

Fisheries Management Scotland Enforcement Committee

Minute

25 January 2018



Members:

Alison Baker
Craig Duncan
Simon McKelvey
Bill Whyte
Richard Whyte

In attendance:

Brian Davidson
Alan Wells

Apologies:

Chris Conroy

1. Welcome & introductions

AW welcomed Craig Duncan to the Committee. BD had circulated a discussion paper prior to the meeting to inform the discussion. This covered a range of issues and these are covered in each of the agenda items.

2. Benefits/dis-benefits of current system

A summary of these were circulated to prompt discussion and provide context. These included:

Benefits

- Local application of skills, expertise & knowledge relevant to differing circumstances
- District/catchment level management, with oversight from a national body (FMS)
- Existing system relieves some stress from Police Scotland resources
- Being part of wider fisheries management system, working in partnership with Trusts, additional and other benefits can be delivered (ie all field staff can be warranted and conversely at other times bailiffs can and do undertake other work)
- Career opportunities, volunteering opportunities and working with local communities
- Role of protecting public resource

Dis-benefits

- Some negative public perceptions of bailiffs and enforcement
- Issue with protecting private rights
- Current enforcement powers are predominately focussed on salmon, and these should be extended to other species (but acknowledgement that widening enforcement powers will require more resources/funding)
- Variability in funding to support enforcement
- The legislation is complex and difficult to interpret

- Limited career opportunities in reality
- Volunteering – risks associated with contracts and management of personnel who are not employed
- Limited ability to liaise effectively with police due to procedural constraints

It was agreed to articulate these in a draft paper in order to summarise the positive aspects of the current system and to highlight the need for change. Such an approach will help support advocacy work in promoting change within the context of a possible bill in 2018/19.

ACTION: Briefing paper to be developed: BD then Committee to review

3. Current legislation

AB had produced a matrix which presents the current objectives in terms of protecting fish stocks and what drives these needs from a 'first principle' perspective. The Committee supported this approach in presenting *why* these elements of the resource require protection, and it was agreed that *how* this is achieved is very important. Everyone acknowledged that the various legislative provisions can be difficult to follow and in making any recommendations, these should be expressed as policy objectives, rather than technical changes to the legislation. There was broad agreement that there should be further empowerment of Boards, and SMcK advocated an overall conservation plan covering all species. SMcK agreed to expand on this idea and provide a short paper, with the emphasis on how powers might operate for enforcement, encouraging responsible angling and simplifying permissions.

ACTION: SMcK to produce short paper.

ACTION: ALL to comment back to BD on matrix.

4. The DSFB enforcement framework

The committee considered the existing mechanisms for appointment, employment and deployment of enforcement and how this might be improved. It was agreed that the principle of local warranting should be maintained. Issues included risks associated with appointing volunteer bailiffs, powers associated with warrant cards and a mechanism for a more restricted warrant, future title for bailiffs, using employment conditions to manage risk and the concept of national warranting. Legal advice would be sought on how best to manage the various risks. Everyone agreed about the need for a joined-up framework which enables employers/appointing bodies to reduce risks and allow the sharing of experience and resources through both local and national routes. It was agreed that legislation could enable some of this, but not everything will require legislation.

It was agreed to pursue legal advice with Fishlegal – a range of questions had been put together by AB and these would be presented for formal advice.

ACTION: BD

5. The effectiveness of enforcement & liaising with other agencies

Everyone agreed that there needed to be improved recognition of fish crime and for this to be evident through improved case success, higher fines/penalties and reduced/deterred criminal activity. This will be longer-term work and an effective advocacy strategy will be an essential tool to deliver this.

Ways to achieve this will be to continue to develop and improve liaison with Police Scotland, Crown Office Procurator Fiscal Service (COPFS) and the National Wildlife Crime Unit (NWCU), both through formal engagement with existing groups and more regular and informal dialogue. A number of measures were suggested for further consideration.

These could include:

- an 'Enforcement undertaking' approach (as implemented by SEPA) and fixed notices/penalties.
- Media statements/impact statements on fish crime. This requires better information on fish poaching from members.
- Consider scope for joint/co-ordinated training between the various enforcement agencies
- Improved protocols for sharing information on criminal activity and reporting to the police/PF

ACTION: BD to follow up further engagement with Police Scotland, NWCUC and COPFS.

ACTION: BD to consider impact statement approach and associated media activity if appropriate.

6. Bailiffs seminar 2018

BD advised that the annual seminar had been scheduled for 21/22 March and the Committee were pleased to hear that the Tay DSFB are scoping options for an event at Birnam. It is proposed that the event will contain some training elements, balanced with some talks and field activities. Further information will be provided.

ACTION: BD to update the Committee on progress.

7. AOB

There was no other business.