



Inshore Fisheries and  
Conservation Authority

## **KENT & ESSEX INSHORE FISHERIES AND CONSERVATION AUTHORITY**

# **CONSTITUTION AND STANDING ORDERS**

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## INTRODUCTION

Kent & Essex Inshore Fisheries and Conservation Authority (Kent & Essex IFCA) was established under Chapter 1 of Part 6 of the Marine and Coastal Access Act 2009 and the Kent & Essex Inshore Fisheries and Conservation Order 2010. It is a stand-alone joint committee of Kent and Essex County Councils together with Thurrock, Southend on Sea and Medway Councils

The Kent & Essex IFCA has defined its purpose and vision as follows:

*"Kent & Essex Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry."*

In this Constitution, the Kent & Essex IFCA sets out how it will operate, how its decisions will be made and the procedures that it will follow in order to ensure efficient, transparent and accountable decision-making in line with its purpose and vision, its policies and legal requirements. The Constitution will be reviewed annually at the Kent & Essex IFCA's May meeting.

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## **CHAPTER 1: Standing Orders**

The Standing Orders for the Kent & Essex IFCA include provisions required under the Marine and Coastal Access Act 2009, the Kent & Essex Inshore Fisheries and Conservation Order 2010 and the Local Government Act 1972 as well as provisions adopted by the Authority. The footnotes indicate the statutory provisions.

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## **Section 1: Membership of the Kent & Essex Inshore Fisheries and Conservation Authority**

- 1.1 The Authority is made up of 21 members as follows<sup>1</sup>:
  - Six County Councillors appointed by Kent County Council (three members) and Essex County Council (three members);
  - Three Local Authority councillors appointed by Medway Council (one member), Southend on Sea Borough Council (one member) and Thurrock Council (one member)
  - Ten 'general' members appointed by the Marine Management Organisation (MMO) who are:
    - a) *'persons acquainted with the needs and opinions of the fishing community of the district, and*
    - b) *persons with knowledge of, or expertise in, marine environmental matters.*<sup>2</sup>
  - Two 'additional' members appointed by Natural England and the Environment Agency.<sup>3</sup>
- 1.2 One 'general' member must be an employee of the MMO.<sup>4</sup>
- 1.3 A person is not eligible for appointment or re-appointment as a member of the Kent & Essex IFCA if they have been convicted of a criminal offence and the conviction is not spent for the purposes of the Rehabilitation of Offenders Act 1974(1).<sup>5</sup>
- 1.4 The proceedings of the Kent & Essex IFCA will not be invalidated if a vacancy occurs or if there is a defect in the election or qualifications of any member.<sup>6</sup>

### Terms of appointment

- 1.5 The terms of appointment of each member are determined by their appointing organisation.<sup>7</sup> The terms of appointment for members appointed by the MMO are in Chapter 3 of this Constitution.
- 1.6 The maximum period of appointment for each General member is ten years from 1 October 2010 or the date from which the member is appointed, if later.

### Resignation of a member

- 1.7 A member may resign from the Kent & Essex IFCA by giving written notice to the Authority and to their appointing body.<sup>8</sup>

### Suspension of a member

- 1.8 If criminal proceedings are started against a member, the Kent & Essex IFCA or the appointing body may suspend the member's appointment. If the member's appointment is suspended, they will also be suspended from acting as an office-holder on behalf of the Authority.
- 1.9 The suspension will end if the member is acquitted of the offence or the proceedings are discontinued or withdrawn.

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<sup>1</sup> Article 5(1) Kent & Essex Inshore Fisheries and Conservation Authority Order 2010

<sup>2</sup> Section 151(2) Marine and Coastal Access Act 2009

<sup>3</sup> Article 5(4) Kent & Essex Inshore Fisheries and Conservation Authority Order 2010

<sup>4</sup> Article 5(2)(b) Kent & Essex Inshore Fisheries and Conservation Authority Order 2010

<sup>5</sup> Article 12 Kent & Essex IFCA Order 2010

<sup>6</sup> Paragraph 43 Schedule 12 Local Government Act 1972

<sup>7</sup> Article 6(2) Kent & Essex IFCA Order 2010

<sup>8</sup> Article 9(1) Kent & Essex IFCA Order 2010

## Termination of Membership

- 1.10 A member's appointment to the Kent & Essex IFCA ends if:
  - a) the member is convicted of an offence under fisheries legislation, nature conservation legislation or marine licensing legislation;
  - b) the member receives a fine under fisheries legislation, nature conservation legislation or marine licensing legislation;
  - c) the member ceases to be a member of the council that appointed them to the Authority.<sup>9</sup>
- 1.11 The Authority may terminate a member's appointment if the member is convicted of any other criminal offence other than those in paragraph 1.10.<sup>10</sup>
- 1.12 A member's appointment also ends when they reach the end of their term of appointment.

## **Section 2: Member allowances and attendance at meetings**

- 2.1 In the event of a Member not attending three consecutive meetings without the consent of the Authority, the Chairman of the Authority may ask the appointing organisation to reconsider the appointment of that member.
- 2.2 In relation to MMO appointed members, no substitutes will be allowed for meetings of the Authority
- 2.3 In relation to Local Authority appointed members, substitute members are permitted to attend meetings of the authority with full voting rights. Any substitute Members should be notified to the Clerk no later than 48 hours prior to the meeting.
- 2.4 In relation to Members appointed by Natural England and Environment Agency substitutes may attend meetings of the Authority with full voting rights in exceptional circumstances such as illness or other serious matter. Any substitute Members should be notified to the Clerk no later than 48 hours prior to the meeting. The Authority expects that any substitute members from these Agencies will be at an appropriate senior level within the organisation and have sufficient authority to make whatever decisions that the appointed member may make.
- 2.5 Allowance for Members appointed by the Marine Management Organisation (MMO), excluding the employee Member(s) appointed by the MMO: £72.61 flat rate per day to compensate for loss of earnings, irrespective of the duration of a formal meeting or other official duty (*Note: Any General Member elected as either Chairman or Vice Chairman of the K&EIFCA is not allowed to claim both the Chairman/Vice Chairman's allowance and the flat rate daily allowance for General Members*).
- 2.6 Mileage allowance: Travel by private vehicles will be reimbursed at the rates set for tax allowance purposes by His Majesty's Revenue and Customs (HMRC) for business travel.
- 2.7 Parking charges, tolls and other expenses: Parking charges, public transport fares and any hotel expenses will be reimbursed at cost, but only on the production of a valid ticket or receipt – the cheapest available fare for the time of travel should be purchased. Taxi fares will only be reimbursed on production of a valid receipt and if the use of public transport or the Member's own vehicle is impracticable.

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<sup>9</sup> Article 11(1) Kent & Essex IFCA Order 2010

<sup>10</sup> Article 11(2) Kent & Essex IFCA Order 2010

### **3 Section 3: Appointment of the Chairman of the Kent & Essex IFCA**

- 3.1 At the May meeting of the Authority, members will elect a Chairman who will serve for the year beginning with the meeting at which they are elected and ending with the May meeting the following year. There is no limit to the number of times a Member can be reappointed as Chairman or Vice Chairman.<sup>11</sup>
- 3.2 The Chairman and Vice Chairman will be elected from one of the Constituent Local Councils or from the general members.
- 3.3 A member is not eligible to stand as Chairman if they have previously been removed from this office<sup>12</sup> or from the office of Vice Chairman<sup>13</sup>
- 3.4 Nominations for the post of Chairman and Vice Chairman will be made orally to the Clerk of the Kent & Essex IFCA at the May meeting and the election will be by vote of the members present.
- 3.5 If there are an equal number of votes for the members nominated, the Clerk will decide the election by lot.
- 3.6 The Chairman of Kent & Essex IFCA will receive an allowance for this role of £5000pa to reflect the additional commitment required. This allowance will be reviewed by the Authority annually as part of their review of the Standing Orders

#### Resignation of the Chairman of the Kent & Essex IFCA

- 3.7 The Chairman of the Kent & Essex IFCA may resign the office by giving notice in writing to the Authority.<sup>14</sup>
- 3.8 Following the resignation of the Chairman, the Authority must appoint another eligible member to the office until the next May meeting of the Authority.<sup>15</sup>

