



Diving Permit Byelaw

A basic guide to explain the three year review
of the permit conditions



1st edition

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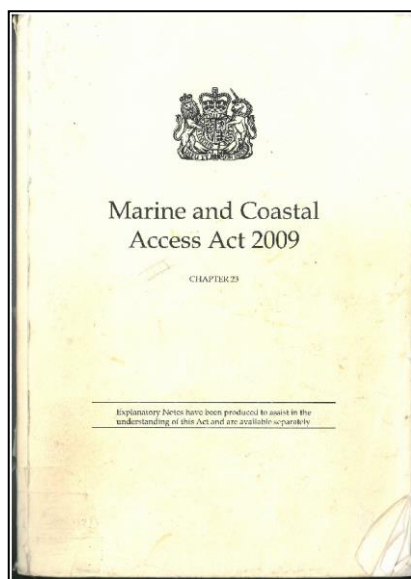
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1. Aim of this guide

The aim of this guide is to help all stakeholders develop a better understanding of Devon and Severn Inshore Fisheries and Conservation Authority (D&S IFCA), what the organisation does, why it manages diving activity for the capture of shellfish¹ and why there is a need to review the permit conditions that provide the restrictions to those that conduct diving for the capture of shellfish. In addition, this guide is to help all stakeholders understand how they can influence decision making by engaging in the review and explain how the process will be conducted. All stakeholders, regardless of their interest or fishing activity conducted, have the opportunity to engage in the consultations.

It is important to understand that at this time there are no identified (focussed) items for stakeholders to consider. The first phase of this process is an “open” consultation. This consultation process provides an opportunity for stakeholders to consider how diving for shellfish is being managed by D&S IFCA using the current permit conditions and respond accordingly by the closing date. A 2nd phase of “focussed” consultation will also be conducted. An estimated timetable for action is set out in this guide.

2. What is the D&S IFCA and what does it do?



The Marine and Coastal Access Act 2009 (MaCAA) introduced a new framework for managing the marine environment and providing greater access to it. This Act of Parliament replaced Sea Fisheries Committees with Inshore Fisheries and Conservation Authorities (IFCA's) and is fundamental to the work of D&S IFCA.

The D&S IFCA is the largest of the ten separate IFCA districts and has two separate coastlines. The area of the district is 4522km² and is defined in the Statutory Instrument (2010 No. 2212)². The D&S IFCA District includes the areas of Devon, Somerset, Gloucestershire County Councils; Bristol City and Plymouth City Councils; North Somerset and South Gloucestershire Councils and all adjacent waters out to six nautical miles or the median line with Wales.

“D&S IFCA will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry”³

¹ Crab (*Cancer pagarus* or *Maia squinado*), lobster (*Homarus gammarus* or *Paliurus*), Scallop (*Pecten maximus*)

² The Devon and Severn Inshore Fisheries and Conservation Authority Order 2010

³ Mission statement for D&S IFCA

The Full Authority is comprised of 30 members drawn from relevant Local Authorities (Councillors), General Members (appointed to the Authority by the Marine Management Organisation (MMO) and Statutory Appointees representing the MMO, the Environment Agency (EA) and Natural England (NE). D&S IFCA is funded via several different funding Authorities (councils) with an additional contribution from central government. Officers are employed by D&S IFCA to conduct work on behalf of the Full Authority. D&S IFCA has ten full time officers and one part time Office manager. The main office is situated in Brixham with one officer located in the Severn area of the district.

