



KENT AND ESSEX INSHORE FISHERIES & CONSERVATION AUTHORITY

RECORD OF OFFICER DECISION

Executive

DECISION TAKEN BY: Dr W H WRIGHT Chief Officer KEIFCA	DECISION REFERENCE: TECFO/RO/25/7/11/WW
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Subject: The Thames Estuary Cackle Fishery Order - TECFO

Decision:

1. Progress with the TECFO 24 7-year Licence Allocation Process as the Minister signed the Variation Order on the 14 July and it was laid in Parliament on the 15 July.
 2. Take into account legal advice of King's Counsel when implementing option 3 as agreed by the Authority at the 18 June Authority meeting.
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DECISION TYPE

Implementation decision of Authority Resolution

The Chief Fishery Officer has, in accordance with the article 20 - Scheme of Delegation, in the KEIFCA Constitution and Standing Orders, the authority and responsibilities for implementing committee decisions taken by the Authority.

Authority Decision to which this action relates:

18 June 2025 members considered agenda Item B1- TECFO 2024 Licence Allocation Process

The Authority CONSIDERED the options available to continue with the Licence Allocation Process and, subject to the variation order being passed and no legal impediment, AGREED the process under option (3) outlined in the paper whereby all of those eligible to apply for a transitional licence

are given the opportunity to consider the type of licence they wish to apply for to cover the first 7 years of TECFO 2024.

The Authority CONSIDERED the comments from, and issues raised by, stakeholders at the last meeting along with the corresponding KEIFCA officer responses and;

a) if variation order is passed and there is no legal impediment, AGREED to un-pause and continue with the Licence Allocation Process,

Reason(s) for decision:

At the Authority meeting on the 18 June 2025 KEIFCA Officers and the KEIFCA legal team presented agenda item B1 to Authority members, that addressed the feedback received from industry prior to the last Authority meeting held on the 27 March 2025. After discussing the paper the Authority agreed to (a) continue with the Licence Allocation Process and, (b) subject to the variation order being passed and no legal impediment, to a process by which all of those eligible to apply for a transitional licence be given the opportunity to reconsider the type of licence they wish to apply for to cover the first 7 years of TECFO 2024 in light of the changes made by the variation order.

Pre-Action Protocol legal challenges

The day before the Authority meeting, on the 17 June 2025, both Defra and the Authority received a Pre-Action Protocol letter from solicitors representing one of the TECFO24 licence applicants, regarding the application for, and making of, the variation order. A PAP letter is the first step in applying for a judicial review. KEIFCA has responded to this letter of claim on the 1 July, following the appointment of King's Counsel. To date KEIFCA have not received a reply to this letter or have been informed of any steps to progress this to a Judicial Review.

On 27 June 2025, the Authority received a second PAP letter from a second TECFO24 licence applicant, regarding the decision which the Authority had made on 18 June 2025 in relation to continuing the LAP. KEIFCA responded to this letter of claim, following the appointment of King's Counsel, on the 11 July 2025 and to date KEIFCA have not received a reply.

The order was signed by Minister Zeichner on 14 July 2025 and was laid in Parliament on 15 July 2025. As to date there are no outstanding legal impediments, as Chief Officer I have taken the decision to progress with following the Licence Allocation Process as agreed by the Authority at the 18 June 2025 meeting.

Implementing the decision of the Authority from 18 June 2025

The decision taken by the Authority on 18 June agreed the principle of progressing with the LAP, subject to the absence or resolution of any legal impediments and with specific agreement to options being provided to relevant applicants to seek a change of license type. The decision did not determine or proscribe the technical implementation elements as these remained subject to ongoing legal and operational review to ensure the practical steps could be fit for purpose to allow effective implementation of the Authority's policy decision. This decision confirms the procedural steps being taken to deliver against the overarching decision.

To help inform both the process and the detail required to implement the option, officers commissioned legal advice from King's Counsel. In response to the advice, this decision updates

the LAP to better manage the implications of the change made to Article 5(12) of TECFO 2024 – in practice this means that any applicant requesting a change of license type must will be required to provide information to satisfy the Authority that they would have applied for a different type of licence, had Article 5(12) as varied been in force during the original application window.

This decision is taken, in consultation with the Chairman, Vice-Chairman, having full regard to relevant legal advice from King's Counsel and the Authorities regular legal advisor.

In accordance with my delegated powers under the Standing Orders to take relevant actions, including the taking of required decisions, as necessary to implement decisions taken by the Full Authority, this Officer Decision confirms agreement to proceed with the modified License Application Process in the absence of legal impediment.

Financial Implications:

KEIFCA

The Authority has ringfenced a £60,000 legal budget to address any possible legal issues with the introduction of the Thames Estuary Cackle Fishing Order 2024 (TECFO 24). In addition, the Authority has £130,000 in reserves which it can use for circumstances such as these.

The Local economy

Running the Licence Allocation Process so licencing decisions can be made on the 6 August is imperative to reduce any possible financial loss to the local cockle industry. Whilst the exact financial impact is hard to estimate, delaying the start of the fishery could result in lower yielding cockles being landed (lower yielding cockles can lose 50-60% of their value when compared to high yielding cockles).

Legal implications:

As outlined and discussed at previous Authority meetings (30 January 2024) the potential for judicial review on the Authority's decisions regarding the Licence Allocation Process is significant, due to the limited number of licences issued and the historic value of annual landings per licence.

Comments received from any Members or Officers consulted:

Deputy Chief IFCO - in recognition of the significant work undertaken by the Deputy throughout the project to deliver the TECFO 2024 and the associated expert knowledge of the fishery, his views were sought on the implementation decision. The DCIFCO fully endorsed the Chief IFCO Officer decision to proceed with the LAP

Chairman – *The chairman* was consulted and was fully supportive of the implementation plan as set out by the Chief IFCO.


Vice-Chairman – Vice-Chairman was consulted and was fully supportive of the implementation plan as set out by the Chief IFCO.

Any alternatives considered and rejected:

Not include or implement the updated process suggested by Council - Whist not implementing the legal advice from counsel could be a possible course of action there are clear arguments and legal risks to the Authority, that the counsel advice outlines, if this advice is not acted upon.

Any conflict of interest declared by any Authority Member consulted by the decision maker and any dispensation granted by the Proper Officer:

No

 Dr W H Wright, Chief IFCO Signed	 15 July 2025 Date
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