

Since the last written update, presented at the March 2020 Authority meeting, the meetings of the Byelaw and Permitting Sub-Committee (B&PSC) have taken place virtually, firstly on Microsoft Teams and more recently on Zoom. There have been meetings of the B&PSC on the 18th June 2020 and 17th August 2020.

The agendas for the virtual meetings have been reduced in size to recognise the amount of discussion and decision making that it is possible to achieve in a more limited time frame of approximately two hours per meeting. For full transparency, all papers produced for the B&PSC can be read on D&S IFCA's website and this written update has incorporated embedded information (hyperlinks) for those reading in electronic format. Although the decision making of the B&PSC drives the byelaw review work, its delivery is also dependent on internal officer discussions, planning, preparation of reports and multiple communication requirements.

Development of the Hand Working Permit Byelaw

D&S IFCA has begun the process of developing a Hand Working Permit Byelaw. This is a complicated workstream and involves many elements such as:

- reviewing existing related legacy byelaws
- introducing new management for commercial and recreation fishers
- incorporating the Taw Torridge Mussel Fishery and its development into revised management
- recognising that some species are removed for consumption, whilst many others are removed primarily to be used for bait (for angling)

There have been on-going concerns raised, particularly during 2019 and 2020, about unregulated and excessive collection of shellfish, especially from the Teign and Exe Estuaries. An existing legacy Byelaw (limited species) has been used to apply (from 1st May 2019) a temporary Closure on the removal of mussel from the public beds in both the Teign and Exe estuaries; however, there is no management in place to cover the removal of cockle, pacific oyster or clams. It is the removal of these species and the alleged large quantities being removed which continues to fuel much of the public concern.

Increased correspondence has called for D&S IFCA to react; however, the longer-term development of a Hand Working Permit Byelaw is obviously not an immediate solution. The current issues are not unforeseen, and therefore do not meet the criteria enabling the potential use of an Emergency Byelaw¹.

The impact of the removal of the shellfish on the ecosystem services is a concern for D&S IFCA. Officers have tried to maximise the effect of its very limited resources by joining in with joint operations that have involved Environment Health Officers and others. Much of the activity (removal) is not currently illegal and this has to be factored into the planning and reactionary work of the three D&S IFCA enforcement officers (currently one post is vacant) operating within a risk-based enforcement strategy. Resources and enforcement capability are an on-going concern and are likely to remain as a weakness even if a new Hand Working Permit Byelaw is eventually introduced.

¹ Section 157(2) (b) Marine & Coastal Access Act

Regarding the development of a Hand Working Permit Byelaw; an extensive three-stage pre-consultation was conducted in 2019 and focused on the assembly of information relevant to bait collection, the use of crab tiles and multiple other hand gathering fishing methods. Three separate pre-consultation reports were assembled and presented to the B&PSC during 2019. The reports contained D&S IFCA's best available evidence base (at that time) and the findings of the pre-consultation work.

1. [Managing Hand Working Fishing Activity: A Focus on Crab Tiles \(re-presented in May 2019\)](#)
2. [Managing Hand Working Fishing Activity: A Focus on Bait Digging \(V2\)](#)
3. [Managing Hand Working Fishing Activity: A Focus on Hand Gathering](#)

After discussing [options for management](#), in November 2019, the B&PSC concluded that a Hand Working Permit Byelaw should be developed. A permit based approach is in line with the [B&PSC's byelaw making principles](#). The potential [structuring of the Handworking Permit Byelaw](#) was discussed by the B&PSC on the 23rd January 2020.

It was envisaged that management would be applied within both the overarching Hand Working Permit Byelaw and the associated permit conditions. Rather than permit all fishers conducting the various forms of hand working via permit conditions, it was envisaged that a series of catch thresholds (bag limits) could be applied in the potential overarching byelaw that may meet the needs of many without the need for these "light or occasional collectors" to be issued with a permit containing tailored and additional restrictions. A series of catch threshold levels were established to form the basis of pre-consultation that was conducted in February and March 2020.

The "[Have Your Say](#)" (Bag limits – February 2020) communication initiative received national attention and produced a large, but mixed response. Although there was support for the advertised fixed catch thresholds, most notably by residents of Teignbridge and those with the strongest environmental interest, most responses were opposed to the levels as set out. The basis of the potential Byelaw was questioned (fairness, balance & references to the Magna Carta), with the Recreational Angling Sector very vocal in highlighting, that from a bait collection perspective, the catch thresholds would be inadequate to meet their expectations of the resources that they should be able to collect. Many anglers and angling clubs called for further engagement to clarify what the content of a permit would look like and what restrictions it would potentially impose on them.

The catch threshold (bag limit) consultation response was documented into a report which was presented to the B&PSC in June as an information item. It can be read by using the link below:

[Hand Working – Catch Thresholds Consultation Report \(May 2020\)](#)

Issues associated with the different forms of hand working have been recognised on a national level. Other IFCA's have recognised a lack of management in their own districts and a national hand gathering working group has been established with six IFCA's indicating that they will join. This group will focus on identifying common management objectives and identify possible regulatory and non regulatory solutions.

D&S IFCA officers are planning the next steps for the development of the Hand Working Permit Byelaw, which is likely to involve producing a clearer picture of what the Byelaw and associated permit conditions will look like. This information can act as the basis for some additional engagement that includes the angling sector. If stakeholders are better informed, it may remove some of the uncertainty and speculation regarding the potential management

measures and will enable stakeholders to offer a clearer response. The response, based on more clarity, may better inform the decision making of the B&PSC. This overall workstream will extend well into 2021; however, the preparation and pre-consultation work is of value before the B&PSC potentially makes a commitment to the formal process of making the Byelaw and the time and expense that is associated with that process.

