



Byelaw & Permitting Sub- Committee Meeting

Final Minutes from 24th
February 2022

Version Control and Drafting

Date	Comments
Version 0.1 7th March 2022	1 st Draft of minutes completed for circulation to Officer's present at the meeting for potential internal amendment and/or additions.
Version 0.2 8th March 2022	Further Review and Amendments made by Officers. Draft B&PSC Minutes (0.2) circulated to Members on 9 th March 2022.
Version 0.3 29 th March 2022	Minor amendments applied following feedback from M. Williams – draft B&PSC Minutes (V0.3) published on public areas of website.
Final Version 10 th June 2022	Minor single word amendments applied on pages five and eight following the B&PSC meeting held on 9 th June 2022. Minutes published as Final.

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Minutes of the Byelaw and Permitting Sub Committee Meeting
Held at Newton Abbot Racecourse on 24th February 2022

Present:

Dr Emma Bean (Chair)*	Professor Mike Williams	Rachel Irish
Dr Pamela Buchan	Jon Dornom	Felicity Sylvester**
Dave Saunders	Wayne Thomas	Andy Wray
Cllr Alistair Dewhirst	Jay Boyle	

Present (officers): Chief Officer (CO) Mat Mander, Deputy Chief Officer (DCO) Sarah Clark and Principal Policy Officer (PPO) Neil Townsend

Public Observing: None

Notes * Dr Emma Bean was delayed attending the meeting and arrived during agenda item 9.

** Felicity Sylvester had to leave the meeting after agenda item 7.

Welcome

Professor Mike Williams (Vice Chair of the B&PSC) announced that he had been informed that the Chair of the B&PSC (Dr Emma Bean) would be late attending the meeting. The Vice-Chair said that he would be prepared to deputise for as long as required at the meeting and was thanked by Members.

Action Items:

Agenda Item 1

Apologies for Absence

PPO Townsend read out the list of apologies which included James Marsden and David Morgan. It was unclear if Simon Toms (Environment Agency) would be attending the meeting.

Agenda Item 2

Declarations of Interest

There were no declarations of interest. The Vice Chair suggested that all Members review their own declarations of interest at least once per year.

Agenda Item 3

To consider and approve the draft minutes of the B&PSC meeting held on 21st October 2021.

The Vice Chair invited those who were present at the last meeting to raise any issues associated with the accuracy of the draft minutes from the October meeting and the minutes were then examined page by page. No amendments were suggested by Members.

That the minutes provide a true and accurate record.

Proposed: Mike Williams

Seconded: Jon Dornom

In favour: 9

Abstain: 1

Referring to the B&PSC minutes (page 7), Felicity Sylvester asked if there had been any further discussions involving Officers and the Blue Marine Foundation in connection with the scallop closed season. CO Mander confirmed that there had been no further discussions.

Agenda Item 4

Matters requiring urgent attention

The Vice Chair consulted with CO Mander and there were no matters requiring urgent attention.

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Agenda Item 5

Members of the public – questions or comments for the meeting

The Vice Chair consulted with CO Mander and there were no independent questions or comments from Members of the public to consider.

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Agenda Item 6

The Scallop Closed Season.

Presentation

CO Mander highlighted that there were multiple recommendations set out within the Officers' paper, all of them related to potential changes to the Category One (commercial) Diving Permit Conditions. CO Mander explained that the findings of the recent pre-consultation had been documented in a supporting report and it was the findings from different engagement work to date, coupled with available landing data, that had led to the Officer's recommendations, including the setting of a bag limit. CO Mander explained that it was the view of Officers that all five of the recommendation (a-e) should form the basis of a formal consultation that will lead to decision making of the B&PSC at the next meeting. The Vice Chair added that only when the formal consultation is complete, and the findings presented, would the B&PSC decide if there should be changes to the Permit Conditions. CO Mander highlighted that although Officers had set out recommendations, discussions and decision making at this B&PSC meeting would shape the content of the formal consultation.

