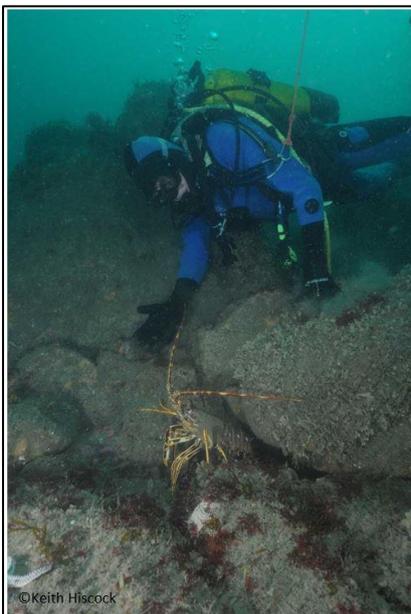




Diving Permit Byelaw

A three-year review of the permit conditions



Phase one consultation

1st edition

December 2017

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Version control

Author	Date	Comment	Edition
Neil Townsend, et al	1 st December 2017	Developed for consultation following discussions by the D&S IFCA Byelaw & Permitting Sub-Committee on November 13 th 2017	1

Part 1

1. Aim of this report

The primary aim of this report is to provide all stakeholders with key information so they can effectively engage in the consultation process. Throughout the process this report will be expanded and further editions of this report will be created. All stakeholders, regardless of their interest or fishing activity conducted, have the opportunity to engage in the consultations.

Different stakeholders will be more or less familiar with what D&S IFCA does, why it manages this fishing activity and importantly how it achieves this. Stakeholders may not be familiar with the process or the developments to date and therefore additional information has been incorporated into this report

The report and subsequent editions has other aims as follows:

- **Demonstrate the measures that have already been taken to manage diving activity for the capture of scallops, crab and lobster**
- **Document the findings of the consultations and the evidence base used for decision making**
- **Demonstrate how, when and why decisions have been taken**
- **Provide background information to all stakeholders about D&S IFCA and how the organisation functions**

On completion of all phases of consultation, this report will document the complete process and outcomes of the three-year review of the Diving Permit Byelaw permit conditions and will act as the overarching reference document.

2. The consultation, timetable of action and communication

It is important to understand that at this time there are no specific (focussed) items for stakeholders to consider. The consultation is not a questionnaire. The first phase of this process is an “open” consultation. This consultation process provides an opportunity for stakeholders to consider how diving for scallops, crab and lobster is being managed by D&S IFCA using the current permit conditions and respond accordingly by the closing date. A 2nd phase of “focussed” consultation will also be conducted. This will focus upon specific issues relating to the Diving Permit Conditions.

Communication

D&S IFCA is developing a new communication strategy¹. A wide-ranging consultation will be conducted using different communication methods, including the D&S IFCA website. D&S IFCA has created a consultee list for conducting consultation work. This consultee list is displayed on the D&S IFCA website and has scope to be expanded. All contacts (which includes all permit holders) will be contacted and notified about the consultation.

A designated consultation email address will be used in all consultation phases.

¹ Available upon request from D&S IFCA

All stakeholders, regardless of their interest or fishing activity conducted, have the opportunity to engage in the consultations. The email contact addresses provided by permit holders are of significant benefit for consultation work and will be utilized.

Timetable

Date	Action
13 th November 2017	Meeting of the Byelaw & Permitting Sub-Committee – A date established to begin a 6 week “open” consultation
1 st December 2017	Start of 6 weeks “open” consultation
12 th January 2018	End of the 1 st phase consultation.
March & April 2018	Responses from phase 1 summarised and information prepared for members of the Byelaw & Permitting Sub-Committee
17 th May 2018	Meeting of the Byelaw & Permitting Sub-Committee. Findings discussed and focussed items identified for 2 nd phase consultation
May/June 2018	2 nd edition of this consultation report created
June 2018	Start of 6 weeks “focussed” consultation including potential changes to permit conditions
August 2018	Meeting of the Byelaw & Permitting Sub-Committee. Findings discussed and decision taken how to proceed

Publication Policy

D&S IFCA has a publications policy. Options for the circulation of consultation reports are as follows:

- Consultation reports can be sent free of charge upon request to stakeholders who supply a current and functioning email address
- Hard copies of the consultation reports can be circulated to stakeholders but a charge will be levied for the cost of postage. Stakeholders should contact the office of D&S IFCA so the charges can be clarified and then send a stamped addressed envelope of the correct size as specified
- Hard copies of the consultation reports are available for collection at the D&S IFCA office

3. Current management of diving activity

This section of the consultation report enables stakeholders to view and understand the current restrictions that D&S IFCA have introduced to manage diving activity for the capture of scallops, crab and lobster.

