



From: Will Wright, Chief Officer Kent and Essex IFCA

To: Kent and Essex Inshore Fisheries and Conservation Authority –
10 October 2018

Subject: **Technical panel - reviewing Vessel Length (and engine power) Byelaws**

Classification: **Unrestricted**

Why make a new vessel length and engine power byelaw?

Within the KEIFCA district there are currently four byelaws that set maximum vessel lengths (two include maximum engine power and two don't). The different byelaws were inherited on the creation of KEIFCA from the previous Sea Fisheries Committees and the Environment Agency (Thames) that previously regulated areas which are now part of the KEIFCA district.

Developing one new KEIFCA specific byelaw would help:

- Standardise legislation across the entire KEIFCA district
- Bring KEIFCA legislation in line with neighbouring IFCA byelaws
- Better reflect the modern profile of the inshore fleet.
- Simplify and rationalise the current system
 - Easily understood by stakeholders
 - Easily monitored and enforced by KEIFCA

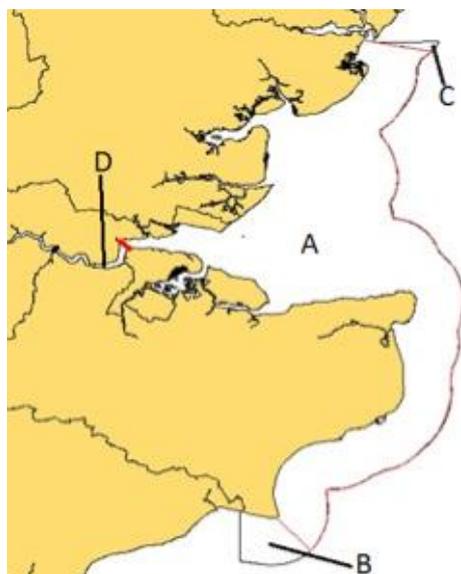
Benefits to fishermen

- Support a long-term sustainable fishery
- Futureproof the fishery from an influx of larger vessels from outside the district

Benefits to the marine environment

- Effectively limits gear size, limiting impact on seabed
- District wide habitat protection

What is the current legislation?



As part of the Marine and Coastal Access Act 2009 the district of Kent and Essex was changed and increased to more closely match the county boundaries of Kent and Essex. Section 6 of the act (Transitional and Saving Provisions) Order 2011, transfers the byelaws made by Kent and Essex Sea Fisheries Committee (A), Sussex Sea Fisheries Committee (B), Eastern Sea Fisheries Joint Committee (C) and the Environment Agency (D) sea fisheries byelaws to KEIFCA for those parts of its district that were previously regulated by these bodies. This amalgamation practically changes little on the ground but does mean that there is a large amount of

legislation that varies depending on your location in the district. (byelaws which have been made or reviewed since April 2011 are applicable throughout the district (Area's A,B,C, and D)).

Byelaw	The byelaw applies to	Vessel length Restriction	Engine Power Restriction	Area regulation applied to
(A) Kent and Essex Sea Fisheries Committee	trawl nets, dredges or other towed fishing instruments	overall length of which does not exceed 17m	total engine does not exceed 221 kilowatts or, in the case of derated engines, did not exceed 243 kilowatts before derating	All of area A
(B) Sussex Sea Fisheries Committee	fishing for seafish (this covers all methods of fishing)	No vessel which exceeds 14m overall length	Not in byelaw	All of area B
(C) Eastern Sea Fisheries Joint Committee	any kind of trawl net	vessel whose overall length does not exceed 15.24m	Not in byelaw	0-3nm in area C
(D) Environment Agency	any net or any other instrument	overall length of which does not exceed 17m	total engine does not exceed 221 kilowatts or, in the case of derated engines, did not exceed 243 kilowatts before derating	All of area D

What does a vessel length and engine power byelaw do?

Although they are simple metrics, combinations of vessel length and engine power byelaws are used by all IFCA's to create areas that are specific to the smaller boats used by the inshore fleet. Longer, larger vessels have a far greater ability to access fishing grounds much further afield and fish over a series of two to seven days rather than the smaller vessels that are usually 'day'

boats. Limiting the engine power and vessel length also helps create an inshore fleet that has less capability to tow large and heavy gear. The KESFC vessel length and engine power byelaw that covers 90% of our district has been used as a component of the Marine Protected Area work the Authority has been carrying out over the past five years.

Why use overall vessel length and engine size as the key metrics?