#### Removal from office of the Chairman or Vice Chairman of the Kent & Essex IFCA

- 3.9 The Chairman or Vice Chairman may be removed from office by the Authority if s/he is deemed to have failed to carry out their duties or is deemed to have brought his/her office or the Authority into disrepute. Examples of failing to carry out duties may include but is not limited to:
  - Failure to attend an Authority meeting for six months or to attend more than 50% of Authority meetings during any twelve month period without the consent of the Authority;
  - Failure to deal promptly with correspondence, requests for information or assistance from other Authority Members or persistent failure to return telephone calls and e-mails;
  - Regular and persistent negative feedback from Authority members, appointing authorities or the fishing industry that the Chairman or Vice Chairman is failing to undertake their duties or failing to uphold the high standards of conduct expected of Authority Members

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<sup>11</sup> Article 7 Kent & Essex IFCA Order 2010

<sup>12</sup> Article 8(6) Kent & Essex IFCA Order 2010

<sup>13</sup> Article 14(5) Kent & Essex IFCA Order 2010

<sup>14</sup> Article 9(2) Kent & Essex IFCA Order 2010

<sup>15</sup> Article 9(3)(5) Kent & Essex IFCA Order 2010

- 3.10 Any Member of the Authority may request the removal of the Chairman or Vice Chairman.
- 3.11 The Member wishing to remove the Chairman or Vice Chairman must give at least 28 days' notice before a meeting of the Authority at which the resolution is to be moved.
- 3.12 The notice referred to above should be submitted in writing to the Clerk.
- 3.13 On receipt of the notice, the Clerk must send a copy of the notice to the Chairman or Vice Chairman, as appropriate. A meeting of the full Authority must be held to consider the notice.
- 3.14 The Chairman or Vice Chairman, as appropriate, is entitled to make written representations to the Clerk at least 10 clear working days before the Authority meeting and to request that their written representations are sent to all Members of the Authority. The Chairman or Vice Chairman, as appropriate, may also speak at the Authority meeting when the notice is considered, but after making their representations must then leave the meeting room whilst the resolution is debated and a decision made.
- 3.15 If the written representations are not circulated to members of the Authority, either because they were received late or because of the Clerk's default, the Chairman or Vice Chairman may, without prejudice to their right to be heard orally, require that their written representations shall be read out at the Authority meeting.
- 3.16 The decision of the Authority meeting in relation to a notice to remove the Chairman or Vice Chairman, which shall be determined by a simple majority, is final. There is no right of appeal either for the Chairman or Vice Chairman or the proposers of the notice.
- 3.17 The Chairman or Vice Chairman so removed by this process is entitled to remain as a member of the Authority, as long as their appointing authority continue to nominate them.
- 3.18 Following the removal of the Chairman or Vice Chairman, the Authority must appoint another eligible member to the office until the next May meeting of the Authority.<sup>16</sup>

#### Termination of appointment of the Chairman of the Kent & Essex IFCA

- 3.19 Where the appointment of a member who is also the Chairman of the Kent & Essex IFCA is terminated or comes to an end, the Authority must appoint another eligible member to the office of Chairman.<sup>17</sup> A member who has previously been removed from the office of Chairman or Vice-Chairman cannot be appointed as Chairman.<sup>18</sup>
- 3.20 The member appointed as Chairman holds the office until the next May meeting of the Kent & Essex IFCA.<sup>19</sup>

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<sup>16</sup> Article 8(3)(5) Kent & Essex IFCA Order 2010

<sup>17</sup> Article 11(3) Kent & Essex IFCA Order 2010

<sup>18</sup> Articles 8(6) and 14(5) Kent & Essex IFCA Order 2010

<sup>19</sup> Article 7(4) Kent & Essex IFCA Order 2010

#### **Section 4: Appointment of the Vice-Chairman of the Kent & Essex IFCA**

- 4.1 At the May meeting of the Authority, members will elect a Vice-Chairman for the year beginning with the meeting at which they elected and ending with the May meeting the following year. The Vice-Chairman will chair meetings of the Authority in the absence of the Chairman or if the Chairman is conflicted for any particular item.<sup>20</sup>
- 4.2 The Vice Chairman will be elected from one of the Constituent Local Councils or from the general members.
- 4.3 A member cannot be appointed or re-appointed as Vice-Chairman if they have been previously removed from this office or from the office of Chairman.<sup>21</sup>
- 4.4 The Vice Chairman of Kent & Essex IFCA will receive an allowance for this role of £3000pa to reflect the additional commitment required. This allowance will be reviewed by the Authority annually as part of their review of the Standing Orders
- 4.5 Paragraphs 3.7-3.20 of these standing orders apply to the Vice-Chairman as to the Chairman.<sup>22</sup>

#### **Section 5: Meetings of the full Authority**

- 5.1 Meetings of the full Authority will take place at least four times each year
- 5.2 The date and time of meetings for the following year will be agreed at the October meeting.
- 5.3 If the Chairman is absent from a meeting of the full Authority, the Vice-Chairman will take the role. If both the Chairman and Vice-Chairman are absent, members will elect a member to Chairman the meeting.<sup>23</sup> The Clerk will take the Chair to conduct the election. Election will be by way of seconded nomination and vote.
- 5.4 The full Authority may delegate any of the Kent & Essex IFCA's functions to an employee of the Authority if it considers it expedient to do so.<sup>24</sup>

#### **Section 6: Quorum for a meeting of the full Authority**

- 6.1 The quorum for a meeting of the full Authority is six, including at least one council member and one member appointed by the MMO (a 'general' member).<sup>25</sup>

#### **Section 7: Access to agendas and papers for ordinary meetings of the full Authority and its sub-committees**

- 7.1 Notice of the provisional agenda for each general meeting shall be sent either electronically or through the post to each member 28 days prior to the meeting

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<sup>20</sup> Article 14(1) Kent & Essex IFCA Order 2010

<sup>21</sup> Article 14(4) and (5) Kent & Essex IFCA Order 2010

<sup>22</sup> Article 14(3) Kent & Essex IFCA Order 2010

<sup>23</sup> Article 14(2) Kent & Essex IFCA Order 2010

<sup>24</sup> Article 17 Kent & Essex IFCA Order 2010

<sup>25</sup> Article 13(1) Kent & Essex IFCA Order 2010

- 7.2 Notice of every meeting, whether general or extraordinary, shall be sent either electronically or through the post to each member at least five clear working days before the date of the meeting. Every notice of the meeting shall state the place, date and time of the meeting and the business to be transacted. The Clerk will ensure that the notice of meeting is posted on the Authority's website and at its office when it is sent to Members.<sup>26</sup>
- 7.3 the Chairman of the meeting decides that there are special circumstances which make the late item a matter of urgency and require it to be considered at the meeting. The special circumstances must be recorded in the minutes for the meeting.<sup>28</sup>
- 7.4 The CFO will ensure that copies of the agenda and papers are posted to the Authority's website and are made available for inspection at the Authority's office when they are emailed to Members.<sup>27</sup>

Late agenda items

An item of business for a meeting may not be added to an agenda less than five clear working days before the date of a meeting or tabled at the meeting, unless

- 7.5 Special circumstances justifying the addition of a late item to an agenda will generally occur where significant information or circumstances arise within the five clear working day period which could not reasonably have been known or anticipated before the agenda for the meeting was agreed and published.
- 7.6 If the Chairman agrees to add an item to an agenda, the revised agenda and the relevant paper will be circulated to members, and then posted to the Authority's website and made available for public inspection at the Authority's office.<sup>29</sup>
- 7.7 The Clerk may withhold a paper from public inspection if the paper contains exempt or confidential information. Every copy of an exempt or confidential paper will be marked "not for publication"<sup>30</sup> and the exemption category will be indicated on the paper.<sup>31</sup>

Agenda papers/Background documents

- 7.8 The author of the paper should include a clear decision block in the paper. This block should be able to be read on its own, and should note the issue for discussion and options for resolution, including the status quo. It could include an author's recommendation.
- 7.9 The author of a paper relating to an item on the agenda for a meeting will set out, at the end of the paper, a list of background documents which contain facts or matters on which the report, or an important part of it, was based and which the author has relied on in preparing the report. The list of background papers should exclude published works and must exclude documents which disclose exempt or confidential information.<sup>32</sup>
- 7.10 The Clerk will ensure that a copy of each document included in the list of background documents is kept and made available for public inspection for six years after the date of any meeting or decision.

