



Managing Hand Working Fishing Activity

Options for Management

**Discussion Report for the D&S IFCA Byelaw & Permitting
Sub-Committee**

25th October 2019

Contents

1. Introduction.....	3
2. Principles for Byelaw Working.....	4
Generic Principles:	4
3. The Options for Management (Hand Working).....	5
4. A Hybrid Permit (Threshold) Byelaw	6
Why consider a Hybrid Permit Byelaw?.....	6
How would it be constructed?	6
What will it deliver?	6
What action is needed to develop a hybrid Hand Working Permit Byelaw?	7
What needs to be defined by the B&PSC?	7
5. Background Information	10
Planning & Timeline	10
Reports	11
Minutes	11
6. Legacy Byelaws.....	12
Reviewing Byelaws	12
Inherited Weakness	12
Task for the B&PSC.....	12
Tasking for the Byelaw Technical Working Group	13
The Relevant Byelaws.....	13
7. Key Findings & Position Taken	16
Crab Tiles	16
Bait Digging	18
Hand Gathering	20

1. Introduction

This report is to assist members of the D&S IFCA Byelaw & Permitting Sub-Committee (B&PSC) consider the different options that are available to manage the many different types of Hand Working Fishing Activity that are conducted within the District. This report is also for stakeholders so they can examine the information that has been collated and is being used for the decision-making process. This report represents the conclusion of a prolonged period of information and evidence collection and its collation in different B&PSC reports.

As set out in the Defra IFCA Byelaw Guidance 2011, the creation of a new byelaw or byelaws should be based on sound evidence, decision making and appropriate consultation. Byelaws should be seen, as one of a range of solutions available to the IFCA. When considering the options that exist to manage the different types of Hand Working Fishing Activity, members should have regard to the Authority's principles for byelaw development and the duties of D&S IFCA as set out within the Marine and Coastal Access Act 2009 as follows:

Section 153: Management of inshore fisheries

- (1) The authority for an IFC district must manage the exploitation of sea fisheries resources in that district.
- (2) In performing its duty under subsection (1), the authority for an IFC district must –
 - 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 purposes 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.

Section 154: Protection of marine conservation zones

- (1) The authority for an IFC district must seek to ensure that the conservation objectives of any MCZ in the district are furthered.

Precautionary Approach

As well as the duties listed above, members can consider precautionary measures. Defra guidance sets out preventative and precautionary advice as in some instances it may be difficult to assess whether an activity (or activities) would hinder the achievement of the IFCA's objectives, for example, when there is insufficient information about the activity or environment.

Using this Report

This report helps to summarise the key findings of the separate consultations (information and evidence gathering exercises) that have been conducted in 2019. The report contains embedded information (hyperlinks) and is best read in electronic format. The report has been used to summarise the positions taken to date by members relating to the different activities. Although the development of a byelaw (or byelaws) is only one of the options that exist to manage Hand Working Fishing Activity, Section 4 of this report provides information on how a permit type of byelaw could potentially be developed if that becomes the chosen option.

2. Principles for Byelaw Working

The B&PSC has developed a strategy and a set of principles to conduct byelaw related working. The principles can be reviewed if there is a need to so. To assist members during the options for management phase, the following information has been transcribed from the [A Guide to the Work of the Byelaw & Permitting Sub-Committee](#) (September 2019) publication.

Key principles of the most relevance include the following:

- A pre-cautionary stance must be taken where required to secure compliance with the UK's international Treaty obligations.
- To avoid permit limitation/creation of a private fishery
- Remove laws which have become irrelevant from the statute book (Hampton Review);
- Consider alternative management approaches (gentlemen's agreements and codes of conduct);
- Use the wider byelaw making powers provided by MaCAA;
- To use emergency Byelaws as a last resort.

Since 2011, the Authority has taken a view that a traditional model of byelaw making (in most circumstances) does not provide a suitable management structure. Inherited byelaws were identified as being too rigid to fit an ever-changing situation. The B&PSC has utilised Section 156 of MaCCA and formulated a strategy for byelaw work as follows:

- ***To adopt an activity-based byelaw model;***
- ***To use permit-based byelaws.***

In formulating this strategy, other or additional principles have been adopted as follows:

Generic Principles:

- To fully document the process – (Byelaw making and Permit Condition Review)
- To gather evidence regarding potential impacts on stakeholders by the implementation of management
- To conduct a well communicated review with wide ranging consultation
- To be open and transparent with information
- To consider alternative management approaches to legislation
- To remove laws which have become irrelevant from the statute book (Hampton Review)
- A pre-cautionary stance must be taken where required to secure compliance with the UK's international Treaty obligations
- To use emergency byelaws as a last resort
- To recognise that sustainable development is where the management of a fishing activity seeks to maximise the social, economic and environmental benefits in the medium and long term
- To balance the needs of various users and meet conservation duties
- To encourage legitimate activity and remove illegal, un-licensed and un-regulated fishing activity
- To drive behavioural change and high compliance
- To seek to achieve consistency in management across IFCA boundaries

And if byelaws are developed:

- To use the wider byelaw making powers provided by MaCCA
- To adopt whenever possible an activity-based byelaw model
- To use permit-based byelaws
- Not to limit permit numbers
- Full cost recovery for administration is adopted for the fees charged for permits
- When possible, make legislation easier to understand
- To correct inaccuracies and remove identified loop holes
- Draft legislation so it assists with enforcement
- Standardising the terminology used.
- To differentiate between commercial and recreational activities by applying appropriate management measures
- To make best use of technology
- Not to separate commercial users, dependent on the issue of a fishing licence

3. The Options for Management (Hand Working)

The term Hand Working includes sub groups, namely the use of crab tiles, bait digging, and a collection of other methods described as hand gathering.