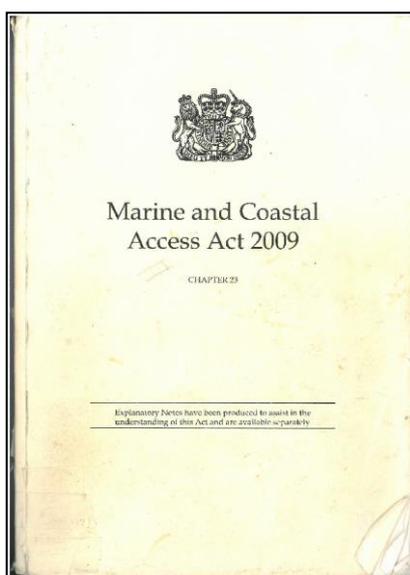
The imbedded information on this page is available by clicking on the hyperlinks inserted or alternatively visiting the D&S IFCA website. Permit conditions are also directly circulated to fishers who apply for and are subsequently issued with a permit.

- [The Diving Permit Byelaw](#)
- [The current permit conditions for commercial and recreational fishers](#)

Part 2 – Background information

The remainder of this report is to help all stakeholders develop a better understanding of Devon and Severn Inshore Fisheries and Conservation Authority (D&S IFCA), what the organisation does, why it manages diving activity for the capture of shellfish² and why there is a need to review the permit conditions that provide the restrictions to those that conduct diving for the capture of shellfish. This information will help stakeholders understand how they can assist decision making by engaging in the review and explain how the process will be conducted. All stakeholders, regardless of their interest or fishing activity conducted, have the opportunity to engage in the consultations.

4. What is the D&S IFCA and what does it do?



The Marine and Coastal Access Act 2009 (MaCAA) introduced a new framework for managing the marine environment and providing greater access to it. This Act of Parliament replaced Sea Fisheries Committees with Inshore Fisheries and Conservation Authorities (IFCA's) and is fundamental to the work of D&S IFCA.

The D&S IFCA is the largest of the ten separate IFCA districts and has two separate coastlines. The area of the district is 4522km² and is defined in the Statutory Instrument (2010 No. 2212)³. The D&S IFCA District includes the areas of Devon, Somerset, Gloucestershire County Councils; Bristol City and Plymouth City Councils; North Somerset and South Gloucestershire Councils and all adjacent waters out to six nautical miles offshore or the median line with Wales.

² Crab (*Cancer pagarus* or *Maia squinado*), lobster (*Homarus gammarus* or *Paliurus*), Scallop (*Pecten maximus*)

³ The Devon and Severn Inshore Fisheries and Conservation Authority Order 2010

“D&S 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”⁴

The Full Authority is comprised of 30 members drawn from relevant Local Authorities (Councillors), General Members (appointed to the Authority by the Marine Management Organisation (MMO) and Statutory Appointees representing the MMO, the Environment Agency (EA) and Natural England (NE). D&S IFCA is funded via several different funding Authorities (councils) with an additional contribution from central government. Officers are employed by D&S IFCA to conduct work on behalf of the Full Authority. D&S IFCA has ten full time officers and one part-time office manager. The main office is situated in Brixham with one officer located in the Severn area of the district.

Basic work undertaken

In meeting the main duties specified in MaCAA, the work of D&S IFCA is basically divided into different areas as follows:

a) Enforcement

These duties include enforcing the byelaws implemented by D&S IFCA and also the enforcement of EU and domestic legislation. D&S IFCA currently has one 6.4 metre rigid inflatable boat to conduct enforcement work at sea. D&S IFCA works closely with other organisations such as other IFCAs, the MMO, the EA and the Border Force (BF) with which it shares assets. D&S IFCA is committed to the use of new technologies for enforcement purposes, particularly remote technology.

b) Research

Research and survey work conducted by D&S IFCA informs evidence bases subsequently used to manage fishing activities via the introduction of local management measures that can include legislation in the form of Byelaws. D&S IFCA currently has an 8 metre survey vessel used for independent survey work at sea. D&S IFCA works in co-operation with other organisations to conduct research work and takes environmental advice from NE. D&S IFCA research and survey work (and external research and advice) also informs longer term management that can be achieved via the permitting byelaws that contain flexible permit conditions.

c) Byelaw work

The Byelaw work is often a lengthy and complex process. It requires specialised skills and background knowledge. This Authority has created a Sub-Committee to conduct the byelaw work. The Byelaw and Permitting Sub-Committee is formed by a number of Full Authority members, each offering a different set of skills or background knowledge that is utilised to complete the required work. Officers prepare the material used by the Sub-Committee for their deliberations (meetings) and the Sub-committee’s recommendations are then presented to the Full Authority at key stages. It is the Full Authority members that make the final decisions⁵.

