



# Byelaw & Permitting Sub- Committee Meeting

Final Minutes from 13<sup>th</sup>  
June 2024

## Version Control and Drafting

Date	Comments
Version 0.1 5 <sup>th</sup> July 2024	1 <sup>st</sup> Draft of minutes developed by PPO Townsend for circulation to Officer's present at the meeting for potential internal amendment and/or additions.
Version 0.2 – 0.3	Additions by DCO Clark & CO Mander
Version 0.4 23 <sup>rd</sup> July 2024	Additions applied – Draft minutes circulated to Members for initial feedback
Version 0.5 14 <sup>th</sup> August 2024	Amendments to reflect comments received from Members. Draft minutes V0.5 published on D&S IFCA's website.
Final Version – 16 <sup>th</sup> September 2024	Minutes agreed at B&PSC meeting, held on 5 <sup>th</sup> September 2024 – no amendments. Minutes published on website.

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## Minutes of the Byelaw and Permitting Sub Committee Meeting

Held at Exeter Racecourse on 13<sup>th</sup> June 2024

**Present:**

Dr Emma Bean (Chair)	Professor Mike Williams	Simon Thomas
Jon Dornom	Felicity Sylvester*	David Morgan
Dave Saunders	Neil Smith	Charlie Ziemann
Cllr Alistair Dewhirst	Jasmine Rix	Wayne Thomas

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

**Public Observing:** Kate Sugar (Natural England)

**Notes:** \*Felicity Sylvester arrived at 12.48 hours.

### Introduction:

The Chair welcomed everyone, and the Chair asked everyone present to introduce themselves.

## Action Items:

### Agenda Item 1

#### Apologies for Absence.

PPO Townsend said that he had received apologies from Dr Pamela Buchan, Simon Toms (EA), Didi Alayli and Guy Baker. PPO Townsend said that Felicity Sylvester was potentially running late. CO Mander said that that he had received apologies from Cllr Amil. PPO Townsend said that it was not known if Mark Day or Caroline Acton would be attending the meeting.

### Agenda Item 2

#### Declarations of Interest.

Simon Thomas declared an interest, being part of the FISP project.

### Agenda Item 3

#### To consider and approve the draft minutes of the B&PSC meeting held on 22<sup>nd</sup> February 2024.

The Chair invited those who were present at the last meeting to raise any issues associated with the accuracy of the draft minutes from the February meeting and the minutes were examined page by page. There were no comments or suggested amendments to add to those received prior to the meeting that had already been applied. This was noted by PPO Townsend.

***That the minutes provide a true and accurate record.***

<b>Proposed:</b>	<b>Mike Williams</b>	<b>Seconded: Jon Dornom</b>
<b>In favour:</b>	<b>9</b>	
<b>Against:</b>	<b>0</b>	
<b>Abstain:</b>	<b>2</b>	

#### **Agenda Item 4:**

##### **Matters requiring urgent attention.**

The Chair consulted with Officers 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 Chair consulted with Officers and there were no questions or comments from members of the public for the meeting.

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#### **Agenda Item 6:**

##### **Planning B&PSC Work for 2024**

The Chair asked CO Mander to introduce the agenda item.

###### ***Presentation***

CO Mander informed Members that the officers' paper was intended to demonstrate to newer Members that a process would need to be followed to potentially introduce new Byelaws. CO Mander said that multiple B&PSC meetings would shape work as it continues during 2024/2025. With so many variables, CO Mander informed members that it was not possible to be more precise with planning and timing of work; however, phase one of the plan included a review of principles and broad consideration of voluntary measures and both were agenda items. CO Mander explained that the decision-making by Members relating to both agenda items 7 and 8 would have a bearing on work to follow; and that other discussion and consideration by Members would feed into the work as it develops. CO Mander highlighted that the potential implementation of the Mobile Fishing Permit Byelaw 2022, and some key provisions within it, would potentially have a bearing on how the drafting of other byelaws work is approached. CO Mander explained that delays in the confirmation of the Mobile Fishing Permit Byelaw 2022 would potentially hamper the development of other byelaws that would ideally use a similar framework, style and content where relevant.

