



Mobile Fishing Permit Byelaw

Progress & Revised Planning Report to Complete the 5 Year Review

For Presentation to D&S IFCA's Byelaw & Permitting
Sub-Committee

3rd June 2021

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Version Control

Version	Date	Author/s	Comments
1.0	3 rd June 2021	N. Townsend	Prepared for the B&PSC Meeting to be held on 24 th June 2021
1.1	12 th July 2021		Timetable amended to reflect revised B&PSC meeting date. Report re-published on D&S IFCA's website. No other changes.

1. Introduction & Objectives

The ultimate aim is completion of the Five-Year Review leading to the formulation of a revised (re-made) Mobile Fishing Permit Byelaw and a completed set of permit conditions that will accompany the new Byelaw. This Progress and Planning Report does not contain any recommendations for decision making; rather it acts as a reference document so all readers have a better understanding of what actions will be taken during the remainder of the process.

1.1 Objectives:

- a) To provide an overview of progress to date.
- b) To provide an updated course of action that will now be undertaken to continue with the Five-Year Review and complete the task.
- c) To recognise specific Key Tasks as set out in the Annual Plan 2021-22

1.2 Annual Plan 2021-22

The Mobile Fishing Byelaw came into force in 2014 and must be reviewed. Work began in 2019; however, it is far from complete. [D&S IFCA's Annual Plan for 2021-22](#) lists two key tasks associated with this workstream.

KT005

To present an officer "Planning Report" to the Byelaw and Permitting Sub-Committee (B&PSC) which identifies potential weaknesses or suggested potential changes to the overarching Mobile Fishing Permit Byelaw (and associated permit conditions). The plan will also identify areas where pre-consultation may be required and identify potential changes in management within the regulatory framework.

KT006

Consideration by the B&PSC of potential management of mobile gear activities to protect Mariculture Sites within the D&S IFCA's District.

1.3 Progressing the Work & Decision Making

The revised plan to complete the review will include Officer work, additional drafting work by the Byelaw Technical Working Group (BTWG) and decision making at key stages by the Byelaw and Permitting Sub-Committee (B&PSC). At each decision-making stage, relevant information and Officers' papers will be presented to the B&PSC.

When at an advanced state the re-made Mobile Fishing Permit Byelaw (and all permit conditions) will be presented to the B&PSC with an accompanying Impact Assessment. The B&PSC will then have the opportunity to "make" the Byelaw as part of the process and Defra will be notified, in advance, regarding the intention to "make" (in this case re-make) the Mobile Fishing Permit Byelaw.

The re-made proposed byelaw and associated permit conditions can then be subjected to formal consultation as a package of information. The process will then continue, as highlighted later in this plan, but it will eventually be outside of the control of D&S IFCA. It is ultimately for the Secretary of State to determine if the re-made Mobile Fishing Permit Byelaw will be signed and then introduced. An estimated timetable for delivery is set out later in this plan. If required, the timetables for completion of the work will be updated, re-presented to B&PSC Members and re-published.

2. Byelaw Technical Working Group

The Byelaw Technical Working Group (BTWG) was established by the B&PSC and consists of any Member of the B&PSC as well as selected D&S IFCA Officers and D&S IFCA's prosecuting solicitor. The role of the BTWG is to conduct technical elements of byelaw related work such as drafting legal documentation relevant to support the functions of the B&PSC. The BTWG has its own [Terms of Reference](#), which were established and agreed in 2019. The work of the BTWG must be reported to the B&PSC for decision making.

3. Progress to Date

Several Officers' reports relevant to this review have been presented to the B&PSC since 2019, all of which have been published on D&S IFCA's website. Previous reports have identified weaknesses within the existing Mobile Fishing Permit Byelaw and suggested amendments to address those weaknesses. The most significant report to date was presented to the B&PSC in 2019 and was the first planning report associated with this review of the Mobile Fishing Permit Byelaw.

