

## 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 14<sup>th</sup> September 2022 at 1000 hours in the Assembly Rooms, King's Lynn Town Hall.

### Members Present:

Cllr T FitzPatrick	(Chair)	Norfolk County Council
Cllr E Back		Suffolk County Council
Cllr Chenery of Horsbrugh		Norfolk County Council
Mr J Davies		MMO Appointee
Mr L Doughty		MMO Appointee
Mr P Garnett		MMO Appointee
Mr T Goldson		MMO Appointee
Ms J Love		Natural England Representative
Mr L Mogford		MMO Representative
Mr J Rowley		MMO Representative
Cllr P Skinner		Lincolnshire County Council
Ms I Smith		MMO Appointee
Mr S Williamson		MMO Appointee

### Eastern IFCA (EIFCA) Officers Present:

Andrew Bakewell	Head of Finance & HR
Jon Butler	Head of Operations
Jason Byrne	IFCO
Luke Godwin	Senior IFCO (Regulation)
Julian Gregory	Chief Executive Officer (CEO) & Clerk
Ron Jessop	Senior Marine Science Officer
Simon Lee	Senior IFCA (Compliance)
James Teasdale	Project Officer

### Representatives from Other Bodies

Andrew Oliver	Andrew Jackson Solicitors
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### Minute Taker:

Jodi Hammond

The chair began the meeting by expressing sadness at the death of Her Majesty Queen Elizabeth II and asked all members to stand for a minutes' silence.

The Chair welcomed Messrs Doughty and Mogford to their first meetings of the Authority.

### **EIFCA22/42 Item 1: Declaration of Members Interests**

The CEO advised that declarations of interest were recorded for items 3, 9 and 11 on the Agenda for Messrs Doughty, Garnett and Williamson.

As Mr Doughty was a new member his Disclosable Pecuniary Interests (DPIs) needed to be voted on. The information provided meant Mr Doughty had DPIs relating to three fisheries and a lay holding, members were advised how this could cause a conflict.

#### **Members Resolved to:**

- **Note the revised list of pecuniary interests**
- **Note the consideration of Disclosable Pecuniary Interest under s.33 of the Localism Act 2011**
- **Agree to grant dispensation from s.31(4)(a) in accordance with Appendix 2.**

**Proposed: Cllr FitzPatrick**

**Seconded: Cllr Chenery of Horsbrugh**

**All Agreed**

### **EIFCA22/43 Item 2: Resolution**

**Members Resolved that under Section 100(A)(4) of the Localism 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.**

**Proposed: Cllr Back**

**Seconded: Mr Mogford**

**All Agreed**

### **EIFCA22/44 Item 3: Wash Fishery Order replacement update**

*Summary in accordance with Local Government Act 1972*

The purpose of the item was to inform members of the process which had been undergone in replacing the Wash Fishery Order. As the presentation included legal advice received by the Authority members were reminded the agenda item was confidential, not for publication or disclosure.

IFCO Godwin provided a presentation to explain the steps taken to arrive at the decision to go with a byelaw rather than an Order, and the writing up of the Permit Limitation and Eligibility Policy. One major issue identified had been the 'renting out' of licences so the intention was that the policies be written in such a manner that genuine vessel owners should be given permits to fish. It was important to ensure that ultimately the Authority maintained the power to control all licences.

Considerable consultation had been conducted throughout the writing of the policies and various amendments had been made as a consequence of consultation.

The Authority's solicitor, Mr Oliver, explained to members the legal advice he provided during the process and set out that the Marine and Coastal Access Act 2009 (MaCAA) had been the source of much of his advice.

Members were advised by Mr Oliver that the process had been undertaken in keeping with the requirements of MaCAA and Defra guidance and when completing this process the Authority's duty to balance the different needs of those exploiting the fishery had been borne in mind.

The Byelaw remained with MMO/Defra for approval, the MMO had put forward 4 questions relating to the choice of a byelaw rather than an order, transitional provisions, Eligibility Criteria and the limited application of the byelaw in that it only covered cockles and mussels, all of which had been answered.

Mr Oliver advised members of the risk of challenge by way of judicial review or persuading the Secretary of State to go to Public Enquiry. He provided his view on the likelihood of any challenge being successful.

