



# Byelaw & Permitting Sub- Committee Meeting

Final Minutes from 20<sup>th</sup>  
November 2018

## Version Control and Drafting

Date	Comments
22nd November 2018	1 <sup>st</sup> Draft of minutes completed for circulation to officer's present at the meeting for potential amendment and or additions
23 <sup>rd</sup> November 2018	1 <sup>st</sup> Draft of minutes sent to members who attended the meeting for potential amendments and or additions
27 <sup>th</sup> November 2018	Comments received by members who attended the meeting applied to the draft minutes

## Key Contents

### Item: Topic:

- 3 Officer Actions
- 4 The Formal Review of the Live Wrasse Fishery
- 5 The Status of Mussel Stocks in the Teign & Exe Estuaries and the use of legacy Byelaw – Temporary Closure of Shellfish Beds
- 6 Principles for Byelaw Work
- 7 Establishing Terms of Reference for the Byelaw Technical Working Group
- 8 Update on the Three-Year Review of the Diving Permit Conditions
- 9 Discussion – Dates & Venues for 2019 Sub-Committee Meetings
10. Any Other Business
11. Date of Next Meeting

Minutes of the Byelaw and Permitting Sub Committee Meeting  
Held on 20<sup>th</sup> November 2018 at Brixham Laboratory, Freshwater Quarry, Brixham

Present: Mike Williams (Chair) David Morgan John May  
Jim Portus Andrew Knights David Cuthbert

Also Present: ACO Mander, DCO Clark, PPO Townsend. SEO West, EO Curtin

Apologies: Rachel Irish, James Marsden, Natasha Bradshaw, Stephen Gledhill, Simon Toms,  
Cllr Hellyer, Cllr Hawkins, Richard White

## Introduction

The Chair explained to the other members that due to the number of apologies received both in advance of the meeting and on the day of the meeting, the meeting would not be quorate. Because of this it was explained that the use of delegated powers for decision making was not permitted at this meeting. The Chair suggested to other members that the meeting could continue if they wished; however, the group would be limited to formulating and demonstrating support for recommendations that would be subjected to voting at the next Full Authority Meeting in December 2018. Members in attendance at the meeting agreed with this approach being taken on this occasion. John May enquired if the total membership of the Sub-Committee could be increased from the present level of 14 or the numbers required for voting be lowered. In addition, John May also commented that a commitment to attend regularly is necessary for continuity on the ongoing topics and although he was unable to attend the last meeting he had been available on the original date before it was amended via a Doodle Poll. ACO Mander informed members that two new Authority members may consider joining the Sub-Committee which could boost membership. The Chair explained that it was both possible and appropriate in due course to review the Terms of Reference for the Sub-Committee. The Chair also added that he would be raising the subject of low attendance with the Chair of the Authority in an attempt to avoid a repeat of this scenario.

### 1 To consider and approve minutes of the Byelaw and Permitting Sub-Committee meeting held on 11<sup>th</sup> October 2018. (Circulated by email)

The Chair invited members to raise any issues resulting from the draft minutes taken at the last meeting. The minutes were examined page by page. No amendments were highlighted. A recommendation was formulated as follows:

***That the minutes provide a true and accurate record.***

***Proposed: David Cuthbert***

***Seconded: David Morgan***

***All agreed***

### 2 Business Arising

There were no matters discussed.

### 3 To discuss the officer actions resulting from the last meeting (11<sup>th</sup> October 2018)

The Chair suggested that members examine the list of actions that had been circulated in preparation for the meeting and invited officers to provide a verbal update on each item. ACO Mander began by providing an update for the 1<sup>st</sup> action.

**Action (from 11<sup>th</sup> October 2018)**

<b>1</b>	<b>ACO Mander</b>	<b>To provide all members with an electronic update of the outcome of the Chief Officers Meeting if attended</b>
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ACO Mander explained that he had not attended the last meeting but does get an update from other Chief Officers who did attend the meeting. On this occasion ACO Mander felt that there was nothing relevant to report to members. ACO Mander explained that he would investigate whether the agenda and or any minutes taken at this meeting could be circulated to Members. Members thanked ACO Mander and welcomed the potential of receiving or having access to the agenda and minutes which would remove the need for this on-going action item.

**Action (from 11<sup>th</sup> October 2018)**

<b>2</b>	<b>PPO Townsend</b>	<b>a) To check if the Policy Document for the failure of I-VMS and the options available for fishers regarding permit surrender has been directly circulated and; b) if not, organise a direct circulation to Mobile Fishing Permit Holders</b>
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PPO Townsend informed members that the Policy Document had been circulated directly to fishers and action 2(b) was therefore not required.

