

## Development of a Molluscan Shellfish Hand Gathering Byelaw Officers Recommendation

**That Members note the content of this Officers' planning paper.**

### 1. Background:

For several years there has been an expectation by many stakeholders that D&S IFCA will seek to develop a Hand Working Permit Byelaw. On 19<sup>th</sup> March 2026 the Authority agreed that the B&PSC should begin development of a Molluscan Shellfish Hand Gathering Permit Byelaw.

### 2. Timeline (FY 2026/2027):

The Byelaw will not be in place before the end of financial year 2026/2027. The aim is to develop the Byelaw to a stage where Members may agree to “make it” therefore triggering formal consultation. The steps that may be completed in FY 2026/2027 are as follows:

1. Planning
2. Drafting (with potential assistance of the Byelaw Technical Working Group)
3. Present the Byelaw and accompanying Impact Assessment to B&PSC Members
4. Members consider “making” the Byelaw
5. Formally consult on the Byelaw
6. Manage any potential objections to the Byelaw

### 3. Structure and Content

The Byelaw is not solely an activity-based byelaw (hand gathering), rather it is a species-specific activity-based byelaw, similar to D&S IFCA's Diving Permit Byelaw, that does not regulate diving activity, only diving for crab, lobster and scallop.

It is envisaged that a Molluscan Shellfish Hand Gathering Permit Byelaw will be developed to focus on the removal from a fishery (District Wide) of a range of molluscan species, for example cockles, mussels, winkles, and clams. The Byelaw will establish the legal framework for a commercial molluscan hand gathering permit to be issued.

- The permit will only contain restrictions applicable to the **commercial sector**.
- Restrictions applicable to the **recreational sector** will be set out in provision in the Byelaw.

Provisions in the Byelaw may extend to the use of Schedules in the Byelaw. Some provisions in the Byelaw can apply equally to both sectors. The main aim of the Byelaw is to limit removal of molluscan species by recreational fishers without the need to introduce a recreational permit. Although some flexibility is lost by not having two

categories of permit (commercial and recreational) and using fixed provisions, this approach will reduce the administrative burden on both recreational fishers and the D&S IFCA Officers.

The Byelaw will apply District wide, and Officers envisage that it will:

- a) include interpretations and define the range of molluscan species that the Byelaw will cover;
- b) contain fixed restrictions to apply to recreational fishers;
- c) provide the framework for the issuing of a commercial permit with conditions;
- d) incorporate a mechanism for the temporary closure of shellfish beds;
- e) set out how the conditions (and fees) for a commercial permit can be reviewed;
- f) include an exemptions clause, for example for scientific purposes, or stocking and breeding purposes, and potentially educational purposes.

### 3.1: Threshold for Removal from a Fishery

Having defined the species for inclusion in the Byelaw via an interpretation “Molluscan Species includes.....)”, the Byelaw will set a threshold of what can be removed in a calendar day by anyone without a permit. This threshold approach will allow recreational fishers to remove a determined quantity of resource for their consumption or use (**but not for sale**).

Other IFCA's have taken this approach to cover a greater range of species including crustacea. A good example is Sussex IFCA Hand Gathering (Restrictions and Permitting) Byelaw 2021. This Byelaw introduces a list of species and quantities that can be taken in any calendar day without a permit in the Sussex IFCA District. To remove more than the levels set out in the Byelaw, a permit is required. The Sussex IFCA Byelaw prohibits removal of species that are not specified in the interpretations and defines hand gathering as an “approved method” that means non-mechanical hand gathering methods.

#### **Determining Levels for Removal:**

This is not an exact science and is driven by setting an appropriate level of removal for personal use.

The Sussex IFCA Hand Gathering (Restrictions and Permitting) Byelaw 2021 sets out quantities of species that can be taken in a calendar day without a permit. Although it extends to non-molluscan species, the combined bag limit for molluscan species (other than piddocks and native oyster) is **5 Kilogrammes**. Piddocks and native oyster are prohibited from removal by hand gathering.

