



# Mobile Fishing Permit Byelaw

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## Sand Eel Trawling

Discussion & Decision-Making Report.

**A Summary of Response from the Consultation on Proposals to Manage Sand Eel Trawling via Permit Conditions**

**(13<sup>th</sup> December 2019 to 17<sup>th</sup> January 2020)**

**29<sup>th</sup> January 2020**

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## 1. Aim of this Report

This report (29<sup>th</sup> January 2020) has been prepared for members of the Devon and Severn Inshore Fisheries and Conservation Authority (D&S IFCA) Byelaw and Permitting Sub-Committee (B&PSC). This report is directly linked to the agenda for the B&PSC meeting scheduled for the 11<sup>th</sup> February 2020 and is intended to assist the decision making of members. It reports on the consultation that focused on a series of proposals that were formulated in order to develop the content of new mobile fishing permit conditions (Category Three and Category Four) that will be used to manage the activity of sand eel trawling within the District. This report will be published on the D&S IFCA website and will be available for all stakeholders to read. It includes embedded information (Hyperlinks) that give readers access to additional information. All additional information embedded in this report is freely accessible within different sections of the [D&S IFCA Website Resource Library](#).

## 2. Background Information

During 2019, the Mobile Fishing Byelaw has been subjected to a review which is on-going and is due for completion in 2020. In effect the Mobile Fishing Byelaw will be re-made during this review. The permit conditions used to manage mobile fishing activity are intertwined with the structuring of the Byelaw and therefore this review presents an opportunity for permit condition amendments and, regarding the activity of sand eel trawling, provides the opportunity to develop new permit conditions.

On the 15<sup>th</sup> August 2019, the B&PSC were presented with a report:

- [\*The Five-Year Review of the Byelaw – Overview & Planning Report \(30<sup>th</sup> July 2019\)\*](#)

The report above highlighted how the current Mobile Fishing Permit Byelaw is constructed and why there was a requirement to review the existing byelaw. The report highlighted some drafting work already completed by the Byelaw Technical Working Group (BTWG), acting on behalf of the B&PSC, including some recommendations and some questions for the B&PSC to resolve.

The B&PSC recognised that the existing Mobile Fishing Permit Byelaw (introduced in 2014) allows for sand eel trawling to be conducted by commercial and recreational fishers providing that the vessels used are below seven metres in overall length and a trawl is used with a mesh size below 31mm to capture sand eels. It was concluded by the B&PSC that the activity of sand eel trawling required a change in management and the BTWG were actioned to conduct further drafting work.

On 14<sup>th</sup> November 2019, the B&PSC were presented with a further report:

- [\*A Progress & Discussion Report for the B&PSC – Advanced drafts produced by the Byelaw Technical Working Group \(29<sup>th</sup> October 2019\)\*](#)

The above report concluded that it was possible to manage sand eel trawling via changes to the overarching Mobile Fishing Permit Byelaw coupled with the introduction of permit conditions (Category Three and Category Four). On the 14<sup>th</sup> November 2019, the B&PSC concluded that a focussed consultation be undertaken with the aim of providing more information that could potentially be used to assist in the development of the content of new sand eel permit conditions.

### 3. Engagement with Stakeholders

#### The Content of the Consultation

The “Have Your Say” consultation exercise was built around some proposals and key questions relating to the following:

- Catch Restrictions
- Gear Restrictions
- Spatial Restrictions
- Time Restrictions
- Other Information

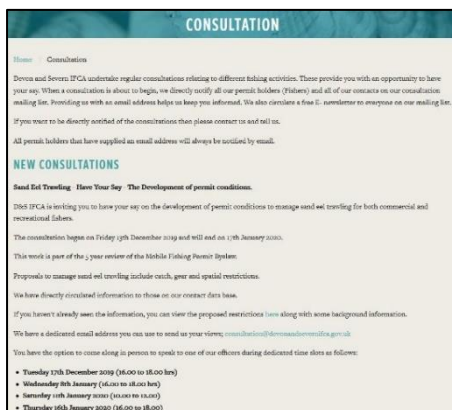


- [Mail Chimp \(PDF\) – Sand eel Trawling - Have Your Say – The Development of Permit Conditions](#)

#### Getting Stakeholders to Engage

Electronic engagement formed the basis for communication. An electronic (Mail chimp) email was directly circulated and successfully delivered to 1121 D&S IFCA email contacts (including members) with a request for it to be forwarded to others that may also have an interest in the subject matter. All stakeholders were invited to respond.

