

Development of the Netting Permit Byelaw

That Members agree with the Officers' recommendations for the development of the Netting Permit Byelaw as set out in section 4 of this Officers' paper.

1. Background

Recent D&S IFCA Annual Plans have included the anticipated making of replacement for the Netting Permit Byelaw 2016. For clarity, the “making” of the Netting Permit Byelaw is not implementation of the Byelaw, it is progressing it to a stage when formal consultation can begin, that includes mandatory advertising in newspapers. In June 2024, Members of the B&PSC concluded that voluntary measures would not be sufficient to manage netting fishing activity in the District, and the use of a regulatory framework (a byelaw) was appropriate for the continued management of netting in the District.

2. The Process

It is envisaged that the Netting Permit Byelaw could potentially be developed for presentation to the B&PSC, in February 2026. When the draft byelaw is ready, and when an accompanying Impact Assessment (IA) has also been created, the B&PSC can consider making the Byelaw and therefore beginning formal consultation. Work developing the Netting Permit Byelaw will not include consideration by the B&PSC regarding the Category One and Category Two Permit Conditions (management measures) for netting. However, this paper sets out the potential for a third Permit Category and therefore the B&PSC will consider the conditions that will apply to the Category Three Permit. The approach, with the main focus on the Byelaw, greatly simplifies the IA that must be produced to accompany the new Netting Permit Byelaw. The IA will focus on impacts relating to the Byelaw, together with an assessment of the impacts of management measures developed for the Category Three Permit. The mandatory formal consultation will include advertising the new Byelaw and the Category Three Permit Conditions.

During the development of a new Netting Permit Byelaw the current Netting Permit Byelaw 2016 and the associated permit conditions remain in place. However, the current Netting Permit Conditions (Category One and Two) can be amended¹, if required, whilst work continues on the new Netting Permit Byelaw.

If the B&PSC agree to the creation of a Category Three Permit, Officers will undertake an engagement phase with those existing permit holders who might be impacted by the new Permit Conditions of the Category Three Permit, ahead of the B&PSC making the new Netting Permit Byelaw. Following formal consultation, and the consideration of any objections, the Byelaw and permit conditions will be provided to the MMO for quality assurance (QA).

3. Consistency in Approach

Now that the Mobile Fishing Permit Byelaw 2022 (MFPB 2022) has been submitted to Defra, with a recommendation from the MMO that it is confirmed, Officers have greater confidence that this can act as the template to create a new Netting Permit Byelaw and therefore provide greater consistency across new D&S IFCA Permit Byelaws.

¹ Using the current review process for the Netting Permit Conditions in the Netting Permit Byelaw 2016

Permit based byelaws are the legal framework for the issuing of Permit Conditions. It is therefore logical that key elements of the MFPB 2022 are repeated in the Netting Permit Byelaw. This includes its general layout, relevant generic interpretations, language, an exemptions clause, use of footnotes, and the updated process for review and changes to permit conditions (and fees).

Using this approach, the basic structure of the Netting Permit Byelaw would be as follows:

- Commencement provision (14 days after it is confirmed, which provides time to issue new formatted Permit Conditions and Annexes so that they function with the new byelaw);
- Retaining some interpretations including a definition for “net” which excludes part of a dredge, a trawl, part of a folding or rigid cage (fyke net), a brailing net, a landing net for rod and line, and any net when fully expanded does not exceed an area greater than 16m² (e.g. 4m x 4m) operated not in connection with any vessel and operated manually.
- Some new interpretations including scope relating to specified equipment for vessel monitoring e.g. REM;
- Prohibitions;
- An exemptions element including maintenance, scientific, stocking or breeding purposes, and potential to consider its expansion for **educational purposes**;
- Permits section: application process, criteria to gain a permit (of different types for fishers with different needs), how named representatives can be introduced, detail about non-transferability of permits, provision to collect data etc);
- Review process for permit fees and the permit conditions;
- Offences;
- Revocation;
- Explanatory Note.

4. Content of the Byelaw & Byelaw Making Principles

In June 2024, Members of the B&PSC reviewed and agreed the byelaw making principles which will help to shape the broad content of the Byelaw; for example, one agreed principle included not limiting the numbers of permits to be issued. Other elements of the new Netting Permit Byelaw must be agreed by the B&PSC to enable drafting work to proceed.

4.1 Different Categories of Netting Permits

The Byelaw allows for the separation of user groups (fishers) as it enables different categories of Permits to be developed. To date, Category One Permits are issued to commercial netters and Category Two Permits are issued to recreational netters. How this separation is achieved is related to the current definition of “**relevant fishing vessel**”, and current provisions in the Byelaw, for example “*The Authority may authorise the use of a net for fishing from a named relevant fishing vessel by issuing a Category One Permit to the owner of that vessel.*”

The current definition of relevant fishing vessel results in Category One Permits being issued to:

- a) a vessel with a Certificate of Registry and a valid Fishing Licence; **or**
- b) a vessel used for commercial fishing that has no mechanical propulsion of any kind on board.

