

Success Criteria: 2, 3, 4, 5 & 6

By: Assistant Chief Officer

To: Kent and Essex Inshore Fisheries and Conservation
Authority – 20 May 2014

Subject: **COCKLE PERMIT BYELAW**

Classification Unrestricted

Summary: To report on progress with consideration of a cockle permit byelaw with recommendations from the Technical Panel followed by MMO consultation. To request instructions to proceed.

1. Previous discussion

The wording of a new cockle permit byelaw was considered at the last meeting. This byelaw would include a bio-security and management plan with the level of fees, how the byelaw would accommodate a 'micro-fishery' and fishing methods being considered. It was resolved that a Technical Panel meeting would be held to consider the requirements of a micro fishery and full scale fishery as well as cost recovery and fees.

The notes of the Technical Panel are attached at **Appendix A**.

The Technical Panel considered a number of factors relating to the future management of the cockle fishery outside the area of the Regulating Order, these included:

Fishermen operating batch dredges or similar and mostly using vessels of under 10 metres in length would not have the ability to catch the same quantities as the current cockle dredge fleet using hydraulic dredges from vessels up to 14 metres in length.

Consideration was given to two draft byelaws one of which included re-wording which took into account comments made at the KEIFCA January technical panel meeting. This included more specific provisions relating to a micro fishery. This draft byelaw allowed for two categories of permit and limiting fishermen

operating under both permit categories to the same weekly TAC. This byelaw also contained a fishery management plan and a bio-security code of practice.

Consideration was given to the cost of undertaking surveys and enforcement with a view to achieving full cost recovery. It was also felt that Category two permits should cost half that of Category one permits and that there should be a mechanism to alter permit charges.

Time constraints in making a new byelaw to enable the opening of the fishery for this year were considered and it was felt that it was important to ensure full consideration of the issues raised before proceeding with the byelaw.

2. Recommendations from the Technical Panel:

- The option of two categories of permits as specified in byelaw to be approved by the Authority.
- The Association of IFCA's be contacted to request that they approach the Minister to discuss a method of introducing legislation that would allow a schedule of charges to be included in a byelaw that could be varied each year.
- Category two permits would cost half that of Category one permits
- The cost of each permit should reflect the full cost to the Authority to survey and enforce the area
- Officers be instructed to obtain legal advice to ascertain whether an emergency byelaw could be brought in in order to open the fishery in October 2014

3. Discussion with MMO

Discussion has now taken place with the MMO with regard to the structure and wording of the byelaw. This has included consideration of a mechanism for varying permit charges. Initial indications from MMO are that permit charges could be increased annually provided this is included in a byelaw schedule of charges which specifies an incremental list of fees over a fixed number of years. Formal detailed legal advice from MMO is now awaited.

4 Emergency Byelaw

The technical panel considered the applicability of an emergency byelaw to enable the opening of the cockle fishery with the suggested criteria contained within the draft byelaw before the final byelaw is signed off. This was concluded by the instruction to officers to discuss the matter with the MMO. The view of

MMO is that given the length of time which this issue has been discussed it might be difficult to justify that the matter is unforeseen, therefore the IFCA would find it difficult to make an emergency byelaw. However, the Authority could take this matter further and seek to gain its own legal advice on the matter.

5 Recommendations : As a result of these discussions and further consideration of the issues that have been raised, the following is proposed:

- (1)The recommendations of the Technical Panel be approved.
- (2)The detailed structure and wording of the draft byelaw be amended in line with MMO legal advice whilst maintaining the requirements and meanings of that which has been approved.
- (3)The draft byelaw to include a schedule of charges which specifies an incremental list of fees over a fixed number of years.
- (4)That Category two permits will cost half that of Category one permits and they will permit the taking of half the quantity of cockles.
- (5)Progress with the drafting of this byelaw will be reported back to the next meeting