

Developing the Mobile Fishing Permit Byelaw & Associated Permit Conditions

BTWG Recommendations

1. That the scope of Exemptions that can be issued by the Authority is expanded beyond scientific, stocking or breeding purposes.

2. That new restrictions are applied within a “Specified Information” section of both Category One and Category Two Permit Conditions.

Drafting by the Byelaw Technical Working Group

The Byelaw Technical Working Group (BTWG) have met on several occasions to undertake drafting work on the Mobile Fishing Permit Byelaw and the associated Permit Conditions. The drafting work has recognised decision making by the B&PSC regarding the structuring of the overarching Byelaw (a schedule for sand eel trawling) and the development of the two Categories of Permits:

- Category One Mobile Fishing Permit Conditions– at Sea
- Category Two Mobile Fishing Permit Conditions - Estuaries

The drafting work is complex and is not currently ready for presentation to the B&PSC. Regarding the structuring of the Byelaw, the BTWG have introduced a new section that can be utilised within both Categories of Permit Condition. The new section of a Permit is called “Specified Information” and this has relevance to the second recommendation provided by the BTWG.

B&PSC Decision Making

The BTWG do not have delegated powers for decision making. The B&PSC is required to consider the recommendations of the BTWG, which will then be incorporated into further drafting work.

1. Scope of Exemptions

The current draft Byelaw (V0.4) has an Exemptions provision that states the following:

This Byelaw does not apply to any person performing an act which would otherwise constitute an offence against this Byelaw, if that act was carried out in accordance with a written authorisation issued by the **Authority** permitting that act for scientific, stocking or breeding purposes, or such other purposes as the Authority may authorise.

The words “**or such other purposes as the Authority may authorise**” are significant and widens the scope of the exemptions that could in theory be issued. This would require explanation in the accompanying Impact Assessment and furthermore, if this extended scope was accepted by Defra, the Authority would need to produce Policy documentation to clarify the limitation of exemptions that could be issued and standards for their issue. It should be noted that this addition to the standard wording associated with exemptions for Byelaws (scientific, stocking or breeding purposes) goes beyond the advice previously offered by Defra regarding the scope of exemptions (authorisations) that can be issued by the Authority.

2. Specified Information – New Restrictions for Fishers

The overarching Mobile Fishing Permit Byelaw will contain a provision requiring the owner of a vessel to provide the Authority with information or documentation required by the Authority for the purpose of discharging its functions. Regarding each Category of Permit, the formatting of the draft Permits now includes an additional section – “Specified Information” which adds further detail of what the requirements will be.

Category One Permits

To date the BTWG have populated the “Specified Information” section of this draft Permit with information relating to “Logbook” requirements. Although the exact requirements have not been finalised in the draft Permit, these types of additions are strongly recommended by D&S IFCA’s prosecuting solicitor. Examples include:

- Name of the **Relevant Fishing Vessel** and the Port Letters and Numbers;
- The **Relevant Fishing Vessel’s** Master’s full name, address, and date of birth
- Start and end times of each tow.

Most fishers operating mobile fishing gear at sea will already keep records of key information, such as the above, in their fishing diaries.

Category Two Permits

The “Specified Information” section of the draft Category Two Permit now contains existing requirements (current Permit Conditions) for the Salcombe Scallop Fishery such as the requirement to submit catch information at the end of the fishing season. The only difference will be that this requirement is set out in a different position within the Permit.

The BTWG have identified the opportunity for similar restrictions to be applied for the mussel fishery within the Exe Estuary. This change would be balancing the requirements for fishers operating in different estuaries (for different species) under a Category Two Permit. The new requirements (not transcribed from the wording within the draft Category Two Permit) would therefore include:

- A requirement for the mussel fisher to inform the Authority before they fish for mussels at the start of the season.
- To provide the Authority catch information at the end of the fishing season.

Remaining Work

The BTWG will recognise the decision making of the B&PSC and adapt the draft Mobile Fishing Permit Byelaw and the associated Permit Conditions accordingly. The estimated timetable for further work is as follows:

Date/Estimated Time Period	Action	Detail
March 2022	Drafting	BTWG to continue with drafting work as required.
March 2022	MCZ Assessments	Officers seek advice from Natural England that will inform B&PSC Decision making regarding management measures.
March 2022+	GIS/Mapping	Work will continue on GIS work in preparation for creation of Annexes that accompany the Permit Conditions (Cat 1 & 2)

May 2022	B&PSC Meeting	The B&PSC consider management measures/deferred decisions
May 2022+	Drafting	Final drafting of Byelaw and Permits, and creation of an Impact Assessment
June 2022+	Notification	Defra notified that the Byelaw is expected to be “made” by the B&PSC.
June 2022+	B&PSC Meeting	The Byelaw and Permits are presented in full – The B&PSC can “make” the Byelaw to begin the formal consultation process

Other Information

[Terms of Reference for the Byelaw Technical Working Group](#)

End.