Therefore, non-powered fishing vessels are currently eligible to be issued with a Category One (commercial) Netting Permit from D&S IFCA. The Netting Permit Byelaw 2016 (confirmed and introduced in 2018) is the only D&S IFCA permit based byelaw that enables commercial fishers that operate vessels without a Certificate of Registry and a valid Fishing Licence to be issued with a Category One Permit. This difference in approach to date, specific to the Netting Permit Byelaw 2016, was intentional and based on a range of factors including byelaw review/byelaw making principles developed and agreed by the B&PSC, the recognition of some heritage forms of netting conducted by non-powered vessels, and an expectation that a wider issue associated with non-powered vessels (detailed below) would be addressed nationally by the MMO in a timely way.

Non-Powered Vessels (NPVs)

Since the implementation of the Netting Permit Byelaw in 2018, the numbers of NPVs being registered by the MMO has significant increased and in 2024 approximately 200 NPVs were listed by the MMO Administration Ports of Newlyn and Plymouth alone. In 2025, the MMO removed all details relating to NPVs to, in its opinion, be compliant with GDPR. Therefore, there are no catch data from these individual NPVs to cross-check against any sea fish sales and there is no traceability of fish landed by these NPVs and no national legislation e.g., minimum sizes, quota restriction, apply to these vessels. In addition, the roll out of IVMS by the MMO would not apply to these NPVs. D&S IFCA and CIFCA have contacted Defra and the MMO and set out, that as fisheries regulators, both IFCA's are increasingly concerned that no national management applies to NPVs, and this leaves significant opportunities for fishermen to exploit and undermine the regulatory framework that is in place. Not addressing the issue of NPVs has the potential to seriously reduce the effectiveness of future fisheries management emerging from the Fisheries Management Plans, as well as undermine confidence in the regulatory system as a whole. Officers are not aware of any progress on a national level to address the NPVs issues raised.

At present there are **135²** valid Category One (commercial) Netting Permits that are valid and ten of these have been issued to fishers with non-powered vessels as shown below:

Length	Base Port	Other Detail
5 metres	Clovelly	
6 metres	Clovelly	
4 metres	Clovelly	
5 metres	Clovelly	
3.8 metres	Exmouth	
1.83 metres	Dartmouth	Inflatable dingy
14 feet	Sidmouth	
3 metres	Sidmouth	
3.84 metres	Bideford	
NA	Bridgwater	Mud Horse

During the development of the current Netting Permit Byelaw 2016, Authority Members recognised the existence of a historical stake net fishery in Bridgwater Bay. This involved using a traditional method, unique to Somerset, called a mud horse, that was used to access

² Correct on 22nd September 2025

the fishing grounds are on estuarine mud. In 2018 it was reported (Annex 6 of the consultation Impact Assessment for the Netting Permit Byelaw 2016) that two commercial fishermen (a father and son) frequently worked fishing areas at Stolford (near Bridgwater) by wading through the mud using the mud horse for stability and to carry the catch. Fyke nets for shrimp, gill nets and stake nets were fished and the catch was sold through their family run fish shop in Stolford. The mud horse by its nature could not be fitted with an engine and is therefore a non-powered vessel and does not require a fishing licence. Officers understand that this commercial operation has now ceased.

Officers are aware that non-powered vessels are also used in a heritage herring fishery. This is celebrated each year at the Clovelly Herring Festival. Non-powered commercial vessels operating within the District for purposes other than continuing historic fishing practices have the potential to be equipped with powered propulsion. This would require financial investment by those operators and be in keeping with the investments made by other commercial operators, many of whom resent the NPV situation being exploited by some.

A Category Three Netting Permit & B&PSC Principles

In June 2024, Members of the B&PSC agreed that as a broad principle the Authority should:

- Seek the regulation and licencing of all commercial fishing activity.

D&S IFCA Officers do not expect that the national provision set out in the Fisheries Act 2020, that allows under 10m NPVs to fish commercially without a licence, to be amended in the coming years. Due to the broadscale risks associated with NPVs outlined above, Officers believe that the making of the new Netting Permit Byelaw provides an opportunity to consider adopting a management principle that all commercial fishing is undertaken from nationally licenced fishing vessels. However, Officers recognise that there is need to make provisions to accommodate heritage fisheries that occur in the District.

The principle, below, was intentionally deferred to enable more in-depth discussion..

- Not to separate commercial users, dependent on the issue of a fishing licence (specific to the Netting Permit Byelaw)

The information contained in this paper leads officers to the opinion that it is no longer adopted. Developing a Category Three Netting Permit will result in the separation of commercial users and allows for the specific regulation of historic fishing practices that involve the use of non-powered fishing vessels for commercial operations. This will result in all commercial netting vessels falling within a regulatory framework. These principles should be accessible to all stakeholders. Therefore, Officers recommend that the principles are added (as an Annex) to the B&PSC's Terms of Reference. They can be reviewed when required.

