

Initial Impact Assessment – Recreational minimum sizes

KEIFCA Emergency byelaw making process (Standing Orders)

Following the identification of a potential need for an emergency byelaw, the Chief Officer will consult the Chairman and Vice Chairman and discuss the merits of the application based on the defra emergency byelaw guidance. After this initial consultation K&EIFCA Officers will then gather information regarding the issue in question and complete an initial impact assessment which will help to gather the facts surrounding the need for an emergency byelaw. The Chief Officer will then meet with the Chairman and Vice Chairman and decide to

- *Proceed with an Emergency Byelaw.*
- *Call a special meeting of the **Technical Panel** or a **full K&EIFCA meeting**.*
- *Take no immediate action but continue to monitor the issue and report to the next scheduled K&EIFCA meeting.*

Background Summary - Explanation of why the need to make the byelaw could not reasonably have been foreseen.

Unlike other emergency byelaws that KEIFCA has made the purpose of this byelaw would be to maintain current protections rather than to address any new activity. With the revoking of the EU technical conservation measures EC850/98 and the introduction of a new technical conservation regulation, EU2016/0074, the legal advice that IFCA's have been using to apply minimum size (now referred to as Minimum Conservation Reference Size – MCRS) to recreational fishers will cease to be able to apply. While the new EU regulations have been developed over a number of years, it has gone through numerous drafting iterations. It is only now seeing the actual detail of the final draft that this important but minor technical change in wording has been identified and raised as an urgent and unforeseen issue.

The new legislation now specifically states that the MCRS does not apply to recreational fishers, whereas previously KEIFCA had relied upon a legal opinion that the previous legislation applied to all fishers, both recreational and commercial. While the new legislation helps address a grey legal area it does mean that apart from bass management measures there is no legislation in place to manage the fish and shellfish taken by the recreational or non-commercial sector (Table 1).

Why are recreational minimum size regulations important?

The removal of fish only once they have reached a minimum size (usually related to a breeding size) is a common fisheries management measure used around the world^{1,2}. As a management measure it is relatively cheap, simple and effective to apply and easy for fishers to understand why this is used as a management measure.

Angling Trust website³ (19/7/19)

“Minimum landing sizes are used all over the World and are just one of a number of tools used to manage fish stocks. However, as a common-sense approach to conservation and an easy concept to

understand (protecting immature fish) they have become particularly favoured by recreational anglers with an interest in conservation and sustainable management of fish stocks.”

“The angling Trust encourages all anglers to Give Fish A chance and apply voluntary minimum retention sizes which exceed the EU's and allow all fish retained the chance to have bred at least once.”

The minimum size legislation also applies to a long list of molluscs and crustacea including, whelks, edible crabs, lobsters and a number of clam species (Table 1).

What do we currently do?

The recreational sector, especially angling, is an important sector within our district and generates significant income through angling shops, charter boats and tourism into the district. The Authority has a quarterly angling update as part of its meeting briefing papers, there is a nominated angling lead officer and angling issues are addressed through a specific strategy and as part of the ongoing annual planning and reporting process.

At present the current minimum size regulations are enforced across the district by KEIFCA officers and officers have produced a range of educational material (including minimum size stickers to put on tackle boxes) to help educate and inform recreational fishers. As well as finfish, the minimum size legislation also covers a number of mollusc and crustacean species, including species like crabs, lobsters, clams and whelks. Table 1 lists the species and minimum sizes that are currently enforced.

