

Update: Mobile Fishing Permit Byelaw 2022

Officers' Recommendation

That Members note the update regarding the Mobile Fishing Permit Byelaw 2022.

1. Background

Developing the Mobile Fishing Permit Byelaw 2022 (MFPB 2022) has taken over five years. This has included planning, discussion by the B&PSC, pre-consultations, drafting work, formal consultation and, beginning in 2023, a lengthy period of quality assurance (QA) by the Marine Management Organisation (MMO) QA Team. On 2nd September 2025 the MMO QA Team provided D&S IFCA with the draft copy of the submission letter to Defra with their recommendation that the MFPB 2022 is confirmed by the Secretary of State. Following some slight amendments by D&S IFCA Officers, agreed by the MMO, the finalised submission letter was sent to Defra along with all relevant documents.

2. The Quality Assurance Phase

This included multiple phases lasting approximately 27 months including back and forth correspondence, comments spreadsheets, in person meetings, virtual meetings, and multiple drafts of the Byelaw. During the QA process issues were identified by the MMO regarding the broadness of the Byelaw and an absence of interpretations that the MMO recommended for inclusion. The correspondence between D&S IFCA and the MMO QA Team included submission of legal advice produced by D&S IFCA's prosecuting solicitor. During the third QA phase it was confirmed to D&S IFCA that associated permit conditions also needed to be examined and were therefore developed by Officers, based on previous work of D&S IFCA's Byelaw Technical Working Group (BTWG), and provided to the MMO QA Team.

Although exceptionally long, the QA process has been beneficial to improve the drafting of the Byelaw and the accompanying Impact Assessment and Officers formed a good working relationship with the MMO QA Team. The MMO QA Team work with their own legal team who (as the MMO is an arm's length body) have access to the Government's most recent drafting guidance. The Government's drafting guidance has influenced the layout and language used in the MFPB 2022. A key aim of the MMO QA Team is to achieve greater consistency with Byelaws developed by all IFCA's. The "final" iteration of the Byelaw for confirmation will still meet the aims and objectives as agreed by the B&PSC during its development; however, the "final" iteration looks quite different, but is not materially different, to the version originally advertised in late 2022.

3. Main Changes Made During QA

Along with an interpretation for "specified equipment" for the purposes of monitoring the exploitation of sea fisheries resources, the MFPB 2022 now includes broad interpretations for "remote electronic monitoring system" (REM) and "vessel monitoring device". Neither of these two additions to the MFPB 2022 compromise the flexibility afforded to the Authority using associated permit conditions to further define monitoring equipment and the details of its use, presently limited to vessel monitoring. For example, the interpretation in the MFPB 2022 for "vessel monitoring device" does not set out MMO type approved devices.

Regarding the use of language, the words “must not” were recommended instead of alternatives such as “not authorised” or “shall not.” The wording used throughout the MFPB 2022 (and the associated permit conditions) is now consistent.

Although the MFPB 2022 does not set out a fee for a permit (that is instead set out in the accompanying Impact Assessment), a change to the MFPB 2022 means the process for introducing or amending permit conditions now extends to a review of fees. Other more minor changes are the frequent use of footnotes in both the MFPB 2022 and the associated permit conditions and an amended Explanatory Note in the Byelaw.

4. What the MFPB 2022 Delivers

- A legal framework to manage mobile fishing activity (mobile fishing being defined) using permit conditions containing most of the management measures;
- Improved interpretations and a greater number of interpretations;
- Consistent use of language – plain English.
- The ability for the Authority to issue a Category One and a Category Two Permit
- Criteria to gain a permit limited to vessels that have both a Certificate of Registry and a valid fishing licence;
- An Exemption Clause covering scientific, stocking and breeding, and maintenance;
- Fees for permits (administration fee);
- An updated review process for changes to permit conditions and, if required, fees that includes a consultation requirement;
- A clause allowing for changes to permit conditions, without a consultation process, if an ultra vires situation were to arise due to changes in national legislation;
- Two Schedules – one to define the estuary closing lines (to separate Cat 1 and Cat 2 areas) and one to introduce management measures for sand eel trawling applicable to vessels under seven metres in length (both commercial and recreational vessels).

Officers will now create updated Annexes that will be issued in the 14-day period after the MFPB 2022 is confirmed. Officers will also map seagrass beds for display on D&S IFCA's website that are relevant to Schedule 2 (sand eel trawling) of the MFPB 2022.

5. The MFPB 2022 as the Basis for Developing other New Byelaws

Recent Annual Plans have highlighted the intention to review the existing Netting Permit Byelaw, the Potting Permit Byelaw, and the Diving Permit Byelaw and make new Byelaws for these activities. The Annual Plan for 2025/2026 is now focused on the Netting and Potting Permit Byelaws, with work on the Diving Permit Byelaw now pushed back. The MFPB 2022 will be of use for the construction of both the new Netting Permit Byelaw and the Potting Permit Byelaw. Although managing a different fishing method, it is logical to use the MFPB 2022 as a template, in terms of the style, structure, approach to language and other aspects also suited to those byelaws as the legal framework for the issuing of permit conditions to manage netting and potting fishing activity.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers

- B&PSC Officers' papers and B&PSC meeting minutes ([Section B of the website Resource Library](#)).

- Records of advertising the original iteration of the Byelaw
- Records of development/correspondence with MMO QA Team