Hard copies of information were not circulated and were not requested by any stakeholders, however all permit holders without an email address (84), were notified by post about the consultation and what it contained.



The D&S IFCA website was utilised to support the campaign and the [consultation page](#) was used to display the information. In addition, officers created a [news item](#) blog for the home page news scroll highlighting the “Have Your Say” campaign. The blog was also posted on the D&S IFCA Facebook page.

- **488 of the Mail Chimp e mails were opened by stakeholders**

Stakeholders had the opportunity to use all options provided to have their say including a dedicated email response address. Four dedicated “surgery sessions” were arranged for one to one interaction with officers via visits to the D&S IFCA offices in Brixham or the answering of telephone calls specific to the Sand Eel Trawling – Have Your Say – campaign.

## 4. Consultation Items and the Response from Stakeholders

### Who Responded?

A total of 20 responses were received during the consultation period (13<sup>th</sup> December 2019 to 17<sup>th</sup> January 2020). The majority of responses were from individual stakeholders but there were responses on behalf of several organisations. Three stakeholders took advantage of the four separate surgery session periods for one to one discussion in person or by telephoning the office during the specified times. The information received was documented.

Most responses were viewed as supportive for the introduction of at least some new provisions to manage this fishing activity; however, several responses indicated that the proposals possibly did not go far enough and some alternative management suggestions to those proposed in the consultation were received. A few responses questioned the need to implement additional restrictions as compared to the status quo, and a couple of responses suggested that the uptake of permits by all potential fishers would in their view be very low.

### Interests:

| Sector/Interest      | Number of Responses |
|----------------------|---------------------|
| Environmental        | 6                   |
| Commercial Fishers   | 7                   |
| Recreational Fishers | 5                   |
| Substance Fisher     | 1                   |
| Unknown              | 1                   |

As demonstrated in the table above, there was mixed representation within the responses. The four organisations that responded were as follows:

- The South Devon Area of Outstanding Natural Beauty (AONB) Partnership
- The Devon Wildlife Trust (DWT)
- The Aune Conservation Association
- The Wembury Marine Conservation Area Advisory Group (WAG)

The South Devon (AONB) Partnership, DWT and WAG set out a clear description of their interests which are all driven by conservation. These interests can be summarised as protecting coasts and estuaries, the development of Marine Protected Areas and representing the conservation needs of the Wembury Marine Conservation Area. WAG highlighted their concerns about the over exploitation of sand eels because of their crucial role in the marine food chain and their great importance to predators such as larger fish, seabirds and mammals.

Other interests were mixed and included the following:

- Commercial fishers that conduct the activity to sell catch/use catch for rod & line fishing
- A commercial fisher that would like the opportunity to conduct sand eel trawling
- Recreational fishers that conduct the activity to supply their own bait needs
- Recreational fishers concerned that excessive restrictions on commercial fishers will limit bait supply for their recreational rod and line fishing
- A retired commercial fisherman with a conservation interest and knowledge of the activity

### Other interests

A response was received from a stakeholder that did not class themselves as either a recreational fisher or a commercial fisher. It was explained in their response that they are a subsistence fisher and in their view D&S IFCA should accommodate their alternative lifestyle (and needs) with the development of several concessions that would either exempt them from current legislation or potentially result in the development of more user categories of permit conditions for sand eel trawling and other types of fishing. This response encouraged living off the land/sea, boat sharing, the awarding of grants to purchase new fishing gear, free permits to fish due to common law rights and took the view that his fishing practices would remain small scale and promote sustainability.

### **Officer Comment:**

Managing this activity with permit conditions enables more focussed management as opposed to the existing legislation (a prohibition in the overarching Mobile Fishing Permit Byelaw) that currently enables all fishers to conduct the activity without a permit subject to mesh and boat length criteria.

D&S IFCA manages several different fishing activities via permit conditions, which allows for both initial restrictions to be developed, but importantly introduces a mechanism of greater flexibility. The permit condition model allows for the introduction of future restrictions when required subject to a robust review procedure that includes wide ranging consultation. The ability to closely monitor levels of fishing activity and collect fisheries data, coupled with a flexible management mechanism, allows the Authority to recognise and address conservation issues if they arise and therefore avoid an overly precautionary approach. The charging of a fee, in this case £40 for a two year period, is not considered by the Authority to be an insurmountable barrier to those that wish to fish, rather it reflects the administration cost burden faced by the Authority to achieve a more flexible form of fisheries management.