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<sup>26</sup> Section 100A(6)(a) Local Government Act 1972

<sup>27</sup> Section 100B(3) Local Government Act 1972

<sup>28</sup> Section 100B(4) Local Government Act 1972

<sup>29</sup> Section 100B(3)(b) Local Government Act 1972

<sup>30</sup> Section 100B(5) Local Government Act 1972

<sup>31</sup> Schedule 12A Local Government Act 1972

<sup>32</sup> Section 100D Local Government Act 1972

## **Section 8: Access to minutes and records of decisions**

- 8.1 The minutes of the proceedings of each meeting will be kept by the Clerk in a loose leaf folder maintained for that purpose, the pages of which will be consecutively numbered.<sup>33</sup>
- 8.2 The minutes will be presented for members to confirm as an accurate record at the next suitable<sup>34</sup> meeting of the relevant body and the Chairman of the meeting will sign the minutes and initial each page.<sup>35</sup>
- 8.3 The minutes will not be open to discussion but members may propose corrections or additions where they identify inaccuracies or omissions.
- 8.4 The minutes will include a list of members present at the meeting.<sup>36</sup>
- 8.5 Members can request a copy of the unconfirmed minutes of a meeting for their personal information but unconfirmed minutes will not normally be published until after they have been agreed by the relevant meeting.
- 8.6 The Clerk will keep and make available for public inspection for six years after a meeting of the Authority or a sub-committee:
  - the minutes of the meeting, except for any part of the minutes that includes exempt or confidential information, and
  - a disclosable summary of any proceedings during a part of the meeting that was not open to the public, if the published minutes do not provide a reasonably fair and coherent record of those proceedings.<sup>37</sup>

## **Section 9: Rules of procedure for ordinary meetings of the full Authority**

### Order of business

- 9.1 The business to be conducted will be dealt with in the order set out in the agenda, unless the Chairman decides to vary the order.
- 9.2 The format for the agenda will normally be as follows:
  - Item 1: Welcome by the Chairman
  - Item 2: Apologies for absence
  - Item 3: Declarations of interest
  - Item 4: Minutes of the last meeting
  - Item 5: Matters Arising
  - Items for decision
  - Items for information
  - Last Item: Any other urgent business

Larger/more complex decisions will be placed earlier within the agenda
- 9.3 At the May meeting of the full Authority, the first item on the agenda will be the election of the Chairman of the Authority. For this item, the Clerk will take the Chair to conduct the election.

<sup>33</sup>Paragraph 41(2) Schedule 12, Local Government Act 1972

<sup>34</sup>Paragraph 41(4) Schedule 12 Local Government Act 1972

<sup>35</sup>Paragraph 41(2) Schedule 12, Local Government Act 1972

<sup>36</sup>Paragraph 40 Schedule 12, Local Government Act 1972

<sup>37</sup>Section 100C Local Government Act 1972

- 9.4 If the Chairman and Vice-Chairman are absent from a full Authority meeting, the election of a Chairman for the duration of the meeting will become the first item on the agenda. For this item, the Clerk will take the Chairman to conduct the election.
- 9.5 Urgent business items will only be taken at any meeting if the Chairman is satisfied that the item is urgent and could not reasonably have been included in the published agenda for the meeting.

Disclosable Pecuniary Interests and Other Significant Interests

- 9.6 In making a declaration the Member making that declaration should be aware that:
  - a) it is the individual member's duty to make the declaration; and
  - b) the test is not whether the member actually has an Interest, but rather whether a reasonable person in possession of all the facts would consider that he did.

1) A Disclosable Pecuniary Interest means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out below and where either it is:

- (a) your interest, or
- (b) an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners and provided you are aware that the other person has the interest.

The Regulations set out the following:-

*Employment, office, trade, profession or vocation* - Any employment, office, trade, profession or vocation carried on for profit or gain.

*Sponsorship* - Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(3).

*Contracts* - Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority-

- a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

*Land* - Any beneficial interest in land which is within the area of the relevant authority.

*Licences* - Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

*Corporate tenancies* - Any tenancy where (to the Member's knowledge)-

- (a) the landlord is the relevant authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

*Securities* - Any beneficial interest in securities of a body where-

- (a) that body (to Member's knowledge) has a place of business or land in the area of the relevant authority; and
- (b) either-

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

2) An Other Significant Interest means an interest (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) in any business of the Authority which:

(a) may reasonably be regarded as affecting the financial position of yourself and/or an Associated Person to a greater extent than the majority of:

i. other Council Tax payers, ratepayers or inhabitants of the Authority affected by the decision, or

ii. (in other cases) other Council Tax payers, ratepayers or inhabitants of the Authority's area, or

(b) relates to the determination of your application (whether made by you alone or jointly or on your behalf) for any approval, consent, licence, permission or registration or that of an Associated Person,

(c) and where, in either case, a member of the public with knowledge of the relevant facts would reasonably regard the interest as being so significant that it is likely to prejudice your judgment of the public interest.

3) Where you are present at a Meeting and have a Disclosable Pecuniary Interest or Other Significant Interest in any matter to be considered, or being considered, at the Meeting, you must:

(a) disclose the Interest, and

(b) explain the nature of that Interest at the commencement of that consideration or when the Interest becomes apparent (and unless you have been granted a dispensation)

i. not participate in any discussion of, or vote taken on, the matter at the Meeting, and

ii. withdraw from the Meeting room in accordance with the Authority's Procedure Rules whenever it becomes apparent that the business is being considered, and

iii. not seek improperly to influence a decision about that business.

4) Where you have an Other Significant Interest in any business of the Authority, you may attend a Meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose. Having made your representations, given evidence or answered questions you must:

(a) not participate in any discussion of, or vote taken on, the matter at the Meeting, and

(b) withdraw from the Meeting room in accordance with the Authority's Procedure Rules.

#### Exclusion of the public and the media from a meeting

9.7 All meetings will be open to the public, except during consideration of items containing confidential information, or exempt information within the meaning of the Local Government Act 1972.<sup>38</sup>

<sup>38</sup> Section 100A (2),(3),(4) and (5) Local Government Act 1972

9.8 Confidential information means information given to the Authority by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by virtue of a Court Order.

There are seven categories of **Exempt information**. These are:

- Information relating to any individual.
- Information which is likely to reveal the identity of an individual.
- Information relating to the financial or business affairs of any particular person (including the authority holding that information), unless it is required that the information be registered under the Companies, Friendly Societies, Industrial and Provident Societies, Building Societies or Charities Acts.
- Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority of a Minister of the Crown and employees of, or office holders under, the authority.
- Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- Information which reveals that the authority proposes:
- to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- to make an order or direction under any enactment.
- Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

In the event that information falls within one or more of these categories, it is only exempt information if the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Any report that is Exempt or Confidential must clearly state under which paragraph of the Local Government Act 1972 the public is to be excluded. This also has to be set out in the agenda.

Once an item has been treated as Exempt, it may only be disclosed to a member of the public who has a right to know. This must be done by the Authority itself rather than by a member of the Authority.

### Motions

9.9 A member may put forward a motion for debate at any meeting. The motion may propose the resolution contained in a paper for an item on the agenda, or a resolution formulated at the meeting if the paper contains options or no specific proposals, or it may propose an amendment to a resolution.

9.10 All motions must be seconded by another member present.

9.11 A motion may be put forward orally unless the Chairman requires it to be put in writing. In this case, the written motion must be signed by the proposer and given to the Clerk as soon as it has been seconded.

9.12 Where the motion is an amendment to an original motion, it must be considered and voted on before the first motion is put to the meeting. If the amendment is carried by a majority vote, the amended resolution becomes the substantive motion

to be considered by the meeting. Further amendments to the substantive motion may be moved, but such further amendments may not seek to reinstate the sense of the original motion.