Current levels of recreational fishing activity in the district

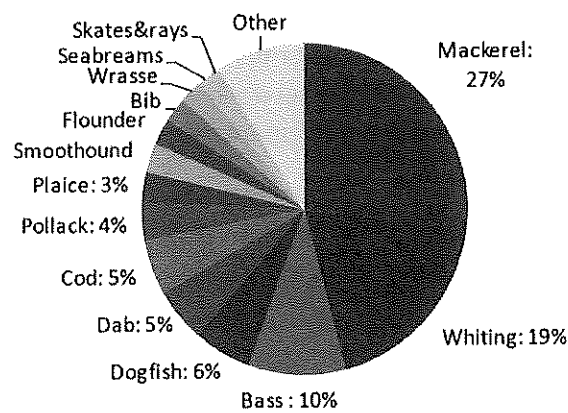
Angling

Unfortunately, accurate national or regional information about angling activity around the coast and at sea is relatively sparse. Sea Angling 2012⁴ was established to find out how many people go sea angling in England, how much they catch, how much is released, and the economic and social value of sea angling. The surveys also met UK obligations under European law to estimate recreational catches of several species including bass and cod. Data were collected from over 11,000 sea anglers in England through an Office of National Statistics (ONS) household survey, face-to-face interviews with anglers by Inshore Fisheries and Conservation Authorities (IFCA), catch diaries and online surveys. The findings give a good national overview of the English angling sector and give a good indication of the amount of annual fishing effort. More up-to-date feedback from the recreational fishing sector suggests that there has been a steady decline in angling numbers since 2012.

Overall angling statistics from Angling 2012

- The surveys estimated there are 884,000 sea anglers in England, with 2% of all adults going sea angling. These anglers make a significant contribution to the economy - in 2012, sea anglers resident in England spent £1.23billion on the sport, equivalent to £831million direct spend once imports and taxes had been excluded.

- This supported 10,400 full-time equivalent jobs and almost £360 million of gross value added (GVA). Taking indirect and induced effects into account, sea angling supported £2.1 billion of total spending, a total of over 23,600 jobs, and almost £980 million of GVA. Angling 2012
- Almost 4 million days of sea angling were recorded over the year.
- Shore fishing was the most common type of sea angling – almost 3 million angler-days compared with 1 million for private or rented boats and 0.1 million on charter boats.
- Anglers had most success on charter boats, catching 10 fish per day on average compared with around 5 from private boats and only 2 from the shore.
- The most common species caught, by number, were mackerel and whiting, (below).



- Shore anglers released around 75% of the fish caught, many of which were undersized, and boat anglers released around 50% of their fish.

Shellfish collection

While there are no large recreational fisheries in our district, there is a small but constant level of activity, with people putting out 2-3 pots at a time or collecting small amounts of shellfish from the shore. Minimum size regulations help manage this activity and have proven to be especially useful in places like Thanet where families or large groups of people have scoured the foreshore for a wide range of shellfish taking indiscriminately.

Current levels of enforcement activity

As highlighted in the Angling 2012 research, shore anglers released around 75% of the fish caught, many of which were undersized, and boat anglers released around 50% of their fish. With so many anglers fishing in so many places around the coast enforcement is challenging, however clear minimum sizes help educate fishermen and can act as a clear deterrent when fishermen are deciding whether to keep or throw back a fish. To this end KEIFCA officers have worked closely with the local angling sector to develop a range of educational minimum size material (fish box stickers, species specific stickers, posters and minimum size business cards). Information is given out via angling shops, charter boats, working with owners of piers and officer inspections.

Inspections of key recreational areas are undertaken especially at key times of year and at important angling spots both at sea and on land (piers, beaches, etc.). With such a long coastline enforcement intelligence lead enforcement is key and we regularly receive phone calls from members of the public as well as work closely with the MMO, Border Force and a range of other agencies. Numbers of inspections vary depending on the enforcement risks (significant effort was targeted with the introduction of new bass regulations) but can be between 200-400 inspections a year. If offences are found officers will take the appropriate enforcement steps (ranging from verbal warning to prosecution).

Table 1 The marine species with minimum sizes named in EC850/98, their abundance in KEIFCA district, enforcement assessment and other associated management.