[Overview & Planning Report for the Byelaw & Permitting Sub-Committee \(30th July 2019\)](#)

The report, presented in 2019, included a series of decision-making elements that provided the basis for some key changes to the overarching Mobile Fishing Permit Byelaw and the associated permit conditions. The report, from 2019, and subsequent reports to date (focussed on differing elements of the review) and the decisions of B&PSC Members, as recorded in the minutes from those meetings, have driven the work to date. Decision making of the B&PSC has been influential to inform the drafting work conducted to date for both the overarching byelaw and the associated permit conditions.

3.1 Drafting Work and B&PSC Decisions to Date

The BTWG have already begun the task of scrutinising the current Byelaw and the Permit Conditions. Working documents were prepared for a meeting of the BTWG which was held on the 16th of July 2019. The BTWG have no delegated decision-making powers but have been able to identify parts of the current Byelaw and the associated Permit Conditions that were suitable, at that time, to be considered for potential amendment. The work to date of the BTWG has been reported to the B&PSC and has led to some key decision making for the B&PSC. Some key decision making to date includes:

- A need to strengthen the interpretations used in the Byelaw and the Permit Conditions
- A requirement to re-word all categories of the Permit Conditions to interlink with revised interpretations.
- To increase the fee payable for a permit to £40 for a two-year period (revised principle)
- To make a series of changes to Category One (at sea) Permit Conditions including adding restrictions to recognise a need to protect features such as rocky reef and seagrass (expansion of seagrass in Torbay)
- To make a series of changes to Category Two (estuary) Permit Conditions
- To introduce management for sand eel trawling for both commercial and recreational fishers
- Key management measures (restrictions) have been agreed for both commercial and recreational sand eel trawling.
- To produce updated Annexes that accompany the Permit Conditions (relating to all categories of the Mobile Fishing Permit Conditions).

4. Delays & Officer Work

Due to the type and the number of changes required to both the overarching Byelaw and the associated Permit Conditions, it has become impossible to separate these two separate elements in the Five-Year Review. The two separate entities are interlinked, and this adds complexity and has impacted on the timetable for delivery. Pre-consultation on differing elements of potential management has taken time to complete and the Covid-19 pandemic has had an impact on aspects of Officer work and the scheduling and length of B&PSC meetings. Further potential delays are outside of the control of Officers as some elements, that will be influential in to complete the task, remain as unknown quantities.

4.1 B&PSC Deferred Decisions

In August 2019, the B&PSC deferred several decisions regarding access for fishing vessels. These included:

- The use of demersal towed mobile gear on protected features (other than rock) within the Bideford to Foreland Point MCZ.
- Options for access for demersal mobile fishing gear within the Start Point to Plymouth sound SAC.
- Consideration of continuing access for demersal mobile fishing gear within the Skerries Bank and Surrounds MCZ.

In all the above cases, further data, completed environmental assessments and formal advice from Natural England will enable the B&PSC to complete the decision-making process. A decision will be needed in due course on the above, as it will inform the proposed management measures to be applied in a Category One (at sea) Permit.

- **It is expected that the relevant information will be presented to the B&PSC in December 2021 for decision making.**

4.2 Chart Production (Annexes) & GIS

The permit system adopted by D&S IFCA requires the use of Annexes that work in tandem with the permit condition wording (spatial restrictions). The remade Mobile Fishing Permit Conditions will require multiple charts to be developed and it has been recognised that D&S IFCA has lacked the adequate staffing resource to complete this essential work. Whilst most D&S IFCA Officers are GIS trained there is limited time available for officers to review all the charts products produced to date. This is a key area of work for 2021-2022 and establishing consistency in chart production across all products is paramount.

D&S IFCA has been able to use General Reserves to fund a one-year fixed term appointment of a GIS Officer. The deadline for applications was 21st May 2021 and it is envisaged that the successful applicant will begin producing a portfolio of map and chart products during 2021 using GIS that will then be used to support D&S IFCA's management of fishing activities. Although updated charts will be needed to support the finalised Permit Conditions, if the remade byelaw is to be signed by the Secretary of State, it will not necessarily interrupt any additional pre-consultation or formal consultation (the Byelaw and the Permit Conditions).

4.3 Technology & Opportunities for its Use

Further opportunities will be considered in due course which relate to the continuing use of Inshore Vessel Monitoring Systems and, potentially the greater use of this and other technology.