**Action (from 11<sup>th</sup> October 2018)**

<b>3</b>	<b>D&amp;S IFCA Officers</b>	<b>To summarise the key aspects of the relevant legislation and use it in communications work intended to raise awareness to the industry of the legal requirements regarding soft shell species.</b>
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DCO Clark explained that this item was on-going. A news item would be prepared that can be posted on the website, shared on social media and sent out to permit holders and in addition members can be informed when this awareness work has started.

**Action (from 11<sup>th</sup> October 2018)**

<b>4</b>	<b>DCO Clark</b>	<b>a) To prepare and conduct an independent “invitation for information” scoping exercise to gather the views of the industry associated with the management of spiny lobster. b) To prepare a paper for the Sub-Committee focussing on what is known about the biology and life history of the species and where the gaps in knowledge lie.</b>
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DCO Clark updated members on action 4 (a) by explaining that an email had been circulated to all permit holders. In addition, four separate open “surgery” sessions had been conducted, which consisted of three 4-hour evening surgeries and one 3-hour weekend surgery, that provided all stakeholders the opportunity to speak to officers by either coming into the office or by telephoning the office regarding their thoughts on possible management options.

DCO Clark reported that the result of this initiative was three visitors to the office and one telephone call. Nine responses had been received via email and the results are still being summarised. The response will be presented to members in due course. Regarding action item 4 (b), DCO Clark explained that work is on-going.

**Action (from 11<sup>th</sup> October 2018)**

<b>5</b>	<b>PPO Townsend &amp; Members</b>	<p>a) <b>PPO Townsend to re-circulate the Hand Working Planning document in “word” format to all Sub-Committee members.</b></p> <p>b) <b>For members to highlight suggested amendments, apply track changes and/or report to PPO Townsend.</b></p>
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PPO Townsend confirmed that the Hand Working Planning Document had been re-circulated to all Sub-Committee Members in word format. Although not many amendments had been suggested by members, those that had been suggested had been recorded and will be applied where possible. PPO Townsend explained that the relatively low numbers of suggested amendments suggests that members are content with most of the document. It was explained that the document will be finalised in due course.

**Action (from 11<sup>th</sup> October 2018)**

<b>6</b>	<b>PPO Townsend &amp; Members</b>	<p>c) <b>PPO Townsend to re-circulate the Guide to Work of the Sub-Committee document as a ‘word document’ to all Sub-Committee members.</b></p> <p>d) <b>For members to highlight suggested amendments, apply track changes and/or report to PPO Townsend.</b></p>
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PPO Townsend confirmed that the Guide to the Work of the Sub-Committee Document had been re-circulated to all Sub-Committee Members in word format. Although not many amendments had been suggested by members, those that had been suggested had been recorded and will be applied where possible. PPO Townsend explained that the relatively low numbers of suggested amendments suggests that members are content with most of the document. It was explained that the document will be finalised in due course.

**Action (from 11<sup>th</sup> October 2018)**

<b>7</b>	<b>DCO Clark</b>	<b>DCO Clark to respond to the stakeholder, including an explanation of the rational for the decision making within the correspondence.</b>
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DCO Clark reported on this action item which resulted from a request by a stakeholder for the Authority to consider reviewing spatial access for mobile fishing vessels near Plymouth. DCO Clark explained that an email had been sent to the stakeholder, who has continued to question the decision taken. As a result, correspondence will now be undertaken with all contacts relevant to the issue.

**Action (from 11<sup>th</sup> October 2018)**

<b>8</b>	<b>DCO Clark &amp; Officers</b>	<b>To produce an officer report and evidence for members on the status of the mussel stocks in the Exe and Teign Estuaries.</b>
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DCO Clark confirmed that this action was complete with the report presented to members for discussions as set out in Agenda Item 5.

## **Agenda Item**

### **4 The Formal Review of the Live Wrasse Fishery**

The Chair thanked Senior Environment Officer (SEO) Libby West and Environment Officer (EO) Sarah Curtin for preparing the in-depth report (Live Wrasse Fishery in the Devon and Severn IFCA District) which members had received and could discuss. EO Curtin explained that a slide show presentation had also been prepared, which the members then watched.