Species	Minimum sizes	Species rarely found in the district	Species found in district but not commonly targeted by recreational sector	Commonly targeted by the recreational sector in the district	Important recreational fishery	Do we find offences? Rarely/ Sometimes/ Often	Recreational management measures other than EU minimum sizes
Anchovy (<i>Engraulis encrasicolus</i>)	12cm	●				-	
Bass (<i>Dicentrarchus labrax</i>)	42cm						
Cod (<i>Dicentrarchus labrax</i>)	35cm				●	Rarely	NONE
Dover Sole (<i>Solea solea</i>)	24cm			●		Rarely	NONE
Hake (<i>Merluccius merluccius</i>)	27cm	●				-	
Herring (<i>Clupea harengus</i>)	20cm			●		Rarely	NONE
Horse Mackerel (<i>Trachurus trachurus</i>)	15cm			●		Rarely	NONE
Ling (<i>Molva molva</i>)	63cm		●			Rarely	NONE
Mackerel (<i>Scomber scomber</i>)	20cm				●	Often	NONE
Plaice (<i>Pleuronectes platessa</i>)	27cm				●	Sometimes	NONE
Pollack (<i>Pollachius virens</i>)	30cm			●		Sometimes	NONE
Sardine (<i>Sardina pichardus</i>)	11cm	●				-	
Whiting (<i>Merlangius merlangus</i>)	27cm				●	Often	NONE
Mollusc Species							
Bean Solen (<i>Pharus legumen</i>)	65mm	●				-	
Carpetshell (<i>Venerupis pullastra</i>)	38mm		●			Rarely	NONE
Clam (<i>Venus verrucosa</i>)	40mm		●			Rarely	NONE
Donax Clams (<i>Donax spp.</i>)	25mm		●			Rarely	NONE
Grooved carpetshell (<i>Ruditapes decussatus</i>)	40mm		●			Rarely	NONE

Hard Clam (<i>Callista chione</i>)	60mm		●			Rarely	NONE
Queen Scallop (<i>Chlamys spp.</i>)	40mm		●			Rarely	NONE
Razor clam (<i>Ensis spp.</i>)	100mm		●			Rarely	NONE
Short-necked Clam (<i>Ruditapes Phillipinorum</i>)	35mm		●			Rarely	NONE
Surf Clam (<i>Spisula solida</i>)	25mm		●			Rarely	NONE
Whelk (<i>Buccinum undatum</i>)	45mm				●	Sometimes	Hobby permit as part of Whelk permit byelaw
Scallop (<i>Pecten maximus</i>)	110mm		●			Rarely	Minimum size byelaw
Crustacea Species							
Edible Crab (<i>Cancer pagarus</i>)	140mm				●	Sometimes	NONE
European Lobster (<i>Homarus Gammarus</i>)	87mm				●	Sometimes	Lobster escape gap byelaw
Spider crab (<i>Maia squinado</i>)	130mm		●			Rarely	NONE
	120mm						
Velvet swimming crab (<i>Necora puber</i>)	65mm		●			Rarely	NONE

Options available

1. Do Nothing

If new legislation was not in place and supported by education and enforcement there is a significant likelihood of increased landings of fish and shellfish that are immature and have not bred yet. This could reduce the spawning stock biomass of a range of stocks and could affect their long-term health of a number of important stocks. Without an emergency byelaw there would be no legal way of continuing to enforce these minimum sizes.

In officers experience, the taking of small and undersized fish is an action that we get a significant number of phone calls and emails about. To the general public minimum sizes are an important and easy to understand management measure. The removal of such a measure would be likely seen as perverse for regulators charged with protecting fish stocks.

Minimum size legislation also helps create a greater consistency between the commercial and non-commercial sectors targeting the same species, and it helps avoid any tension of commercial fisher's landing to a MCRS and recreational fishers landing exactly the same fish but at a much smaller size.

2. Promote minimum size guidelines suggested by the Angling Trust (non-legislative).

A number of national and local angling associations, clubs and charter boats have their own set of minimum sizes which they fish to. These voluntary measures are useful and within clubs can be strictly adhered to. However, the number of people in fishing clubs continues to drop and enforcement has shown that there is a minority of people that will fish to their legal limit. Without specific legislation it is KEIFCA officers' opinion that there would be significant amounts of immature fish being caught and landed.

3. DEFRA lead on the introduction of a Statutory Instrument that applies the EU 850/98 minimum sizes to recreational fishers.

An English Statutory Instrument (SI) would need to be developed by DEFRA and made by parliament to come into force. Statutory Instruments can be made quickly *in extremis* however this is generally the exception. The significant advantages of an SI would be that it would apply between 0nm – 200nm or the median line rather than just between 0nm - 6nm of an IFCA district. This would avoid the perennial issue of IFCA byelaws of being required to prove where the fish was caught. An SI would also mean that the MMO would also be able to enforce this legislation.