Debate, Questions & Comments

Dave Saunders commented that the response to the recent consultation had been low. CO Mander responded and explained that although it was low in total number, it should be recognised that the numbers of commercial divers active within the District is also low. CO Mander highlighted that the recent pre-consultation had been directed at the commercial diving sector, as this was the most appropriate audience to gain feedback on some of the potential restrictions, and therefore it had acted like a scoping exercise. Cllr Dewhirst asked for some clarity regarding recommendation (e) and what this would mean in practice. CO Mander explained that a Permit Condition limiting activity to within the District would assist enforcement and was supported by the commercial divers that had responded to the pre-consultation. Regarding spatial enforcement, CO Mander highlighted that the greater use of vessel monitoring would harmonise with the national roll out.

Pamela Buchan commented that she was fully supportive of formal consultation on the potential changes however, regarding the bag limit, enquired if a rolling total (several days of catch) could be considered rather than a limit per calendar day. Pamela Buchan suggested that a combined catch limit spread over a longer period may help divers in periods of poor weather. CO Mander responded and explained that from a compliance perspective, enforcing a catch limit that was not set per calendar day would be challenging. CO Mander added that the need for divers to store catches had been recognised in the consultation report and therefore a store pot restriction had not been recommended by Officers. Andy Wray said he favoured further consultation, but for clarity he suggested that it be made clear in further consultation that the daily bag limit is a "daily catch limit".

Pamela Buchan raised further questions surrounding the use of the Catch App and how it would assist D&S IFCA's work. CO Mander answered some specific questions about the Catch App and explained that this was also set up to record catch per day. Pamela Buchan asked for clarification on the scale of spatial restrictions and the rationale for the Officers' recommendations. CO Mander provided additional detail regarding spatial restrictions and DCO Clark highlighted that access in the summer months for commercial divers would not impact the mobile fishing sector (scallop dredgers) as these vessels cannot access the Marine Protected Areas at any time to conduct fishing. DCO Clark added that balancing the needs of different fishers was one of several drivers for the Officers' recommendations.

Felicity Sylvester raised some concern about the effectiveness of D&S IFCA's communications as many fishers in North Devon were complaining to her about a lack of communication. CO Mander highlighted that the recent engagement work was focussed on a targeted audience – the commercial divers; however, the aim of the formal consultation is to reach a larger audience – all D&S IFCA contacts. PPO Townsend added some additional explanation on how D&S IFCA was undertaking different communication work that focussed on electronic engagement, such as Mail Chimp and use of the website. PPO Townsend highlighted that D&S IFCA has a communication strategy and delivery plan that was expected to be reviewed by D&S IFCA's Governance Working Group in 2022/2023.

In response to some further questions from Members, such as the potential to limit permit numbers, CO Mander highlighted some overarching principles that had been introduced by the B&PSC. Rather than limit permits, that would then gain a "monetary value", the management would consist of monitoring the extent of the activity and managing it as a collective, in the similar way to how the B&PSC had approached the management of a Live Wrasse Pot Fishery. DCO Clark pointed out that the flexibility of the permits and the planned monitoring of the fishery (should it be opened in the summer months) would enable the B&PSC to review management as required. Pamela Buchan highlighted that not all commercial divers were supportive of the introduction of vessel monitoring. Jon Dornom highlighted that although not all fishers are supportive of it, they would have no choice due to national requirements. In response to an earlier question by Felicity Sylvester, DCO Clark reported that there were 153 divers with a recreational permit (Cat 2) and 14 of these had an address in North Devon.

The Vice Chair commented that the option existed for Members to consider all the Officers' recommendations *en-bloc*; and in doing so, the clarity suggested by Andy Wray to item (b) would be recognised in the minutes.