- **Although discussion questions are set out within the report, the order in which they are approached can be varied, depending on how members want to proceed with the task and what is decided.**

The option exists, as set out in this report, to consider different options for management for each of the sub-groups as a single entity or in turn. The choices for each are basically as follows and it may be that a combination of options is appropriate:

1. **Relax a selected range of legacy measures**
2. **Consider the continuing use of voluntary measures or development of new voluntary measures**
3. **Maintain and develop existing legacy measures (stand-alone byelaws) with amendments**
4. **Develop a hybrid type of Hand Working Permit Byelaw.**

In making this determination, the content of existing legacy measures and what they achieve must be scrutinised and to assist members they are set out in this report and on a separate information sheet. During 2019, members have highlighted elements of the different hand working fishing activities that may be suitable for management via a byelaw. Officers reported that if this was the option selected, they had confidence that the potential exists for the development and use of a permit byelaw to deliver appropriate management of all the hand working fishing activities as a single entity.

Members requested that this approach be examined by officers with an example produced to demonstrate what this would look like in practice. Section 4 of this report provides an explanation of how a Hand Working Permit Byelaw would function, however it is described in this report as a hybrid Hand Working Permit Byelaw as it differs somewhat from the existing permitting model and this is evident in its construction requirements and the flexibility of management that it would offer.

4. A Hybrid Permit (Threshold) Byelaw

Why consider a Hybrid Permit Byelaw?

A byelaw of this type recognises many of the principles adopted by the Authority for byelaw development and the duties set out in MaCAA, in particular; seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district.

How would it be constructed?

The suggested approach can be described as a hybrid permit byelaw. It is more of a species-based approach, rather than an activity-based model developed to date by D&S IFCA. Its framework would centre around the following key elements:

- Interpretations
- Prohibitions (fixed conditions, which will be greater in number than other D&S IFCA Permit Byelaws)
- Greater use of schedules (these have no flexibility but may include minimum conservation reference sizes and areas where activity is restricted or prohibited)
- Permit Application Process (defining the criteria for a commercial permit to be issued that would be flexible in nature)
- A Permit Review Process (defines the process as used in other D&S IFCA Permit Byelaws to conduct a review of the commercial permit conditions)

What will it deliver?

Although it is not without compromise, this approach offers an opportunity for many legacy Byelaws to be examined and for their potential revocation. A Hand Working Permit Byelaw can be used to manage directly or in-directly the following:

- the use of crab tiles by limiting catch
- the activity of bait digging by limiting catch and restricting areas that can be dug appropriately
- the many other hand gathering activities by restricting catch and applying other restrictions including minimum conservation reference sizes

Balancing the needs of fishers

A hybrid type of Hand Working Permit Byelaw allows hobby or occasional fishers (the recreational sector) to conduct different hand working activities and remove a determined quantity of resource for their own use without the need to be faced with more defined restrictions of use that may be suitable for commercial operators.

This approach separates the needs of different users and would involve categorising different species such as crustacea or mollusc that would be either prohibited for removal or have a determined quantity (bag limit) authorised for removal for personal use only. Fishers (below a bag limit threshold) would be without a permit and therefore not be bound by flexible permit conditions that could be placed within a permit.

Although the level of activity, in terms of total numbers of persons conducting an activity, would be unknown, the advantage to the Authority is that it reduces the burden to issue and manage a potentially large number of recreational permits. It would also reduce the monetised and non-monetised impact on those recreational fishers that would still be able to operate without a permit.

Examples:

1. Cornwall IFCA Lobster, Crawfish and Crab Fishing Permit byelaw 2016.

This byelaw applies to the whole Cornwall District. It limits a take of species for any person, that does not have a permit, to a specific level. This Byelaw allows for a combined total of five lobster, crawfish, edible crab and spider crab to be retained on board per calendar day and limits the combined total number of lobster and crawfish (amongst the total catch) to two.

2. Sussex IFCA Marine Protected Areas Byelaw 2017

This Byelaw applies within different MPA areas which are defined for fixed management measures to apply. The Beach Head West Marine Conservation Zone, which is schedule 2 of this Byelaw, restricts gear type and catch. Within the conservation areas, shore related management measures include a catch prohibition on piddock, seahorse, native oyster and blue mussel. In addition; within any calendar day it is prohibited to remove from the shore and any part of the conservation area more than:

- 2 lobsters, 5 edible crabs
- 20 crabs in total of any species other than *Cancer pagurus* (brown crab)
- 1 Kg of mollusc shellfish except piddock (*Pholadidae*), blue mussel (*Mytilus edulis*) or native oyster (*Ostrea edulis*) and a total of 1Kg of prawns or shrimps

What action is needed to develop a hybrid Hand Working Permit Byelaw?

Further consultation would be conducted to refine elements of the Byelaw when the key content has been established. The Byelaw Technical Working Group (BTWG) can assist in developing the legal wording and framework needed, however B&PSC members must consider the legacy measures and provide guidance of what management to place within the Hand Working Permit Byelaw. Although desirable, it may not be possible to incorporate all the legacy byelaws (the management within them) that members consider are of continuing benefit, but the BTWG can attempt the working and report back with their findings. For example, the Temporary Closure of Shellfish Beds Byelaw may need to be amended and remain as a stand-alone Byelaw.

What needs to be defined by the B&PSC?

If the Hand Working Permit Byelaw becomes the chosen option for members of the B&PSC, a series of questions would need to be addressed as set out in the sections below:

Species

Most legacy byelaws relating to hand working fishing activity are species related. A list of individual species (or species grouping) that would apply in the Hand Working Permit Byelaw must be defined. The catch limitations (bag limits) that will also be established have to be linked to defined species or groups of species such as mollusca or crustacea. Sea fish can also be considered for definition if the restrictions are to include spear fishing.

Discussion Question

1. Based on the D&S IFCA legacy measures and other activity such as seaweed harvesting, which species should be managed via a Hand Working Permit Byelaw?