###### ***Debate, Questions & Comments***

Cllr Dewhirst highlighted that there were continuing issues on the Teign and Exe regarding the hand collection of sea fisheries resources and, whilst accepting D&S IFCA's limited resources, asked if there was scope to expand byelaw development beyond the plan. In terms of any such byelaw development, Cllr Dewhirst highlighted that balancing the needs of different users, by limiting, but not necessarily prohibiting the collection of different resources would be welcomed by many people that he had spoken to about the issues.

CO Mander confirmed that Officers were aware of the issues reported each year; and recognised that there is a wider expectation that D&S IFCA would aim to address the issues by introducing management measures via a byelaw. CO Mander highlighted that past work had included pre-consultation and that the B&PSC had discussed the views of stakeholders and how potentially to construct a byelaw. CO Mander explained that more work, including further consultation, would be needed to inform that process, as it is not as straightforward as some people would imagine. CO Mander said that the delays in addressing the management of hand gathering is one example of the Authority not delivering its statutory duties, however, the Authority had agreed to suspend work developing a district wide Hand Working Permit Byelaw as there are insufficient resources (including time) to pursue this at this time. Cllr Dewhirst explained that hand gathering is very visible to the public and many feel that funding provided to D&S IFCA is not being used to deal with this issue.

*Note: Felicity Syvester arrived at 12.48.*

The Chair highlighted that the plan for the B&PSC's work in 2024, relates to the Annual Plan agreed by Authority Members in March 2024 and continuing work developing a Hand Working Permit Byelaw did not form part of the Annual Plan.

Simon Thomas informed Members that he was aware that other IFCA's had progressed work relating to hand gathering in their areas of operation. CO Mander confirmed that this was correct and that D&S IFCA may be able to build upon the work of other IFCA's in the future.

There were no other comments or questions relating to the B&PSC's plan of work for June to September 2024.

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## **Agenda Item 7**

### **Review of Byelaw Making Principles**

#### ***Presentation***

CO Mander informed Members that approximately ten years ago, Authority Members had agreed a set of principles to guide byelaw development work. Although there had been reviews and amendments since 2014 to some of the original principles, it was the view of officers that it was appropriate for them to be examined once again in depth. CO Mander highlighted that the membership of the B&PSC had changed a few times in recent years, and this was an opportunity for all Members, older and newer, to discuss the existing principles, to ask questions about them, and to potentially amend them as required. CO Mander highlighted that some of the principles adopted in the past separate D&S IFCA from the approaches taken by other regulators and agreement of D&S IFCA's byelaw making principles would be one of the foundations for on-going byelaw development.

#### ***Debate, Questions & Comments***

Mike Williams said that he strongly agreed with a continuation of a fishing activity-based strategy with the use of permit-based byelaws; adding that many other IFCA's had seen the advantages they can offer and had followed D&S IFCA's lead. Mike Williams added that it was important that the principle relating to fees for a permit is clearly understood by a wider audience, in that it only relates to administration fees which should be set following an audit of costs.

Cllr Dewhirst highlighted that given D&S IFCA's financial difficulties, income generated by permit fees, potentially larger fees, would be of benefit. Cllr Dewhirst enquired if fees for a permit should also recognise enforcement costs, for example costs of employing enforcement officers and running enforcement vessels to undertake inspections.

CO Mander informed Members that it was the view of officers that permit fees should not extend to recovery of costs for enforcement action related to management measures implemented via the permits. CO Mander said that the Authority's position, for many years, has been that recovery of costs should only be limited to those relating to administration of the permitting mechanism and that this position taken by the Authority is in keeping with officers' understanding of the explanation (or intention of the explanation) of section 156 (4) Marine and Coastal Access Act 2009 (MaCAA).