Provisions within the overarching byelaw and the associated permit conditions can't be less restrictive than Domestic or EU legislation and this will be recognised during the drafting work needed to develop the initial commercial and non-commercial sand eel permit conditions. Different user groups have different needs which has been recognised by D&S IFCA in the development of several types of fishing permits relevant to different fishing activities. The separation of different users by applying appropriate management measures is one of many principles adopted for byelaw development. Commercial fishing is regulated via permits that are issued to those that meet specific criteria, often linked to business investment. The default position in the construction of several overarching permitting type of byelaws is that if users don't qualify for a permit suited for commercial use then the opportunity may exist, where appropriate, to obtain an alternative permit for other use. The permit choice recognises legitimate activity and promotes removal of activity that is illegal, un-licenced and un-regulated. Although alternative categories of D&S IFCA permits are often referred to as "recreational", this is not categorising a portion of society. "Recreational" permits are all effectively non-commercial permits. Users of non-commercial permits are bound by specific conditions suited to non-commercial fishing activity which enables the permit holder to fish for food and fish for other purposes such as bait, but not to fish and sell all or any portion of their catch.

## Catch Restrictions - Proposals, Questions, Advice & Decision Making:

Proposed catch restrictions (a – d) were set out as follows:

### Consultation Proposal:

- a) Only sand eels will be able to be retained

### Response

Responses from the commercial sector did highlight potential complications associated with the landing obligation and the proposal that only sand eels should be retained.

### Officer Advice

This issue can be investigated further and reflected in future drafting work.

### B&PSC Decision Making

- 1) **That the BTWG examine the requirements of the landing obligation and recognise the landing obligation during drafting work of Category 3 (commercial) sand eel permit conditions**
- .....

### Consultation Proposal:

- b) A recreational fisher with a Category 4 permit can catch up to 25kg of sand eel per calendar day.

### Response

It was recognised that some fishers may want to fish once and retain the catch for several days of use; however, over half the responses, including commercial fishers, recreational fishers and those with the strongest environmental interests felt that a bag limit of 25kg per day was excessive. 25kg per week was offered as an alternative suggestion and a 10kg per day bag limit was suggested in three other responses. The South Devon (AONB) Estuaries Partnership stated that either the daily amount should be reduced to something reasonable such as 1kg per day or the 25kg bag limit should be changed to a monthly recreational quota.

It was the view of the South Devon (AONB) Estuaries Partnership that the fishing activity will potentially cause site disturbance and a compromise should be sought that discourages excessive and frequent effort in favour of storing sand eels captured from less fishing operations. The South Devon (AONB) Estuaries Partnership recognised that a monthly catch limit may be problematic to enforce, however a 25kg per day bag limit would be difficult to justify.

DWT presented a similar response to this proposal stating that it would be unreasonable to assume that an individual non-commercial fisher could use in excess of 2500 individual sand eels. Their recommendation is that the bag limit should be reduced to 1kg per day, or 5kg per week. One recreational angler highlighted that the proposed 25kg level was so excessive it would potentially encourage the illegal sale of the surplus catch. The subsistence fisher suggested that if a daily bag limit of 25kg of sand eel is permitted, then half should be able to be sold to fund fuel or tackle.



## Officer Advice

The setting of bag limit, other than that set per calendar day has some potential advantages; however, on balance this would present significant enforcement complications. Drafting legislation (permit conditions) so it assists with enforcement is one of the principles for byelaw development. The recreational catch would not be subject to sale and as compared to a commercial fisher, no sales record of any kind would exist. D&S IFCA does not have the resources to continuously monitor and log a catch level accumulated over several days or during a defined period such as a week or month. Landing records can be requested from recreational permit holders, but this is open to fictional catch recording with little means of cross checking the information. Officers recommend that a daily bag limit is the chosen option, but that members discuss and determine what that level should be for the initial permit conditions that could be amended in the future if there was a requirement to do so.

## B&PSC Decision Making

- 2) That the B&PSC establish a bag limit for recreational fishers conducting sand eel trawling to apply per calendar day.

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## Consultation Proposal:

- c) A recreational fisher with a Category 4 permit will not be able to sell their catch.