Catch Limits (Bag limits)

Fishers (below a bag limit threshold) would be without a permit and therefore not be bound by flexible permit conditions that could be placed within a permit. Appropriate levels for removal of the defined species needs to be established and consultation can be used to assist in this determination or refine levels set initially by the B&PSC. This can be a number or in some cases a weight in Kg. For example, a level, such as a total number, could be set for shore crab. This would therefore partially manage the use of crab tiles. In isolation it would not restrict the number of tiles in use by a recreational fisher, but by its nature would make excessive effort counter-productive to the fisher. This, in tandem with fixed spatial conditions and a commercial permit would provide an opportunity to revoke the Harvesting of Shore Crab Byelaw (2008), that currently only applies in the Exe Estuary.

A limit on fin fish such as wrasse, or flat fish would be a way to partially manage recreational spear fishing. When coupled with fixed spatial conditions it could restrict activity in environmentally sensitive areas such as Wembury, Lundy Island or potentially extended to anywhere within the District. Again, the opportunity would exist to consider the revocation of a stand-alone Byelaw and this case the Prohibition of Spear Fishing in Lundy Marine Conservation Zone (2009).

A restriction on crustacea would be a way to manage hand collection of brown crab, parts of crab, lobster, parts of lobster, v-notched lobster, berried crustacea and offer potential for a series of legacy stand-alone byelaws to be revoked.

Discussion Question

- 2. Prior to consultation, do members want to establish levels for bag limits relating to the different species as a starting point?**
- 3. If so, what bag limits should be identified to be subjected to consultation?**

Spatial Conditions

Fixed spatial conditions would apply in the Hand Working Permit Byelaw. This would be simplified by use of a schedule to the Byelaw, however it would not be flexible and would remain in place unless the Byelaw was amended. Spatial conditions can be used to prohibit the removal of different species from defined areas or prohibit or place conditions on different activities in defined areas. This has relevance to bait digging and in 2019, members have highlighted concerns about bait digging activity on eel grass beds and a potential lack of back filling in other areas. The requirement to back fill holes in specified areas could be a fixed provision and potentially supported by voluntary measures in areas not specified in the Byelaw.

Bait digging and/or the removal of target species could be prohibited from known areas of seagrass, however if these areas change, spatial management in the fixed provisions of a 5-year lifecycle Byelaw would not be able to adapt to this possible but unlikely scenario.

Fixed spatial management could be used to incorporate the content of legacy measures such as the Harvesting of Shore Crab Byelaw (2008) where shore crab can't be removed from defined areas within the Exe Estuary. Specific spatial restrictions could be established, for example to restrict recreational spear fishing in areas such as the Wembury or at Lundy Island.

- 4. Where should any specific spatial conditions apply and for what activity or species?**

Minimum Conservation Reference Sizes (MCRS)

As set out in this report and on the information sheet, D&S IFCA has inherited legacy Byelaws that relate to shellfish size. Examples include the size of crabs, lobster and winkles. These measures apply to any person and relate to the whole D&S IFCA's District. Others such as oysters and mussels only apply to the Taw Torridge Estuary.

Any MCRS that is applied as a fixed provision can't be amended unless the whole Byelaw is amended, however the Byelaw must contain MCRS as this will apply to those fishers who don't need a permit. It should be noted that in a commercial Hand Working Permit, the MCRS of different species could in theory be different to those set out as fixed provisions in the Byelaw.

The activity-based Permit Byelaws introduced by D&S IFCA have some MCRS that differ (more restrictive) to the legacy measures that apply to all person. An example is the size of a female brown crab set at 140mm carapace length in a stand-alone Byelaw but increased to 150mm in the activity-based Permit Byelaws.

5. What MCRS should apply in the fixed provisions of a Hand Working Permit Byelaw?

Permits for Commercial Hand Working Activities

Permit conditions for commercial use can be developed based around the categories used in other activity-based Permit Byelaws namely, catch, gear, spatial and time restrictions.

These would be flexible conditions subject to a review procedure. Consideration is needed as to what would be placed into them and it should be recognised that water classification is a consideration for commercial operations from public beds. The initial complication is defining what criteria must be met in order to gain a D&S IFCA commercial Hand Working Permit.

Defining qualifying criteria are more difficult for shore-based operations as there is often no vessel to link to. Criteria such as a valid General Fishing Licence coupled with the ownership details as stated on a Certificate of Registry are no longer an option. Other criteria must instead be explored.

The CIFCA Live Wrasse Fishing (Limited Permit) Byelaw 2018 is an example of a slightly different approach. The criteria needed to gain a wrasse permit is linked to specific conditions such as holding and submitting a contract meaning a written agreement between a registered fish buyer and the applicant. Further details of the contract are requested during CIFCA's application process such as the name and address of the registered fish buyer signed and dated by the registered fish buyer.

The issuing of commercial permits would enable the Authority to gain a better understanding of how many commercial hand working operations are being conducted within the District and meet the principle to encourage legitimate activity and remove illegal, un-licensed and un-regulated fishing activity. Privacy notices would be used in the application process to inform applicants that details would be shared with other organisations such as the HMRC.

- 6. To discuss the criteria to gain a commercial Hand Working Permit**
- 7. To discuss the initial restrictions to place into a commercial permit to be subjected to further development by the BTWG?**

5. Background Information

It was recognised during the planning phase ([the planning report](#)) for this review of Hand Working Fishing Activity that this would be a large and complex task and, in the view of officers, it was not a realistic expectation for members of the B&PSC to review the entire evidence base and other relevant information as a single entity prior to considering options for management that can include regulation.

An activity-based approach enabled Hand Working to be divided into three key areas which were all examined at different stages during 2019. This included the use of crab tiles, bait digging and finally a mixture of methods described as hand gathering.