Regarding establishing the level of fees for a permit, CO Mander explained that £40 for a two-year period, absorbs costs associated with the employment of a Marine Development Officer for the permitting aspect of

their role. Although there could be an argument that the gathering of data is not fully recognised in the fee charged, officers take the view that different and relevant data sources are available to the Authority, without the need to charge fishers for supplying specific data. Simon Thomas mentioned that data from the Catch App are available for use. CO Mander highlighted that the greater use of the Catch App would be an example of gathering data, without a need to charge fishers to collect the data.

PPO Townsend added that although a permit fee of £40 for a two-year period had been quoted, there was flexibility regarding this cost for administration. PPO Townsend explained that when developing byelaws, the exact fee would not appear on the face of the Byelaw; however, for clarity, the initial fee would be advertised and form part of the Impact Assessment that accompanies any new byelaw. The Byelaw, if drafted in a particular way, would enable a review of permit fees – a thorough and transparent process driven by evidence of the need for a potential change in fees.

Mike Williams said that his understanding of the explanatory notes of MaCAA, is that a principle of full cost recovery would not be aligned to the intention of the wording in the Act or the explanatory notes and could therefore not be defended by the Authority.

The Chair thanked Members for their initial views on the principles; however, the Chair asked Members if they could examine each one in order of presentation, to enable any potential changes to be discussed and noted.

***Principles – In Order of Presentation (purple font)***

PPO Townsend informed members that he had a copy of some notes submitted by Mike Williams prior to the meeting regarding some suggested amendments to the principles. PPO Townsend said that he would highlight these suggestions for amendments at the appropriate stages during discussions.

**1. To fully document the process (Byelaw making and Permit Condition Review)**

CO Mander highlighted the amount of documented work produced by officers relating to the byelaw development/permit condition review work, including consultation, papers for meetings, minutes for meetings, and Impact Assessments. CO Mander explained that positive feedback had been received about the amount of information available in the public domain.

**Members agreed to retain principle 1 as presented.**

.....

**2. To gather evidence regarding potential impacts on stakeholders by the implementation of management.**

DCO Clark highlighted that there was some potential confusion relating to the current wording. Impact could be immediate or over time. David Morgan said that impact may not be apparent until after a management measure had been in place for a period of time. CO Mander said that the principles are intended to be more for Byelaw making or establishment of management measures and therefore this principle aligns with development of an Impact Assessment. Mike Williams suggested alternative wording which was agreed by Members.

**Amended (2): To gather information and evidence regarding potential impacts on stakeholders by the implementation of management, for the purposes of the Impact Assessment.**

**3. To conduct a well communicated review with wide ranging consultation.**

Felicity Sylvester said that in her view D&S IFCA struggles to be wide ranging with its communication and consultation and does not provide enough options for fishermen to engage, for example holding in person meetings around the District. CO Mander highlighted that the permitting model lends itself to direct engagement using the details provided by the permit holders. This, coupled with limited resources has led to a more electronic engagement strategy – for example Mailchimp, use of website and Facebook. CO Mander highlighted that although a mix of engagement opportunities will please some more than others, in person engagement is often not as effective as some may think, as turn out can be very low. Felicity Sylvester suggested that fishermen may not attend in person events, or engage at all, as many may feel that they are ignored and their views of no significance. Wayne Thomas commented that people tend to engage more when they have more to say, but they have to want to engage. Members accepted that defining and measuring success in communication is difficult and that some may see the principle as aspirational in nature; however, it should remain as a principle as it is a clear message of intent.

**Members agreed to retain principle 3 as presented.**

.....

**4. To be open and transparent with information;**

Mike Williams suggested a minor change, that was noted, relating to the protection of personal or sensitive information.

**Amended (4): To be as open and transparent as possible with information.**

.....

**5. To consider alternative management approaches to legislation;**

**Members agreed to retain principle 5 as presented.**

.....

**6. To remove laws which have become irrelevant from the statute book (Hampton Review);**

Mike Williams highlighted that laws are different, and the principle should reflect the legislation developed by the Authority. An alternative was read out and agreed.

