



The Development of Permit Conditions to Manage Sand eel Trawling

**A Discussion & Decision-Making Paper for the Byelaw and
Permitting Sub-Committee**

31st July 2020

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1. Introduction

This officer paper has been prepared for members of the Devon and Severn Inshore Fisheries and Conservation Authority's (the Authority) Byelaw and Permitting Sub-Committee (B&PSC) and for all stakeholders to examine via its publication on the D&S IFCA website. It provides background information and focusses on how elements of sand eel trawling can be managed via the development of new categories of permit conditions that will be issued in accordance with a re-made Mobile Fishing Permit Byelaw.

This report includes some embedded information (hyperlinks) that provide additional reference information such as past B&PSC meeting minutes and relevant reports presented to date. The task for the B&PSC is to consider the background information and the officers' resolutions that form part of this document.

2. Background

For the benefit of stakeholders and members of the B&PSC, that may be less familiar with past development work, this section provides a record of progress and decision making to date.

2.1 The Five-Year Review of the Mobile Fishing Permit Byelaw

The current Mobile Fishing Permit Byelaw must be reviewed after a five-year period and this work began in 2019. A report ([The Five-Year Review of the Byelaw - Overview & Planning Report – 30th July 2019](#)) was presented to the B&PSC on 15th August 2019.

The above report highlighted the scale of the overall task, elements of the Byelaw that would be suitable for potential amendment and how the Byelaw Technical Working Group (BTWG), acting on behalf of the B&PSC, had already considered different aspects of the task. The BTWG have no decision-making remit and in order to proceed needed (and continue to need) additional clarity on how to continue drafting the Byelaw and associated permit conditions.

Many of the questions posed to the B&PSC on the 15th August 2019 were resolved, however it was the view of members that the activity of sand eel trawling should be managed in a different way that is more precautionary as compared to the current situation.

The monitoring of the activity in terms of numbers of fishers engaged, coupled with the ability to collect landings, or other relevant data, was viewed as the goal. A provision in a re-made Mobile Fishing Permit Byelaw can cater for the collection of landings data, but only from those issued with a permit. The development of permits to authorise sand eel trawling will enable the Authority to gain an insight into the total numbers of commercial and recreational fishers that conduct the activity, whilst introducing proportionate restrictions for the different sectors.

2.2 Byelaw Technical Working Group (BTWG)

Following the B&PSC meeting on [15th August 2019](#), additional drafting work of the overarching Mobile Fishing Permit Byelaw and the Category One and Two Permit Conditions was conducted by the BTWG. The output of this work was presented to the B&PSC on 14th November 2019 in a [BTWG progress report \(Oct 2019\)](#).

The BTWG provided recommendations regarding the management of sand eel trawling and how this would not be possible via the existing categories of permit conditions that manage mobile fishing activity in defined locations.

- Category One Permits manage mobile fishing activity at sea.
- Category Two Permits manage limited mobile fishing activity in defined estuaries.

As the activity is conducted legitimately at both sea and on occasions past estuary closing lines, it was the advice of the BTWG that new categories of permit (Categories Three and Four) would need to be developed in order to manage the activity of sand eel trawling for commercial and recreational fishers. Rather than attempting to establish all initial permit conditions, the B&PSC concluded that consultation would be of benefit to inform the restrictions that should be applied in new sand eel trawl permit conditions. Restrictions would be based on the standardised format of catch, gear, spatial and time. Members of the B&PSC with a fishing background helped to establish a series of proposals for potential restrictions to apply and these suggested restrictions were highlighted in the consultation that followed.

2.3 Consultation and B&PSC Meeting (11th February 2020)

Officers prepared a “Have Your Say” consultation exercise that was conducted between December 2019 and January 2020. The proposals relating to the activity were intended to help generate a response and offer the opportunity for any counter views to be submitted. The consultation response was documented in the following report which was presented to the B&PSC on 11th February 2020:

[A Summary of Response from the Consultation on Proposals to Manage Sand Eel Trawling via Permit Conditions \(29th January 2020\) – Discussion & Decision-Making Report.](#)

As well as documenting the consultation response, the report highlighted officer advice and a series of decision-making items intended to provide the framework for more advanced drafting of Category 3 (commercial) and Category 4 (recreational) sand eel trawling permits. These permits could be introduced when the Mobile Fishing Permit Byelaw is re-made as part of its five-year review. At the B&PSC meeting held on 11th February 2020, the B&PSC agreed to different aspects of catch, gear, spatial and time restrictions as follows:

Catch Restrictions:

1. That a recreational fisher with a Category 4 Sand Eel Permit may retain up to 15kg of sand eel per calendar day.
2. A recreational fisher with a Category 4 permit will not be able to sell their catch.
3. That a catch limit is not set for commercial fishers with a Category 3 sand eel Permit.