Although other descriptors could be used instead of this combination (vessel tonnage, vessel capacity units etc), the combination of vessel length and engine power is used by a number of IFCA's (Devon and Severn and North Eastern IFCA). Continuing the use of the vessel length and engine size metrics would also provide continuity to the vessels and business working in the district. Maximum overall vessel length is the metric used by the rest IFCA's and (depending on the option chosen by the Authority) could help standardise maximum overall vessel lengths between ourselves and Sussex IFCA.

The current fleet profile of licenced vessels based in the KEIFCA district

When looking at the vessels that currently work in our district the vast majority are under 10 metres in length (Fig.1), and 99.5% of the vessels based in our district are under 14 metres overall length. Fig.1 does not include vessels that are based outside our district, but work on occasion inside our district, or the three vessels that still, under the existing byelaw, have grandfather rights to fish in in the old KESFC district (A).

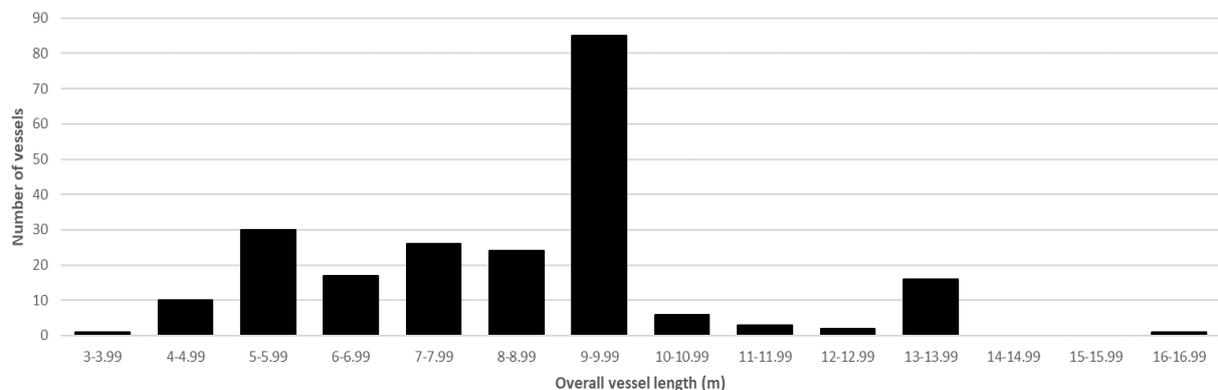


Fig.1 The overall vessel length distribution of licenced fishing vessels in the KEIFCA district. The data has been taken from the published 2018 MMO vessel list and includes vessels based in Rye.

Engine size

The power of a vessel's engine(s) is very closely correlated to the size and weight of fishing gear which it can operate (the more powerful the total engine power, the heavier and larger gear it can operate). This is especially true for vessels using towed gear such as trawls and dredges. A limitation on engine power has been part of the byelaws for the KEIFCA district for all towed gear vessels since 1997 with the limits being based on historic EU proposals. Fig.2 shows the current fleet profile of engine size for vessels based in our district and shows that there are only a couple of netting vessels that are over the limit (the KESFC byelaw applied to towed gear).

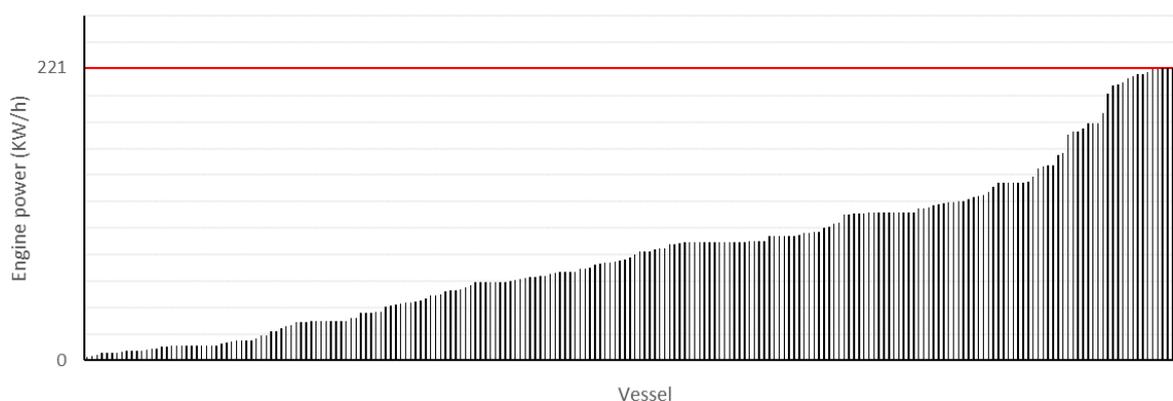


Fig.2 The engine power of all licenced fishing vessels based in ports in the district. The data has been taken from the published 2018 MMO vessel list and includes vessels based in Rye.