Planning & Timeline

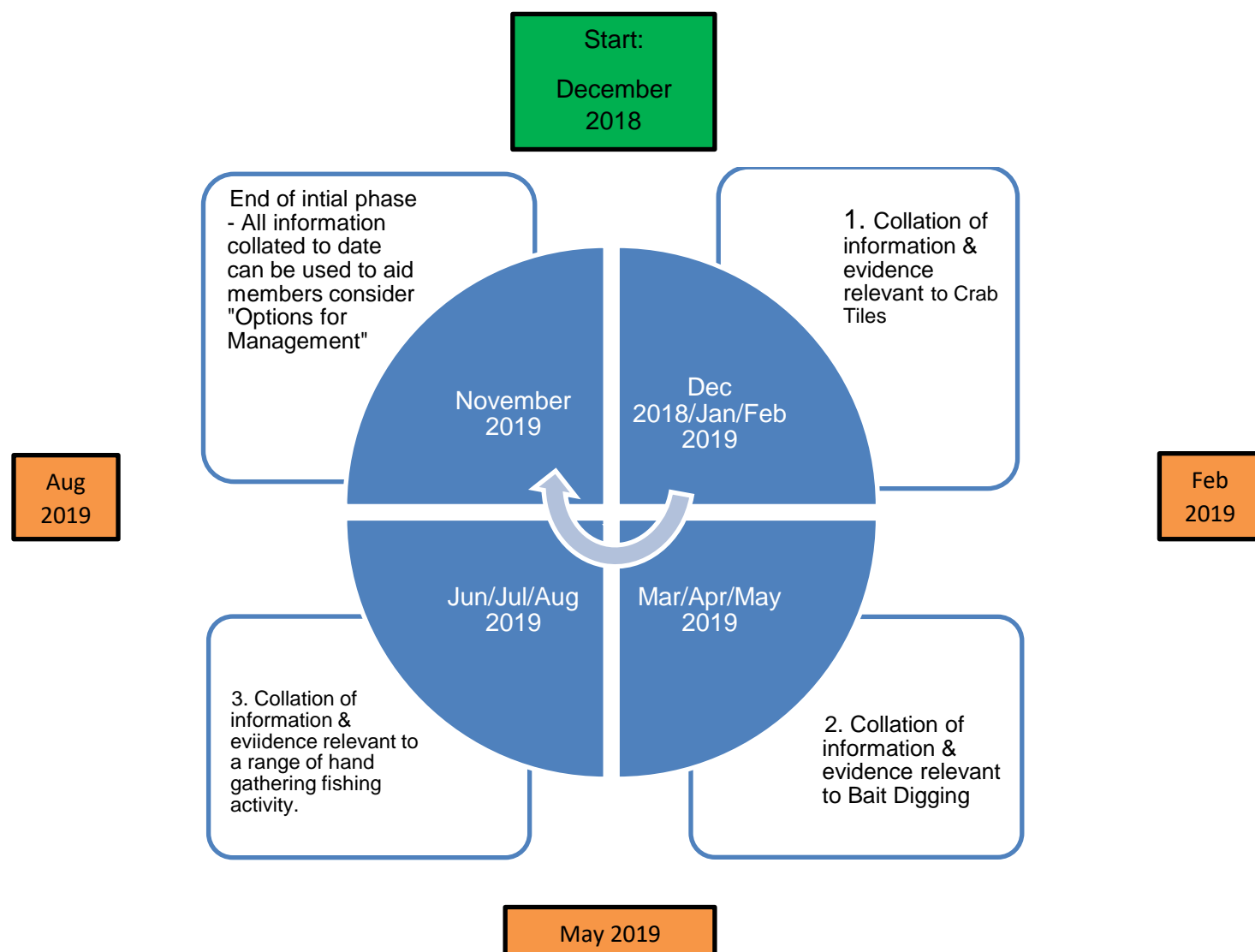
Key



Start of foundation phase



Sub-Committee Meetings where the information that was documented was presented for discussion

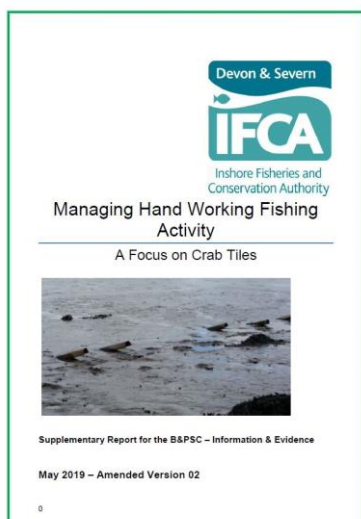


The separate phases of the review enabled D&S IFCA to conduct focussed "Call for Information" campaigns relating to the different categories of fishing methods. The findings (responses) were documented in separate reports that were presented to members of the B&PSC during 2019. The reports summarised responses from stakeholders and included an

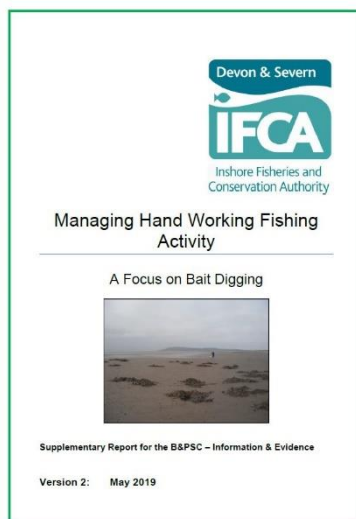
overview of the method/s, where they are conducted, who by, the findings of multiple environmental assessments conducted by D&S IFCA, and an overview of the existing management in place (if there is any in place) including legacy byelaws.