Agenda Item 6 – Recommendation (b) would therefore read:

“The introduction of a catch limit of 20 bags (2400) per vessel, per calendar day, that will apply within the District during the months of July, August and September”.

The other recommendations as set out in full within the Officers' paper would remain the same and formal consultation would therefore be based upon the key points:– (a) access in Marine Protected Areas; (b) a catch limit; (c) an increase in the Minimum Conservation Reference Size; (d) the introduction of vessel monitoring and (e) a spatial restriction interconnected with a fishing trip on a given day.

Decision Making

That formal consultation is undertaken on changes to Category One (commercial) Diving Permit Conditions based around the points (a-e – as amended) as set out in full within the Officers' paper.

Proposed: Andy Wray Seconded: Cllr Dewhirst

There were no amendments offered and the motion was put to the vote.

In favour: All (10)

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Agenda Item 7

Amendments to the Current Category One Mobile Fishing Permit Conditions.

Presentation

CO Mander provided an update on the progression of the national roll out of IVMS devices and explained that the change to existing Category One Mobile Fishing Permit Conditions being recommended, should not be confused with the work being undertaken to re-make the Mobile Fishing Permit Byelaw and its associated Permit Conditions. In the short term, the change as recommended would provide a range of benefits, as set out in the Officers' paper, and that the lack of response in the consultation demonstrated that the amendment had no clear opposition.

CO Mander explained that the consultation had demonstrated the rationale for change and had set out the envisaged changes to the wording in the Permit Conditions. CO Mander highlighted that since the consultation had been undertaken and the Officers' papers had been circulated for the B&PSC meeting, the Byelaw Technical Working Group had discussed the issue and formulated amended wording. CO Mander clarified that although the wording would now be different, it did not represent a material difference, and the benefits to vessel owners resulting from the change would remain. The Vice Chair asked that the amended wording be read out to Members.

PPO Townsend asked Members to examine page 2 of the Officers' paper for Agenda Item 7 and highlighted the section titled "The Text Change for Category One Mobile Fishing Permits". Rather than the text as printed, the wording to be inserted within amended Category One Mobile Fishing Permits would now be:

"Remotely Accessed Electronic Reporting Device" means a device that transmits the required information which must be received by the UK VMS hub.

PPO Townsend added that the list (a-g) as set out, would remain the same and CO Mander informed Members that there are currently four devices that would be suitable for use within the District.

Note:

The Chair of the B&PSC (Dr Emma Bean) arrived at the meeting for the debate; however, the Vice Chair continued to chair Agenda Item 7 until its conclusion.

Debate, Questions & Comments

Pamela Buchan asked some questions regarding the procedure to amend permit conditions and if they do require approval from the Secretary of State. Dr Emma Bean provided Members with an explanation of how the overarching Byelaw provides the framework for the issue of associated Permit Conditions and includes the review process for changes to Permit Condition. The Secretary of State had approved the Byelaw; however, it was the Permit Review Process that enabled the changes to the Permit Conditions to be considered (and implemented) without further approval of the Secretary of State.

CO Mander informed Members that the existing Mobile Fishing Permit Byelaw had been introduced over eight years ago and in that time the Permit Condition Review Process had been put to good use, including the introduction of vessel monitoring as a Permit Condition. CO Mander added that as part of the re-making of the Mobile Fishing Permit Byelaw, the Byelaw Technical Working Group will review and seek refinements to its structure and the terminology used.

Members asked CO Mander a series of questions regarding the national roll out of IVMS. CO Mander responded and explained how it would affect vessels of differing sizes and over what time frame. CO Mander

responded to a question from Felicity Sylvester regarding communication. CO Mander confirmed that D&S IFCA had used direct circulation (Mail Chimp), and the website, to highlight the proposed changes to Permit Conditions and information about the national roll out of IVMS.

Members discussed grant aid available to fishers for the fitting of units and Jon Dornom added that manufacturers are assisting fishers with the process and requirements set out by the Marine Management Organisation.