Exemptions Byelaw 2019

As reported in March 2020, on 25th February 2020, Defra informed D&S IFCA that after reviewing the initial draft of the Exemptions Byelaw 2019 (prepared for potential confirmation), their lawyers advised that the Byelaw contained a lack of legal certainty. This stems from the fact that the initial draft was extremely broad as it referred only to 'an activity' and did not specify scientific, stocking and breeding purposes. The Exemptions Byelaw 2019 was returned with suggested track changes and further advice to add specific exemption clauses in any new byelaws that are created by D&S IFCA.

The Byelaw Technical Working Group (BTWG), who act on behalf of the Byelaw and Permitting Sub-Committee (B&PSC), were informed and broadly accepted the advice from Defra. Officers amended the Exemptions Byelaw 2019 and created a revised "final" Impact Assessment to reflect the recommended changes to the Exemptions Byelaw 2019. The Exemptions Byelaw 2019 was confirmed by Defra on 14th April 2020 and is now in force.

A [dedicated display page](#) on D&S IFCA's website now hosts the new application form that has been created to accompany the Byelaw and the website page also incorporates a table of authorisations/dispensations that have been issued or declined.

A report has been prepared and published on D&S IFCA's website which documents the complete byelaw making process from the start to its conclusion. It can be read by using the link below:

[The Development of the Exemptions Byelaw 2019 \(11th June 2020\)](#)

Changes to Potting Permit Conditions – Management of the Live Wrasse Pot Fishery

As reported in March 2020; on the 11th February 2020, members of the B&PSC concluded that the Potting Permit Conditions should be amended (as proposed in the consultation that followed), primarily to afford extra protection to rock cook wrasse. Findings of the consultation were presented in June 2020 along with officers' recommendations. Although the Live Wrasse Fishery is restricted to a limited number of fishers issued with the required wrasse pot tags, a prohibition on the removal of this species has now been added to all Potting Permit Conditions.

Amended Permits were prepared and circulated in late June 2020 and communication work was conducted to highlight the changes to a wide audience. Amended permit conditions (valid from 10th July 2020) now also include a new schedule to help fishers understand how different species should be measured in order to comply with the Potting Permit Conditions.

The B&PSC recommended that five Habitats Regulation Assessments (relevant to the Live Wrasse Pot Fishery) be revised and sent to Natural England for formal advice. This work was completed with the findings discussed by the B&PSC in June. A final report documenting the complete process of considering and making changes to the Potting Permit Conditions has been produced, published on D&S IFCA's website and can be read by using the link below:

[Development & Management of the Live Wrasse Pot Fishery & Changes to the Potting Permit Conditions \(August 2020\)](#)

Review of the Mobile Fishing Permit Byelaw

The review of the Mobile Fishing Permit Byelaw is effectively a re-make of the Byelaw. The B&PSC considered that it was important to introduce management to regulate fishing for sand eels using towed gear. The Byelaw Technical Working Group identified that to introduce the necessary management framework, two further permit categories would need to be created to accommodate recreational and commercial sand eel trawling activity. Consultation ([Sand Eel Trawling – Have Your Say](#)) on the proposal to introduce two new permit categories and the associated permit conditions (management measures) ended on 17th January 2020. Members of the B&PSC discussed the findings of the consultation and actioned further work by officers to demonstrate how elements of the new categories of permit conditions (Category 3 & 4) could function (if implemented) regarding differences in the size of vessels and different gear restrictions that would apply. A report was provided to the B&PSC in August which can be read by using the link below:

[The Development of Permit Conditions to Manage Sand Eel Trawling \(July 2020\)](#)

The subsequent decision making of the B&PSC has enabled internal drafting work of the Byelaw and associated permit conditions to progress. In addition to sand eel trawling, officers have recognised the value in conducting some additional pre-consultation regarding the scallop closed season. Although this specific engagement was not identified as a specific task in the Annual Plan, the stakeholder response and subsequent B&PSC decision making may influence more advanced drafting of the Mobile Fishing Permit Byelaw Permit Conditions.

This workstream will continue well into 2021.

Review of the Diving Permit Byelaw

The review of this Byelaw is effectively a re-make of the Byelaw with its replacement having a wider scope to extend beyond the removal of crab, lobster and scallop. The B&PSC have already requested that the amended Diving Permit Byelaw recognises the activity of spear fishing.

To begin this review officers have recognised the value in conducting some additional pre-consultation regarding the scallop closed season which forms part of the current permit conditions. In August the B&PSC actioned officers to conduct a four week [“Scallop Closed Season - Have Your Say”](#) communication initiative. This will end on 9th October and the findings will be compiled and presented to the B&PSC in due course.

As with the work regarding the Mobile Fishing Permit Byelaw, the stakeholder response and subsequent B&PSC decision making may influence more advanced drafting of the Diving Permit Byelaw Permit Conditions.

This workstream will continue into well into 2021.

Further Information

The [D&S IFCA Website](#) provides additional information for members and stakeholders.

All B&PSC meeting papers are posted in advance of meetings on the [Meetings Tab](#).

The [Consultation Page](#) is updated to reflect current “Have Your Say/Call for Information” consultation campaigns.

The [Resource Library](#) contains a mixture of documentation relevant to the byelaw review work.

End. (25/09/20)