Reports

The three separate reports presented to B&PSC members in 2019 are set out below and are hyperlinked to the reports posted in the D&S IFCA Website Resource Library:



[Crab Tiles](#) (Feb 19)



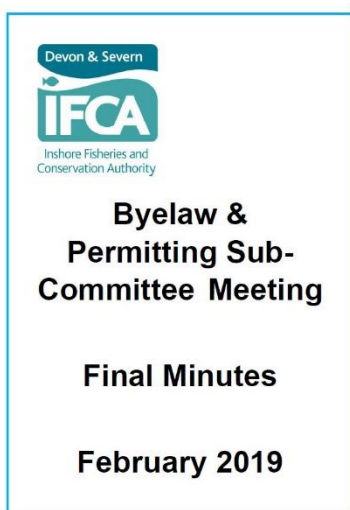
[Bait Digging](#) (May 19)



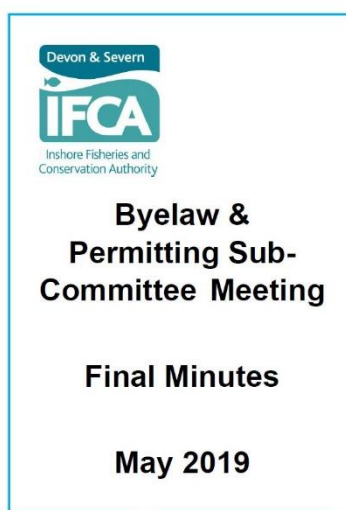
[Hand Gathering](#) (Aug19)

Minutes

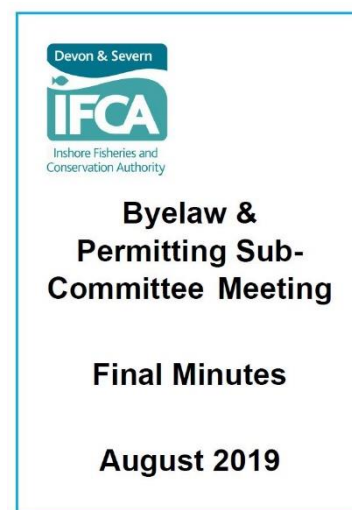
Each report was discussed by members in order to try and establish a position on the potential management of each activity grouping. Minutes are taken of all B&PSC meetings and the minutes from the B&PSC meetings held in February, May and August 2019 are set out below and are hyperlinked to the D&S IFCA Website Resource Library.



[February 2019](#)



[May 2019](#)



[August 2019](#)

6. Legacy Byelaws

Reviewing Byelaws

D&S IFCA has multiple stand-alone [byelaws](#) that relate to differing methods under the collective term “Hand Working”.

Many of these legacy measures are relevant to different hand working methods as they apply to any person, rather than focussing on a fishing activity or the equipment used. More of them are relevant to the multiple methods described as “hand gathering” rather than the use of crab tiles or bait digging.

Many of the legacy measures are species rather than activity based. Some of the measures have been used to help develop permit conditions that are issued to fishers conducting different methods such as potting or diving for crab, lobster or scallops.

Inherited Weakness

There are some potential weaknesses associated with the legacy byelaws and these weaknesses can be addressed if the B&PSC consider that there is a need to maintain or strengthen the restrictions for the management of any of the hand working fishing methods.

- **For example, other than a Temporary Closure of Shellfish Beds Byelaw, the quantity of shellfish that can be taken by recreational fisher hand gathering for their own use or consumption in areas such as the Teign and Exe is not restricted. In addition, the Temporary Closure of Shellfish Byelaw has limitations itself and only applies to a selection of shellfish that can be subjected to any such closure.**

Many of the legacy Byelaws are relatively old and this is reflected in the wording used within each Byelaw and the use of imperial rather than metric measurements. Some of the Byelaws relate to the whole D&S IFCA’s District and some are only applicable to the Taw Torridge Estuary. One Byelaw is only applicable to the River Yeo.

Task for the B&PSC

During this option for management phase, the B&PSC is tasked with examining the legacy byelaws.

In making an option for management determination, the B&PSC can examine the byelaws set out in this section and consider their potential for continuing use as compared to the information provided for each of the sub categories of Hand Working, namely the use of crab tiles, bait collection and the other hand working activities. Members can then determine how the present management could potentially be used or adapted to manage those activities.

- The duties and principles of D&S IFCA can act as discussion drivers.

Depending on which option for management is selected for the use of crab tiles, bait digging and the other multiple hand gathering activities, legacy byelaws can potentially be revoked, re-made as a stand-alone byelaw/s, merged if possible, into a permit type of byelaw or it may be that a combination of these is most appropriate.

- During discussions members can refer to this section of the report or use the separate information item document which lists the relevant legacy Byelaws

Tasking for the Byelaw Technical Working Group

If a byelaw or byelaws are the chosen option for each of the three forms of hand working fishing activity, the Byelaw Technical Working Group (BTWG), acting on behalf of the B&PSC, can attempt to formulate appropriate structure and wording to legal documentation, but must be given a clear brief on which elements of existing management or new management to incorporate into any such legal documentation.

An explanation has been provided in Part 4 of this report on how a permit type of byelaw could potentially be developed, but the content of any such regulation must be identified by the B&PSC. Further pre-consultation can be used to inform B&PSC members. The BTWG have no delegated powers for decision making and therefore the outcomes of all BTWG drafting work will be reported back to the B&PSC for scrutiny.

The Relevant Byelaws

Harvesting of Shore Crab (18th July 2008)

This Byelaw applies to all persons and prohibits the taking of shorecrab (*Carcinus maenas*) from a defined area in the Exe Estuary.

Comments:

Although this Byelaw is species related, it does have relevance to the use of crab tiles within the Exe Estuary.

Shellfish – Re-deposit of (26th February 1998)

This Byelaw means that any person who takes any shellfish, the removal of which from a fishery is prohibited by any of the Byelaws, or the possession or sale of which is prohibited, shall re-deposit them without injury in the water as near as possible to the place where they were taken from.