Multiple slides were displayed to help summarise background work. Slides and officer commentary explained how the surveys had been conducted and also added further explanation to elements of the data analysis, including multiple graphs comparing 2017 and 2018 Landing Per Unit Effort (LPUE) and Catch Per Unit Effort (CPUE) data. SEO West added information about high resolution data analysis and explained the challenges involved in determining clear trends in the data at this time. Detail was provided on the findings relevant to the size of sexual maturity for the different Wrasse species. The data suggested that the introduction of a 140mm to 180mm slot size for corkwing wrasse in the Potting Permit Conditions has been of benefit. EO Curtin added that the salmon farm involved in the fishery has been pro-active this year and has applied a more restrictive voluntary measure (increasing the min CRS for Ballan wrasse) than that imposed by the D&S IFCA Potting Permit Conditions. The officers also reported that there is increased confidence in the change to the closed period that will be implemented for the 2019 season. The results indicate that almost all spawning fish will be protected.

After the presentation members asked further questions. Jim Portus highlighted the disparity between CPUE and LPUE and asked if more work was planned on establishing survival rates of fish returned to the sea and also the survival of the live fish during transit to the farms. SEO West informed members that Cornwall IFCA are doing some tagging work; however, it can be expensive, and a lot of tagging must be completed for optimum results. Regarding mortality during transit, EO Curtin highlighted the relatively warm summer weather as a contributing factor. DCO Clark added that only 1% of fish were dead on arrival and as this is a "Live" Wrasse Fishery, it is obviously in the interests of the farms to reduce mortality during fishing, storage and transit. EO Curtin informed members that ice being added to water tanks had improved survival rates.

Whist stating that he was not challenging the findings, Andrew Knights asked if there was an explanation why the spikes in the size distribution graphs appear to be on the round numbers rather than half number intervals. SEO West explained that the methodology had been the same this year but could look again at the data. Both David Morgan and David Cuthbert commented that the data would appear to support the past decisions of the Sub-Committee to introduce management measures.

John May asked questions in relation to any differences that may be evident in the Cornwall Live Wrasse Fishery. Officers reported that only four fishers operate in Devon and only one salmon farm takes the live wrasse. In comparison three salmon farms are taking fish from fishers operating in Cornwall and although the type of pots used are similar in both areas, more Ballan wrasse of a relatively large size are caught in Cornwall. Regarding different research being conducted, DCO Clark highlighted the information paper circulated to members that sets out a summary of research work being conducted in the South West.

Members recognised the challenges faced by officers preparing the data analysis report for Sub-Committee meetings scheduled for November each year and invited a discussion on this issue. ACO Mander explained that if changes to management are needed, there will be a potential delay of several months to implement changes that relate to amended Potting Permit Conditions. The Environment Officers explained that additional information and analysis can be presented in February 2019 and that this month of each year is more suited to submission of completed reports relating to the Live Wrasse Fishery. Andrew Knights

suggested that in future maybe it was possible for Officers to highlight key statistics in November with more in-depth information provided in February each year. SEO West reported that this was possible and an extension to the deadline to submit a report will also provide more time to study the success of voluntary measures. DCO Clark added that the option still exists in the future to introduce tracking devices to the small vessels that are involved. The Chair asked for summary points from members and an indication of the views on the issue. Jim Portus commented that if the LPUE falls the economic impact may naturally reduce the number of fishers and at this time felt the current measures and management were appropriate. Both David Cuthbert and David Morgan agreed that the fishery is hugely regulated in comparison to its size and additional measures at this time would be overly pre-cautionary. A recommendation was formulated in preparation for the next Full Authority Meeting in December as follows:

### **Recommendation**

***That no changes are made to Potting Permit Conditions relating to the Live Wrasse Fishery subject to the findings of further evidence submitted by officers.***

**Proposed: David Morgan      Seconded: Andrew Knights**  
**All in favour**

### **Agenda Item**

## **5 The Status of Mussel Stocks within the Teign and Exe Estuaries**

DCO Clark introduced this item and members studied the supplementary report – *Mussel Stocks on the Teign & Exe Estuaries* (5<sup>th</sup> November 2018). Members' deliberations began with some focus on the Exe Estuary. It was explained that although stock depletion was evident, Bull Hill was a public bed, with others mentioned in the report (Starcross 1 & 2) being part of a private fishery. DCO Clark also informed members that the operator (Exmouth Mussels) in the Exe is actively trying to improve the site by relaying stock on Bull Hill bed, and public access and the removal of mussel from the site is not supportive to the recovery objective.

