



Exemptions Byelaw 2019

Formal Consultation

A Summary of Response from the Formal Consultation

23rd August 2019

Contents

1. Aim of this Supplementary Report.....	3
Background	3
2. Engagement with Stakeholders	4
Officer Comments:	4
3. Response from Stakeholders	5
Officer Comments:	5
Recommendation:	5
4. The Exemptions Byelaw 2019 (Transcript)	6
5. Additional Information & list of embedded information (Hyperlinks).....	9

Version control

Date	Author	Comments
23/08/19	N. Townsend	Prepared for discussion by the D&S IFCA Byelaw & Permitting Sub-Committee (B&PSC) on 12 th September 2019

1. Aim of this Supplementary Report

This report (August 2019) 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 to demonstrate how the formal consultation was conducted and to document the findings of the consultation. The report is intended to assist the decision making of members regarding any potential changes that could be considered to the draft Exemptions Byelaw based on the responses received.

This report will also 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](#).

Background

The draft Exemptions Byelaw 2019 was developed by the B&PSC, and the drafting of it was delegated to the Byelaw Technical Working Group (BTWG). The initial drafting work was presented to all members of the B&PSC in February 2019 in a [BTWG progress report](#).

Following the B&PSC meeting in February 2019, additional drafting work was conducted by the BTWG. On the 13th June 2019 the B&PSC were presented with a final draft of the Exemptions Byelaw 2019 and an accompanying consultation Impact Assessment. Following discussion recorded in the minutes, the following was proposed:

That the Exemptions Byelaw is made by the D&S IFCA Byelaw and Permitting Sub-Committee

Proposed: James Marsden Seconded: Jim Portus
All in favour

That the Impact Assessment for the Exemptions Byelaw (subject to amendments identified in the meeting and previously) is approved for formal consultation

Proposed: Jim Portus Seconded: James Marsden
All in favour

Process and making use of this supplement report:

1. Members to examine the collated response information from the consultation as set out in Part 3 this report
2. Members to decide how to proceed with a view to any potential amendments needed to the draft Exemptions Byelaw 2019 in recognition of the responses received.

2. Engagement with Stakeholders

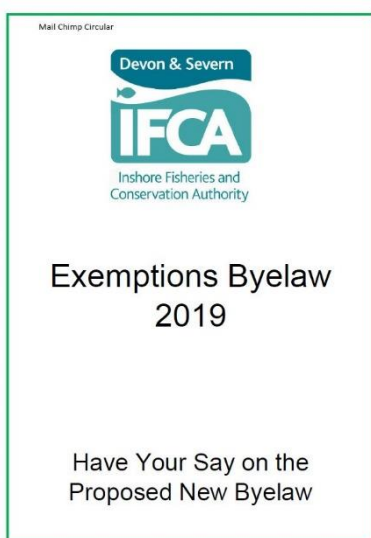
Different communication methods were used to engage with stakeholders. D&S IFCA were advised by Defra that, although other communication methods would be of use, it was still advisable for D&S IFCA to advertise the proposed making of the Byelaw in a selection of different newspapers. The newspapers selected for the advertisements are set out below, with each displaying the advertisement for two consecutive weeks. The total cost of the advertisements was approximately £2200. The consultation ended on 15th August 2019.

Press – First Published 2/7/19

- **Fishing News**
- **Western Morning News**
- **Western Morning Press**

Each advertisement explained what the Byelaw was intended to achieve, how to view a full copy of the [Byelaw](#), how to view the accompanying consultation [Impact Assessment](#), and finally the process to follow to formally respond.

Other communication



D&S IFCA used a selection of other communication formats.

A [news article](#) was posted on the D&S IFCA on 1st July 2019 and was duplicated on the D&S IFCA Facebook page shortly afterwards.

A [Mail Chimp E-Mail campaign](#) was circulated on the 11th July 2019 to over 1000 D&S IFCA stakeholders that had supplied an email address. Stakeholders directly notified by this communication method included all permit holders that had supplied an email address and other interested parties listed on the master D&S IFCA contacts data base.