Unfortunately, while IFCAs have taken the legal opinion that the minimum sizes apply to the species in Table 1, this opinion has not been shared or supported by DEFRA or the MMO. As such there could be an argument that this is not rolling over legislation but rather creating new legislation which could likely require future consultation.

Through the AIFCA and national IFCA groups letters have been written to DEFRA and hopefully meetings can be arranged to discuss this matter quickly. Whilst every effort will be made to coordinate with DEFRA the nature of an emergency byelaw does require an element of swift decision making especially if current protections are removed.

4. Make an emergency byelaw that just protects the commonly fished/ important recreational species in EU 850/98

As Table 1 highlights, the species listed vary greatly in their abundance in our district from some species like Anchovy and Sardine that are rarely found to other species like Dover Sole, Whiting, edible crab and lobsters that are commonly found and are fished by the non-commercial sector. One option of developing a byelaw would be to roll over the legislation just for the species that are in either one of the three categories: 'Species found in district but not commonly', 'Commonly fished in the district' or 'Important recreational fishery'. Although each of these 3 categories are subjective and are derived from expert opinion rather than any statistical analysis they do broadly reflect the relative importance of different species in the district. Choosing which level to apply would again be subjective and would depend on how precautionary the Authority wanted to be.

5. Make an emergency byelaw that replicates the EU 850/98 legislation

Continuing with the same list of species at the same minimum sizes would mean that we can continue to promote the same clear enforcement messages to recreational fishers and help avoid any confusion.

Using the same species as already described in the legislation would allow time (a year) for a more comprehensive assessment and review of both species and management measures. Based on this review a full byelaw would be made to address long-term management requirements.

Protecting species that are rarely seen in our district would not only be a precautionary approach but would also acknowledge that species distributions are changing with warmer seas and species that are currently common now were rare 20 years ago.

Recommended Option - 5. Make an emergency byelaw that replicates the EU 850/98 legislation

Minimum size regulations are simple for people to understand and in my experience generally have a lot of support from the general public. Option 5 continues the current species-specific enforcement of a wide range of species in our district and continues to build on the time and money KEIFCA has already invested in both promoting the current minimum sizes to the recreational sector and carrying out enforcement. If this protection is not continued it will be harder and more expensive to start again and build up the current network of people and general level of understating of the legislation on the coast. Whilst the current minimum sizes are not perfect the fact that there is legislation can be a significant factor when fishers decide which fish to keep or release or when officers are confronted by people with carrier bags full of very small fish or shellfish.

Whilst option 5 will cover a handful of species that are not common to our district it is a precautionary approach that will allow time for a more a more detailed assessment and appropriate longer-term solution to be developed. A longer-term solution could be more regionally (KEIFCA) specific and focus on important recreational species within the district or there could be an opportunity for Defra to take the lead and introduce national legislation that will cover all of the English seas rather than just the KEIFCA district.

Recommended emergency byelaw wording

See Appendix 1

Estimated costs or impacts of introducing option 5

Recreational sector: As option 5 would be continuing the status quo there would be no new costs or additional impacts incurred by the recreational sector as a consequence of the proposed emergency byelaw.

Estimated cost of enforcement: KEIFCA would have to advertise the emergency byelaw and reprint our minimum size education information so that it now reflects the new legislation.

References

¹New South Wales Recreational Saltwater Fishing Guide. (2018) NSW Department of Primary Industries. ISBN web 978-1-76058-242-5

²FLORIDA SALTWATER RECREATIONAL 2019. FISHING REGULATIONS. Florida Fish and Wildlife Conservation Commission. Issued: Jan. 1, 2019

³<https://www.anglingtrust.net/page.asp?section=163>

⁴Armstrong M., Brown A., Hargreaves J., Hyder K., Pilgrim-Morrison S., Munday M., Proctor S., Roberts A. & Williamson K. (2012) Sea Angling 2012 – a survey of recreational sea angling activity and economic value in England. Defra - contract MF1221.