At present all Mobile Fishing Vessels operating at sea (>6.99m and <15.25m) in D&S IFCA's District must have at least one IVMS unit fully functioning. Although byelaws can be more restrictive than national legislation, they cannot be less restrictive, and it is essential that the re-made Mobile Fishing Permit Byelaw recognises this.

The national roll out of this form of technology and the introduction of a new Statutory Instrument will be influential in how the Mobile Fishing Permit Byelaw and associated Permit Conditions will be constructed. When national type approval is determined, this can be recognised in the Permit Conditions and other factors such as the required transmission rates in differing areas will be a key consideration in additional drafting work.

This review can recognise the opportunity to require vessels operating at sea to have one or more remotely accessed electronic reporting device fitted to those vessels. This has particular significance in relation to units potentially failing at sea and what actions fishers are then required to undertake in accordance with permit conditions. An increased selection of approved units also has significance in how officers envisage that commercial sand eel trawling can be managed via permit conditions. Although all commercial vessels will be required to have vessel monitoring fitted, it is envisaged that all commercial vessels, solely trawling for sand eels, will not be required to have more than one unit fitted to their vessels.

D&S IFCA is also involved in a project to trial on board cameras on trawlers and scallop dredgers. It is unlikely that this trial work will be at an advanced enough stage to become a consideration for the B&PSC as part of this specific review. However, the framework for the re-made Mobile Fishing Permit Byelaw (and associated permit conditions) will enable new technology to be incorporated either before the re-made Mobile Fishing Permit Byelaw is officially advertised for formal consultation or at a later date as part of a future review of the new permit conditions after they are introduced.

Officers will seek and gather further information during 2021 that can be reported to the B&PSC. This will include updates on potential funding opportunities that may be afforded to fishers regarding the purchase and installation of new technology.

- **Regarding Technology and National Influences, Officers expect to have more information available to present to the B&PSC after August 2021.**

4.4 Gear Conflict – IPA & Mariculture Strategy

The review will enable the B&PSC to consider other factors that relate to potential access for fishers and to recognise potential gear conflict. This is significant in relation to potential changes to the Inshore Potting Agreement Areas (IPA) - (Licence Condition) that has also influenced the development to date of spatial management within the Category One Permit Conditions. If the areas of the IPA are amended later in 2021, this will potentially influence the spatial areas (restrictions) as set out in the Category One Permit Conditions and associated Annexes (charts for fishers).

The B&PSC may also determine that changes to management would be beneficial to recognise the content of [D&S IFCA's Mariculture Strategy](#). This Strategy was adopted by the

Authority in 2020 and has multiple aims including recognising spatial conflict with existing fisheries. To recognise actions (**Ref-B2** of the Mariculture Strategy), officers will (as part of this review plan for the Mobile Fishing Permit Byelaw) submit relevant recommendations to the B&PSC regarding the protection of mariculture sites within the District from the potential interaction with mobile fishing vessels.

5. Moving Forward

5.1 Sand Eel Trawling

The B&PSC has already determined that this form of commercial and recreational fishing activity should be managed via Permit Conditions; however, the challenge to date has been how best to achieve this goal. Officers have tested drafting work to date and have concluded that it is possible to manage sand eel trawling via the existing Category One (at sea) Permit Conditions and the introduction of an addition new Permit, solely for recreational fishers conducting sand eel trawling (Category Three Permit).

5.2 Drafting Work & Restrictions for Sand Eel Trawling

Officers have been able to accommodate all the restrictions that the B&PSC have determined to be suitable to date within draft Category One Permit Conditions (commercial) and within a new Category Three Permit (recreational sand eel trawling). Restrictions include:

- Any permitted vessel will be limited to a maximum of 10 metres in overall length
- A maximum length of trawl (20 metres) to be applied for vessels between 7 and 10 metres in length
- A maximum mesh size (cod end) of 16mm
- The protection of sea grass areas – Defined sites where the activity is prohibited
- Recognition of the Landing Obligation (commercial fishers)
- A catch restriction to apply for recreational fishers (15kg of sand eel per calendar day)
- No pair team activity will be authorised for recreational fishers
- Fishing for recreational fishers will be limited to daylight hours

Additional Restrictions for Recreational Fishers

Although yet to be determined by the B&PSC, the drafting work will include a further restriction for recreational fishers relating to the storage of sand eels. A prohibition can be included that will harmonise with recreational permits issued for other fishing activity. The provision would prohibit the use of any container or any other device to store any sand eel unless it was attached to the vessel.