## Response

Not all the responses submitted a view regarding this proposal; however, those that did respond to it, other than the subsistence fisher, all supported the inclusion of this provision. DWT favoured some additional clarity regarding this provision with additional wording added to state that a Category 4 Permit Holder will not be able to sell their catch or make any commercial profit from its use.

## Officer Advice

The inclusion of this provision, in a suitable form of wording, would harmonise with other fisheries legislation and meet the D&S IFCA byelaw making principles. As this would be a fixed restriction, not requiring scope for flexibility, it is recommended it would be placed within the re-made overarching Mobile Fishing Permit Byelaw rather than the Category 4 (sand eel trawling) permit conditions. This approach would harmonise with the construction of the Netting Permit Byelaw.

## B&PSC Decision Making

- 3) That a provision that states the following is added to the Mobile Fishing Permit Byelaw:

***A Category Three Permit Holder or named representative must not remove sea fisheries resources except for personal consumption or use as bait.***

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(intentionally blank)



### Consultation Proposal:

- d) A commercial fisher with a Category 3 permit will have no limit on the amount of sand eel that they can catch.

### Response

This proposal was of significant concern to the key environmental organisations that responded. WAG commented that to have no catch limit for commercial fishers could result in over exploitation and environmental damage. It was recommended that rather than have a wait and see approach, D&S IFCA should be pro-active and impose a significant catch restriction that could potentially be relaxed following scientific advice and good evidence to show it could be amended without damaging the environment. DWT took a very similar position and whilst it was recognised that the permit mechanism enables improved monitoring of the activity, the suggestion that no commercial catch limit would be initially imposed for such an important prey species could not be supported. It was suggested that fisheries scientists are consulted regarding a suitable catch restriction which can be monitored and reviewed to ensure a sustainable fishery. The South Devon (AONB) Estuaries Partnership were less precautionary and would prefer a form of words that does allow for catch limitation if the natural population of sand eel diminishes either naturally or through fishing pressure.

Responses from recreational fishers also raised concern that the lack of a catch restriction for commercial fishers is both unfair and does nothing to conserve the species. Some had the expectation that a catch restriction would be imposed, and it would be coupled with monitoring of the activity and catch taken. Responses from commercial fishers supported a lack of commercial catch restriction but it was highlighted that other restrictions within a commercial permit would be an appropriate compromise. Responses highlighted the difficulties of conducting this activity with relatively small vessels, in different tidal and weather conditions and it was believed that these constraints would act as a limiting factor on the levels of fishing undertaken and therefore quantities of sand eel captured. In addition, consideration over potential restrictions on engine power, and limitations on trawl dimensions would have an impact on total catch.

### Officer Comment:

Whilst it is possible within D&S IFCA permits to implement commercial catch limits, to date D&S IFCA has relied on EU or Domestic legislation to meet this aspect of fisheries management. D&S IFCA manages several different fishing activities via permit conditions, however commercial catch limits have not been used in other permits for activities such as mobile fishing (otter trawling and scallop dredging), netting, potting or diving for scallop, crab and lobster. D&S IFCA permits have been utilised to introduce other restrictions such as closed areas, prohibited removal of species, gear restrictions and time restrictions which can have an accumulative effect. The Permit Conditions coupled with the review procedure can be used to accommodate catch limits in the future if there is a need for stock management.

### B&PSC Decision Making

- 4) To consider whether to apply a catch limit within Category Three Permit Conditions.**

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## **Gear Restrictions – Proposals, Questions, Advice & Decision Making:**

Proposed gear restrictions (e – h) were set out as follows:

### **Consultation Proposal:**

- e) A sand eel trawl used by recreational and commercial fishers can have a maximum mesh size (cod end) of 16mm.

### **Response**

There was a limited response to this proposal with commercial operators in agreement with it. The conservation groups are supportive of gear restrictions, however regarding establishing a mesh size, all of them recommended that D&S IFCA consult with fisheries scientists. It was also highlighted by DWT that consistency with mesh sizes already introduced for sand eel seine nets via the Netting Permit Byelaw and any measures introduced by other IFCA's should be a consideration.

### **Officer Advice**

The rationale behind this proposal is based on EU Regulation (2019/1241) rather than the mesh size for seine nets managed by the Netting Permit Byelaw. An extract from Annex VI, part B is set out as Annex 1 in this report:

### **B&PSC Decision Making**

- 5) To consider the introduction of a maximum mesh size of 16mm.**
- .....