Comments:

The essence of this Byelaw has been incorporated into Permit Byelaws (Permit Conditions) developed by D&S IFCA to manage other activities such as potting or diving for scallop, crab and lobster.

Temporary Closure of Shellfish Beds (26th February 1998)

This Byelaw allows D&S IFCA to close areas to help aid recovery of the beds or to protect stocks of immature or undersize shellfish. The Byelaw applies to all persons taking shellfish but is restricted to defined species which include mussels, oysters, clams and periwinkles.

Comments:

This Byelaw has been used recently (1st May 2019) to prohibit any person from taking mussel from the public beds in the Teign and Exe Estuaries. A weakness that D&S IFCA has already identified is that cockles are not included in the definition of shellfish.

Winkles (26th February 1998)

This Byelaw applies to all persons and prohibits the removal of any winkle which will pass easily through a gauge within a square opening of 16mm measured over each side of the square.

Comments:

The size of the winkle (16mm) was questioned during the call for information phase. It was suggested it should be increased, resulting in a larger winkle size that could be removed legally.

Crabs (26th February 1998)

This Byelaw prohibits any person from removing edible crab (brown crab) below the specified sizes as measured across the broadest part of the shell, regardless of what method is being used. The sizes in this Byelaw are specified as being 140mm for female crab and 160mm for male crab.

Comments:

The sizes within this Byelaw for female brown crab that apply to any person is different to the 150mm carapace size specified within the Potting, Netting and Diving (for shellfish) Permit Byelaws.

Prohibition of Spear Fishing in Lundy Marine Conservation Zone (MCZ) (16th October 2009)

This Byelaw prohibits any person from using a harpoon spear or like instrument to catch fish or shellfish from within the specified site at Lundy Island.

Comments:

This spatial restriction is related to Diving but is not incorporated into the Diving Permit Byelaw as it includes sea fish. The area defined is larger than the Lundy No Take Zone, where it is prohibited for any person to remove sea fish.

Parts of Edible Crab (16th February 1993)

This Byelaw prohibits any person from removing any part of an edible crab (brown crab) which is detached from the carapace of the crab, regardless of what method is being used.

Protection of V-Notched Lobsters (15th September 1998)

This Byelaw prohibits any person from removing any v-notched or mutilated lobster (*Homarus Gammarus*) from a fishery and requires that any such lobster to be returned immediately to the sea.

Protection of Undersize and Berried Lobsters (15th September 1998)

This Byelaw applies to any person. It prohibits the removal of berried lobsters (those carrying eggs) and lobsters that are below 90mm in length (as measured along the carapace).

Lundy “No Take Zone” (11th February 2003)

This Byelaw prohibits any person from removing any sea fish from a defined area at Lundy Island.

Comments:

This Byelaw is species related and it is envisaged that it would not be revoked until a complete suite of activity related Permit Byelaws would be in place, including a potential hook and line Permit Byelaw.

Shellfish – Minimum Sizes

This Byelaw applies to any person, but it is limited to the Taw Torridge Estuary. It prohibits the removal of:

- Any oyster that will pass through a gauge having a circular opening of 2 ¼ inches in diameter
- Any mussel of less than 2 inches in length
- Any cockle that will pass through a gauge having an aperture of ¾ inch square
- Any edible crab measuring less than 4 ½ inches across the broadest part of the back
- Any lobster or crawfish measuring less than 9 inches from the tip of the beak at the end of the tail when spread as far as possible flat

Comments:

This old legacy byelaw uses imperial, rather than metric sizes.

Lobster, Crawfish and Crabs

This Byelaw applies to any person, but it is limited to the Taw Torridge Estuary. It prohibits the removal of any berried edible crab, lobster or crawfish or any soft-shelled crab or crawfish.

Shellfish – Re-deposit of

This Byelaw applies to any person, but it is limited to the Taw Torridge Estuary. This Byelaw means that any person who takes any shellfish, the removal of which from a fishery is prohibited by any of the Byelaws, or the possession or sale of which is prohibited, shall re-deposit them as nearly as possible in the place they were taken from. If cockles are re-deposited, they should be spread thinly and evenly over the beds.

Regulation of Shellfish Beds

This Byelaw is very similar to Temporary Closure of Shellfish Beds (26th February 1998) but is limited to the Taw Torridge Estuary. It allows areas to be closed to help aid recovery of the beds or to protect stocks of immature or undersize shellfish.

Prevent Sea Fishing in the Tidal River Yeo (Barnstable)

This Byelaw applies to any person, but it is limited to a specific area of the tidal River Yeo. It prohibits fishing for sea fish by any method.

7. Key Findings & Position Taken

It may be that members wish to examine the different hand working fishing methods to assess their suitability to place into a single Hand Working Permit Byelaw. The following information in Section 7 will help members recall the key information relating to the different methods and what conclusions were reached by members in the meetings during 2019.

Crab Tiles

Overview

- Intertidal shore-based shellfish harvesting that targets shore crabs (*Carcinus maenas*) for use as fishing bait by anglers.
- Artificial shelters such as roof tiles, guttering, drainpipes, chimney pots and tyres are used.
- The activity is carried out both recreationally and commercially.
- Activity conducted in many estuaries including Axe, Dart, Exe, Plym, Tamar, Teign and Salcombe.
- In 2016 the number of crab tiles in use within the estuaries ranged from 105 in Salcombe, up to 23,835 on the Exe.
- Recreational use varies from 20 tiles to a family group operating 1500 tiles

Management of crab tiles

- Exe Bait Collectors Code, Teign and Taw Torridge Voluntary Codes
- Legacy Byelaw 24 – Harvesting of Shore Crab (Spatial restriction in the Exe only)

Harvesting of Shore Crab (18th July 2008)

This Byelaw applies to all persons and prohibits the taking of shorecrab (*Carcinus maenas*) from a defined area in the Exe Estuary.