The CEO reminded members that there were still some elements within industry who strongly opposed the use of a byelaw and would prefer a new regulating order and he said that this point had been made very strongly at a recent consultation meeting in Boston, although it was also fair to say that not everyone at the meeting shared that view. The CEO had undertaken to clearly reflect this to members. Members discussed the outcome if the Byelaw was disputed and did not come into force by the time the WFO expired.

The question of whether or not a hybrid order and been put to the Authority was also raised. Referring to a hybrid order, members were advised it was not possible to replicate a Several Order with a byelaw. Members were also advised that it was too simplistic to think the current Order could have been replaced like for like as there were new considerations to take into account that were not relevant when the current Order was made.

Members were advised that if the new Several Order was not in place, then it would be necessary to have a temporary closure in place with a dispensation for those working their lays.

**Members Resolved to:**

- **Note the update on the replacement of the Wash Fishery Order 1992**

- **Agree to delegate authority to the Chair, Vice-Chair and CEO to consider and address any modification to the byelaw that may be required under s.155(4) of the Marine and Coastal Access Act 2009.**

**Proposed: Cllr Back**

**Seconded: Cllr Chenery of Horsbrugh**

**Agreed.**

The Meeting was suspended at 1123hours to allow members of the public to be admitted, reconvening at 1140 hours

*Members of the public were welcomed to the meeting.*

#### **EIFCA22/45 Item 4: Apologies for Absence**

Apologies for Absence were received from Cllr Adams (NCC) & Cllr Vigo Di Gallodoro (SCC), and Messrs Bagley, Bowell, Copeland, and Shaul (MMO Appointees).

#### **EIFCA22/46 Item 5: Minutes**

**a) Minutes of the 48<sup>th</sup> EIFCA meeting held on 8<sup>th</sup> June 2022**

**b) Minutes of the Extraordinary EIFCA Meeting held on 7<sup>th</sup> July 2022**

**Members Resolved the minutes for both meetings were a true record of proceedings**

**Proposed: Cllr Chenery of Horsbrugh**

**Seconded: Mr Goldson**

**Agreed**

#### **EIFCA22/47 Item 6: Matters Arising**

##### **48<sup>th</sup> EIFCA Meeting:**

EIFCA22/29 WASH COCKLE FISHERY – the CEO advised members there would be an update as part of a subsequent agenda item.

EIFCA22/30 WHELK MANAGEMENT IN THE WASH – members were advised the risk had been reduced and no further action had yet been taken as a result of other priorities taking precedence.

EIFCA22/31 INSHORE VESSEL MONITORING SYSTEM – the requirement for IVMS had been added to the licence conditions for the cockle fishery. There had been no further consideration of an Emergency Byelaw at this stage.

**Extraordinary EIFCA Meeting:**

EIFCA22/23 WASH COCKLE FISHERY AND MUSSEL RE-LAYING FISHERY 2022 – the mussel relaying fishery had opened with relatively low numbers pursuing the fishery, only a small amount of the available TAC had been taken.

**EIFCA22/48 Item 7: Health & Safety Risks and Mitigation**

The Head of Operations advised there had been three incidents during the quarter. Covid incidents were reduced but precautions were still being taken as the risk remained a concern amongst a small team working closely together.

Of the three incidents one had been a vessel running aground in Wells which had no serious consequences and had been reported in the appropriate manner. The other two incidents had been ‘near misses’ both of which occurred when working with the ROV one when the ROV became tangled in the cables and the second when an officer was entangled in the cable.

**Members Agreed to Note the contents of the report.**

**EIFCA22/49 Item 8: Finance & HR Sub-Committee held on 2<sup>nd</sup> August 2022**

The Head of Finance advised members the Statement of Accounts had been signed and sent to external auditors for consideration.

**Members Agreed to Note the contents of the report.**

**EIFCA22/50 Item 9: Wash Cockle & Mussel Byelaw 2021 – Managing Access**

Senior IFCO Regulation gave a presentation on the process undergone to reach the policies which were set out in the papers.