Gear Restrictions

4. That a maximum trawl mesh size (cod end) of 16mm will apply in a Category 3 and Category 4 sand eel permit.
5. That a maximum size of vessel that can qualify for a Category 3 and Category 4 sand eel permit shall be 10 metres in overall length.
6. That a provision in a Category 4 sand eel permit be developed to prohibit the use of mechanical assistance and to authorise hand hauling only.
7. That a provision in a Category 4 sand eel permit be developed to prohibit the use of pair trawling.

Spatial Restrictions

8. That commercial and recreational fishers will not be authorised to conduct sand eel trawling in areas that contain seagrass.

Time Restrictions

9. That commercial and recreational fishers will be authorised to conduct sand eel trawling in daylight hours only.

2.4 Establishing Overall Dimensions for Sand Eel Trawl Gear

It was reported to members that a proposed sand eel trawl size (length) had not been suggested within the consultation, but consultation responses demonstrated some support for this approach. Careful consideration would be needed as there could be an unintended impact on vessels below seven metres in length already conducting the activity with different length sand eel trawls. Based on the responses received it was known that one commercial fisher uses a sand eel trawl that is about six fathoms (approximately 12 metres) in length.

Additional information relating to other commercial fishers operating in the Teignmouth area demonstrated that these fishers (acting as a pair team) use a larger net of approximately 50 metres in length. Although the net is a modified seine/ring net with no trawl doors, the use of such a net, coupled to wording used within the draft Mobile Fishing Permit Byelaw and permit conditions, could be regulated as part of a Category Three (Commercial) sand eel trawl permit.

It was further explained to members that the possibility existed within sand eel trawl permits to impose a trawl length size for vessels between seven metres and ten metres in overall length, but not restrict vessels below seven metres in the same way.

Members formed the following recommendation:

That officers produce a report to further explain what form the permit conditions will take to separate trawl length restrictions for different size vessels below 10 metres in overall length using the gear.

3. Permit Conditions for Introducing Overall Dimensions for Sand Eel Trawl Gear

The intention of introducing permit conditions for sand eel trawling needs to balance against the needs of fishers that already undertake the activity and other relevant considerations. Demonstration of the type of fishing gear used and how it is used has already provided members some reassurance that the activity is low impact as compared to some other forms of mobile fishing.

Further investigation by officers in 2020 indicate that fishers from Teignmouth that conduct fishing for sand eel do operate outside the closing line for the Teignmouth Estuary and, during the hauling operation, will cross the closing line. The vessels being used are below seven metres in overall length and do not have mobile fishing permits. This activity is legal as any vessel below seven metres in length (using a net with a mesh size of less than 31mm to fish for sand eels) is not currently required to obtain a permit issued under the Mobile Fishing Permit Byelaw. This will change when the Mobile Fishing Permit Byelaw is re-made, and new categories of permit conditions developed.

It should be noted that commercial vessels over seven metres in length can currently operate sand eel trawls of any length in “at sea areas” providing they have a Category One Mobile Fishing Permit and adhere to the conditions imposed within the Permit. The disadvantage of this is that all vessels over seven metres in length issued with a Category One Permit need to have a fully functioning, remotely accessed electronic reporting device (VMS) and remain outside of the estuary closing lines. This would produce a relatively high financial outlay for those fishers wishing to take this route and access areas for the low impact sand eel trawling activity would be more restricted.

In addition; the restrictions implemented within all Netting Permit Conditions have a bearing on the development of permit conditions for sand eel trawling. The use of a seine net for the capture of sand eel is permitted within estuary areas; however, the maximum length of net that can be used is 20 metres in length.

This report for the B&PSC is not intended to act as an exercise for legal drafting. The BTWG will review the legal wording during further development work, but the following provides an example of how the Byelaw (when re-made) and associated permit conditions will function to potentially address the issue of trawl length. To limit confusion, the phrasing “relevant fishing vessel” and “non-relevant fishing vessel”, as set out in the paragraphs below, will be linked to interpretations within the Byelaw and is simply to separate permit issue to commercial and recreational fishers.