The Consultation Page on the D&S IFCA website was populated throughout the consultation with relevant information and information about how to respond.

Officer Comments:

It is the view of officers, that the advertising of draft byelaws within newspapers for formal consultation is less effective than the alternatives that exist and now used by D&S IFCA. Newspaper advertisements are expensive and less targeted than direct notification. Direct notification has been made possible using contact information collected from permit holders during their applications for a permit to conduct different fishing activities.

These concerns relating to the formal consultation process were highlighted Defra in June 2019. The guidance in place for byelaw making is statutory and the current advice is that changing this would require approval from the Secretary of State or a Minister. It has been suggested that it will be more practical for all changes from the national byelaw review to be introduced at the same time. The MMO have stated that the next phase of the national review is for IFCA's to agree the detail of suggested changes arising from the review and then propose a timetable for implementation. This will be discussed in the Chief Officer Group meetings.

3. Response from Stakeholders

A total of three responses were received during the formal consultation which ended on 15th August 2019. The content of all the responses was supportive of the introduction of the Exemptions Byelaw 2019.

Response 1

This response was submitted by the Ilfracombe Harbour Master who in a simple response stated that the proposal to introduce the Exemptions Byelaw was fully supported.

Response 2

This supportive response was submitted by the South Devon and Channel Shellfishermen Ltd. The response highlighted the importance of the byelaw being created for the benefit of authorising required general scientific work, and in particular research directed towards crawfish/spiny lobster that may require the issue of an exemption so it can be completed.

Response 3

The final response was from the Wembury Marine Conservation Advisory Group (WAG). The group understand the need for the flexibility and practically that the Byelaw would introduce by enabling the gathering of evidence for assessing impacts on relevant species and habitats.

The group feel that it may be appropriate for all relevant stakeholders to be included in any consultation needed to implement an exemption, and if not, would still like to see increased transparency regarding the exemptions being issued.

It was also suggested in the response that any data generated as a result of an issued exemption should be made publicly available and potentially archived in a suitable centre such as DASSH (the UK archive for marine species and habitats data). The group favours any mechanism that encourages sharing and availability of scientific information.

Officer Comments:

It is the view of officers, that the D&S IFCA website could be utilised to at least provide a general overview of the Exemptions being issued by D&S IFCA. A table could be created to demonstrate non-sensitive information such as what exemptions are being issued, why, where activities will take place under the exemption, and potentially include further links to additional information. A drop-down menu could be used from the home page Research Display.

Conclusion:

It is the view of officers that based on the responses received in the formal consultation, no changes are required to the Exemptions Byelaw 2019 as set out in Part 4 of this report.

4. The Exemptions Byelaw 2019 (Transcript)

A transcript of the proposed Exemptions Byelaw 2019 is set out below. Unless there are any required changes, and members are in favour, this will be the version sent to Defra with a view to it being confirmed. The consultation Impact Assessment will be amended to include the findings of the consultation and any decision making of members relating to the consultation.



Devon and Severn

Inshore Fisheries and Conservation Authority

MARINE AND COASTAL ACCESS ACT 2009

Exemptions Byelaw 2019

The Authority for the Devon and Severn Inshore Fisheries and Conservation District in exercise of its powers under sections 155 and 156 and 158 of the Marine and Coastal Access Act 2009 makes the following byelaw for that District.

Interpretation

1. In this Byelaw-
 - a) “the Authority” means the Devon and Severn Inshore Fisheries and Conservation Authority as defined in articles 2 and 4 of the Devon and Severn Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2212);
 - b) “the District” means the Devon and Severn Inshore Fisheries and Conservation Authority as defined in articles 2 and 3 of the Devon and Severn Inshore Fisheries and Conservation Order 2010;

Exemptions

2. The Authority, subject to paragraph 3, may
 - a) consent to the undertaking of an activity within the District or any part or parts thereof with or without conditions, for a period not exceeding twelve calendar months by any person, with or without a vessel, otherwise than in accordance with part or the whole of a Byelaw;
 - i. made by the Authority or

- ii. made by the former Devon Sea Fisheries Committee and enforced by the Authority under the provisions contained in the Marine and Coastal Access Act 2009 (Transitional and Savings Provisions) Order 2011.
 - b) decline to consent to the undertaking of such activity.
3. Authorisation may only be given for any activity relating to the discharge of the Authority's duties under sections 153 and 154 of the Marine and Coastal Access Act 2009.