Members were made aware of the key issues with the current Order

- ‘Renting Out’ - Under the proposed policies it was felt the correct people would get a licence, although there was a possibility some would lose access to the fisheries as a result of the transition.
- Surety – there would be no guarantees under a Byelaw, but nor had there been under the Wash Fishery Order
- Permit Limitation – it was proposed to limit the fisheries to 61 vessels, maintaining the status quo of the Wash Fishery Order
- Appeals Process – the proposal was to revise the previously agreed Wash Transition Sub-Committee and to introduce an Appeals Sub-Committee to deal with new appeals process under the policy.

Other changes had been adopted which included, permit succession, permit penalties, eligibility fee being biennial, the ability to maintain a permit, and applications not requiring evidence every year.

Consideration of the Policy against the East Inshore Marine Plan and Fisheries Act objectives was presented and discussed, which identified that the Policy was in keeping with both.

Members questioned the ability to allow a 3<sup>rd</sup> party to take the vessel out and were advised this would be possible.

On the matter of continuity for business plans, members were advised that a byelaw must be reviewed every 6 years and it was not anticipated that this policy and byelaw would be reviewed more frequently unless there was clear compelling need to do so. It was advised that any review would not necessarily result in changes being made.

Concern was expressed that officers might back-pedal on renting out if a strong case was made for a business model, the CEO assured members that the evidence gathering, and decision making would be separated out with the decision being made by the sub-committee. The subject of reducing licences was raised, it was noted there had not been a need to consult under the WFO 1992, and a member observed that there was more surety under a byelaw as a decision on reducing licence numbers would have to be subject to consultation.

Changes to the Eligibility fee were explained as concern was expressed that a decision on whether or not to take out a permit had to be made before results of surveys were known, this issue had been addressed by making it a requirement to renew within a 24 month period rather than by 1<sup>st</sup> February each year.

Suspension of a permit was discussed with members being advised that suspension would be as a result of a court conviction prior to which there would normally have been a process of verbal and/or written warnings, unless the offence was sufficiently serious to merit prosecution in the first instance.

#### **Members Resolved to:**

- **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**

**Proposed: Cllr Chenery of Horsbrugh**

**Seconded: Cllr Skinner**

**Agreed**

- **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**

**Proposed: Cllr Skinner**

**Seconded: Cllr Chenery of Horsbrugh**

**Agreed**

### **EIFCA22/51`Item 10: Wash Fisheries Transition and Wash Fisheries Appeals sub-committees**

Members were asked to consider the establishment of a Wash Appeals sub-committee which would consist of the Chair, Vice Chair and one other elected member, who would consider appeals relating to decision taken under the Wash Cockle and Mussel Byelaw Eligibility Policy.

The question of lack of industry knowledge on such an appeal committee was raised but it was noted that prior to the appeal evidence would be gathered for consideration, in the event insufficient evidence had been gathered to make an informed decision the meeting would be adjourned until such time as more information was available. The decision not to include an industry member on the appeals committee was to ensure there was no perception of bias and to protect commercial confidentiality.

The question of such a sub-committee being open to the public was also raised but the CEO advised that whilst sub-committee's are open meetings items of this nature would be subject to a Resolution to Exclude the Public under the Authority's Constitution and Standing Orders.

Members were also asked to consider the renaming of the Wash Transition Sub-Committee to the Wash Sub-Committee as it was felt this should become a permanent sub-committee.

#### **Members Resolved to:**

**Agree to establish the Wash Appeals sub-committee and adopt the associated scheme of delegations**

**Agree to the proposed change in name of the Wash Fisheries Transition sub-committee and adopt the revised scheme of delegations**

**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 the paper**

**Agree that meetings of both the Wash Fisheries and Wash Appeals sub-committees will be arranged by the CEO as required to fulfil their functions.**

**Proposed: Cllr Skinner**

**Seconded: Mr Davies**

**Agreed**

## **EIFCA22/52 Item 11: Wash Cockle Fishery Update**

Members were reminded of the issues the Authority faced prior to opening the cockle fishery, including low densities of stock and issues with the Bird Food Model.