⁴ Mission statement for D&S IFCA

⁵ Delegated powers can be granted to the Sub-Committee for decision making

There are a number of legacy byelaws in place that were inherited from Devon Sea Fisheries Committee. All legacy byelaws must be reviewed. In addition to reviewing legacy measures, members of the Sub-Committee are also tasked with reviewing flexible permit conditions and providing recommendations to the Full Authority for potential changes to the permits.

All of the separate elements of the byelaw work are a team effort. Although the officers prepare the majority of the material (reports) required for the process, the officers do not take decisions at any time.

5. Why does D&S IFCA manage diving activity?

Diving activity should not be confused with diving for the capture of shellfish. D&S IFCA does not manage the activity of diving, but does manage diving for the capture of scallops, crab and lobster, as these are fishing activities. MaCAA sets out how the management of inshore fisheries must be conducted and by whom. D&S IFCA is the responsible body to manage inshore fisheries within this district and therefore must manage the exploitation of sea fisheries resources in the district.

MaCAA details the responsibilities of the D&S IFCA which includes important mandatory duties as follows:

Section 153 (2)

- a) **Seek to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way,**
- b) **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,**
- c) **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**
- d) **Seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district.**

In addition, D&S IFCA has a duty for the protection of marine conservation zones (MCZ). This is specified within the Act as follows:

Section 154

- 1) **The authority for an IFC district must seek to ensure that the conservation objectives of any MCZ in the district are furthered.**
- 2) **Nothing in section 153 (2) is to affect the performance of the duty imposed by this section.**

D&S IFCA would be failing in its duties if it did not manage fishing activities conducted within the district. Diving for the capture of scallops, crab and lobster is conducted in the district and therefore must be managed appropriately.

6. How does D&S IFCA manage diving activity?

The D&S IFCA inherited legacy byelaws from its predecessor organisation the Devon Sea Fisheries Committee. Byelaws are local legislation used to manage different activities which relate to the species often taken by divers. There were several legacy byelaws that related to shellfish and D&S IFCA has had to consider its statutory duties and examine and review these legacy measures to see if they are fit for purpose. There is a separate guide⁶ to explain how D&S IFCA is conducting the required review of these inherited byelaws.

Byelaws are not the only control measures used to manage fishing activities and in this case the species taken by those engaged in diving. Other EU and domestic legislation also places restrictions on fishers. Byelaws are local measures which support this other legislation. Byelaws can impose greater restrictions to suit local circumstances but they cannot remove any restrictions imposed by UK or EU regulations.

In 2014 D&S IFCA introduced the Diving Permit Byelaw to manage diving activity when directed towards the capture of crab, lobster and scallops. The introduction of the Diving Permit Byelaw (or any byelaw) is not necessarily to prevent fishing activity, but rather to manage the activity sustainably. Many of the current restrictions were based on the older legacy measures set out in individual byelaws. The introduction of the Diving Permit Byelaw will enable some of the legacy byelaws to be revoked when all appropriate management measures are incorporated into a completed suite of activity based permitting byelaws.

7. Permits

The Diving Permit Byelaw differs from the older byelaw model. The Diving Permit Byelaw provides the D&S IFCA with the ability to issue permits which contain conditions of use for fishers and also enable different groups of fishers to be separated based on their specific needs. This is why permits are issued for commercial fishers (Category 1 permits) and recreational fishers (Category 2 permits). Different categories of permits can and do contain different conditions.

The permits that are issued include flexible conditions, which can be altered when there is a good reason for doing so. This flexibility enables D&S IFCA to react to changing circumstances far quicker than revoking a traditional style byelaw and replacing it with another traditional style byelaw.