**Amended (6): To remove byelaw provisions which have become irrelevant (Hampton Review).**

.....

**7. A precautionary stance must be taken where required to secure compliance with the UK's international Treaty obligations;**

Simon Thomas commented that the appropriate collection, processing, and analysis of data should negate the need for a precautionary approach. Simon Thomas also highlighted the importance of observational data in particular to social scientists. Mike Williams commented that the essence of the Precautionary Principle should remain, and how data is used is a different discussion point. Mike Williams suggested removing reference to the UK's international Treaty Obligations. This was agreed by Members.

**Amended (7): A precautionary stance must be taken where required.**

.....

**8. To use emergency byelaws as a last resort;**

CO Mander explained that this principle had been developed as a form of messaging to a wider audience, potentially promoting the use of the permit-based byelaw model developed and introduced by the Authority. CO Mander said that the messaging reflects that D&S IFCA would be less likely to have the need to use Emergency Byelaws because the scope of management and flexibility provided by the use of permit conditions means that unforeseen events could be managed in a timely way without the need of an Emergency Byelaw. Members agreed that there should be minor changes to the principle as follows:

**Amended (8): To use emergency byelaws only as appropriate.**

.....

**9. 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;**

Wayne Thomas suggested adding the word “balance” and David Morgan highlighted that to maximise is to get as much as you can. Mike Williams suggested additional wording and after discussion Members agreed to a change as follows:

**Amended (9): Management of a fishing activity seeks to maximise the social, economic and environmental benefits in the medium and long term on a sustainable basis.**

.....

**10. To balance the needs of various users and meet conservation duties;**

**Members agreed to retain principle 10 as presented.**

.....

**11. To encourage legitimate activity and remove illegal, un-licenced and un-regulated fishing activity;**

CO Mander highlighted how this principle has relevance to the use of, or the potential to seek to minimise the use of, non-powered fishing vessels. CO Mander explained how D&S IFCA, along with CIFCA had written to the Marine Management Organisation (MMO) to highlight a growing issue associated with the use of non-powered fishing vessels. CO Mander explained that when the Netting Permit Byelaw was developed, Members had an expectation that, in the longer term, the MMO would address the issue. In addition, Members had recognised an historic small scale commercial netting practice undertaken using a mud horse (a non-powered vessel).

CO Mander explained that these factors had a bearing on setting criteria to gain a netting permit, within the Netting Permit Byelaw, resulting in a different approach compared to Potting and Diving. Members felt it was appropriate to separate principle (11) into two new principles as follows:

**Amended (11): To remove illegal fishing activity.**

**New Principle (to become principle 12): To seek the regulation and licencing of all commercial fishing activity.**

.....



**12. To drive behavioural change and high compliance.**

Members acknowledged that now a new principle had been developed, revised numbering would be applied after all the principles had been discussed. The Chair said that the original numbering of the principles would continue to be used in the discussions to avoid confusion. Regarding principle 12 (as presented), Members agreed on a change as follows:

**Amended (12 – to become 13): To drive behavioural change to achieve higher compliance.**

.....

**13. To seek to achieve consistency in management across IFCA boundaries.**

Members agreed to add the following to principle 13

**Amended (13 – to become 14): To seek to achieve consistency in management across IFCA boundaries where appropriate.**

.....

**14. To use the wider byelaw making powers provided by MaCAA;**

PPO Townsend explained that this principle had been developed, potentially more as a message of intent, relating to the Authority’s aims to develop permit-based byelaws. Although MaCAA makes it clear that this is an option for IFCA’s, at the time, the use of permits was not a well-used approach. Members determined that now that permit based byelaws are becoming more frequently used, the principle is no longer needed as a form of messaging.

**Principle (14), as presented, is to be removed.**

.....