Comments:

Although this Byelaw is species related, it does have relevance to the use of crab tiles within the Exe Estuary.

Environmental Information

A full account of D&S IFCA research and assessment work was set out in the [B&PSC Supplementary Report](#), presented in February 2019.

- D&S IFCA monitors crab tile numbers every four years
- Activity is conducted within Marine Protected Areas (Designated Estuaries)
- Activity is generally considered not likely to hinder the conservation objectives of the Marine Protected Areas

Information from Stakeholders

- 46 responses received during the Call for Information campaign
- Weak knowledge of voluntary codes and Byelaw 24.
- Mixed view on the effectiveness of current management
- Mixed views on applying regulation
- Some favour the “do nothing” option and retain status quo.

- A lack of balancing the needs of different stakeholders conducting the activity in particular the Taw Torridge
- Desire to see effort restricted to current levels and to protect specific areas
- Desire to see zones created to separate commercial and recreational tiles
- Concerns over gear marking
- Desire to see the introduction of Catch Reporting (Harvesting Record)
- Desire to see a prohibition on the removal of female & berried shore crab
- Desire to see the introduction of a minimum size for shore crab
- Desire to see additional measures/best practice to avoid bird disturbance
- Desire to see cross agency enforcement of regulation
- Desire to see the introduction of voluntary wardens
- Mixed views on the introduction of permits and the management within the conditions of use

Observations & Position taken by the B&PSC

- From a conservation perspective the management of this activity was not of clear and immediate concern
- Concerns raised over the removal of a food source for fish
- Recognised that the activity is largely un-regulated
- Recognised the difficulties of stakeholders relating to reports of territorial disputes
- Concerns over D&S IFCA resources if potential further management is introduced
- A desire to see cross organisational working if management is introduced

Options for Management of Crab Tiles

The following options can be considered and if needed combined:

1. Relax management (revoke Byelaw 24) and rely totally on voluntary codes
2. Maintain existing management including a revised Byelaw 24 & continuing use of Voluntary Codes
3. Develop a stand-alone Byelaw specific to crab tiling
4. Incorporate management of crab tiling into a Hand Working Permit type of Byelaw.

(Section 4 of report provides some information on how option 4 can potentially be achieved)

Bait Digging

Overview

- Recreational angling is popular throughout the D&S IFCA's District and, as a result, so is the collection (digging) of bait species
- Bait digging for worms is the most common activity with blow lug and king ragworm the most commonly targeted species
- Digging occurs in estuaries and on some beaches
- Many areas subjected to digging are within Marine Protected Areas
- The activity is conducted both recreationally and commercially
- The activity has some natural restriction such as weather and tide

Management of crab tiles

- Exe Bait Collectors Code and the Severn Estuary Good Practice Guidelines
- No specific D&S IFCA Byelaws
- Monitoring of compliance with voluntary codes is only conducted in the Exe Estuary

Environmental Information

A full account of D&S IFCA research and assessment work was set out in the [B&PSC Supplementary Report](#), presented in May 2019.

- The activity is conducted within Marine Protected Areas
- Multiple MPA assessments relating to this activity have been conducted by D&S IFCA to assess the likely significant effect of bait digging on designated features
- Bait digging has been found to have a range of impacts on both the sediment it occurs on and the macrofauna communities within it
- Impacts are influenced by the level of activity, the sediment type and whether backfilling of holes or trenches takes place
- Bird disturbance is a concern in areas designated for their bird populations
- Populations of target species (worms) are generally considered to be resilient to bait digging at present levels but the activity can impact on non-target species
- Natural England is supportive of byelaw development to support further monitoring of the activity and to ensure backfilling of holes and trenches
- Natural England is supportive of habitat specific management in the Severn if activity increases or occurs closer to or on the *Sabellaria* feature
- Natural England is supportive of measures to minimise bird disturbance

Information from Stakeholders

- 32 mixed responses received during the Call for Information campaign
- Mixed knowledge of current voluntary codes with increased publicity of them suggested as a proactive step to take
- Many would prefer further development of codes as opposed to development of legislation
- Continued opportunity to conduct the activity of high importance
- No suggestions of a level that would be suitable for personal collection
- Concerns raised about effectiveness of voluntary codes and a lack of back filling
- Concerns raised about the un-regulated nature of the activity and financial gain unreported to HMRC.

- Some concern about excessive activity or risks that the activity will become excessive if not suitably managed
- Majority of responses indicated that a byelaw is not favoured, with even less in favour of the use of permits

Observations & Position taken by the B&PSC

- Recognised that a lack of back filling is a concern
- Recognised that the activity can pose risks to seagrass beds
- Noted the supportive position of Natural England to see the development of regulation
- Concerns over D&S IFCA ability to manage the activity via a byelaw
- Consideration that the use of voluntary codes would be less demanding on D&S IFCA resources
- Noted that D&S IFCA is the lead organisation in applying suitable management in SSSI areas
- Recognised that with improved communication the use of voluntary codes in tandem with regulation may be influential
- Officers reported that in their view voluntary codes have had limited success
- Continued monitoring of the activity is desirable
- Spatial management in defined areas are potentially more suited to reflect the risks to sea grass rather than regulating the whole activity
- Consideration can be applied to a feature-based approach focussed on spatial management

The following was also noted at the B&PSC meeting in May 2019:

- It is not envisaged that bait digging (generally) needs regulation at this time
- The Byelaw Technical Working Group (BTWG) can examine different options on behalf of the B&PSC for the formation of regulation with focus on the protection of sea grass and to address other issues associated with problematic spatial areas
- D&S IFCA and the B&PSC will continue to monitor the activity
- The use of existing and new voluntary codes can be explored further
- Consideration can be applied to how to improve communication and awareness of voluntary codes

Options for Management of Bait Digging

The following options can be considered and if needed combined:

1. Maintain existing management only (voluntary codes)
2. Maintain existing voluntary codes and potentially develop additional voluntary codes coupled with increased publicity of them
3. Develop stand-alone byelaw/s to manage the activity of bait digging
4. Incorporate management of bait digging into a Hand Working Permit type of Byelaw

(Section 4 of report provides some information on how option 4 can potentially be achieved)

Hand Gathering

Overview

This part of the review is more complex as multiple activities were considered to fall under the term “hand gathering”. Activities already managed via Regulating Orders granted under the Shellfish Act 1967 did not form part of this review. Regulating Orders remove the “Right of Public Fishery” from the area of the designated fishery and provides D&S IFCA with the powers to manage the area.