8. How are flexible permit conditions changed?

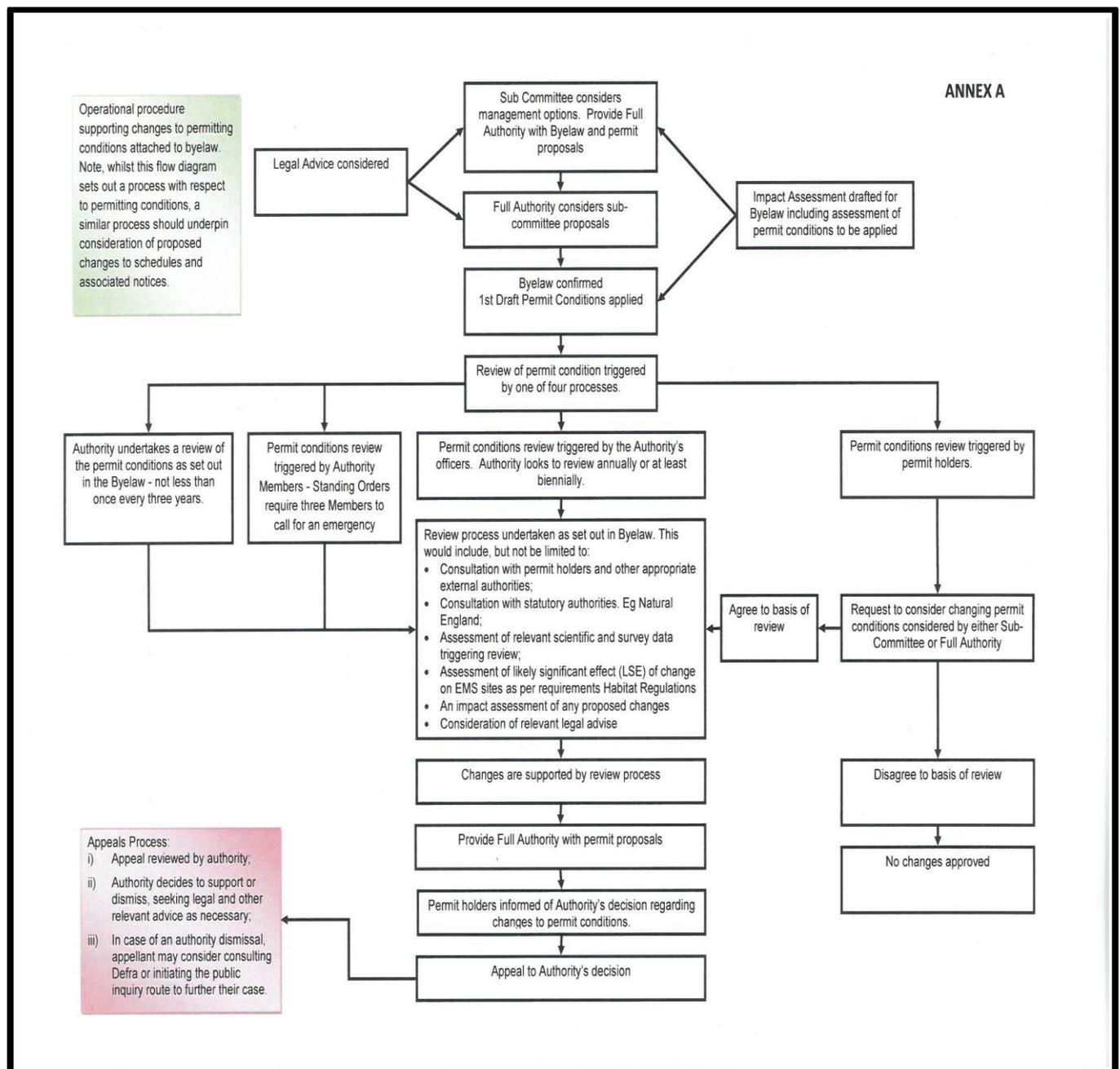
Changes are not considered or made just for the sake of change. There has to be good reason to change any of the flexible permit conditions and although there are occasions where D&S IFCA must take a pre-cautionary stance, it is quality evidence (rather than quantity) that strongly influences potential changes.

Section 22 to 24 of the Diving Permit Byelaw explains the review procedure to make any changes to the flexible permit conditions. There are several ways in which a review of permit

⁶ Guide to all aspects of the Byelaw review - Displayed on the D&S IFCA website or available upon request.

conditions can be triggered, although a review of the flexible permit conditions must be conducted not less than once every three years.

Annex A table – Flowchart of review process



9. How is the review of flexible permit condition conducted?

Section 23 of the Diving Permit Byelaw details how the review of flexible permit conditions must be conducted. This is a thorough and robust process which includes consultation with permit holders. Information (evidence) is collected during consultation as detailed in Section 24 of the Diving Permit Byelaw. The evidence collected then informs the decision-making process.

The evidence that you provide is collated and will be presented to members of the Byelaw and Permitting Sub-Committee. There are four scheduled meetings of the Byelaw and Permitting Sub-Committee each year and additional meetings can be arranged when required. This three-year review will involve at least two separate phases of consultation. The first phase will be an “open” consultation where any stakeholder can respond with any issue relating to the Diving Permit Byelaw flexible permit conditions. The information provided in the consultation will be collated and discussed by the Byelaw and Permitting Sub-Committee. A second period of consultation will also take place but will be focussed on key issues relating to potential permit changes, if any.

Further Information/recommended reading

- [D&S IFCA communication strategy \(available upon request\)](#)

Imbedded information (Hyperlinks)

- [The Diving Permit Byelaw](#)
- [The current permit conditions for commercial and recreational fishers](#)

Privacy Notice

D&S IFCA has a privacy policy.

The information you provide for this consultation will be used to assist the Authority in decision making. All personal data submitted will be held securely at all times, and, as part of this review of permit conditions, used only by the Authority. All personal data will be anonymised and summarised for insertion into this development report. Personal data will not be held for longer than necessary. We may disclose your information if required by law.