Basic work undertaken

In meeting the main duties specified in MaCAA, the work of D&S IFCA is basically divided into different areas as follows:

a) Enforcement

These duties include enforcing the byelaws implemented by D&S IFCA and also the enforcement of EU and domestic legislation. D&S IFCA currently has one 6.4 metre rigid inflatable boat to conduct enforcement work at sea. D&S IFCA works closely with other organisations such as other IFCAs, the MMO, the EA and the Border Force (BF) with which it shares assets. D&S IFCA is committed to the use of new technologies for enforcement purposes, particularly remote technology.

b) Research

Research and survey work conducted by D&S IFCA informs evidence bases subsequently used to manage fishing activities via the introduction of local management measures that can include legislation (Byelaws). D&S IFCA currently has an 8 metre survey vessel used for independent survey work at sea. D&S IFCA works in co-operation with other organisations to conduct research work and takes environmental advice from NE. D&S IFCA research and survey work (and external research and advice) also informs longer term management that can be achieved via the permitting byelaws that contain flexible permit conditions.

c) Byelaw work

The Byelaw work is often a lengthy and complex process. It requires specialised skills and background knowledge. This Authority has created a Sub-Committee to conduct the byelaw work. The Byelaw and Permitting Sub-Committee is formed by a number of Full Authority members, each offering a different set of skills or background knowledge that is utilised to complete the required work. Officers prepare the material used by the Sub-Committee for their deliberations (meetings) and the Sub-committee's recommendations are then presented to the Full Authority at key stages. It is the Full Authority members that make the final decisions⁴.

There are a number of legacy byelaws in place that were inherited from Devon Sea Fisheries. All legacy byelaws must be reviewed. In addition to reviewing legacy measures, members of the Sub-Committee are also tasked with reviewing flexible permit conditions and providing recommendations to the Full Authority for potential changes to the permits.

⁴ Delegated powers can be granted to the Sub-Committee for decision making

All of the separate elements of the byelaw work are a team effort. Although the officers prepare the majority of the material (reports) required for the process, the officers do not take decisions at any time.

3. Why does D&S IFCA manage diving activity?

Diving activity should not be confused with diving for the capture of shellfish. D&S IFCA does not manage the activity of diving, but must manage diving for the capture of shellfish, as this is a fishing activity. MaCAA sets out how the management of inshore fisheries must be conducted and by whom. D&S IFCA is the responsible body to manage inshore fisheries within this district. D&S IFCA must manage the exploitation of sea fisheries resources in the district.

MaCAA details the responsibilities of the D&S IFCA which includes important mandatory duties as follows:

Section 153 (2)

- a) Seek to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way,**
- b) Seek to balance the social and economic benefits of exploiting the sea fisheries resources of the district with the need to protect the marine environment from, or promote its recovery from, the effects of such exploitation,**
- c) Take any other steps which in the authority's opinion are necessary or expedient for the purpose of making a contribution to the achievement of sustainable development, and**
- d) Seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district.**

In addition D&S IFCA has a duty for the protection of marine conservation zones (MCZ). This is specified within the Act as follows:

Section 154

- 1) The authority for an IFC district must seek to ensure that the conservation objectives of any MCZ in the district are furthered.**
- 2) Nothing in section 153 (2) is to affect the performance of the duty imposed by this section.**

D&S IFCA would be failing in its duties if it did not manage fishing activities conducted within the district. Diving for the capture of shellfish is conducted in the district and therefore must be managed appropriately.

4. How does D&S IFCA manage diving activity?

The D&S IFCA inherited legacy byelaws from its predecessor organisation the Devon Sea Fisheries Committee. Byelaws are local restrictions used to manage different activities which do relate to the species often taken by divers. There were several legacy byelaws that related to shellfish and D&S IFCA has had to consider its statutory duties and examine and

review these legacy measures to see if they are fit for purpose. There is a separate guide⁵ to explain how D&S IFCA is conducting the required review of these inherited byelaws.

Byelaws are not the only control measures used to manage fishing activities and in this case the species taken by those engaged in diving. Other EU and domestic legislation also places restrictions on fishers. Byelaws are local measures which support this other legislation. Byelaws can impose greater restrictions to suit local circumstances but they cannot remove any restrictions imposed by UK or EU regulations.