However, as set out in Sections 158 of the Marine and Coastal Access Act 2009, where a private fishery exists within a designated Marine Protected Area (MPA) then the management (if it was set out for example in a Byelaw or permit conditions) can apply across the private fishery area without the consent of the private fishery. This could apply to some of the estuaries in Devon, such as the Exe and Dart.

The activities as described as “hand gathering” in the [B&PSC Supplementary Report](#), presented in August 2019 are as follows:

- Bait pumping
- Hand gathering of mussels, cockles clams, winkles, limpets and other molluscan species
- Raking for cockles and clams
- Hooking for crab and lobster
- Prawning with hand net
- Salting for razor shells
- Spear fishing
- Seaweed harvesting
- Drop netting

All these activities are known to take place within the District to a greater or lesser extent and are conducted commercially, recreationally or both.

Management of hand gathering methods

- Multiple legacy byelaws as set out in Section 3 (page 7 to 9) of this report relate to hand gathering
- The public mussel beds in the Teign & Exe Estuaries have been subjected to a temporary closure since 1st May 2019 via the Temporary Closure of Shellfish Beds (26th February 1998) Byelaw
- NE manages the collection of mussels in the Taw Torridge with the following conditions applicable:
 1. No more than 500kg of mussels should be removed from the SSSI per month.
 2. Any business wishing to remove mussel must notify NE and D&S IFCA of their intentions to do so by 23rd of the month prior to the month when mussel harvesting is proposed. This will allow NE and D&S IFCA to advise if your planned removal will, in combination with other planned activities, be likely to result in the 500kg limit being

exceeded. If this is the case, planned removal by all individuals will need to be reduced accordingly.

3. Applications to remove mussels after the 23rd of the month prior to the month when mussel harvesting is proposed will not be considered for the following month's harvesting.
4. In addition, the business must inform D&S IFCA and NE by phone on the day of mussel removal prior to harvesting taking place. This will allow inspection of the catch.
5. Records of quantity of mussel removed (including location) together with copies of movement documents should be submitted to NE & D&S IFCA no more than 14 days after harvesting.

Environmental Information

A full account of D&S IFCA research and assessment work was set out in the [B&PSC Supplementary Report](#), presented in August 2019.

Assessing the environmental information collated by D&S IFCA that is relevant to hand gathering activities is more complicated than the use of crab tiles and bait digging. Some activities categorised as being hand gathering have not been assessed to the same level as others.

- Activity is conducted within Marine Protected Areas
- Multiple MPA assessments relating to hand gathering activities have been conducted by D&S IFCA to assess the likely significant effect of on designated features
- Shellfish is collected recreationally from unclassified shellfish beds
- Shellfish removal from unclassified beds present an increased health/hygiene risk
- Water classification is a consideration for commercial operations from public beds
- Certain hand gathering methods have been found to have a range of impacts on both sediment and shellfish stocks
- Bird disturbance is a concern in areas designated for their bird populations
- Excessive removal of specific shellfish species can result in insufficient food supply for shorebirds
- Trampling on mussel beds can reduce mussel coverage
- Natural disturbance to mussel communities is relatively common
- Indirect effects of trampling could remove species that interact through competition, predation of habitat provision (natural predation can be from a range of crab, starfish, fish and bird species)
- Public mussel beds in the Teign & Exe Estuaries are closed due to depletion of stock
- Natural England is supportive of a permit type of byelaw to monitor activity and introduce future management if required in the Exe SPA.

Information from Stakeholders

- Multiple intelligence reports (2017 – 2019) raising concern over large scale shellfish (mussel, cockle, oyster & winkle) removal from the Exe, Teign, Avon and Plymouth areas (and in the past, the Yealm).
- 48 responses received during the Call for Information campaign
- Majority of responses raised concern about large scale cockle collection from the Teign Estuary and the lack of management

- Responses relating to activity such as prawning, seaweed collection, hooking for crab and lobster, razor clam collection, hand netting & winkle collection felt that regulation for recreational activity would be excessive
- Concerns raised relating to the size of a winkle gauge (too small at 16mm)
- Concerns raised about the activity of spear fishing in the Wembury Area (within a conservation area)

Since the call for information campaign and information items posted by D&S IFCA, there has been heightened interest from the media focusing on cockle collection in the Teign Estuary and what D&S IFCA may do to manage this activity.

Observations & Position taken by the B&PSC

- Recognised that a bag limit for several species may become the most appropriate action to take
- Recognised that there is recreational activity being conducted at a level not in keeping with what a recreational activity should be
- Recognised that there appears to be a balancing the needs of fisher's issue
- Requested that a framework example of a permit type of byelaw is included within this report which can be examined and discussed if required

Options for Management for Hand Gathering

The following options can be considered and can be combined:

1. Selected legacy byelaws to be revoked and not replaced
2. Voluntary code/s development
3. Maintain existing management and revise wording within standalone legacy measures
4. Incorporate management of identified hand gathering activities into a Hand Working Permit type of Byelaw.

(Section 4 of report provides some information on how option 4 can potentially be achieved)

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End of Report.