### **Consultation Proposal:**

- f) There will be no limit of the overall dimensions of the trawl gear.

### **Response**

There were mixed responses regarding this proposal. Several of the responses including representation from commercial fishers, retired commercial fishers and those with the strongest environmental interest, were not in favour of this proposal.

DWT recommended that a limit be applied to the overall dimensions of sand eel trawl gear to avoid overfishing and to help ensure a sustainable fishery. The South Devon (AONB) Estuaries Partnership were supportive of a trawl dimension limitation from a pre-cautionary standpoint with concern raised over gear interaction with features, excessive bycatch and the sustainability of the sand eel populations themselves.

Several responses indicated that the full package of permit conditions should be utilised to manage the activity with some compromise reached between authorising a potentially larger vessel to undertake the activity, coupled to gear restrictions such as a maximum trawl dimension and possibly an engine horsepower limitation. Feedback during the consultation indicated that the size of a trawl (net only) used by one commercial fisher was 6 fathoms (approximately 12 metres). One commercial fisher with a vessel over seven metres, but under 10 metres in length, highlighted his lack of fishing opportunity due to the current restriction in the Mobile Fishing Permit Byelaw limiting this activity to vessels below seven metres in overall length.

Some other responses were supportive of this proposal implying that excessive regulation would be too much of a burden on fishers. Others commented that by design, a relatively small vessel below seven metres in overall length is already heavily restricted, implying that other factors come into play such as tides, deck space and exposure to the weather.

It was highlighted by one stakeholder that D&S IFCA had introduced gear restrictions for seine nets used within estuaries (via the Netting Permit Byelaw) and having no size limit for a sand eel trawl would not be a consistent approach; however, one commercial fisher was supportive of having no trawl dimension restrictions as he had himself already been impacted regarding the introduction of a seine net (for the capture of sand eel) size restriction within estuaries. He reported that the netting Permit Byelaw had impacted on his business and that his sand eel seine net had needed modification making it unfit for purpose. This commercial fisher stated that if wrong decisions were made regarding size restrictions for sand eel trawls without proper consultation he could be unfairly impacted once again.

### **Officer Advice**

The introduction of sand eel permits, which is a flexible type of management mechanism, would allow for the introduction of a sand eel trawl size either at the outset or after a review of the new permit conditions after their implementation. The introduction of sand eel permits is not an attempt to prohibit the activity or exclude fishers seeking opportunity to fish, rather it is to regulate and monitor the activity in a different way.

A combination of restrictions can be used to best effect and although the activity, until this time, has been limited to vessels below seven metres in overall length, there is some scope to consider increased vessel length coupled to other restrictions such as the introduction of an overall sand eel trawl size limit. Although vessel size is often used in fisheries legislation, it can be problematic regarding fishers (vessels) that fall just outside of the criteria. Officers are not suggesting that no vessel size is considered at all; however, the design of vessels and the engine power available to tow trawl gear is often more of an influencing factor than vessel size.

### **Establishing a Maximum Vessel Length & Gear Restriction**

The overarching Byelaw and the associated permit conditions are intertwined and there is scope to limit vessel size via the permit conditions, rather than as a provision in the overarching byelaw as currently drafted by the Byelaw Technical Working Group. This would be in keeping with other relatively small mobile fishing activities managed via Category Two (Estuary) Mobile Fishing Permit Conditions. These permit conditions limit the size of vessels used within estuary areas dependent on the activity being conducted. The largest vessel that can currently be used within an estuary is limited to under 10 metres in overall length. As sand eel trawling, managed via the introduction of new category three and category four permits, could be conducted outside and into an estuary, officers consider that a 10-metre overall length maximum size should be considered as one of several management provisions. It is also the advice of officers that the B&PSC introduce an overall sand eel trawl gear restriction that they determine to be appropriate. It is known that one commercial fisher currently operates a six fathom (approximately 12 metres) sand eel trawl.

## Consultation

Officers do not advise that additional pre-consultation is conducted to further shape the re-made Mobile Fishing Byelaw and the associated four categories of permit conditions, rather than the B&PSC act on the information already presented or discussed at the meeting. The re-made Mobile Fishing Permit Byelaw and all associated permit conditions will be subjected to formal consultation in 2020 and opportunities will remain for objections to be submitted that relate to the provisions developed and advertised.