The fishery had opened with 22 vessels taking part. The total landed catch in the previous week was noticeably lower than in previous weeks which could indicate the cockles becoming harder to find. Industry members had reported very small cockle being landed and vessels fishing in closed areas. In order to corroborate these reports officers were taking samples of landed cockles, so far only a few small cockles had been found along with a lot of dead shell, it was encouraging to note there were no Year 0 cockles being landed. IVMS was being used to monitor vessel activity in relation to fishing in closed areas.

Members had a discussion over the landing of shell, how it affected the TAC, whether it had any value to the industry and the benefit to the fishery of it being removed from public beds.

Discussion followed on the potential fishery for the next season. It was noted that whilst the year 0 cockles were not being taken this was encouraging for a reasonable TAC the following year, although Senior MSO Jessop felt it would be necessary to open the fishery in June in an attempt not to lose any that may be susceptible to atypical mortality when the water started to warm up.

Mr Doughty realised it was difficult to get surveys done any earlier but questioned whether it would be possible to get a small fishery open earlier than June to prevent losses. Senior MSO Jessop advised that without a survey it was not possible to open a fishery, if there was a HRA in place it may be possible to open a small fishery. The CEO advised there were many issues to opening a fishery, not least of which would be giving the CEO delegated powers to make a decision rather than waiting for a meeting in June. This could be done at the March meeting. Mr Garnett advised that as there was still TAC remaining in 2006 a handwork fishery continued until the opening of the 2007 fishery.

Mr Williamson had noted dead spat and juveniles in samples taken from the current fishery and questioned if Atypical mortality was already affecting these age groups, Senior MSO Jessop advised that natural mortality occurs due to ridging out, each year about  $\frac{3}{4}$  of each year class were lost but those that survived grew so well that the overall affect was not noticed, survival strategy of a cockle is to produce a lot of offspring so a few survive.

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

#### **EIFCA22/53 Item 12: Annual Report 2021-2022**

Having been given the opportunity to review a draft of the Annual Report Members were asked to approve it for publication and distribution to Defra.

#### **Members Resolved to :**

- **Approve the Annual Report 2021-2022**
- **Direct the CEO to publish the report and distribute to Defra**

**Proposed: Cllr Back**

**Seconded: Cllr Skinner**

**Agreed**

#### **EIFCA22/54 Item 13: Quarterly review of annual priorities and Risk Register**

Members were advised that whilst New Burden funding for the current financial year had been forthcoming and there was suggestion there may be additional funds available for specific work areas nothing had been agreed long term for the future.

Reference was made to new information received on netting activity inside an MCZ, Senior IFCO Compliance advised this was intended to read 'if' there was new information available.

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

#### **EIFCA22/55 CEO Update**

**SEAWEED FARM:** Members were updated on a Seaweed farm licence application on the North Norfolk Coast. A previous licensing application had been objected to by the Authority, but this application was for a much smaller farm and so no objection had been made. Consultation responses from the Authority had emphasised the importance of consultation with the fishing industry by the developer but this had not been very effective. As it had become clear some sectors of the industry did not feel they had been consulted. As a result more consultation was due to take place. Mr Rowley advised that anyone wishing to make comment regarding the proposed seaweed farm should submit them to the Marine Licensing Department as soon as possible, he suggested putting views in writing even if the intention was to object when attending the meeting being held in Wells. The CEO advised that he had hoped to bring a paper with a proposed position on such developments but time had precluded this and it was intended to bring it to the December meeting instead.

**IFCA Quadrennial Report:** This was now being undertaken by Defra as set out under MACAA. A self-reflection questionnaire was being completed and it was anticipated that members may be consulted. Stakeholder consultation would be taking place and a sub-contractor was being sought to conduct quayside interviews.

AIFCA FORUM: The Chair had attended in person, with the CEO attending online, it had been a two stage event with a meeting followed by a symposium which had been very constructive.

**EIFCA22/56 Head of Operations Update**

Members had been forwarded Enforcement updates on a monthly basis with the Marine Science report being prepared on a quarterly basis and circulated with the meeting papers.

A newsletter had been compiled for stakeholders on the Cromer Shoal MCZ group which would be forwarded to all members.

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

There being no other business the meeting closed at 1330 hours.