and conservation NGOs. As well as routine liaison, recent partnership work relating to fisheries in MPAs has included:

- Ongoing collaboration with *Natural England, University of Essex and Cefas* to improve understanding of the rugged chalk feature in Cromer Shoal Chalk Beds MCZ
- Ongoing work with *Marine Conservation Society's Agents of Change* project for stakeholder engagement in relation to MCZ research and development of management
- Ongoing collaboration with local stakeholders and MMO in relation to retrieval and disposal of lost fishing gear
- *IFCA Technical Advisory Group (TAG)*
- *IFCA and MMO* Licensing engagement
- *MMO* assessment and management of fisheries in offshore sections of MPAs
- Discussions with wind farm developers and regulators in relation to environmental compensation for wind farm impacts
- *Advisory Groups* for The Wash & North Norfolk Marine Partnership
 - *University of St. Andrews* fishing trackers project.
 - Liaison with *Sea Mammal Research Unit* and *Natural England* on seal haul-out mapping
 - Working with the *River Deben Association (RDA)* and the *Institute of Fisheries Management (IFM)* to conduct fish surveys in the River Deben.



Fisheries Sustainability

Cockle and Mussel Fisheries in The Wash

The 2022 cockle surveys found that the cockle stocks were at one of their lowest levels seen during the period since 2000, only exceeding those found in 2004 and 2011. This is mainly due to two poor spatfalls in 2019 and 2020 providing insufficient recruitment to replace losses caused by ongoing “atypical” mortalities. As such, EIFCA recommended at the 48th Authority meeting that the fishery *not* be opened. However, an error was identified in one of the bird counts used to calculate the minimum number of Oystercatchers The Wash shellfish stocks need to support, which had artificially inflated the number of oystercatchers and therefore skewed calculations under the bird-food-model. In addition, through detailed discussions with Natural England and ornithologists, it was agreed that cockles larger than 10mm could be considered as food for oystercatchers. These changes in the advice meant that food availability for birds was no longer a barrier to the cockle fishery opening in 2022. However low-density adult stock meant that a fishery would potentially target smaller cockles which would risk future fisheries. Noting the risk to future fisheries, in balance with the current economic climate, a cockle fishery was opened in July with a full TAC of 2,833 tonnes, but extensive closed areas, a MLS of 10mm and changes to fishing methods have been implemented to reduce the risk of smaller cockles being

overfished. The fishery is open at the time of writing, with approximately 500 tonnes having been taken. A previously undiscovered mussel bed was identified in June 2022, which aided in the opening of a hand-worked and dredge mussel relaying fishery with a full TAC of 980 tonnes. This fishery is currently open, with 170 tonnes having been taken.

Cockle and mussel bed mapping

Working with Cefas and local borough councils, EIFCA have created maps of cockle and mussel beds in The Wash in relation to the Cefas RMP zones. These have been circulated to industry to help correct reporting of shellfish harvesting for processing and export purposes.

Effectiveness of cockle closure areas

Eastern IFCA is working on a monitoring study to understand the influence and potential benefits of closed areas on cockle populations in The Wash. Statistical analyses are currently being undertaken in order to determine how these closures performed on different year classes over multiple years and compared to other areas open to the fishery.

Whelk stock assessment

Having relatively poor mobility and no planktonic larval phase to aid their dispersal and recolonisation, whelk are extremely vulnerable to localised over-fishing. Within the District, an increased minimum landing size (MLS) of 55mm and a pot limitation scheme are among the measures used to keep the fishery sustainable. Officers have been analysing data from landings returns to monitor the health of the District's whelk stocks using a Landings Per Unit Effort (LPUE) metric. These data, which show a steady increase in effort and landings between 2015 and 2019, have shown a decline since the 2019 peak, leading to concerns that the stocks are being over-fished. Data analysis is ongoing and will inform consideration of future management measures.

Emergency whelk measures were proposed at the June Authority meeting in response to the proposal of not opening a cockle fishery in 2022. The absence of a cockle fishery would likely result in an extraordinary increase in whelk fishing and such measures were proposed in The Wash and North Norfolk Coast (areas of highest whelk fishing activity) to protect the stocks from overfishing. These measures were however not implemented, as a cockle fishery was opened.

Environmental Monitoring

The Wash EHO/biotoxin & SWEEP sampling

The Authority collects monthly cockle and mussel samples from The Wash for routine bacteriological and biotoxin testing by the Local Authorities' Environmental Health Offices. The location of two sampling sites were amended in June due to poor cockle stocks; the North Lays site has been updated to North Lays 2022, and the sampling area around the Black Buoy site has increased to 125m.

Sustainable Development

District-wide input to consultations on marine developments

During this period the Marine Science team has returned to full capacity and is continuing to respond to consultations on external projects. Input to consultations in this quarter have included offshore renewable energy and seaweed aquaculture. Consideration of wind farm compensatory measures has become the major focus for wind farm developers and regulators; primarily focussing on compensation for impacts of cabling on seabed habitats impacts on seabirds. Officers are currently in compensatory measures discussions for Hornsea 3, Sheringham and Dudgeon Extension Projects and Norfolk Vanguard and Norfolk Boreas windfarms. Eastern IFCA officers initially raised questions about the Boston Alternative Energy Facility (BAEF) during consultation in 2019, and met with BAEF

representatives in 2022 to discuss previously raised concerns. The Secretary of State's decision on the proposed BAEF is expected in October 2022.

Derogations from Eastern IFCA Byelaws

Officers have reviewed, and where relevant, granted several applications for scientific derogations from Eastern IFCA byelaw during the quarter. These have mainly related to scientific inshore trawling, specifically focussing on the effects of the Lincshire Coastal Defence beach nourishment scheme and biota contaminant analysis in the River Orwell. Other active derogations include the removal of berried undersized lobsters for the Wells Harbour hatchery and landing of undersized whelk for the Cefas community analysis.

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