In 2014 D&S IFCA introduced the Diving Permit Byelaw to manage the activity when directed towards the capture of crab, lobster and scallops. The introduction of the Diving Permit Byelaw (or any byelaw) is not necessarily to prevent fishing activity, but to manage the activity sustainably. Many of the current restrictions were based on the older legacy measures set out in individual byelaws. The introduction of the Diving Permit Byelaw will enable some of the legacy byelaws to be revoked when all appropriate management measures are incorporated into a completed suite of activity based permitting byelaws.

5. Permits

The Diving Permit Byelaw differs from the older byelaw model. The Diving Permit Byelaw provides the D&S IFCA with the ability to issue permits which contain conditions of use for fishers and also enable different groups of fishers to be separated based on their specific needs. This is why permits are issued for commercial fishers (Category 1 permits) and recreational fishers (Category 2 permits). Different categories of permits can and do contain different conditions.

The permits that are issued include flexible conditions, which can be altered when there is a good reason for doing so. This flexibility enables D&S IFCA to react to changing circumstances far quicker than revoking a traditional style byelaw and replacing it with another traditional style byelaw.

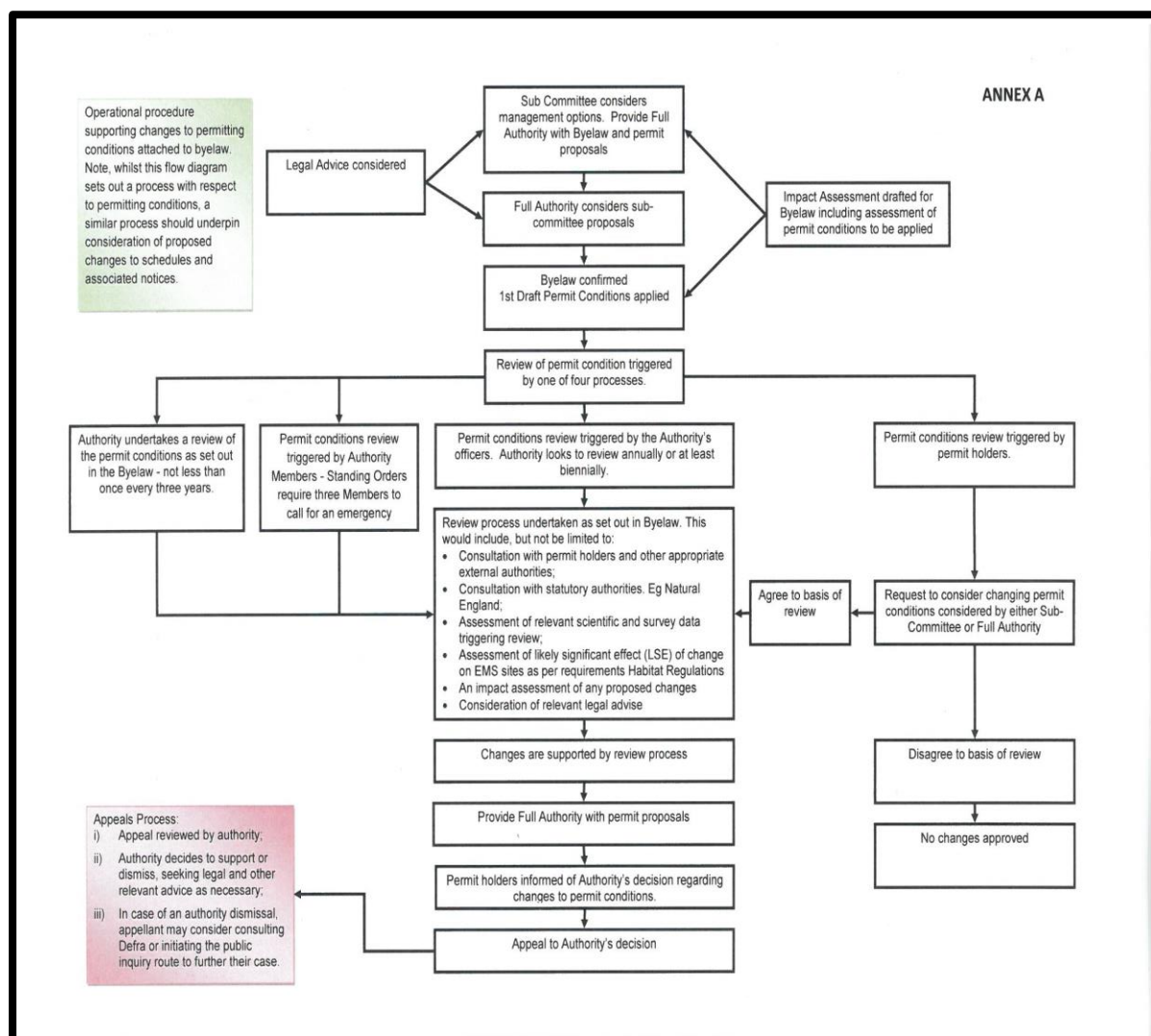
6. How are flexible permit conditions changed?

