

Whelk flexible permit byelaw 2020 – time limited transition period enforcement approach

Representations from industry proposing a 10% tolerance instead of 5% for undersize whelks were discussed at the technical panel meeting of 4th November 2020. Based on inspection data the technical panel agreed that 5% is an achievable benchmark which best protects juvenile whelk stocks in the district. However, due to positive engagement from industry and substantial efforts made by many fishermen to reduce undersize in catch, KEIFCA proposes that a time-limited transition period of 6-months should be adopted when the full byelaw is made.

This is designed to encourage industry to work with KEIFCA to develop improved methods for reducing the proportion of undersize whelks in their catch.

Specific conditions of the 6-month transition period are as follows:

- Any offences detected of **between 5-10%** of retained whelks that measured less than 53mm on inspection will be subject to a **verbal warning for a first offence**. This is on condition that there are no additional offences or aggravating factors. Any offences detected of **more than 10%** of retained whelks that measured less than 53mm on inspection would be subject to the **full range of enforcement actions available to KEIFCA**.
- As part of issuing a verbal warning we would expect a commitment from the permit holder to quickly take tangible steps to **reduce the proportion of undersize** in their catch (for example by changing riddle set up) before the next inspection.
- Further inspections would then be carried out with the permit holder and the full range of enforcement actions would be considered if inspections find whelks landed over 5% tolerance as described in the byelaw.
- The transitional period will end **6 months** after the full byelaw is signed, where after any offences detected of more than the byelaw-specified 5% of retained whelks that measured less than 53mm on inspection will be subject to the full range of enforcement actions available to KEIFCA.

These measures effectively extend the time limited “explanatory enforcement note” adopted by the Authority while the emergency byelaw was been in place, bringing the total transitional period to two years.

These measures are in addition to the public interest and evidential tests set out in the Code for Crown Prosecutors against which any offences are judged by officers and by the KEIFCA legal team when considering offences for prosecution.