5.3 Closing Lines for Estuaries

Closing lines (across estuaries) are current used to separate “at sea” mobile fishing activity and limited “estuary” mobile fishing activity and this approach will continue within the drafting work. The closing lines effectively separate two different categories of Permit (Category One and Two). Sand eel trawling presents a complication as this activity as vessels below 7 metres in length using a defined mesh size are not currently restricted to any specific area via the existing Mobile Fishing Permit Byelaw (or associated Permit Conditions).

Officers are aware that the existing closing lines including the Exe, Teign, Salcombe and possibly the Taw Torridge are more than likely crossed by vessels conducting sand eel trawling during their fishing operations. The distances crossed into estuaries is not thought to be very far and it is important to recognise that this crossing of estuary closing lines by vessels

below 7 metres in length is not currently illegal, providing the correct mesh size is used for the sand eel trawl.

For the re-made Permit Conditions to function as Officers envisage, more information from fishers conducting sand eel trawling will be beneficial. Additional information may help to determine how far fishers using sand eel trawls need to go into the estuaries as part of their fishing operations. This additional pre-consultation will lead to the B&PSC being able to determine to what extent amendments to relevant estuary closing lines could potentially be accommodated, and in turn this will form the basis for additional drafting work (Permit wording and chart production).

An additional complication will relate to sand eel trawling in areas near to or just within Salcombe Estuary. Part of this area in question is within current Annex 5 of the Mobile Fishing Permit Conditions. Although there are limited access areas, the majority of the site is prohibited as described in the Category One Permit Conditions (Paragraph 3.5) The current restriction sets out that:

In the areas as defined by the coordinates set out in the attached Annex 5 of this Permit (part of Start Bay, Start Point to Plymouth Sound and Eddystone Site of Community Importance, part of the Skerries Bank and Surrounds Marine Conservation Zone and part of the South Devon Inshore Fishing Grounds known as the Inshore Potting Agreement Areas), a permit holder or named representative is not authorised to use demersal mobile fishing gear except where;

(The present Category One Mobile Fishing Permit goes on to list some limited access areas subject to time restrictions)

The Category One Permit Conditions therefore currently prohibit all forms of demersal fishing activity in areas immediately outside of the estuary closing line. Drafting work in combination with a change in the annexes that are used to prohibit activity and also provide access areas (subject to conditions) can recognise this complication. As access could potentially be permitted for the use of this lightweight form of demersal fishing gear on sandy areas, an assessment will be undertaken by D&S IFCA's Environment Officers. The findings of the assessment and any advice received by Natural England will be reported to the B&PSC.

6. Actions & Timetable

To complete the review of the Mobile Fishing Byelaw and to get to a position where a re-made Mobile Fishing Permit Byelaw can be "made" by the B&PSC, a series of actions, including decision making by the B&PSC must be undertaken.

Initial Action – Pre-Consultation.

Officers will conduct pre-consultation regarding estuary closing lines to determine to what extent they would impact existing sand eel trawling activity without amendment. Pre-consultation will be conducted in line with [D&S IFCA's Communication Strategy](#) and will include direct notification (Mail Chimp) as well as being supported by use of the website and social media. The findings will be presented to the B&PSC at the next scheduled meeting and will help B&PSC Members to determine what scope there may be to potentially amend some of the estuary closing lines to accommodate regulated sand eel trawling activity.