- 9.13 If an amendment is not carried, further amendments to the original resolution may be moved.
- 9.14 Members may put forward procedural motions during the course of a debate. These are as follows:
  - to refer the matter to officers or to the full Authority or to a Technical Panel, as relevant, for further consideration
  - to withdraw a motion
  - to postpone consideration of the matter
  - to move to a vote
  - to adjourn a meeting
  - to suspend Standing Orders

#### Rules of debate

- 9.15 The CFO will decide in advance of a meeting who should present an item on the agenda. This will normally be the report author, but may be a relevant senior manager or Kent & Essex IFCA member where appropriate.
- 9.16 Following the presentation of the report, the Chairman will open the item to general debate. In order to encourage participation by all members and support the consensual approach of the Kent & Essex IFCA, debates will normally follow the procedure set out in paragraphs 9.15-9.23 below.
- 9.17 Members will indicate their wish to speak by raising their hand. The Chairman will aim to take speakers in the order in which they indicate.
- 9.18 At the Chairman's discretion, members may speak more than once on an item.
- 9.19 In the course of debate, members may ask officers for clarification or information. At the Chairman's discretion, officers may enter the debate to contribute information or explanations.
- 9.20 The Chairman will determine when the debate should be closed.
- 9.21 Where the item requires a decision, and a resolution has been proposed in the paper, the Chairman will put the resolution to the meeting and will ask for a mover and a seconder. If no amendments to the resolution are proposed, the Chairman will put the resolution to the vote.
- 9.22 If a member indicates that they wish to amend the resolution, the Chairman will request a seconder. The Chairman will then invite the mover of the amendment to speak, before opening a general debate on the amendment.
- 9.23 When the debate has been closed, the Chairman will put the amended resolution to the vote.
- 9.24 If the amendment is carried, it becomes the substantive resolution before the meeting. If no more amendments are proposed, the Chairman will normally put the substantive resolution to the vote. If the Chairman considers that further information or debate is required to enable members to take an informed decision on the substantive resolution, they may invite further general debate before putting it to the vote.
- 9.25 If a resolution, whether amended or not, is put to the vote and is not carried, the Chairman will either invite members to put forward a new resolution for

consideration, or will defer the decision to a future meeting. In deciding the most appropriate course of action, the Chairman will take the advice of the CFO (or, in the absence of the CFO, the most senior officer present at the meeting), and the Clerk.

#### Reconsidering resolutions agreed by the full Authority

9.26 No resolution previously agreed to by the Authority shall be altered or rescinded within six months of the original decision, unless notice of the same stating the precise nature of the proposed alterations or cause for its rescission have been given by the Chairman or at least 6 Members of the Authority in the notice calling the meeting.

#### Voting

9.27 The voting on general questions shall be ascertained by a show of hands, the Clerk ascertaining the numbers voting for and against any motion or amendment and declaring the result accordingly. Any member may ask for his/her or his/her vote for or against the decision or their abstention to be recorded in the minutes.

9.28 Two or more members may ask for a formal recorded vote of the whole Authority. If a recorded vote is requested the Clerk shall take the recorded vote by calling the names of the members and recording their answers and, in all cases when a recorded vote is taken, recorded vote lists shall be recorded in the minutes.

9.29 At the meeting where the budget of the Authority is set for the following financial year all Members of the Authority may discuss and vote on the budget. However, in accordance with Section 180 (4) of the Marine and Coastal Access Act 2009 the total amount of the Authority's expenses for any particularly financial year may be vetoed by a vote of those members of the Authority who are Members of a relevant Council<sup>39</sup>.

9.30 Once the budget has been set for a particular financial year all Members of the Authority may vote on how the total budget is spent.

#### Suspension of rules of procedure

9.31 The rules of procedure set out in paragraphs 9.1-9.28 may be suspended by a vote of the majority of members present at a meeting, with the exception of paragraphs 9.1-9.5.

#### Public Participation

9.32 Members of the Public and Non Authority members may speak at meetings for a reasonable time on any agenda item or other matter within the purview of the Authority, subject to the approval and under the direction of the Chairman. Notice of request to speak should be received by the Clerk in writing at least 48 hours before the date and time of the meeting.

### **Section 10: Audio-visual recording devices**

10.1 Provided agenda items being discussed are open to the public anyone present can report the proceedings by either filming, photographing or audio recording for dissemination after the meeting or providing commentary on proceedings either orally or in writing as the meeting takes place, as long as such recording is not disruptive to the efficient conduct of the meeting. Items not for public discussion cannot be reported on. Members of the Authority should be notified at the commencement of the meeting of anyone wishing to record the proceedings.

<sup>39</sup> Paragraph 41(4) Schedule 12, Local Government Act 1972

## **Section 11: Technical Panels**

- 11.1 The Authority may appoint Technical Panels to make recommendations to the Authority on any matter within the Authority's powers. The quorum for any Technical Panel shall be at least one third of the total number of Members appointed to that Technical Panel
- 11.2 Technical Panels may choose to involve non IFCA Members in their deliberations.
- 11.3 All Technical Panel Meetings are open to the public unless they are discussing exempt or confidential business within the meaning of Schedule 12 (A) of the Local Government Act 1972.

Representatives of the MMO, Natural England, the Environment Agency and other partner agencies

- 11.4 The members appointed by the Environment Agency and Natural England, and the member appointed as an MMO employee may invite a colleague or colleagues to present information with the prior consent of the Chairman.
- 11.5 The CFO, in consultation with the Chairman of the meeting, may allow representatives of other partner agencies to present information

## **Section 12: Extraordinary Meetings**

- 12.1 After consulting the CFO, the Chairman or any five members may summon an extraordinary meeting of the full Authority, for a reason relating to the functions of the Kent & Essex IFCA where an issue arises which requires the input of the entire Authority and is too serious or urgent to wait until the next Authority meeting, by giving notice to the Clerk.
- 12.2 The Clerk will call a meeting of the full Authority within three clear working days of receiving such a notice.
- 12.3 The agenda for an extraordinary meeting will be as follows:
  - Item 1: Welcome by the Chairman
  - Item 2: Apologies for absence
  - Item 3: Declarations of interest
  - Item 4: The purpose for which an extraordinary meeting has been summoned
  - Item 5: Any other urgent business
- 12.4 No other items, including minutes of the last meeting, will be taken at an extraordinary meeting.<sup>42</sup>
- 12.5 The rules of procedure set out in paragraphs 8.1-8.2 and 9.7-9.28 will apply to extraordinary meetings.

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<sup>42</sup>Paragraph 41(4) Schedule 12, Local Government Act 1972

## **CHAPTER 2: Code of Conduct for Non-elected<sup>43</sup> Members of the Kent & Essex Inshore Fisheries and Conservation Authority**

### **1. Introduction**

This Code of Conduct applies to you at all times in your official role and duties as a Member of the Kent and Essex IFCA.

In this Code, "meeting" means any meeting of the IFCA, a Technical Panel, an official site visit or other meeting that the IFCA has authorised you to attend. "Member" includes co-opted or substitute member, as appropriate.

When acting as a Member of the Kent & Essex IFCA, you are committed to behaving in a manner that is consistent with the Nolan Committee's Principles of Public Life in order to maintain public confidence in the Kent & Essex IFCA and to ensure the best use of its resources in the public interest.

### **2. Principles of Public Life**

**Selflessness:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership:** Holders of public office should promote and support these principles by leadership and example.

### **3. My conduct as a Member**

As a Member of the Kent & Essex Inshore Fisheries and Conservation Authority, you will ensure that your conduct is in line with the Principles of Public Life:

- (i) You must treat others with respect
- (ii) You must not:

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<sup>43</sup> Members appointed by the Marine Management Organisation ('general members' S5(2)(b) KEIFCA Order 2010), the Environment Agency and Natural England ('additional members' S5(2)(c) KEIFCA Order 2010)

- (a) do anything that may cause the IFCA to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006 and any subsequent legislation)
- (b) bully any person
- (c) intimidate or attempt to intimidate any person who is likely to be a complainant; a witness; or involved in the administration of any investigation or proceedings in relation to an allegation that a member (including yourself) has failed to comply with this Code of Conduct
- (d) do anything that compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority

(iii) You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

- (a) you have the consent of a person authorised to give it;
- (b) you are required by law to do so;
- (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (d) the disclosure is reasonable and in the public interest and made in good faith and in compliance with the reasonable requirements of the Authority

(iv) You must not prevent another person from gaining access to information to which that person is entitled to in law.

