

NOTES of a Technical Panel meeting of the **KENT & ESSEX INSHORE FISHERIES AND CONSERVATION AUTHORITY** held using conferencing software on 4 November 2020 at 10am

Present: Cllr J Lamb (Southend BC), Mr J Nichols (MMO), Mr A Rattley (MMO), Cllr T Hills (KCC), Cllr P Channer (Essex CC), Mr P Wexham (MMO), Ms R Korda (NE), Mr S Abbotson (MMO)

Apologies: none

In Attendance: Mr J Cook (Clerk), Dr W Wright (CIFCO), Mr D Bailey (ACIFCO), Mr H Hurst (Lead Compliance Officer), Miss A Plumeridge (Scientific Officer), Mrs D O'Shea (Office Manager)

By invitation: Mr A Craig

The Technical Panel met to discuss and review the draft wording of a new Whelk Fishery Flexible Permit Byelaw and its Impact Assessment taking into account the information provided to them on the breeding size of whelks within the District and the practical implementation of the Emergency Whelk Byelaw.

Members were asked to consider this information together with the responses of the Industry both through inspections and correspondence and make recommendations to the full IFCA meeting on the making of the new Byelaw

Declaration of Interests:

Members confirmed they had no pecuniary interests

Key Points considered by the meeting

BACKGROUND

The Panel were reminded that in 2011 an Emergency Byelaw was introduced to restrict the number of pots that could be laid in the District which was then replaced in 2012 by the Whelk Fishery Permit Byelaw which, in addition to the number of pots restriction also introduced measures including a riddle size, measures related to whelk pot construction and a requirement for catch returns. This allowed landing data to be gathered from permit holders which showed that the whelk fishery had grown rapidly since 2012.

In 2015 the IFCA started to see a reduction in landings which became more pronounced in 2016. As a result, KEIFCA worked on a project assessing breeding sizes with Cefas and were involved in a Master's project that looked at their genetic

distribution as well as breeding sizes. A Technical Panel held in 2016 recommended an increase in the riddle size, however this was not taken up and the riddle size was not increased from 22mm to 25mm until 2017.

Since the increase in riddle size was implemented landings had stabilised and CPUE appeared to have levelled off, however caution did need to be taken on landings data as it could be affected by a range of other variables (price, quota availability of other species etc.). Following concerns raised by the Industry over the use of riddles in the inspection process and taking into account research undertaken, on 31 January 2020 Members agreed to make an Emergency Byelaw which translated the minimum riddle spacing of 25mm found in the existing Whelk Fishery Permit Byelaw into a minimum shell length of 53mm with a tolerance of 5%. Members also requested that enforcement sanctions be phased in and that officers should work with the Industry to gather feedback and best practice.

At the IFCA meeting held on 16 September 2020 Members agreed to update the current byelaw to include the wording from the emergency byelaw and requested that a Technical Panel be held to review the proposed wording and make recommendations to the full Authority.

The Panel were made aware of correspondence that had been received from Mr Attenborough (Chairman of Whitstable Fisherman's Association)(appendix A) and Mr Craig (Appendix B) in respect of the proposed byelaw. They were informed that an additional two signatures had been added to those on Mr Attenborough's letter bringing the total to seventeen. Mr Craig had been invited to attend and speak to the Panel regarding his concerns as outlined in his letter to the IFCA on 15 September 2020. A further letter from him dated 3 November 2020 had also been received since papers had been distributed which had been emailed to the Panel.

Mr Craig advised the Panel that his letters of 15 September and 3 November contained the information that he wished them to consider. In addition to the information provided in the letters, he stated that the fishery was much smaller in the District aside from at Whitstable where the whelks were fished off hard ground. Soft ground was found in 80% of the District and on this type of ground the whelks did not grow as big. He highlighted part of his letter on 3 November in which he stated that a former Chairman of the KESFC, Ken Green, had contacted him to state that studies had been conducted a number of years ago on whelks and that Ken Green considered the MLS should be 45mm. Mr Craig stated that it was necessary to pick suitable management measures for the fishery, not just ones that suited the IFCA.

