

Success Criteria 2,3,5 and 6

By: Assistant Chief IFC Officer

To: Kent and Essex Inshore Fisheries and Conservation
Authority – 4th September 2014

Subject: **NEW COCKLE BYELAW**

Classification Unrestricted

Summary: To consider making a new Cockle Fishery Flexible Permit
Byelaw

1. Background

Following from the last meeting of the Authority it is proposed that a new Cockle Fishery Permit Byelaw is made at this meeting.

Discussion regarding the intention to make this byelaw continues from the action of KEIFCA to make an Emergency Cockle Biosecurity Byelaw on 15th August 2014. This Emergency byelaw has been first implemented for a period of 12 months. This byelaw will replace the Emergency Byelaw and the other six cockle byelaws currently in operation within the KEIFCA district.

2. IFCA meeting 24 January 2014

Members were provided with a proposed cockle permit byelaw, which had been developed by combining elements of the six current cockle fishery byelaws with elements of successful cockle fishery management within the Regulating Order and with the addition of biosecurity measures developed in 2013 for a code of practice. Members were informed that it was at the first draft stage of the process and would be subject to further review and scrutiny of the management measures before submission to the MMO for approval. The Chief Officer reminded Members that to make a byelaw takes at least 6 months and the fishery normally opens in September.

Members discussed that a fee could be charged for the cockle permit, although the cost of the permit had not yet been agreed. Members discussed what would

be a fair and appropriate fee taking into account cost recovery. Members asked whether there would be capacity for artisanal collecting as well as commercial scale fishing. The Chief Officer suggested that there could be 2 levels of fishing, as with the whelk permit system, to allow for commercial fishing as well as hobby fishing. A Member questioned the time frame given the amount of work yet to be done. The Chief Officer suggested holding a technical panel to look into methods of fishing and landing for a micro fishery and to suggest a fee to be charged for the permits.

3. Technical Panel Meeting 25 March 2014

As instructed by the January meeting the Technical Panel considered and made recommendations regarding the long term management options for cockles outside of the regulating order stocks and what management measures should be applied.

It was considered by the Technical Panel that an artisanal level fishery be permitted alongside the larger, more established fishery and that two categories of permit would allow this, however consideration should be taken of the capacities of the two types of operation and the cost on each.

The Technical Panel also considered the start date of the fishery each year taking into account times of best yields of cockles as well as environmental considerations and how this would fit in with the management structure of the Authority. The Technical Panel discussed TACs and permit fees to each category of permit and whether these should be different.

The Technical Panel also considered that all cockles should be landed in approved bags and should not be landed loose, but that the bags used in the smaller vessels would be a lower volume.

The Technical Panel made the following recommendations:

- The option of two categories of permits as specified in the 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

The intention being to present the wording of a revised byelaw to the IFCA meeting on 20 May 2014

4. KEIFCA Meeting 20 May 2014

At the meeting, members reviewed the Technical Panel's recommendations and discussed at length the details of these. Officers reported that the draft byelaw was currently with MMO legal and that their advice would be forthcoming.

The Authority resolved that:

- (i) the recommendations of the Technical Panel be approved;
- (ii) 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 had been approved;
- (iii) the draft byelaw to include a schedule of charges which specified an incremental list of fees over a fixed number of years;
- (iv) that Category two permits would cost half that of Category one permits and they would permit the taking of half the quantity of cockles over twice the amount of time; and
- (v) progress with the drafting of this byelaw would be reported back to the next meeting

5. Emergency Byelaw

Whilst implementing the requirements of the Authority from the last meeting issues arose with how the proposed byelaw would fit with existing legislation. It was found that some of the existing byelaws, which will be revoked if a new byelaw is made, which also apply to the area of the Thames Estuary Cockle Fishery Order 1994 and provide mitigation of impacts on MPAs as part of the Habitat Regulations Assessment, aren't encompassed within the Regulating Order itself. If the existing byelaws were to be revoked with the licence conditions and regulations of the TECFO in their current form, management measures essential to the sustainability of the TECFO and to the compliance with the Habitats Regulations would be lost. It was reported to an extraordinary meeting of the Authority that to remedy these issues will take time as well as changes to the regulations and licence conditions of the TECFO.

In order to fulfil the Authority's desire to open the fishery for 2014, an emergency byelaw was made which introduces biosecurity measures in line with those to be part of the new byelaw to mitigate biosecurity risk of atypical mortality. This emergency byelaw was reviewed and approved by Members. This emergency byelaw will be revoked if the new byelaw is made.

6. Making of Byelaw

As instructed at the last KEIFCA meeting the principals of the previously worded draft byelaw considered by KEIFCA, have been integrated into the wording agreed with MMO. This proposed byelaw (**Appendix A**) is now formally presented to you for making.

As required, Members have been given 14 days' notice of the intention to make this byelaw.

In addition you are presented with the Impact Assessment for this byelaw which should be considered before making the byelaw (**Appendix B**) and the draft Management Plan (**Appendix C**) which sets the criteria for changes to be made within the flexible permit conditions.

If the byelaw is made it will be necessary to seek the Secretary of State's confirmation of the byelaw before it is operational. The next stage in this process will be to advertise notice of the byelaw for 2 consecutive weeks in publications which target stakeholders affected by the byelaw. Notice will also be placed on the KEIFCA website where the full wording of the byelaw will be available for viewing. Persons wishing to comment or object will be given 28 days to respond to KEIFCA and MMO. Following this, consideration will be given to comments or objections received as set out in Defra Guidance.

7. Recommendations

- I. Members are asked to **APPROVE** the making of the byelaw attached at **Appendix A** taking account of the Impact Assessment.
- II. Members are asked to **APPROVE** the draft management plan attached at **Appendix C**