Officers' Recommendation for 4.1

- a) That the deferred principle, *not to separate commercial users, dependent on the issue of a fishing licence (specific to the Netting Permit Byelaw)*, **is no longer adopted** by the B&PSC.
- b) That the Netting Permit Byelaw is developed to introduce three categories of permit, to recognise heritage fisheries that involve the use of non-powered vessels.
- c) That the B&PSC byelaw review/byelaw making principles are included as an Annex in the B&PSC's Terms of Reference

4.2 Other Criteria to gain a Permit – Age Limits

Currently D&S IFCA does not have a formal policy relating to the age of an individual that can obtain either a commercial or recreational netting permit. Applications for recreational permits have been received in the names of persons of very young age. Officers have the view that the application process is currently too open to being abused. Policy could be developed; however, the new Netting Permit Byelaw can also address this issue.

Regarding commercial fishermen, National legislation³ sets the minimum age to work on a UK seagoing fishing vessel at 16 years old. The basis of the legislation is to protect young people engaged in fishing. Although legislating to address health and safety issues is not within the Authority's remit, there is merit in D&S IFCA adopting 16 years old as the minimum age for all Netting Permit Holders. A Permit Holder has a legal responsibility to adhere to the permit conditions, and this includes recreational fishers. An age restriction of 16 years old will not prevent younger children being included in recreational netting activity at sea, but it will mean they can only operate under the supervision of an older person (the Permit Holder). The new Netting Permit Byelaw can clearly set out the minimum age requirement of 16 years old.

Officers' Recommendation for 4.2

That the Byelaw will set out a minimum age of 16 years old to gain any type of Netting Permit

4.3 Exemptions and Named Representatives for Category Two Permit Holders

The MFPB 2022 includes an exemption clause. This exemption means that a permit is not required if a person is acting in accordance with a written authorisation issued by the Authority for scientific, stocking or breeding purposes, and **maintenance**. The maintenance provision is particularly relevant to recreational netters (currently Category Two Permits) and if applied in the new Netting Permit Byelaw would remove the ability for a recreational Permit Holder to have a **“named representative”**.

Prior to making the new Netting Permit Byelaw, Officers have relied on a policy that looks to restrict the activity of a named representative. At present, D&S IFCA's Policy sets out that a named representative, for a Category Two Permit Holder, is able to retrieve fishing gear on behalf of a permit holder but does not have the approval to use a net on a regular basis nor operate it in the absence of the permit holder. Enforcement issues have arisen where a person has been named as the representative on multiple permits. This heightens the risk that a single person will work multiple sets of gear without the Permit Holder being present. This may result in the 25m restriction on the amount of net, that can be set by any recreational permit holder, being abused.

Introducing “maintenance” within the exemptions clause means that when a recreational Netting Permit Holder is unable to retrieve a net or is not working the gear for a variety of reasons, the net(s) can be retrieved by anyone under written authorisation issued by the Authority.

³ [ILO Work in fishing convention 2007 minimum age and protection for young persons on fishing vessels - GOV.UK](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/614442/ilo-work-in-fishing-convention-2007-minimum-age-and-protection-for-young-persons-on-fishing-vessels.pdf)

Southern IFCA has included “**educational purposes**” within Exemptions clauses in recently confirmed Byelaws. This could apply, for example, where as part of a festival or event, a net could be deployed by a person who does not hold a permit to demonstrate a netting activity. Although exemptions clauses cannot extend to every eventuality, consistency in IFCA Byelaws is encouraged by the MMO.

Officers’ Recommendation for 4.3

That the exemptions clause is based on maintenance, scientific, stocking or breeding purposes and educational purposes are included in the byelaw (with details and additional rationale for their inclusion set out in the Impact Assessment)

4.4 Fees for a Permit

As per the MFPB 2022, the fee for a permit does not need to be stated in the Netting Permit Byelaw but instead it will be set out within the IA. In line with agreed principles, the fee for a permit will be to cover administration costs.

Impact Assessment:

Setting a fee in the IA of £40 to cover a two-year period would be the same as that applied to mobile fishing when the MFPB 2022 is confirmed. A fee of £40 is an increase compared to £20 that is currently charged for a two-year period but still represents a modest cost to fishers whilst also covering the administration costs for D&S IFCA. Setting the 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. The Byelaw (review of fees process) does enable changes to fees, if required, during the lifetime of the Byelaw.

Officers’ Recommendation for 4.4

That the fee for all categories of netting permits is to be initially set at **£40** to cover a two-year period.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers

B&PSC Papers and meeting minutes ([Section B of D&S IFCA Website Resource Library](#))

[Annex 6](#) of the Impact Assessment for the Netting Permit Byelaw 2016