



Inshore Fisheries and
Conservation Authority

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 meets 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 policies¹, 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:

¹ <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.

	(“Maintaining Eligibility”). Ownership includes any financial interest in companies or businesses which have any ownership (registered or beneficial) of such a vessel.	
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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).
- 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.

Changing the ownership of a vessel named on a permit

- 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.