Applications

4. An application for authorisation in accordance with paragraphs 2 and 3 may only be made by using the printed forms available from the Authority's office or its website.
5. The Authority may require an applicant at the applicant's expense:
- a) to supply such information,
 - b) to produce such articles, and
 - c) to commission such investigations, examinations and tests, as in the opinion of the Authority may be necessary or expedient to enable it to determine the application.
6. If an applicant fails to comply with a requirement made by the Authority the Authority may;
- (a) reject the application, or
 - (b) refuse to proceed with it until the failure is remedied.

Determination

7. The application shall be determined within 60 days of receipt of the application at the Authority's office by the Chief Officer or a Deputy Chief Officer and the Chair or a Deputy Chair of the Authority on behalf of the Authority unless agreed otherwise by the applicant and the Authority in writing.
8. In making a determination under this Byelaw, the Authority may consult with other persons as it deems appropriate.
9. Where the Authority grants a written authorisation, it shall;
- a) be signed by the persons determining the application;
 - b) set out the reasons for granting of the written authorisation;
 - c) state any conditions upon which the written authorisation is granted and
 - d) be sent to the postal or email address provided on the application form.

10. Where the Authority has declined to grant a written authorisation, it must give written notice which shall;
 - a) be signed by the persons determining the application;
 - b) set out the reasons for declining to grant the written authorisation;
 - c) be sent to the postal or email address provided on the application form.

Miscellaneous

11. A person who fails to comply with any conditions within the Authorisation contravenes this Byelaw and is guilty of an offence.
12. An authorisation given under this Byelaw may be revoked in writing for good reason upon notice by the Authority.
13. Written notice that the Authority has revoked an authorisation shall be deemed to be received if sent to the postal or email address provided on the application form.

Revocation

14. The Application Byelaw (26th February 1998) made by the Devon Sea Fisheries Committee is hereby revoked.

I hereby certify that the above Byelaw was made and agreed by the Authority on 13th June 2019.



Matthew Mander

Acting Chief Officer

Devon and Severn Inshore Fisheries and Conservation Authority.

Brixham Laboratory, Freshwater Quarry, Brixham, Devon, TQ5 8BA.

Explanatory Note (not part of Byelaw)

This Byelaw enables the Authority to consider and potentially grant or decline permission for the conducting of an activity that would otherwise be a contravention of a Byelaw or a Permit Condition within a Byelaw that the Authority has inherited or introduced. Any permission will only be issued, where in the view of the Authority, the permission does not materially detract from the Authority's duties as set out within section 153 and 154 of the Marine and Coastal Access Act 2009.

The Byelaw provides guidance regarding how any such application is considered and processed within a specified time. The application will be determined within 60 days of receipt of the application.

The Byelaw also provides the potential applicant with transparency regarding their responsibility to assemble the information or evidence as determined by the Authority so that the Authority can fully consider the application for an authorisation in accordance with the relevant paragraphs. If required, the Authority will be able to advise the potential applicant or applicants regarding the type and detail of information and evidence that must be submitted to support their application and the subsequent assessment of it.

5. Additional Information & list of embedded information (Hyperlinks)

- [Byelaw Technical Working Group Progress Report \(February 2019\)](#)
- [Minutes from the B&PSC Meeting \(26th February 2019\)](#)
- [Minutes from the B&PSC Meeting \(13th June 2019\)](#)
- [Draft Exemptions Byelaw 2019 for consultation \(13th June 2019\)](#)
- [The consultation Impact Assessment for the Exemptions Byelaw 2019 \(14th June 2019\)](#)
- [D&S IFCA consultation news article \(1st July 2019\)](#)
- [D&S IFCA Pdf version of the Mail Chimp E-Mail Consultation Circular](#)