Formal consultation responses will be collated and examined by the B&PSC. There will be scope for the B&PSC to make minor changes to the Byelaw and permit conditions at a relatively late stage in the process based on the information and evidence received during the formal consultation.

### **B&PSC Decision Making**

- 6) **To establish the maximum size of a vessel that can be used with a sand eel permit.**
  - 7) **To consider the introduction of an overall size limitation for sand eel trawl gear.**
- .....

### **Consultation Proposal:**

- g) Recreational fishers will not be able to use any mechanical assistance, and must hand haul the sand eel trawl.

### **Response**

Very few of the responses commented on this proposal and those that did including DWT and the South Devon (AONB) Estuaries Partnership were supportive of it. Commercial fishers that responded were also supportive of this proposal with one commenting that the use of mechanical hauling equipment is more suited for use by professional fishers.

### **Officer Advice**

The rationale for this proposal appeared to be understood and was supported by the majority. A provision to restrict the use of mechanical equipment is one way of balancing the needs of fishers.

### **B&PSC Decision Making**

- 8) **To introduce a provision in a Category 4 sand eel permit to prohibit the use of mechanical assistance and to authorise hand hauling only.**
- .....

### **Consultation Proposal:**

- h) A sand eel trawl used by a recreational fisher can only be towed by a single vessel.

### **Response**

Other than responses suggesting that D&S IFCA leave management of the activity completely un-changed, there was minimal objection to this proposal. One self-described subsistence

fisher had the view that recreational fishers should be encouraged to pool resources with increased safety in numbers and protecting the environment forming part of his rationale. Commercial fishers commented that the use of more than one vessel would take skills less likely to be prevalent for recreational fishers and pair trawling, even if it was conducted on a small scale, would be a more appropriate activity for commercial fishers.

### **Officer Advice**

The underlying rationale for this proposal appeared to be understood and was supported by the majority. A provision to restrict recreational fishers pair trawling for sand eels is one way of recognising the different needs of fishers and separating the needs of fishers utilising the separate categories of sand eel permits that will be developed.

### **B&PSC Decision Making**

- 9) To introduce a provision in a Category 4 sand eel permit to prohibit the use of an additional vessel to tow a single sand eel trawl.**

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### **Spatial Restrictions – Proposals, Questions, Advice & Decision Making:**

A single proposed spatial restriction (i) was set out as follows:

#### **Consultation Proposal:**

- i) Commercial and recreational fishers will not be authorised to conduct sand eel trawling in areas that contain seagrass.

### **Response**

From those that commented on spatial restrictions, there was a lot of support for this proposal. One commercial fisher commented that care is needed when defining spatial restrictions, implying that an overly precautionary approach would impact on the livelihoods of commercial fishers. Several responses went beyond commenting on spatial restrictions to protect areas of seagrass, with some in favour of no trawling activity within estuary areas. If it is to be authorised as planned (at sea and within estuary areas), careful monitoring of the activity was advised.

Both DWT and the South Devon (AONB) Estuaries Partnership highlighted a need to protect this feature with suggestions to incorporate a buffer zone around such sites. Pre-cautionary measures were recommended for transitory seagrass sites and new seagrass planting/trial sites. The importance of protecting other sensitive communities such as kelp forests also featured in the environmentally weighted responses. The Wembury Advisory Group urged D&S IFCA to apply more extensive spatial restrictions with no activity authorised in any Marine Protected Area unless there is good evidence that the activity would not cause damage. Regarding specific areas, the Wembury Advisory Group commented that they would not be supportive of any sand eel trawling activity being conducted in the Wembury Conservation Area and would prefer prohibition of the activity within the entire Plymouth Sound & Estuaries European Marine Site. It is the view of the Wembury Advisory Group that sand eels form a significant proportion of the diet of sea bass and spatial restrictions should certainly incorporate those areas where there are measures in place to protect bass.

## Officer Advice

The creation of sand eel permit conditions can incorporate the use of Annexes that can define areas where sand eel trawling can be prohibited. The activity (subject to a length and mesh size limitation) is currently authorised within estuary areas as it falls outside the scope of the existing Mobile Fishing Permit Byelaw. This is one reason why the B&PSC have taken a decision to develop new permit categories to manage this activity in a different way. D&S IFCA recognised its duties and obligations to protect red risk features when the existing Mobile Fishing Permit Byelaw was introduced, but it was determined at that time that vessels under seven metres in overall length using sand eel trawl gear presented no risk to specific features. The existing provisions, including closed areas defined by annexes recognise potentially damaging demersal mobile gear activities. When the existing Mobile Fishing Permit Byelaw is re-made as part of this review, an Impact Assessment will be used to set out the rationale for permitting sand eel trawling activity and limiting access to specific areas. The sand eel permit conditions will be flexible, and the review process can be used to potentially add new spatial restrictions in the future if they are required.