Voluntary Codes (non-D&S IFCA) are in place in some estuaries in the District that refer to levels of molluscan species. For example, Teignbridge District Council has

determined that up to **5 Kilogrammes** of molluscan shellfish is an appropriate amount before this is considered to be for commercial activity and potentially investigated by Environmental Health Officers as a supply to the wider food chain. The posters developed for both the Teign and Exe Voluntary Codes (2020) set out that *“You should not take more than one small bag of shellfish from this river per day, This includes the shell, even where the shell is left on the beach”*. The information also stated that all oysters should be at least 8cm in size, and highlighted D&S IFCA’s Temporary Closure of Shellfish Beds Byelaw and D&S IFCA’s contact details.

In 2020 the B&PSC considered what level of resource (threshold) would be suitable for inclusion in a potential D&S IFCA Hand Working Permit Byelaw. Based on information at that time Members determined the following would be suitable for consultation:

Species/Resource	Level (per calendar day)
Cockles	1kg
Mussels	1kg
Winkles	1kg
Limpets	1kg
Other Clam Species	1kg
Oysters	6 individuals
Razor Clam	15 individuals

Past consultation has highlighted support for bag limits, but mixed views on the levels proposed.

- **Regarding bag limits, Officers intend to mirror the limit of 5kgs (combined species) as introduced by Sussex IFCA.**

### 3.2: Limiting Scope to Commercial Permits Only

Officers will examine how best to establish criteria to gain a commercial permit. This has added complexity as, unlike mobile fishing, potting, and commercial diving, the criteria will not be based on having a licenced fishing vessel.

It may be possible for criteria to gain a commercial permit to be linked with an Aquaculture Production Business (APB) authorisation from the Fish Health Inspectorate (relating to bivalve species) and undertaken in classified shellfish areas, that must be submitted as part of an application for a commercial permit. Due to winkles not being a bivalve species and not covered by Shellfish Classification Regulations, no additional would be required to obtain a commercial permit to gather over 5kgs of winkles only per day.

### 3.3: Restrictions in the Byelaw

Although some flexibility is lost having fixed provisions in a Byelaw (or Schedule to Byelaw), rather than in two categories of permit, for this byelaw Officers believe it is preferable to having a recreational 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 hand gather molluscan species without a permit.

Officers have the view that the Byelaw (if implemented with a threshold approach) would be well supported across the District, and achieving compliance would be made more straight forward. Recreational thresholds would restrict excessive removal of molluscan species.

### 3.4: Legacy Byelaws and Temporary Closure of Shellfish Beds

There are a number of legacy byelaws inherited from Devon Sea Fisheries Committee that are relevant for inclusion (or partial inclusion) in the new Byelaw/Permit Conditions. Officers will examine the following and determine if they remain relevant, and how to incorporate the management measures/restrictions that they contain, and expand the restrictions as required.

#### Temporary Closure of Shellfish Beds (26<sup>th</sup> 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 are mussels, oysters, clams and periwinkles.

#### **Comments:**

This Byelaw has been used (1<sup>st</sup> May 2019) to prohibit any person from taking mussel from the public beds in the Teign and Exe Estuaries. The temporary closure remains in place (2026).

A weakness that D&S IFCA has already identified is that cockles are not included in the definition of shellfish. It is possible that the ability to close a public shellfish bed can remain as a provision in the new Byelaw, potentially linked to a Schedule, which further sets out a process to be followed (including advertising) when a temporary closure is required, or is continuing.

Shellfish – Re-deposit of (26<sup>th</sup> 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.

Winkles (26<sup>th</sup> 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.

Shellfish – Minimum Sizes

This Byelaw currently 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. Provisions relating to molluscan species can be included in the new byelaw/permit conditions. Metric sizes will be used.

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 (26<sup>th</sup> 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.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

**Background Papers**

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