(v) You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute

(vi) You:-

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of the Authority
  - act in accordance with the Authority's reasonable requirements
  - ensure that such resources are not used improperly

(vii) When reaching any decisions on any matter you must have regard to any relevant advice provided to you by the Authority's Chief Fishery Officer, Clerk and Financial Advisor.

#### **4. Personal interests**

(1) You have a personal interest in any business of the Authority where either—

- (a) it relates to or is likely to affect—
  - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
  - (ii) any body—

- (aa) exercising functions of a public nature;
- (bb) directed to charitable purposes; or
- (cc) one of whose principal purposes includes the influence of public opinion or policy,

of which you are a member or in a position of general control or management;

- (iii) any employment or business carried on by you;
- (iv) any person or body who employs or has appointed you;
- (v) any person or body who has a place of business or land in the Authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- (vi) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
- (vii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £100;
- (viii) any land in the Authority's area in which you have a beneficial interest;
- (ix) any land where the landlord is the Authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
- (x) any land in the Authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the area affected by the decision.

(2) In sub-paragraph (1)(b), a relevant person is—

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

## **5. Disclosure of personal interests**

(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of the Authority and you attend a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of the Authority which relates to or is likely to affect a person described in paragraph 2(1)(a)(i) or 2(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the Authority of the type mentioned in paragraph 2(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 7, sensitive information relating to it is not registered in the Authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

## **6. Prejudicial interest generally**

(1) Subject to sub-paragraph (2), where you have a personal interest in any business of the Authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the Authority where that business—

(a) does not affect your financial position or the financial position of a person or body described in paragraph 2;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 2; or

(c) relates to the functions of the Authority in respect of an allowance, payment or indemnity given to members;

## **7. Effect of prejudicial interests on participation**

(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of the Authority—

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

(b) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of the Authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are

also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

## **8. Registration of members' interests**

- (1) Subject to paragraph 7, you must, within 28 days of—
  - (a) this Code being adopted by or applied to the Authority; or
  - (b) your appointment to the Authority (where that is later),

register in the Authority's register of members' interests details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to the Authority's Clerk.

- (2) Subject to paragraph 7, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to the Authority's Clerk.

## **9. Sensitive information**

(1) Where you consider that the information relating to any of your personal interests is sensitive information, and the Authority's Clerk agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 6

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify the Authority's Clerk asking that the information be included in the Authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to or at risk from violence or intimidation.

## **CHAPTER 3: Marine Management Organisation appointees: Terms and Conditions of Appointment**

### **Section 151(6)(c) Marine and Coastal Access Act 2009**

#### **Introduction**

You have confirmed that you are willing to serve as one of the Marine Management Organisation (MMO) appointees (an Appointee) to the Kent & Essex Inshore Fishery and Conservation Authority (IFCA). Your knowledge and experience will be important in helping to provide sustainable management of the inshore marine area of the IFCA district. This important role will require commitment and active participation from you. The MMO has a responsibility under the Marine and Coastal Access Act 2009 (the Act) to ensure that IFCA committees perform their duties effectively and has set out the terms and conditions appointees are required to adhere to.

In agreeing to take on the role as an appointee, you are required to agree to be bound by the terms and conditions set out below. Please sign and date the acceptance form on the attached letter and return it to us to confirm that you agree to your appointment on the basis of these conditions.

#### **Terms and conditions**

1. Appointments of an appointee will be for a period of 4 years initially, with the possibility of reappointment up to a maximum of 10 years, subject to annual written confirmation from the IFCA Chairman or appointed officer, or MMO officer, in the case of the Chairman of satisfactory performance.
2. Officers employed by IFCAs will not be permitted to serve on the committee. Officers employed by organisations with a seat on the committee are permitted to serve on the committee with the consent of their employer.
3. Appointees to IFCAs are legally required to represent all the local fishing and marine environmental interests in the waters of the IFCA district, in a balanced way, taking full account of all the economic, social and environmental needs of that district. Appointees should recognise that they are part of a committee and should not regard themselves as representing solely one particular interest within the IFCA district.
4. Details of how the IFCA will operate, the election of Chairman and vice Chairman, together with the roles and responsibilities of the committee and its members will be set out in the IFCA standing orders or code of conduct for members. All appointees will be required to follow the procedures as set out under these orders. Appointees will be responsible and answerable to the Chairman.
5. The committee, ordinarily, meet each quarter and, in addition it is envisaged that appointees will be expected to serve on a number of sub-committees. The attendance of appointees at all meetings of the committee, unless prevented by illness or other serious matter, is regarded as a condition of your appointment. Appointees with a poor attendance record, as identified by the IFCA Chairman or appropriate officer will be required to stand down from the authority.
6. Appointees are required to declare any outside interests that may impact in any way on their duties as IFCA authority members. If an appointee is unable to decide whether or not he or she has an interest that should be declared, guidance should be sought from the Chairman of the committee or the IFCA Chief Officer.
7. Appointees must declare any such interests prior to participation in any discussion of a relevant matter by the committee in order to allow for open and transparent discussions to take place. Where interests are such that a decision to be made by the committee would directly or indirectly affect a personal interest of you as an appointee or that of a business or other body in which you have an interest or that you represent, you may speak (for example, to explain issues and provide

information) and may vote but only if you have obtained a dispensation from the committee, in line with local authority codes of conduct (made under the Local Government Act 2000). It is recommended that you refer to the IFCA Code of Conduct for further guidance.

8. Appointees must not undermine the credibility of the IFCA. Any appointee found to have been convicted for an offence under fisheries or environmental legislation, or any other matter relevant to their appointment to an IFCA, will have their appointment terminated, and will not be eligible for re-appointment. Appointees must not, in their official capacity or any other circumstances, conduct themselves in a manner which could reasonably be regarded as bringing their office, the IFCA committee or IFCAs in general into disrepute.
9. Where an appointee is made aware of any conduct by another appointee or other IFCA committee member which they reasonably believe is not compatible with the duties and responsibilities of such a committee member, they are required to make a written statement to that effect to the IFCA
10. Where issues relating to the conduct of an appointee cannot be resolved by the committee itself, the matter should be referred to the MMO who will decide in liaison with the IFCA Chairman (or the MMO representative, if it relates to the Chairman), if the appointee concerned should be asked to stand down.
11. Appointments to IFCAs are on a voluntary basis and it will be for IFCAs to decide whether allowances are payable to members for travel and other costs or for any loss of earnings for appointees. IFCAs will set procedures and guidelines in relation to expenses and other claims at the beginning of each financial year, in accordance with relevant local authority or any other rules relevant to their IFCA.
12. **Notification of a resignation.** When an appointee wishes to resign from an IFCA committee, a resignation should be submitted in writing to the Chief Officer or other relevant head of service, who will then notify the MMO. The MMO will then be responsible for seeking an appropriate replacement, in co-ordination with the Chairman of the relevant IFCA committee.
13. All appointees are required to undertake training, as required by the IFCA or MMO, including induction.

## **CHAPTER 4: Scheme of Delegations**

### **Responsibility for functions**

1. Chapter 4 of this Constitution sets out the extent to which the Authority's functions are:

- the responsibility of the full Authority;
- the responsibility of Technical Panels of the Authority;
- the responsibility of the Chief Fishery Officer.

The allocation of responsibilities aligns with the Kent County Council's interpretation of the approach to the division of functions between Executives and Authorities, namely:

- Determination of the policy framework and budget and other constitutional and quasi legislative functions are to be the responsibility of the full Authority.
- Functions which involve the delivery of the vision of Kent & Essex IFCA across the spectrum of Conservation and Enforcement business are to be the responsibility of the Chief Fishery Officer (CFO).
- All other functions are to be the responsibility of either the CFO or an officer exercising delegate powers on behalf of the Chief Officer.