The Panel received a presentation from the Scientific Officer on research carried out on the breeding size of whelks in the District. The Panel were advised that all managed fisheries were based on a Minimum Landing Size (MLS) and that recognised good practice was to allow 50% of the stock to reproduce before being caught to allow the fishery to continue in a sustainable way. No information was

available on the stock model for whelks in the District, so knowledge of maturity was necessary.

It was accepted that whelks matured at different sizes across the country. In 2017 Dr Phil Hollyman presented his findings on research carried out on 250 samples of whelks taken from four of the main fishing areas in the District to the IFCA. This research identified the size at which they reached maturity which varied between 46mm and 56.1mm. He showed that although some whelks reached maturity before this size the majority of whelks did not reach maturity at 45mm. Whelks reached 50% maturity at 3 years old, although dependent on what time of the year this occurred they may not have bred as if they were removed before the breeding season they would not have had time to reproduce. Dr Hollyman's research also looked at riddle size. This showed that a 22mm riddle corresponded to a 45mm (3 year old) whelk of which 10% to 20% had likely reproduced. A 25mm riddle corresponded to a 53mm (4 year old) whelk of which 50% to 70% had likely reproduced. Kent & Essex IFCA had carried out its own research since this report in order to increase confidence in the previous study and gain further evidence on size-at-maturity. Over 12,000 whelks obtained from the District had been dissected with the results corroborating much of Dr Hollyman's research.

The Panel also received a presentation from the Lead Compliance Officer on the work undertaken by officers following the introduction of the Emergency Byelaw. This byelaw laid out an inspection process to be followed by officers to check for landing of undersized whelks. This required 3 x 5kg samples to be measured and allowed a tolerance of 5% to account for the inconsistency of working at sea. As requested by Members, in February 2020 officers began to conduct inspections focussing on the main ports. Due to Covid these inspections stopped and were restarted again in July 2020 with the aim to assess if compliance with the Emergency Byelaw in a commercial setting was realistic and to engage with and develop best practice with permit holders.

The Panel were shown a video of an inspection process that had taken place recently. In total twelve permit holders were inspected on at least two occasions, some were inspected more. Officers discussed the reason for any failed inspections (three of the twelve failed on their first inspection) and encouraged those fishermen to adopt the best practice used by other permit holders. On the second round of inspections, ten permit holders were inspected. Of those that had failed the first time, they passed on that occasion. This had been achieved by adapting their riddling system and in some cases moving to ground with larger whelks. It appeared that the use of rotary riddles resulted in fewer undersized whelks being retained, however flat bed riddles were effective if the time the whelks were in contact was increased. In summary the Panel were advised that the Emergency byelaw had been verified in the field, the 25mm riddle gap translated well to 53mm shell length in commercial operations, the inspection procedure was fast, fair, and consistent, 5% tolerance was achievable for all permit holders providing catch was riddled effectively and Industry had engaged with the process.

The Assistant Chief Officer went step by step through the wording changes in the new byelaw and informed the Panel that the new proposed byelaw modernised the wording of the previous byelaw and replicated the key features of the previous byelaw aside from specifying a tolerance and that whelks caught outside the District be kept separately to those caught inside. It clarified and set out that a shell length of 53mm was the equivalent of a 25mm riddle. The previous Technical Permit requirements were now referred to as Flexible Permit Conditions which remained the same as did the review process. The ACO noted that concerns had been raised over the time and effort and catch restrictions within the proposed byelaw; these were direct copies taken from the existing Whelk Fishery Permit Byelaw. In response to concerns raised over the use of electronic monitoring systems; this was accepted as best practice, however taking into account the engagement shown by the fishermen he proposed to remove the electronic monitoring and spatial restrictions categories from the proposed byelaw.