Changes are not considered or made just for the sake of change. There has to be good reason to change any of the flexible permit conditions and although there are occasions where D&S IFCA must take a pre-cautionary stance, it is quality evidence (rather than quantity) that strongly influences potential changes.

Section 22 to 24 of the Diving Permit Byelaw explains the review procedure to make any changes to the flexible permit conditions. There are several ways in which a review of permit conditions can be triggered, although a review of the flexible permit conditions must be conducted not less than once every three years.

⁵ Guide to all aspects of the Byelaw review - Displayed on the D&S IFCA website or available upon request.

Annex A table – Flowchart of review process



7. How is the review of flexible permit condition conducted?

Section 23 of the Diving Permit Byelaw details how the review of flexible permit conditions must be conducted. This is a thorough and robust process which includes consultation with permit holders. Information (evidence) is collected during consultation as detailed in Section 24 of the Diving Permit Byelaw. The evidence collected then informs the decision making process.

The evidence that you provide is collated and will be presented to members of the Byelaw and Permitting Sub-Committee. There are four scheduled meetings of the Byelaw and Permitting Sub-Committee each year and additional meetings can be arranged when required. This three year review will involve at least two separate phases of consultation. The first phase will be an “open” consultation where any stakeholder can respond with any issue relating to the Diving Permit Byelaw flexible permit conditions. The information provided in the consultation will be collated and discussed by the Byelaw and Permitting

Sub-Committee. A second period of consultation will also take place but will be focussed on key issues relating to potential permit changes, if any.

8. Estimated Timeline

Date	Action
13 th November 2017	Meeting of the Byelaw & Permitting Sub-Committee – A date to be established to begin a 6 week “open” consultation.
1 st December 2017	Start of 6 week “open” consultation
12 th January 2018	End of the 1 st phase consultation. Robust progress and process report developed to supersede this mini guide and document the on-going diving consultation.
15 th February 2018	Meeting of the Byelaw & Permitting Sub-Committee.
February 2018	To start a second phase of “focused” consultation
April 2018	All evidence collated by officers and the progress and process report updated
May 2018	Meeting of the Byelaw & Permitting Sub-Committee. Findings discussed and potential changes to permits considered
June 2018	New permits issued

9. Communication

D&S IFCA is developing a new communication strategy⁶. A wide-ranging consultation will be conducted using different communication methods, including the D&S IFCA website. All permit holders will also be contacted directly. A designated consultation email address will be used. All stakeholders, regardless of their interest or fishing activity conducted, have the opportunity to engage in the consultations. The email contact addresses provided by permit holders are of significant benefit for consultation work and will be utilized.

10. Further Information/recommended reading

- [D&S IFCA communication strategy \(available upon request\)](#)

Hyperlinks

- [The Diving Permit Byelaw](#)
- [The present permit conditions \(diving\)](#)

⁶ Available upon request from D&S IFCA