The Vice-Chair suggested to Members that the Officers' Recommendations could be taken as the basis for a single motion for a vote. Members agreed and Jon Dornom proposed a motion.

Decision Making

That the existing Category One Mobile Fishing Permits are amended as set out and will apply from 1st March 2022.

"Remotely Accessed Electronic Reporting Device" means a device that transmits the required information which must be received by the UK VMS hub.

"Required Information" means

- a) a report flag to indicate that the report is the result of the Authority's permit condition requirements and is not made under EU regulations;
- b) the most recent geographical position of the fishing vessel to 5 decimal places (in WGS84);
- c) date and time (in UTC) of the fixing of the most recent position;
- d) the instant speed and course of the vessel (equivalent to 0.1 knots and course expressed in degrees (true not magnetic) to 0.1 degree) at the time of the report;
- e) the unique serial number of transmitting device;
- f) a status code;
- g) an indicator of the strength of the positional report accuracy.

Proposed: **Jon Dornom** **Seconded: Pamela Buchan**

There were no amendments offered and the motion was put to the vote.

In favour: **All (11)**

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Note:

Dr Emma Bean would now chair the remainder of the meeting. Felicity Sylvester had to leave the meeting. The Chair explained that Agenda Items 8 and 9 would be swapped around as this may aid discussions concerning the scope of exemptions.

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Agenda Item 9

Developing the Size of Fishing Vessels Byelaw.

Presentation

CO Mander explained how the Byelaw Technical Working Group (BTWG) had developed a draft Size of Fishing Vessels Byelaw that was included within the Members' papers for the meeting. CO Mander informed Members that the BTWG has no delegated decision-making powers and therefore two key elements of the current draft would need the approval of the B&PSC and were therefore focus points on the Officers' paper (Recommendations of the BTWG).

CO Mander explained that although the B&PSC had previously agreed not to introduce a "Sunset" clause, the BTWG recommended that a grace period of six-months (Effective Date) before the Byelaw comes into force should be incorporated. CO Mander then provided some background relating to the second point (scope of exemptions) and the merits and potential issues relating to including "maintenance" within an Exemptions clause.

Debate, Questions & Comments (Period of Grace)

Professor Mike Williams expanded on the information presented in the Officers' paper setting out the legal rationale for the inclusion of a grace period of six-months to be included in the Size of Fishing Vessel Byelaw. Mike Williams said that this approach is legally safer, would minimise risks of a Judicial Review and is therefore recommended by the BTWG for inclusion in the draft being developed before it will be "made" by the B&PSC.

Decision Making (1) – Period of Grace

That a six-month period of grace (Effective Date) before the conditions of the Byelaw applies is included in the draft Byelaw.

Proposed: Wayne Thomas **Seconded:** Mike Williams

There were no amendments offered and the motion was put to the vote.

In favour: All (10)

Debate, Questions & Comments (Scope of Exemptions)

The Chair asked Members if they had any comments or questions relating to the scope of exemptions. CO Mander answered questions from Pamela Buchan about the advantages of including "maintenance" as an activity that could be authorised and gave examples of what would constitute "maintenance". Mike Williams highlighted that the ability for the Authority to issue exemptions (authorisations) for maintenance would synchronise with Defra's policy to reduce emissions (carbon footprint) and quoted an extract from the draft Joint Fisheries Statement which could be used within the accompanying Impact Assessment that will explain the objectives of the Byelaw.

Pamela Buchan welcomed the opportunity to reduce emissions but had concerns why it would be a contravention of previous advice offered by Defra. CO Mander explained how the development of the stand-alone Exemptions Byelaw 2019 had tested the scope of exemptions, with a desire to see its scope widened to include amongst other things, educational and heritage. The drafting at that time was broad; however, the advice from Defra was to narrow it to scientific, stocking or breeding purposes and to include an exemptions clause in each Byelaw that is made. CO Mander added that the process element of the Exemptions Byelaw could form the basis for the issue of Exemptions (authorisations) relating to new or re-made Byelaws which will have independent exemptions clauses. PPO Townsend expanded on this point and explained how a

new application form for an exemption would be created and factors such as a set processing time and requirements from the applicant would all be incorporated into policy.