The Panel were informed that if the proposed byelaw was made it would take approximately nine months to be signed by the Secretary of State. If the Emergency Byelaw was not replaced then the IFCA would revert to the measures contained within the old Byelaw. In respect of the Impact Assessment, there were no changes within this as the proposed byelaw was a direct copy of the old one. He acknowledged that there could be some economic costs to fishermen if they chose to upgrade to a rotary riddle or amend their existing flat riddle methods, however these were not mandated by the byelaw.

The Panel discussed this matter and made the following pertinent questions/ comments:

- With regard to the maturity of whelks, could fishing pressure cause them to mature at a quicker rate?
Response: This had been seen in some fin fish, but no information was available to suggest this could happen with whelks.
- It had been suggested that a rotary riddle could cause damage to whelks and were noisy. Would a vibrating flat riddle provide for better survivability and be less noisy.
Response: the concept of a vibrating riddle was in the early stages of development so unsure as to its effectiveness although the IFCA would be happy to work with the manufacturer in its development. Officers had spoken over the issue of noise that had been raised by one fisherman as it was the first time this had been flagged as an issue. It was possible that other materials than metal could be used to reduce the noise but this was a matter for the manufacturers
- Were Industry happy with a limit of 300 pots
Response: a questionnaire was sent out each year which asked for opinion on the number of pots that should be set. Most permit holders were happy with 300 although some asked for more, some less.

- In respect of the inspections that had taken place, what percentage of permit holders did that represent.

Response: In 2020 they were 20 category one permit holders. All those that were actively fishing were inspected.

The Member commented that the IFCA had worked hard with fishermen and had spent a lot of time in trying to mutually agree the best way forward. In his opinion it was not correct to state that officers did not work with the Industry as it was very clear that they were cooperating with them. He felt that it would be useful for the IFCA to work to try to develop a standardised riddle which could be purchased at a minimum cost to the Industry. Whelk prices had decreased, however the financial side of the Industry was not the concern of the IFCA.

- Mr Craig's letter suggested that all management be removed. What effect would that have

Response: Fishing in other areas used up to 1500 pots and was therefore a much higher level of commercial fishing, using up to 4 times the effort of inshore boats. Three hundred pots were a sensible amount that allowed the inshore fleet to fish at a sustainable level. This fishery was a low entry, non quota fishery which could be accessed using a small boat, generating a longer term income for the fishermen.

- Officers had worked well with the Industry on this matter following the meeting that was called in December that started the process. It was felt that the flat bed vibrating riddle was a good idea. Grants of up to 80% would be available for fishing equipment which could help with their purchase by the Industry. He asked if it would be possible to dedicate officer time to assist fishermen with the application process if required. The CFO advised that officers would write to permit holders to make them aware and to offer assistance with completion of the application if required

- The 5% tolerance given was an excellent piece of work which no other IFCA allowed. In respect of the Category 2 permit the byelaw read as though it applied to commercially registered vessels. Was this correct.

Response: The intention was as the current byelaw. It should allow for non commercial vessels to apply for a permit. The wording would be checked.

A Member raised that it was important to work with the fishermen, in particular the seventeen that had signed Mr Attenborough's letter. He suggested that an 8% tolerance be adopted rather than 5% with guidance given to allow this to be reduced.

The ACFO informed Members that when a case was considered to be passed for prosecution then two tests were required to be passed; evidential and public interest. The amount at which a decision was made to prosecute would likely be higher than just over 5% unless there were aggravating features and it was possible that the IFCA would issue a verbal warning rather than prosecute. Members could also decide to take a phased approach. This year compliance action had not been enforced. Officers had spoken to the skippers to establish why their tolerance was over 5% and to work with them to sort it out. This had resulted in a

faster and more friendly outcome. Education on measures to comply had been well received.

RECOMMENDATIONS

The Panel made the following recommendations:

- The wording of the proposed Whelk Fishery Flexible Permit Byelaw and its Impact Assessment with the amendments as stated at the meeting be approved by the full IFCA
- Tolerance of 5% to remain
- Officers to contact all whelk permit holders to make them aware of the grants available and, if required, to offer assistance with the application process

The Chairman thanked all those who had attended the meeting

Meeting closed at 12:10