## B&PSC Decision Making

**10) To consider the required initial spatial restrictions that should be incorporated within both categories of sand eel permit conditions.**

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## Time Restrictions – Proposals, Questions, Advice & Decision Making:

There were no proposed time restrictions in the consultation; however, stakeholders were asked the following:

### Consultation Question:

- j) Do you have any suggestions for suitable time restrictions?

## Response

There were mixed views on this open question with some focus on both daily and seasonal time restrictions. Some stakeholders favoured no time restrictions being implemented based on the difficulties of conducting the activity due to weather and tides. Several fishers had the view that fishers need the opportunity to fish whenever the conditions are best suited. Others favoured a dusk to dawn restriction which may help to reassure observers that the activity is legitimate. One commercial fisher recommended that from a health and safety standpoint, recreational fishers are limited to daylight fishing only.

The conservation groups focussed more on seasonal time restrictions. Both DWT and the South Devon (AONB) Estuaries Partnership agreed that as a minimum the spawning/hatching season should be recognised within the permit conditions. The DWT commented in their response that sand eels mature by age 3 and spawn a single batch of eggs in December to January, several months after ceasing to feed. The eggs are deposited on the seabed. The larvae hatch after several weeks, usually in February to March and drift in the currents for one to three months, after which they settle on the sandy seabed. In summary, the DWT suggest a closed season between November and April be applied.

The Wembury Advisory Group (WAG) also supported longer term time restrictions that would include the breeding season along with other periods where the presence of sand eels are important for predator species such as sea birds. WAG commented that bycatch from sand



eel trawling could include juveniles of commercially and ecologically important species, plus protected species such as shad and smelt, and therefore seasonal (and spatial) restrictions should be considered.

## **B&PSC Decision Making**

**11) To consider the implementation of time restrictions within both categories of sand eel permit conditions.**

### **Other Information**

During the consultation, other information was highlighted to stakeholders, more for information rather than to generate a response. The following was highlighted:

- The obligation for permit holders to provide (when requested) any information that the Authority requires for the purpose of discharging its functions. This includes the potential submission of landing data.
- The fee for a permit will be £40 for a two-year period.

### **Response**

#### Suppling Data

There were no strong objections to the inclusion of a provision (within the overarching byelaw) that will enable D&S IFCA to collect information. DWT commented that the supply of landings data must be obligatory for an initial period of time, possibly one year, in order to establish the scale of the fishery and its sustainability. DWT also suggested that studies into the wider ecology and state of sand eel populations should also be carried out to enable an informed review following the initial year of the permitted fishery.

### **Officer Comment**

Permitting sand eel trawling would firstly enable information to be gathered from application forms being completed by fishers wishing to conduct the activity. The inclusion of a provision in the overarching Mobile Fishing Byelaw already exists (paragraph 16) and will be replicated in the re-made Mobile Fishing Permit Byelaw. The provision enables D&S IFCA to collect further data that is requires, although consideration regarding the Authority's resources to collect, cross check and then analyse data will be needed.

### **Response**

#### Permit Fees

There were mixed responses regarding fees for a permit. One stakeholder commented that the charging of a fee is outrageous and is simply a money generating scheme. Another stakeholder suggested that the permit should be free, to encourage applicants to come forward for a permit and become legitimate. Others were not opposed to a fee but wanted clarity that it would not increase within a five-year period and any further increase should be linked to inflation. Other stakeholders raised concern that the £40 fee is larger than the fee charged in other D&S IFCA permits such as Potting, Netting and Diving for shellfish.



## Officer Comment

The rationale for the charging of a £40 fee for a permit will be set out in an Impact Assessment that will accompany the proposed Byelaw during a formal consultation period. On 15<sup>th</sup> August 2019 the B&PSC discussed the principles of setting fees for permits. It was concluded that the principle of full cost recovery for administration be adopted for the fees charged for permits. B&PSC members examined the documented administration costs and based on that information concluded that a £40 fee for a two-year period represents the cost burden to the Authority. When other permit-based byelaws are reviewed, the same consideration regarding fees will apply.