2. Within this framework all members have agreed that it is the role of Authority members to concentrate upon broad strategy and policy decisions and that it is essential that the CFO and subordinate managers have clear managerial control and authority to implement those decisions.
3. It is part of the role of Authority members to raise concerns, particularly those of stakeholders, and bring to the attention of the CFO matters of concern on any element of Kent & Essex IFCA business. Members agree that their involvement in day to day management beyond this is unlikely to promote the most effective service. In exercising their delegated powers, the CFO shall consider the concerns and comments of Members whilst recognizing their responsibility to manage delivery of Kent & Essex IFCA outputs in accordance with the Authority's policy framework.

<b>MATTERS WHICH IT IS THE RESPONSIBILITY OF THE FULL AUTHORITY TO DISCHARGE</b>	
	<b>Function</b>
1.	Approving and adopting the Annual Budget and setting the levy to the County and District Councils.
2.	Agreeing quarterly accounts and statements of payments made and monies received.
3.	Approving bank signatories.
4.	Decision making powers concerning strategic financial matters and approving the annual Statement of Accounts, transfers between accounts, appointment of the Auditor and amendments to the Financial Regulations.
5.	Adopting and changing the Constitution including reviewing Standing Orders; Schedule of Delegations; Non-Elected Members' Code of Conduct; and other constitution documents.
6.	Agreeing and reviewing annually the Members' expenses scheme.

7. Agreeing and/or amending the terms of reference for Technical Panels, deciding on their composition and making appointments to them.
8. Appointing Member representatives of the Authority to outside bodies.
9. Agreeing the Authority's strategic policy framework as follows: <ul style="list-style-type: none"> <li>• Annual Report</li> <li>• Annual Plan</li> <li>• Research and Environment Plan</li> <li>• Communications and Engagement Strategy</li> <li>• Research Reports</li> </ul>
10. Agreeing the Authority's strategic enforcement framework as follows: <ul style="list-style-type: none"> <li>• Enforcement Strategy</li> <li>• Enforcement Code of Conduct</li> <li>• Financial Administrative Penalties for Fisheries Offences</li> </ul>
11. Receiving reports on complaints against the Authority and on Freedom of Information 2000, Environment Information Regulations 2004 and Data Protection Act 1998 requests.
12. Agreeing and signing Memoranda of Understanding and other partnership initiatives.
13. Receiving minutes of meeting of the Association of Inshore Fisheries and Conservation Authorities.
14. Waiving any of the procedures relating to contracts which are set out in the Financial Regulations.
15. Agreeing the sale of assets worth more than £50,000.
16. Receiving reports and agree action on bad debts.
17.
18. Decision making powers concerning, but not the setting of the levy, approval of quarterly accounts and statements and approval of bank signatories.
19. Decision making powers in developing the Human Resources strategy for the organisation including staff structure and employment policy to include personal development, training and appraisal strategies to assure adherence to relevant UK employment law and other mandated public sector initiatives.
20. Decision making powers regarding policy on the recruitment, remuneration and retention of personnel.
21. Decision making powers to approve standing interview procedures, the appointment of interview panels for the recruitment of the Chief Fishery Officer and Assistant Chief Fishery Officer and the appointment of these posts; panels

will normally be led by the Chairman of the IFCA
22. Decision making powers to conduct Disciplinary/Grievance appeals panels
23. Decision-making powers in relation to the following provisions of the TECFO 1994:
<ul style="list-style-type: none"> <li>Opening the fisheries for the prescribed shellfish species in the area of the Thames covered by the TECFO, including the setting of the TAC and licence fee and number of licences to be allowed</li> <li>Management measures for fisheries in the relevant area of the TECFO order including approving any underpinning research initiatives.</li> </ul>
24. Decision making powers in relation to European Marine Site (EMS) responsibilities including: <ul style="list-style-type: none"> <li>Establishing the policy framework to enable accommodation of developing EMS initiatives material to Authority outputs.</li> </ul>
25. Decision making powers in relation to the management and administration of all Marine Protected Areas in the district
26. Developing the Authority's vision and strategic planning to deliver the DEFRA success criteria.
27. Making, amending, revoking, re-enacting or adopting byelaws.
28. Reviewing enforcement strategy assuring adherence to UK Law, other legal precedents and mandated public service protocols.
29. Developing a risk-based enforcement strategy suitable for Authority purposes.

<b>ROLE OF THE CHAIRMAN OF KENT &amp; ESSEX IFCA</b>
1. Ensure that the Authority is able to carry out the business at its meetings efficiently, in line with its plans and policies, legal duties, Constitution and standing orders
2. Enable members to participate fully in discussions and decisions so that the Authority can benefit from their experience and expertise, and their knowledge of the interests of the Kent & Essex IFCA's communities and stakeholders.
3. In fulfilling this role, the Chairman will work closely with, and take advice from the Authority's CFO and professional officers and its Clerk.
4. The Chairman will also attend such meetings and functions as are necessary in order to represent the interests of the Kent & Essex IFCA on the advice of the CFO and, as appropriate, the Clerk.
5. Ensure that there is rigorous and robust performance management of the Chief Fishery Office, including the setting of relevant targets

<b>MATTERS WHICH IT IS THE RESPONSIBILITY OF THE CHIEF FISHERY OFFICER TO DISCHARGE</b>	
<b>Function</b>	
<b>Human Resources</b>	
1.	Being the Head of the Kent & Essex IFCA's paid service and ensure that the Authority deals effectively and lawfully with day to day operational control of personnel issues, including management of staff structure, recruitment, retention, welfare, training, disciplinary and grievance matters. To develop plans to deliver HR strategy.
2.	Managing the performance of staff to ensure that the Authority's policies and decisions are implemented effectively and that key targets and objectives are met.
3.	Being ultimately responsible for all other HR matters that have not been reserved to the full Authority.
<b>Protection and Conservation</b>	
4.	Leading and directing the Authority's officers in the enforcement of all legislation relating to the management and policing of the inshore fisheries and the conservation of the marine environment.
5.	Instigating and taking legal proceedings for offences under any legislation which empowers the Authority to take legal proceedings, in line with its prosecution policy and, if appropriate, after consultation with the Chairman and Vice-Chairman of the Authority.
6.	Making emergency byelaws under Section 157 of the Marine and Coastal Access Act 2009 after consulting with the Chairman and Vice Chairman of the Authority and by following the procedure agreed by the IFCA (Annex 1).
7.	Ensuring that the Authority liaises and works in co-operation with other inshore fishery and conservation organisations, including other IFCAs.
8.	Acting as a consultee for planning proposals and other issues that may affect or impact on fisheries resources or the marine environment within the Authority's District.
9.	Being ultimately responsible for all fisheries management matters that have not been reserved to the full Authority.
<b>Governance and Financial management</b>	
10.	Being the Responsible Financial Officer for the Kent & Essex IFCA as defined in the Authority's Financial Regulations.
11.	Entering into and varying contracts on behalf of the Authority where these are necessary to implement the Authority's decisions or to discharge the responsibilities of the CFO and provide the best value for the Authority.
12.	Being responsible for all financial management matters that have not been reserved to the full Authority.