Before forming a recommendation, the Teign was also discussed. DCO Clark informed members that the Teign is unusual in that it has no environmental protection designations, and therefore the site has not been surveyed as often as the Exe. The Teign Regulating Order is in place which covers the estuary upstream of Shaldon Bridge. However, the use of Byelaw 9 may benefit the public beds downstream of the Shaldon Bridge (Polly Steps & The Salty). Other challenges to recovery are currently believed to be works conducted by the Harbour Authority which involves flattening the site with machinery. Members asked DCO Clark to investigate if the works require a licence from the MMO as members were aware that some exemptions for a Harbour Authority may apply. Members examined the content of legacy Byelaw (9) – Temporary Closure of Shellfish Beds and agreed that the application of this Byelaw may well produce a positive effect over a period of 18 to 24 months. DCO Clark stated that additional surveys are planned for 2019 which will also help inform members.

ACO Mander explained that if the Byelaw was used at this time it would be important to define the sites on notices, so the public could visualise the closure. Members also highlighted the importance of where to place notices. This was noted by officers, who explained they had knowledge of popular locations used to access the beds. After the discussion and study of the supplement report, members felt that there was clear rationale for recommending the application of a temporary closure in specific locations in both the Teign and Exe estuaries as follows:

### **Recommendation (Teign)**

***That on the grounds of depletion the Temporary Closure of Shellfish Beds Byelaw is applied to the Salty and Polly Steps public mussel beds in the Teign Estuary.***

**Proposed: Jim Portus    Seconded: David Cuthbert**  
**All in favour**

**Recommendation (Exe)**

***That on the grounds of depletion and in the interests of the development of the fishery by the protection of transplanted mussel, the Temporary Closure of Shellfish Beds Byelaw is applied to the public mussel beds on the eastern banks of the Exe Estuary.***

**Proposed: Andrew Knights    Seconded: Jim Portus**  
**All in favour**

**Agenda Item**

**6      Principles for Byelaw Review Work**

The Chair introduced this item and gave members some additional background information. The Chair explained that a potential new principle relating to the statutory duties of D&S IFCA (section 154 and 153) as set out in the Marine and Coastal Access Act 2009 had been formulated for discussion. The Chair also highlighted that two members had an interest in this topic as one member had initially suggested a new principle, and another had already raised concern in pre-meeting correspondence over how it had been worded. Unfortunately, both members had given apologies for the meeting and were not present to discuss the proposed wording as set out in the paper. The Chair suggested that the discussions relating to a new principle be deferred until another meeting. Members agreed with this course of action.

As the remainder of the officer paper focussed on existing principles already adopted, the Chair suggested that these were more appropriate for discussion at this time. Members agreed with the suggestion offered by the Chair and only examined the existing principles as set out. PPO Townsend explained that this list of existing principles had been highlighted in different publications completed to date and would be used in the future in other documents if members agreed to their on-going use. Other than highlighting a grammatical error, members concluded that the existing principles remain un-changed and formulated a recommendation.

**Recommendation**

***That having reviewed the existing principles for Byelaw Review Work, the Sub-Committee recommends their adoption for on-going work and the potential new principle deferred.***

**Proposed: David Morgan      Seconded: David Cuthbert**  
**All in favour**

**Agenda Item**

**7      To consider the Terms of Reference for the Byelaw Technical Working Group (BTWG)**

The Chair provided members with additional background detail regarding the officer paper that had been produced for the meeting. It was explained that this sub-group had already been operating during the past to conduct some of the more technical drafting work needed to potentially amend Byelaws or Permit Conditions. The adoption of some Terms of Reference was simply to formalise the current practice and make it totally clear that this working group has no delegated powers for any decision making. All work completed by this group would be reported back to members at either the Byelaw Sub-Committee meetings or as a second

option the Full Authority meetings. Members studied the draft Terms of Reference and made several suggestions for amendment.

It was suggested and agreed that Membership of the working group should include any member of the Sub-Committee, although it was recognised that not all would have to attend any session. Other members would include Fred Howell (Prosecuting solicitor for D&S IFCA) and selected officers from D&S IFCA. To support this change in membership, it was also agreed that the formal statement of quorum was no longer needed and should be removed. Some other amendment to wording was also noted including a clear statement that the BTWG has no delegated decision-making powers. David Morgan also highlighted that this group must report to the B&PSC and or the Full Authority. PPO Townsend noted the amendments in preparation for the Terms of Reference to be revised and made available for other members to view, prior to potentially voting on its adoption at the next opportunity.