Limiting engine power has been a well understood technical measure in EU legislation since the early 1980s and is currently specified under article 34 of EU 850/98 (conservation of fishery resources through technical measures for the protection of juveniles of marine organisms) for beam trawling vessels. As can be seen in Figure 2 above, the vast majority of fishing vessels based at ports within the KEIFCA district are below the required 221 kW (243 kW before derating), however there are notable numbers of vessels in the districts either side which do exceed these limits.

KEIFCA have in the past few years prosecuted a successful case against a vessel which was operating towed gear from a vessel whose total engine power exceeded the limits prescribed in the byelaw, which was originally built as a netting vessel but later switched to trawling.

The byelaw consultation process

Building on the recommendation from the January 2018 KEIFCA quarterly meeting officers developed a consultation document seeking views on different vessel length and engine size options (Appendix 1 – consultation document). Over 200 copies of the consultation document were printed and distributed by officers around the fishing ports in the KEIFCA district. The intention was to try and distribute the consultation as widely as possible, by sending it directly to as

many fishermen and fishermen’s associations as possible. Booklets were either given to the fishermen themselves or left in plastic bottles on boats. The consultation was also promoted on the KEIFCA e-bulletin and website.

Initial informal feedback from the industry has been positive and some members of the industry have requested we progress with speed. In total there were 8 written replies (Appendix 2 & 3) and the most significant comment from the industry concerned grandfather rights. From the consultation replies additional options were suggested regarding vessel maximum vessel length options (10m and 15m). Comments on engine power ranged from support of the current wording, to the need to include other factors including types of vessel propulsion, gear box measures, propeller size and propeller pitch metrics, as well as having a different requirement for mono hulled vessels and catamarans. Replies also commented on the application of engine power to the whole fleet or to towed gear vessels.

Legal advice

As part of the byelaw development process KEIFCA have sought legal advice from Andrew Jackson Solicitors (Appendix 4), regarding

- The various types of ownership of a vessel;
- Grandfather rights;
- Sunset clauses;
- Pipeline cases; and
- Monitoring of exempt vessel and other conditions attached to exemptions.

The issue of vessel ownership is complex as there are two forms of ownership; beneficial ownership and legal ownership (legal ownership can be in the name of an individual or a limited company - corporate ownership). Other IFCA's have used a range of different tools to address the issue of vessels currently working in the district, that would exceed the limits of a byelaw (grandfather rights, sunset clause etc). When these options are mapped onto the legislation regarding vessel ownership there are a range of options, with varying flexibility, that could be used to address this issue.

Next steps in the byelaw making process

Date	Actions
<i>30 Jan 18</i>	KEIFCA agreed to start to develop a new vessel length and engine power byelaw to rationalise the current 4 legacy byelaws that currently exist in the district.
<i>22 May 18</i>	A draft consultation document was developed and approved by KEIFCA.
<i>25 Jun - 18 Aug 18</i>	Initial stakeholder byelaw consultation (dissemination of consultation documents to fishing industry)
<i>10 Oct 18</i>	Technical panel meeting
<i>30 Nov 2018</i>	Present recommendations to KEIFCA quarterly meeting
<i>3 Dec - 21 Dec 18</i>	Send out agreed preliminary byelaw wording and draft Impact Assessment to stakeholders for feedback and comment
<i>14 Jan 19</i>	Send out byelaw pack to members to make byelaw
<i>30 Jan 19</i>	Members review the byelaw pack and can make the byelaw

Members of the Technical Panel are therefore requested to:

1. Consider the responses to the consultation document;
2. Scrutinise in detail each component of the consultation questions, and make recommendations as to the wording of the byelaw regarding;
 - a) The maximum vessel length in the KEIFCA district and which vessels it should apply to;
 - b) The maximum engine power (and any derating) in the KEIFCA district and which vessels it should apply to;
 - c) How KEIFCA should address vessels currently working in the district, that would exceed the limits of the byelaw (grandfather rights, sunset clause etc);
 - d) Review the proposed byelaw wording as a whole.