13. Acting as signatory in respect of permits, licences, agendas, cheques and other such Authority documentation.
14. Ensuring that all governance, enforcement, financial management and HR policies and procedures are maintained in an accurate and up-to-date state and are adhered to by all staff and members.
15. Ensuring that all matters within the decision-making powers of the full Authority are brought forward to the relevant forum in a timely manner and with all information necessary for a robust and lawful decision.
16. Receiving and investigating complaints against non-elected members of the Authority and making recommendations to the appointing body. Referring complaints against elected members to the relevant County and District Council Monitoring Officer.
17. Ensuring the Authority's complaints procedure is implemented and monitored.
18. Together with the Clerk, ensuring the preparation and circulation of agendas, papers and minutes for all Authority and Technical Panel meetings in line with legal requirements and the Kent & Essex IFCA Constitution.
19. Attending, or being represented, at all meetings of the Authority, Technical Panels, working groups, and other meetings and ensuring that advice is available on legal and procedural issues.
20. Actioning any decisions made at all meetings of the Authority, Technical Panels, working groups and other meetings.
21. Ensuring the Authority meets its obligations under the Freedom of Information 2000, the Environment Information Regulations 2004 and the Data Protection Act 1998
<b>External representation and communications</b>
22. Ensuring that the Kent & Essex IFCA is appropriately represented at meetings with other bodies such as DEFRA, MMO, Environment Agency, Natural England, Association of Inshore Fisheries and Conservation Authorities, councils etc.
23. Ensuring effective communications between Kent & Essex IFCA staff and members, and between the Authority and other bodies.
24. Maintaining effective community consultation, engagement and participation arrangements for the Authority that meet external and internal objectives.
<b>Powers of Delegation</b>
25. Delegating functions to another officer of the Kent & Essex IFCA but remaining accountable for the outcome of such delegations. A register of such sub-delegations should be held by the CFO and a copy lodged with the clerk
<b>Provision for emergencies</b>
26. Where, in the opinion of the CFO (or their ACFO in their absence) a decision which is within the powers of the Authority, but is not within the CFO's delegated powers, is urgently required by the Kent & Essex IFCA, and cannot be delayed until an Authority meeting is convened, the CFO may take the decision, having first consulted the Chairman and the Vice-Chairman of the Authority. All such

decisions must be reported to the next meeting of the Authority.

**MATTERS WHICH IT IS THE RESPONSIBILITY OF THE CLERK TO THE AUTHORITY TO DISCHARGE**

1. To attend, or ensure representation, at all meetings of the Kent and Essex Inshore Fisheries and Conservation Authority, Technical Panels and any special meetings and to advise such meetings on constitutional and procedural issues.
2. To attend or be represented at meetings with other bodies such as the Department of Environment, Fisheries and Rural Affairs, and Association of Inshore Fisheries and Conservation Authorities as required by the Authority.
3. To ensure effective and regular liaison/communications with the Chief Fisheries Officer, the Chairman and Vice Chairman.
4. To act as signatory in respect of permits, byelaws and other such documentation as the Authority may require.
5. To ensure Agendas, reports and Minutes for all Authority meetings are prepared and circulated in accordance with the timescales laid down in Standing Orders.

## **CHAPTER 5: Financial Regulations**

### **1 General**

- 1.1 These financial regulations shall govern the conduct of the financial transactions of the Authority and may only be amended or varied by resolution of the Authority.
- 1.2 The Responsible Financial Officer (RFO) shall be the Chief Fishery Officer who shall be responsible for the proper administration of the Authority's financial affairs.
- 1.3 The RFO shall be responsible for the production of financial management information.

### **2 Annual Estimates**

- 2.1 Detailed estimates of income and expenditure on revenue services, and receipts and payments on capital account, shall be prepared each year by the RFO. Proposals in respect of revenue services and capital projects in a rolling three year forecast shall also be prepared each year by the RFO.
- 2.2 The Authority, not later than the end of January in each year, will vote on the precept to be levied for the ensuing financial year.
- 2.3 All expenses incurred by the Authority within the agreed budgets are to be met by the relevant Councils.
- 2.4 The Chief Fishery Officer will request payment of levies from the relevant Councils, no later than the end of January.
- 2.5 The annual capital and revenue budgets shall form the basis of financial control for the ensuing year.

### **3 Budgetary Control**

- 3.1 Expenditure on the revenue account may be incurred up to the amounts included in the budget.
- 3.2 The RFO shall when requested provide the Authority with a statement of income and expenditure to date under each head of the approved annual revenue and capital budgets.
- 3.3 The RFO may incur expenditure on behalf of the Authority which is necessary to carry out any repair, replacement or other work which is of such extreme urgency that it must be done at once, whether or not there is any budgetary provision for the expenditure. The RFO shall report the action to the Authority as soon as practicable thereafter.
- 3.4 Any revenue budget remaining at the year end shall be transferred to one of the Authorities' reserves on authorisation by the Authority
- 3.5 Notwithstanding 3.4 above, the RFO shall be responsible for identifying and establishing specific earmarked reserves where appropriate.
- 3.6 No expenditure shall be incurred in relation to any capital project and no contract entered into or tender accepted involving expenditure on capital account unless the RFO is satisfied that it is contained in the rolling capital programme and that the necessary capital funds are available.
- 3.7 Any expenditure not in the rolling capital programme shall be approved only after consultation with the Chairman or Vice Chairman.
- 3.8 All capital works shall be administered in accordance with Authority's procedures and financial regulations relating to contracts.

#### **4 Accounts and Audit Commission**

- 4.1 All accounting procedures and financial records of the Authority shall be determined by the RFO as required by the Accounts and Audit Regulations 1996 and the Accounts and Audit (England) Regulations 2011.
- 4.2 The RFO shall be responsible for completing the annual accounts of the Authority as soon as practicable after the end of the financial year and shall submit them to and report thereon to the Authority at the May meeting of each year
- 4.3 The RFO shall be responsible for maintaining an adequate and effective system of internal audit of the Authority's accounting, financial and other operations in accordance with the Accounts and Audit Regulations 1996.
  - 4.3.1 As part of the effective system of internal audit the Authority shall appoint a suitable person who is removed from the decision making process of the Authority who shall be responsible for undertaking an internal audit two times a year.
  - 4.3.2 Any officer or member of the Authority shall, if the RFO requires, make available such documents of the Authority which relate to their accounting and other records as appear to the RFO to be necessary for the purpose of the audit and shall supply the RFO with such information and explanation as the RFO considers necessary for that purpose.

#### **5 Banking Arrangements and Cheques**

- 5.1 The Authority's banking arrangements shall be made by the RFO and approved by the Authority. A Current Account shall be maintained at the bank, to cover day to day expenditure. Levies will be held by KCC on account to cover the payroll and transfers made to the current account when required. Interest will be calculated on an annual basis using the LIBOR rate. In addition, the Authority will approve the Treasury Strategy at the May meeting. This will give the RFO authorisation to operate such bank accounts he/she may consider necessary in order to optimise income from interest bearing accounts.
- 5.2 BACS, Cheques, Direct Debits and Standing Orders drawn on the Current Bank Account shall be signed by two duly authorised signatories in accordance with current bank mandates resolved by the Authority.

#### **6 Payment of Accounts**

- 6.1 All payments other than petty cash transactions shall be effected by means of electronic transfer or cheque.
- 6.2 All invoices for payment shall be examined, verified and certified by the officer issuing the order. Before certifying an invoice, the officer shall satisfy him/herself that the work, goods or services to which the invoice relates have been received, carried out, examined and approved.
- 6.3 Duly certified invoices shall be passed to the RFO who shall examine them in relation to arithmetical accuracy and authorisation, and shall code them to the appropriate expenditure head. The RFO shall take all possible steps to settle all invoices submitted, and which are in order, within 30 days of their receipt.

#### **7 Petty Cash**

- 7.1 No payments are made using petty cash.

#### **8.1 Payment of Salaries and Wages**

- 8.1 The payment of salaries and wages shall be made by KCC in accordance with the payroll records.

## **9 Investments**

- 9.1 All investments under the control of the Authority shall be negotiated by the RFO in the name of the Authority.
- 9.2 All investment certificates and other documents relating thereto shall be retained in the custody of the RFO.

## **10 Income**

- 10.1 The collection of all sums due to the Authority for work done, services rendered or goods supplied shall be the responsibility of, and under the supervision, of the RFO.
- 10.2 The RFO will review all fees and charges as necessary.
- 10.3 Any bad debts shall be reported to the Authority.
- 10.4 All sums received on behalf of the Authority shall either be paid to the RFO for banking or be banked by the officer collecting the money as directed by the RFO. In all cases all receipts shall be deposited with the Authority's bankers as soon as possible.
- 10.5 A reference to the related debt, or otherwise, indicating the origin of each cheque, shall be entered on the paying in slip.
- 10.6 Personal cheques shall not be cashed out of money held on behalf of the Authority.