The Estimated Timetable

Date/Month	Event/Responsibility	Action
July 2021	B&PSC Meeting	Consider the content of this plan
July/August 2021	Officer Work	Communication work - Pre-consultation regarding Sand Eel Trawling (estuary closing lines)
		New GIS Officer continues and begins work on portfolio of chart products
August 2021	Officer Work	Finalise relevant MPA Assessments and submit to Natural England
		Prepare a report on the findings of the sand eel (estuary closing line) consultation.
September 2021	Natural England Advice	Formal advice expected to be received from NE regarding MPA Assessments
	B&PSC Meeting	To consider the findings of the pre-consultation on sand eel trawling (estuary closing lines)
September 2021 (onwards)	BTWG	BTWG continue with drafting work that is flexible enough to accommodate known and unknown factors
December 2021	B&PSC Meeting	Consider recommendations relating to Mariculture Sites and any relevance to Mobile Fishing Permit Conditions
		Consider findings of all relevant MPA Assessments/Advice from NE
		To consider the outcomes from the Inshore Potting Agreement (IPA) meeting that may impact the Mobile Fishing Permit Conditions
		To consider the use of Technology and how this may influence permit conditions
January 2022	Officer Work/BTWG	Finalise Mobile Fishing Byelaw and associated permit conditions ready for formal consultation
	Officer Work	Prepare an Impact assessment for formal consultation
		Notify Defra regarding the intention to "make" the re-made Mobile Fishing Permit Byelaw
February 2022	B&PSC Meeting	The B&PSC consider "making" the re-made Mobile Fishing Permit Byelaw
February/March 2022	Officer Work	Notice placed in newspapers about the intention to make the Byelaw. A Call for Information exercise circulated (direct notification using email and post) with information/news also posted on the website and Face Book.
April 2022	Officer Work	Manage responses to the formal consultation/prepare report
May 2022	B&PSC Meeting	Findings of the consultation discussed. Objections to be managed. Consider amendments
		Vote to potentially submit the Mobile Fishing Permit Byelaw for confirmation by the Secretary of State
May/June 2022	Officer Work	Create Final Impact Assessment to accompany final draft of the Mobile Fishing Permit Byelaw
June 2022	Officer work	D&S IFCA sends Mobile Fishing Permit Byelaw and awaits confirmation /MMO QA phase.

7. Additional Information

7.1 Documenting the Process and Updates

Officers will update members on the status of the delivery timetable, which will be adjusted as required. As with all D&S IFCA byelaw related working, the complete process will be documented. In the interests of safeguarding the reputation of the Authority and providing full transparency to stakeholders. Documented work will form the basis of other requirements such as the creation of Impact Assessments. At the end of the process a final Byelaw Development Report will be created as D&S IFCA publications go beyond the typical use of Impact Assessments and will be used to support the mandatory requirements.

7.2 Impact Assessments

A consultation Impact Assessment and a final Impact Assessment must and will be created and used during this re-make of the Mobile Fishing Permit Byelaw process. Consultation must be conducted, and the new Mobile Fishing Permit Byelaw must be advertised in due course.

7.3 Following the Process & Links to Information

D&S IFCA's website is used to publish all B&PSC reports and the minutes (when approved) from those meetings. Members of the B&PSC and stakeholders are encouraged to visit the website for a range of information relating to this review of the Mobile Fishing Permit Byelaw.

Key pages to monitor include:

- [Latest News & Information Items Page](#)
- [Engagement & Have Your Say Page](#)
- [Authority Meetings Page](#)

For more in-depth information areas of the website include:

- [Section B of the Website Resource Library \(B&PSC papers and Minutes\)](#)
- [Section F of the Website Resource Library \(Byelaw Development & Impact Assessments\)](#)
- [Section H of the Website Resource Library \(Environment & Research\)](#)

7.4 Background Information – The Authority & the B&PSC

To find out more about the Authority please visit the dedicated D&S IFCA website display page:

- [Who We Are & Our Core Work - Devon and Severn IFCA](#)

The core work conducted by the B&PSC enables D&S IFCA to complete its functions as set out in the Marine and Coastal Access Act 2009. Byelaw related work or reviews of how D&S IFCA manages fishing activity is complex and therefore this Authority has created the B&PSC to conduct this type of work on behalf of the Full Authority. The B&PSC has delegated powers and therefore the B&PSC is the decision-making body for fisheries and conservation management.

- [Guide to the Work of the B&PSC \(September 2019\)](#)

End of report.