3.1 Relevant Section of the Byelaw:

The Authority may authorise fishing with a sand eel trawl from a named relevant fishing vessel in any part of the District by issuing a Category Three Permit with or without conditions to the owner of that vessel.

The Authority may authorise fishing with a sand eel trawl from a named non-relevant fishing vessel by issuing a Category Four Permit with or without conditions to the owner of that named vessel.

3.2 Relevant Sections of Category Three & Four Sand Eel Permits

Different sections of both the Category Three and Category Four Sand Eel Trawl Permits will be used to accommodate the restrictions already agreed by the B&PSC. Regarding the length of vessel and the size of a sand eel trawl, the following is an example of how the permit conditions (applicable to both commercial and recreational fishers) can apply.

Gear Restrictions:

As provided by paragraph XX (x) of the Devon and Severn IFCA Mobile Fishing Permit Byelaw, the following Permit Conditions apply:

Fishing for Sand Eel

- 1.1 A Permit Holder or Named Representative is not authorised to fish for sand eel using any vessel exceeding 10 metres in overall length.
- 1.2 A Permit Holder or Named Representative is not authorised to fish for sand eel otherwise than where;
 - a) fishing is conducted with a sand eel trawl with a maximum mesh size (cod end) of 16mm and;
 - b) vessels of seven metres or more in overall length operate a sand eel trawl that does not exceed 20 metres in overall length.

There will be discussion with the Marine Management Organisation regarding the landing obligations; however, it is the intention in the sand eel trawl permits that only sand eel can be removed from the fishery.

The absence of a sand eel trawl length restriction for vessels below seven metres in overall length as set out in the permit condition example (paragraph 1.2), would enable existing commercial fishers to continue with their present method of operation, although they would still be impacted by the new restrictions within the Category Three Permit.

Restrictions within new sand eel trawl permits will be used to add protection to features such as sea grass (via the use of annexes) and the flexibility offered by the permit mechanism (with a review process) provides the opportunity, via inclusive consultation, for conditions to be amended, removed or added to over time.

3.3 Recognising Differences for Other Fishing Methods

Sand eel trawling activity conducted by the commercial Teignmouth fishers is likely to be conducted (when hauling) marginally within the estuary as it is currently defined, and this will be permissible if the permit conditions are developed as set out in this report. Sand eel trawling activity and its management can be monitored and reconsidered over time; however, the approach as set out unfortunately presents an unbalanced approach regarding the management of different fishing methods.

Separate categories of netting permits divide commercial and recreational fishers but not areas such as “at sea” or “estuaries”. Commercial and recreational netting permits allow the permit holder to operate nets at sea and within estuaries, subject to the permit conditions. Commercial and recreational netters with a netting permit that fish for sand eel are restricted within an estuary to the use of a seine net with a maximum length of 20 metres. A mesh size restriction applies, and only sand eel can be removed. Commercial fishers that operate nets outside of estuary closing lines have no net length restriction. It is possible that a minor amendment to the estuary closing line in Teignmouth (and other areas if required) can be considered in due course to provide a more balanced approach. A slight shift landward of the Teign Estuary closing line as set out in the Netting Permit Conditions would provide similar access (slightly greater access) for commercial netters working “at sea” areas for the capture of sand eel. The Netting Permit Conditions are planned to be subjected to a three-year review beginning in 2021.

4. Officers’ Proposals

Proposal 1:

That vessels below seven metres in overall length issued with a Category Three or Four Sand Eel Permit have no length restriction on the trawls being used.

Proposal 2:

That vessels of seven metres in overall length and below ten metres in overall length issued with a Category Three or Four Sand Eel Permit are restricted to the use of a sand eel trawl with a maximum length of 20 metres.

Proposal 3:

That the BTWG continue drafting work of the Mobile Fishing Permit Byelaw and all associated permit conditions to recognise the decision making of the B&PSC as documented.

Proposal 4:

That the estuary closing lines are examined during the three-year review of the Netting Permit Conditions.

5. Embedded Information (Hyperlinks)

- [The Five-Year Review of the Byelaw - Overview & Planning Report – 30th July 2019](#)
- [B&PSC Minutes \(15th August 2019\)](#)
- [BTWG Progress and Discussion Report for the B&PSC \(Oct 2019\)](#)
- [A Summary of Response from the Consultation on Proposals to Manage Sand Eel Trawling via Permit Conditions \(29th January 2020\) – Discussion & Decision-Making Report.](#)

End.