## **11 Orders for Work, Goods and Services**

- 11.1 An official order or letter shall be issued for all work, goods and services over £50 unless a formal contract is to be prepared or an official order would be inappropriate e.g. petty cash purposes. Copies of orders issued shall be maintained.
- 11.2 Order books shall be controlled by the RFO.
- 11.3 All officers are responsible for obtaining value for money at all times. An officer issuing an official order is to ensure as far as reasonable and practicable that the best available terms are obtained in respect of each transaction.
- 11.4 All officers are required to comply with the requisite authorisation to undertake a transaction as specified in Scheme of Delegation – Appendix 2.

## **12 Contracts**

- 12.1 Procedures as to contracts are as follows:

- (a) Every contract made by the Authority shall comply with these procedures, and no exception from any of the following provisions of these procedures shall be made otherwise than by direction of the Authority provided that these procedures shall not apply to contracts which relate to items (i) to (v) below:
  - (i) for the supply, of gas, electricity, water, sewerage and telephone services
  - (ii) for specialist services such as are provided by solicitors, accountants, surveyors and planning consultants.
  - (iii) for work to be executed or goods or materials to be supplied which consist of repairs to or parts for existing machinery or equipment or plant.
  - (iv) for work to be executed or goods or materials to be supplied which constitute an extension of an existing contract by the Authority.
  - (v) for goods or materials proposed to be purchased which are proprietary articles and/or which are sold only at fixed price, or for which there is only one source of supply.

(b) Where it is intended to enter into a contract, other than specified in (c) below:

(i) exceeding £5,000 in value for the supply of goods or materials or for the execution of works or specialist services other than such goods, materials, works or specialist services as are excepted as set out on paragraph (a) the RFO shall invite quotations from at least three appropriate firms.

if less than three quotations are received or if all three quotations are identical the RFO may make such arrangements as he thinks fit for procuring the goods or materials or executing the works.

(c) Where it is intended to enter into a contract for major capital expenditure in excess of £100,000 and relating to e.g. new vessels and or their replacement, buildings etc. the RFO shall invite tenders from at least three appropriate firms by using KCC's procurement service

(d) When applications are made to waive procedures relating to contracts to enable a tender to be negotiated without competition the reason shall be embodied in a recommendation to the Authority.

(e) Such invitation to tender shall state the general nature of the intended contract and the RFO shall obtain the necessary technical assistance to prepare a specification in appropriate cases.

(f) If less than three tenders are received or if all three tenders are identical the Authority may make such arrangements as it thinks fit for procuring the goods or materials or executing the works.

(g) The Authority shall not be obliged to accept the lowest of any tender. Justification of the chosen tender must be given in writing to the Authority.

(h) The RFO shall publish specified information about any payment of more than £30,000 made by the authority under a public contract. The information will be published before the end of the period of 30 days beginning with the last day of the quarter in which the payment was made.

### **13 Payments Under Contracts for Building or Other Construction Works**

13.1 Payments on account of the contract sum shall be made within the time specified in the contract by the RFO upon authorised certificates of the architect or other consultants engaged to supervise the contract.

13.2 Where contracts provide for payment by instalments the RFO shall maintain a record of all such payments. In any case when it is estimated that the total cost of work carried out under a contract, excluding fluctuation clauses, will exceed the contract sum by 5% or more a report shall be submitted to the Authority

13.3 Any variation to a contract or addition to or omission from a contract must be approved by the RFO in writing, the Authority being informed where the final cost is likely to exceed the financial provision.

### **14 Assets**

14.1 The RFO shall make appropriate arrangement for the custody of all title deeds or assets owned by the Authority. The RFO shall ensure records are maintained of all assets owned by the Authority, recording the location, extent, plan, reference, purchase details, nature of the interest, tenancies granted, rents payable and purpose for which held in accordance with Regulation No.4(3)(b) of the Account and Audit Regulations 1996.

14.2 No asset exceeding the £50,000 shall be sold, leased or otherwise disposed of

without the authority of the Authority.

## **15 Insurance**

- 15.1 The RFO shall effect all insurances and negotiate all claims on the Authority's insurers.
- 15.2 The RFO shall be responsible for insuring all new risks, properties, vessels or vehicles and any alterations affecting existing insurances.
- 15.3 The RFO shall keep a record of all insurances effected by the Authority and the property and risks covered thereby and annually review it.
- 15.4 The RFO shall be notified of any loss liability or damage or of any event likely to lead to a claim.
- 15.5 All members and employees of the Authority shall be included in suitable fidelity guarantee, professional indemnity, and Directors and Officers insurances.

## **16 Revisions of Financial Regulations**

- 16.1 It shall be the duty of the RFO to review the financial regulations as required and to report to the Authority accordingly.

**KEIFCA Emergency Byelaw Procedure**

Consideration will be triggered either by information gathered by K&EIFCA officers or reports from stakeholders. Stakeholders and/or K&EIFCA officers are asked to fill in a form covering the following topics:

- Background on who they are and their organisation/mandate
- Describes the current activity and gives an indication of level of activity (current and perceived ongoing)
- Describes the impact of that activity in relation to the sustainable exploitation of marine species and/or impact on MPA feature
- Explanation of why the need to make the byelaw could not reasonably have been foreseen.
- Give a brief review of any efforts made to deal with the issue in a non-legislative way.
- Suggestion on the possible content and wording of an emergency byelaw.

After the appropriate form has been submitted, the Chief Fishery Officer will consult the Chairman and Vice Chairman and discuss the merits of the application based on the Defra emergency byelaw guidance. The decision will then be made as to whether to continue with the process and gather information for an initial impact assessment or to write back to the stakeholder involved and explain why no further action will be taken at that time. Legal advice might be taken at this point.

If decided to proceed KEIFCA Officers will gather information regarding the issue in question and complete an initial impact assessment. An initial impact assessment would aim to review the following issues, depending on time available.

- Summary of why this new activity is taking place and what is motivating parties to undertake the new activity. Explanation of why the need to make the byelaw could not reasonably have been foreseen.
- Where possible KEIFCA officers would gather and record first hand data about activity levels (e.g number of people/boats amount of gear involved). Records would also be made of stakeholder's estimates of activity.
- Where possible information would be gathered by KEIFCA officers aimed at quantifying the amount of damage impact taking place by the activity.
- A comparison would be made of current activity and impacts with previous activity/impacts.
- Estimate of future impact on species or feature if action is not taken (if activity continues at current level).
- Give a brief review of any efforts made to deal with the issue in a non-legislative way.
- Suggestion on the possible wording of an emergency byelaw.

- Estimated cost on sectors undertaking activity if activity is stopped using the suggested byelaw wording.
- Estimated cost of enforcement of emergency byelaw using the suggested byelaw wording.

If time allowed brief comments on the activity would then be sought from other relevant bodies and stakeholders (e.g. MMO, NE, CEFAS and representatives of sectors affected, local councils and possibly the EA).

On completion of the impact assessment the Chief Fishery Officer will consult the Chairman and Vice Chairman and may seek legal advice. This consultation will also decide which of the following options to follow:

- (i) Proceeding with an Emergency Byelaw. If an Emergency Byelaw is implemented immediately, the action will be reported to the next KEIFCA meeting for ratification.
- (ii) Call a special meeting of the Technical Panel or a full KEIFCA meeting.
- (iii) Take no immediate action but report to the next scheduled KEIFCA meeting (writing back to the organisation or individual initially requesting the emergency byelaw with an explanation why this has not been taken forward).

If actions (i) or (ii) are undertaken the Chief Fishery Officer will also consult the Chairman and Vice Chairman in drawing up the initial wording of the emergency byelaw.

Once (written) agreement has been reached to proceed with an emergency byelaw and the wording of the byelaw has been finalised, the timings and actions written in the Marine and Coastal Access Act 2009 will be followed. This will be accompanied by on-going monitoring and reporting as referred to in the previous sections.

The byelaw will then be submitted to the Clerk for signing.

The emergency byelaw will be presented to the Authority at the earliest available opportunity for the Authority to ratify the byelaw. This may be prior to the Clerk signing the emergency byelaw.