**15. To adopt whenever possible an activity-based byelaw model;**

PPO Townsend explained that the principle had been developed following discussions how to approach the Authority’s review of legacy Byelaws inherited from Devon Sea Fisheries. PPO Townsend explained that Members at that time had concluded that the best way forward would be to focus on the management of different fishing activities (as a whole) that are undertaken in the District rather than examining different locations in the District. PPO Townsend explained that this principle doesn’t preclude the use of alternatives where there is a good reason, for example the Size of Fishing Vessels Byelaw 2022 is not activity based.

CO Mander added that this approach had resulted in district wide permit byelaws, that still enable site specific management measures to be applied; however, these are applied per method in each set of permit conditions. Members agreed that, in most cases, the activity-based model is still appropriate and that this should be reflected in the principle that should therefore be amended.

**Amended (15): To continue to adopt an activity-based byelaw model.**

.....

**16. To use permit-based byelaws;**

PPO Townsend informed Members that the principle does not necessarily preclude alternatives, it is just that the use of permit-based byelaws has generally been agreed as being advantageous for managing fishing activity district wide.

Members agreed the following amendment to principle (16).

**Amended (16): To continue to use permit-based byelaws where appropriate.**

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**17. Not to limit permit numbers;**

Wayne Thomas commented that limiting permits may be something that the B&PSC may wish to consider in the future, so maybe this principle should be removed or amended.

The Chair highlighted that a limitation on permit numbers can provide them with a “market value”, and this is one reason why they had not been limited in number to date. CO Mander agreed and said that difficulties do arise with limiting permit numbers as it is effectively establishing of a private fishery, where only a few can benefit, and a barrier is created to new entrants to the industry.

David Morgan commented that if transferability is restricted, a trade situation, therefore a “market value” would potentially not arise.

CO Mander highlighted his own observations of permit limitations in the Wash Area (Eastern IFCA) and the complications that can arise, including transfer of permits. CO Mander highlighted that in his view the best approach is to continue as it has been to now – to manage the respective fisheries as a whole, not by limiting participants, but by applying appropriate management measures to all involved. Mike Williams agreed and highlighted that for each activity a natural number of fishers will be established over time. Cllr Dewhirst highlighted examples of other licence type of situations in local government, for example taxi licences. Cllr Dewhirst said that in his experience limitation always creates some kind of official or un-official value, and therefore would agree not to limit permits. Members agreed to minor changes as follows:

**Amended (17): To not limit the number of permits issued.**

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**18. Full cost recovery for administration is adopted for the fees charged for permits;**

The Chair highlighted that this principle had partially been discussed earlier. Felicity Sylvester questioned the time period of two years covered by the administration fee as, in her view, it may be better to set a fee per year, to potentially help new entrants; the rationale being that they may not continue in year two. CO Mander commented that this was a good point; however, it would have more relevance if the administration fee was significantly higher. CO Mander explained that current permit-based Byelaws set a fee of £20 for two years and that as new byelaws are developed the fees will become £40 for two years – an increase, but generally a low cost to fishermen. CO Mander said that setting the administration fee to cover two years has a benefit for fishermen who have less administration regarding renewal of a permit, and this also saves time for D&S IFCA Officers processing the applications. Members agreed to retain the principle (18) with no material changes, only minor text amendments.

**Amended (18): To adopt full cost recovery for administration for the fees charged for permits.**

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**19. When possible, make legislation easier to understand;**

Members agreed that principle (19) should remain, but asked for text changes to keep the style going of using “to” to start each principle.

**Amended (19): To make legislation easier to understand when possible.**

.....

**20. To correct inaccuracies and remove identified loop holes;**

Mike Williams suggested that this principle be removed as the B&PSC would always seek to address loop holes in legislation in their discussions regarding byelaw development. In addition, Mike Williams said that the B&PSC, assisted by the Byelaw Technical Working Group, would always recognise the need to achieve the best possible standards of drafting work. Members agreed to remove principle (20) as presented.

**Principle (20), as presented, is to be removed.**

.....