Jon Dornom asked if there would be defined areas for maintenance activity that would be undertaken under an exemption. CO Mander explained that exact detail has yet to be worked out; however, if it became an option this would be discussed with Natural England.

Decision Making (2) – Exemptions

That the Exemptions Clause in the Size of Fishing Vessel Byelaw is expanded in its scope beyond scientific, stocking or breeding purposes (to include maintenance)

Proposed: Mike Williams Seconded: Pamela Buchan

There were no amendments offered and the motion was put to the vote.

In favour: All (10)

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Agenda Item 8

Developing the Mobile Fishing Permit Byelaw (re-make of Byelaw)

Presentation (1) - Exemptions

CO Mander explained that the first recommendation of the BTWG, in relation to this agenda item, is effectively the same topic as discussed in Agenda Item 9 – the scope of exemptions. Although the draft Mobile Fishing Permit Byelaw is not yet ready for presentation, CO Mander explained that drafting to date included an exemptions clause that is very broad in its scope. Any move away from the standard “scientific, stocking or breeding purposes” would create a risk that Defra would view it as sub-delegation and the extended scope of exemptions would need to be explained in the Impact Assessment that accompanies the Byelaw, when it is formally consulted on. CO Mander highlighted that setting out the rationale for an exemption for maintenance would be easier than other topics, such as education or heritage, that would be less frequent but potentially wide ranging. On balance it was the view of Officers that wording “or such other purposes as the Authority may authorise” would be too wide to be accepted by Defra.

Debate, Questions & Comments (Scope of Exemptions)

Members, including Mike Williams, Pam Buchan and Wayne Thomas said that they supported increased scope and that it may be possible to be more specific about the range of activity that could be exempted. To recognise that a Byelaw (unlike Permit Conditions) is not flexible, Mike Williams suggested that a Policy is developed to correspond with an open form of wording within the Byelaw. A supporting Policy can clearly set out the scope of activity that could be exempted. Mike Williams commented that the Policy can be highlighted within revised wording in the draft Byelaw and advice from Defra at an early stage may determine how best to proceed.

CO Mander raised concern that to widen the scope, beyond scientific, stocking, breeding, and maintenance purposes, could be adding too much complication that, on balance, will have limited benefit. CO Mander informed Members that he could approach Defra but would prefer if this issue did not slow progress relating to remaking of the Mobile Fishing Permit Byelaw. After further discussions, Members concluded that rather than writing a full version of an “Exemptions Policy” at this time (to present to Defra), an explanation should be formulated that could be sent via email to Defra. Mike Williams and the Chair volunteered to construct the wording, which CO Mander could then send to Defra.

To recognise the need to keep moving forward with the workstream, the Chair suggested that the BTWG would react to the advice from Defra in their future drafting work without the need to report the findings to the

In favour: ***All (10)***

Information Item

Agenda Item 10

D&S IFCA's Live Wrasse Fishery Reporting

CO Mander explained that although it was not a discussion item, a detailed report had been produced by Officers, which was available to read via a hyperlink on the circulated meeting agenda or by visiting D&S IFCA's website.

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Agenda Item 11

Date of the Next B&PSC Meeting.

The Chair informed Members that the date of the next B&PSC meeting had been scheduled for 5th May 2022. Cllr Dewhirst informed Members that there are local elections on this date and if possible, would like the date of the B&PSC meeting altered. Pamela Buchan also stated that she would not be able to attend a B&PSC meeting on 5th May. The Chair asked officers to try and set an alternative date and inform Members.

- **Date of Next Meeting – To be confirmed.**

End.