## **Agenda Item**

### **8 Update on the Three-Year Review of Diving Permit Conditions**

PPO Townsend introduced the officer paper. Although the original time table for work had fallen behind the original expectation, PPO Townsend explained that the Byelaw Technical Working Group would be meeting on 26<sup>th</sup> November 2018 to do some initial drafting work on the Diving Permit Conditions. PPO Townsend reported that some other aspects of the Diving Three-Year Review had progressed further. Due to the introduction of GDPR, changes to the application forms and the privacy notices (data protection) that they contain has been completed which may have an indirect benefit in the view of one stakeholder's concerns about a lack of health and safety compliance by commercial divers.

PPO Townsend explained that permit conditions cannot be amended to introduce health and safety related conditions of use, as this exceeds the duties for D&S IFCA as set out in the Marine and Coastal Access Act; however, changes to the privacy notices now informs all applicants that the D&S IFCA can share personal data relating to issued permits with other regulators such as the Health and Safety Executive. It would be for the Health and Safety Executive to contact D&S IFCA if they wished to access the permit holder's information as part of any attempt to conduct health and safety checks of their own. Members had no questions and no recommendations were required.

## **Agenda Item**

### **9 To discuss the officer paper regarding dates and locations of 2019 Sub-Committee Meetings**

The Chair began by focusing on the low attendance for the present meeting. The Chair re-confirmed his intention to act to try and avoid a similar situation arising in the future. Moving on to the meetings in 2019, the Chair and members studied the date tables set out in the officer paper.

The tables presented indicated that enough members will be available in 2019 for meetings to take place and be quorate on the following dates:

- **16<sup>th</sup> May 2019**
- **15<sup>th</sup> August 2019**
- **14<sup>th</sup> November 2019**

Concern was raised that the table indicated that none of the suggested dates in February 2019 will provide enough members in attendance for the meeting to be quorate. The Chair asked PPO Townsend to conduct a further Doodle Poll with dates suggested at the beginning and also the end of February 2019. The Chair also asked PPO Townsend to delay this action until he had firstly conducted his own intended actions.

Members now discussed the venues for future meetings and examined some of the positive and negatives associated with the meeting rooms at Larkbeare House and Brixham. PPO Townsend explained that Larkbeare is available at no cost to D&S IFCA, but provisional bookings must be made in advance to secure the most suitable rooms. Changes to dates nearer the events can result in only a smaller room being available, which may not be able to accommodate members of the public if they wished to observe proceedings. DCO Clark also highlighted that the membership of the Sub-Committee may increase with the two new members joining the Authority shortly, and therefore rooms must be able to accommodate a larger number. PPO Townsend explained that D&S IFCA does have a limited number of hours for use of Brixham meeting rooms as part of the office lease. Although larger than Larkbeare and generally more suited to public audiences, PPO Townsend commented that a Brixham venue may be less favourable for some members travelling longer distances. Members concluded that Larkbeare should remain as the preferred location for 2019 meetings in May, August and November 2019; however, the actions taken by the Chair in regard to member attendance may result in Brixham being used for the February 2019 meeting when an actual date has been established.

## **Agenda Item**

### **10 Any other business**

The Chair reported about the outcome of a recent D&S IFCA investigation that had led to a court case. The investigation did involve the use of I-VMS technology to establish illegal fishing activity in a spatially controlled area. The result was a fine of £44, 000 that included costs. The Chair informed members that some information was being prepared to circulate to the media.

The Chair informed members that an “open” letter had been received by D&S IFCA from a fisher in the Taw Torridge area. The letter had been published in the Fishing News and related to economic impact resulting from the introduction of the Netting Permit Byelaw. The Chair informed members that he and officers were in the process of drafting a response to the stakeholder but felt it was appropriate for other members to be given the invitation to assist with the drafting if they wished to do so. PPO Townsend printed the open letter received and the 1<sup>st</sup> draft D&S IFCA response for members to examine. After examining the content of the draft response, the members present were content for the draft letter to be completed by the officers and the Chair.

PPO Townsend informed members about an error in some previous minutes and lists of officer actions. Although an accurate record had been taken, some terminology had been incorrectly used in past meetings. This error was related to the development of a Monitoring and Control Plan for shad within Plymouth Sound. Previous minutes and actions had described this work as developing a Fully Documented Fishery. Members, including Andrew Knights, recognised the error in terminology and accepted that there was and is still not the expectation that a Fully Documented Fishery would be developed.

## **Agenda Item**

### **11. Date of next meeting**

Members discussed this within agenda item nine and no date has yet been established for the next meeting in February 2019.

End.