While the new EU regulations have been developed over a number of years it has gone through numerous iterations and it is only now seeing the actual detail of the final draft that this important but minor technical change has been identified and raised as an important issue.

Fish species		Mollusc Species		Crustacea Species	
Anchovy (<i>Engraulis encrasicolus</i>)	12cm	Bean Solen (<i>Pharus legumen</i>)	65mm	Edible Crab (<i>Cancer pagarus</i>)	140mm
Cod (<i>Dicentrarchus labrax</i>)	35cm	Carpetshell (<i>Venerupis pullastra</i>)	38mm	European Lobster (<i>Homarus Gammarus</i>)	87mm
Dover Sole (<i>Solea solea</i>)	24cm	Clam (<i>Venus verrucose</i>)	40mm	Spider crab (<i>Maia sqinado</i>) male	130mm
Hake (<i>Merluccius merluccius</i>)	27cm	Donax Clams (<i>Donax spp.</i>)	25mm	Spider crab (<i>Maia sqinado</i>) female	120mm
Herring (<i>Clupea harengus</i>)	20cm	Grooved carpetshell (<i>Ruditapes decussatus</i>)	40mm	Velvet swimming crab (<i>Necora puber</i>)	65mm
Horse Mackerel (<i>Trachurus trachurus</i>)	15cm	Hard Clam (<i>Callista chione</i>)	60mm		
Ling (<i>Molva molva</i>)	63cm	Queen Scallop (<i>Chlamys spp.</i>)	40mm		
Mackerel (<i>Scomber scomber</i>)	20cm	Razor clam (<i>Ensis spp.</i>)	100mm		
Plaice (<i>Pleuronectes platessa</i>)	27cm	Short-necked Clam (<i>Ruditapes Phillipinnarum</i>)	35mm		
Pollack (<i>Pollachius virens</i>)	30cm	Surf Clam (<i>Spisula solida</i>)	25mm		
Sardine (<i>Sardina pichardus</i>)	11cm	Whelk (<i>Buccinum undatum</i>)	45mm		
Whiting (<i>Merlangius merlangus</i>)	27cm	Scallop (<i>Pecten maximus</i>)	110mm		

Estimates of cod catches and releases

Cod occur in all English waters, and are commonly targeted by shore anglers in autumn and winter, and by boat anglers at all times of year. Sea Angling 2012 surveys showed that shore anglers released around 60% of the cod they caught. The release rates were lower for private boats (around 30%) and charter boats (around 20%) mainly due to the larger sizes of fish caught. Released fish make up a much smaller fraction of catch weight due to their lower individual weight.

As for bass, a range of different methods of estimating seasonal and annual shore and private boat effort was used to calculate annual catches. The figures for shore and private boats in Box 19 are the extremes of the range of estimates from these different methods. The charter boat estimates may also have some bias if the sampled boats had different catch rates, on average, to boats not participating in the survey. Each of these is a point estimate that also has an associated random sampling error. These uncertainties should be taken into account when interpreting the results. Several European countries have carried out recreational fishery surveys of cod. The commercial

landings of cod into England from the North Sea, Channel, Celtic Sea and Irish Sea in 2012 were 1,500t.

<i>Annual catch weight (tonnes)</i>	<i>Shore</i>	<i>Private and rental boats</i>	<i>Charter boats</i>	<i>Total</i>
<i>Total</i>	<i>95t - 138t</i>	<i>172t – 595t</i>	<i>175t</i>	<i>480t – 870t</i>
<i>Kept</i>	<i>75t – 109t</i>	<i>158t – 582t</i>	<i>159t</i>	<i>430t – 820t</i>

Annual sea angling catches of cod in England

Figures in normal or bold for shore or private boats are from the same estimation method

<i>Country</i>	<i>Recreational fishery: annual kept catch</i>
<i>England</i>	<i>430t – 820t</i>
<i>Germany</i>	<i>30t</i>
<i>Denmark</i>	<i>537t</i>
<i>Sweden</i>	<i>226t</i>
<i>Netherlands</i>	<i>360t</i>

Annual sea angling catches (kept fish) of cod from Sea Angling 2012 and recent surveys in other European countries.