## 5. Annexes & Links to Additional Information

### Annex 1 – Extract from EU Regulation (2019/1241), Annex VI, part B.

#### 1. Baseline mesh sizes for towed gear

1.1 Without prejudice to the landing obligation, vessels shall use a mesh size of at least 120mm or at least 90mm in Skagerrak and Kattegat.

1.2 Without prejudice to the landing obligation, and notwithstanding point 1.1, vessels may use smaller mesh sizes as listed in the following table for the North Sea, Skagerrak and Kattegat provided that:

- (i) the associated conditions set out in that table are complied with, and by-catches of cod, haddock and saithe do not exceed 20% of the total catch in live weight of all marine biological resources landed after each fishing trip; or
- (ii) other selectivity modifications are used which have been assessed by STECF upon request of one or more Member States and approved by the Commission. Those selectivity modifications shall result in the same or better selectivity characteristics for cod, haddock and saithe as that of 120mm.

| Mesh Size      | Geographical Areas       | Conditions  |
|----------------|--------------------------|---|
| At least 100mm | North Sea south 57° 30N  | Directed fishing for plaice and sole with otter trawls, and seines. A square mesh panel of at least 90mm shall be fitted.   |
| At least 80mm  | ICES Divisions 4b and 4c | Directed fishing for sole with beam trawls. A panel with a mesh size of at least 180mm fitted in the upper half of the anterior part of the net shall be fitted. Directed fishing for whiting, mackerel and species not subject to catch limits with bottom trawls. A square mesh panel of at least 80mm shall be fitted. |
| At least 80mm  | North Sea                | Directed fishing for Norway lobster ( <i>Nephrops norvegicus</i> ). A square mesh panel of at least 120mm or sorting grid with a maximum bar spacing of 35mm or equivalent selectivity device shall be fitted. Directed fishing for species not subject to catch limits and which are not covered                         |

|  |  |   |
|--|--|---|
|  |  | elsewhere in the table. A square mesh panel of at least 80mm shall be fitted. Directed fishery for skates and rays.   |
| At least 80mm                                      | ICES division 4c                         | Directed fishing for sole using otter trawls. A square mesh panel of at least 80mm shall be fitted.   |
| At least 70mm (square mesh) or 90mm (diamond mesh) | Skagerrak and Kattegat                   | Directed fishing for Norway lobster ( <i>Nephrops norvegicus</i> ). A sorting grid with a maximum bar spacing of 35mm or equivalent selectivity device shall be fitted.   |
| At least 40mm                                      | Whole area                               | Directed fishing for squid ( <i>Lolignidae, Ommastrephidae</i> ).   |
| At least 35mm                                      | Skagerrak and Kattegat                   | Directed fishing for Norway prawn ( <i>Pandalus borealis</i> ). A sorting grid with a maximum bar spacing of 19mm or equivalent selectivity device shall be fitted.   |
| At least 32mm                                      | Whole area except Skagerrak and Kattegat | Directed fishing for Norway prawn ( <i>Pandalus borealis</i> ). A sorting grid with a maximum bar spacing of 19mm or equivalent selectivity device shall be fitted.   |
| At least 16mm                                      | Whole area except Skagerrak and Kattegat | Directed fishing for small pelagic species which are not covered elsewhere in the table. Directed fishing for Norway pout. A sorting grid with a maximum bar spacing of 35mm in the Norway pout fishery shall be fitted. Directed fishing for common and Aesop shrimps. A separator trawl or sorting grid must be fitted in accordance with national or regionally established rules. |
| <b>Less than 16mm</b>                              | <b>Whole area</b>                        | <b>Directed fishing for sandeel.</b>  |

## Hyperlinks

[\*\*The Five-Year Review of the Byelaw – Overview & Planning Report \(30<sup>th</sup> July 2019\)\*\*](#)

[\*\*A Progress & Discussion Report for the B&PSC – Advanced drafts produced by the Byelaw Technical Working Group \(29<sup>th</sup> October 2019\)\*\*](#)

[\*\*Mail Chimp \(PDF\) – Sand eel Trawling - Have Your Say – The Development of Permit Conditions\*\*](#)

[\*\*D&S IFCA Website Resource Library\*\*](#)

[\*\*D&S IFCA Website Consultation Page\*\*](#)

[\*\*EU Regulation \(2019/1241\).\*\*](#)

End of Report.