**21. Draft legislation so it assists with enforcement;**

Members agreed to a minor amendment as follows:

**Amended (21 - to become 20): To draft legislation to facilitate effective enforcement.**

.....

**22. Standardising the terminology used;**

Members agreed to a minor amendment as follows:

**Amended (22 – to become 21): To standardise the terminology used where appropriate.**

.....

**23. To differentiate between commercial and recreational activities by applying appropriate management measures;**

Members agreed to a minor amendment as follows:

**Amended (23 - to become 22): To differentiate, where appropriate, between commercial and recreational activities by applying appropriate management measures.**

.....

**24. To make best use of technology;**

Members agreed to a minor amendment as follows:

**Amended (24 – to become 23): To make the best use of technology.**

.....

**25. Not to separate commercial users, dependent on the issue of a fishing licence**

*(specific to the Netting Permit Byelaw)*

The Chair suggested that as per the officers' paper, Members defer decision making relating to this principle. This was agreed by Members.

.....

**Decision Making:**

**Principles (1 to 24) as presented**

***That the B&PSC approves the Byelaw Review Strategy and the Principles (1 to 24) as amended.***

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

*There were no amendments to the motion.*

**In favour:** All  
**Against:** 0  
**Abstain:** 0

**Principle (25) as presented**

*That the B&PSC defers a decision regarding principle 25* (Not to separate commercial users, dependent on the issue of a fishing licence).

**Proposed:** Mike Williams                      **Seconded:** David Morgan

*There were no amendments to the motion.*

**In favour:** All  
**Against:** 0  
**Abstain:** 0

.....  
**Review - D&S IFCA’s Explanation of Decision Making and the Precautionary Principle**

**Presentation**

Mike Williams explained to Members that he had been elected as Vice-Chair for the Association of the IFCA’s (AIFCA) and that the Chair of the B&PSC (Dr Emma Bean) had been appointed as Chair of the AIFCA Law Group. Mike Williams explained that Dr Emma Bean had been requested by the AIFCA to draft a paper on the use of the precautionary principle and therefore the content of that paper may be suitable for adoption by the B&PSC. The Chair said that the paper could be presented to the B&PSC in due course, and this was welcomed by Members.

**Decision Making:  
Precautionary Principle**

*That a decision on any amendments to D&S IFCA’s explanation of “Decision Making and the Precautionary Principle” is deferred until the paper prepared for the AIFCA is presented to the B&PSC.*

**Proposed:** Cllr Dewhirst                      **Seconded:** Jon Dornom

*There were no amendments to the motion.*

**In favour:** All  
**Against:** 0  
**Abstain:** 0

.....

## Agenda Item 8

### Options for Management

#### *Presentation*

CO Mander informed Members that the officers' paper coincides with the expected direction of travel regarding byelaw development. CO Mander highlighted that the use of byelaws is one option available for D&S IFCA to manage activity, but not necessarily the only option. CO Mander explained that the officers' paper identified why, in the view of officers, the use of a regulatory framework (byelaws) is appropriate for the continued management of potting, netting, and diving (for specified species) in the District, rather than alternatives such as the use of voluntary measures.

#### *Debate, Questions & Comments*

Mike Williams said that the officers' paper clearly set out strong rationale why voluntary measures have not been used in the past and that voluntary codes of conduct have a long and distinguished record of not being effective. No Member had an alternative view, and a motion was developed for a vote as follows:

### Decision Making:

#### Options for Management

***That the use of a regulatory framework (byelaws), are appropriate for the continued management of potting, netting, and diving (for specified species) in the District.***

***Proposed:                      Mike Williams                      Seconded: Simon Thomas***

***There were no amendments to the motion.***

***In favour:      All***

***Against:        0***

***Abstain:        0***

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#### Date of the Next B&PSC Meeting.

PPO Townsend explained that the date of the next meeting would be confirmed in due course, via email correspondence.

*Subsequent to the meeting, the date of the next B&PSC meeting was confirmed as 5<sup>th</sup> September 2024.*

**End.**