

Several and Regulating Orders Management Plan

Applicants for Several and Regulating Orders are required to submit a management plan for a minimum five year period. Applicants must undertake to improve the cultivation/management of the fishery.

- The purpose of the management plan is to establish what you intend to achieve through the granting of an Order. It will enable us to assess the merits of your application and will constitute a tool against which performance in the fishery can be monitored. If conditions in the fishery change so that the plan is no longer relevant, you will need to let us know and draw up a new one.
- Please complete all relevant sections after reading the Notes for Guidance on Several/Regulating Order applications (FIS 3), using additional sheets of paper as necessary. Send the completed form and the other application documents listed in the Checklist on page 6 to the address given above.
- **Please note that English Nature are consulted about all applications for Several and Regulating Orders. In some circumstances they make recommendations regarding the proposed activity at the site. You are advised to consult all interested parties before you apply.**

■ General details

Please give the applicant's:

- official name

The Environment Agency (as the Grantee for England) and
The Natural Resources Body for Wales (NRW) (as the
Grantee for Wales) (together 'the Grantees')

- full postal address

The Environment Agency

Horizon House
Deanery Road
Bristol
BS1 5AH

NRW

Ty Cambria
29 Newport Road
Cardiff
CF24 0TP

- telephone number
(including national dialling code)

Local area office: 0300 065 3000

- fax number
(including national dialling code)

What is the location and size of area, in hectares, of the site?

The fishery is located in the river Dee estuary between north Wales and Wirral. It is defined to the north by a line drawn between Red Rocks, northern most point of Hilbre Island and the old lighthouse, point of Ayr, and to the south by a line drawn at right angles to the training wall intersecting the Flint channel light at 53° 10' 05N, 30° 5' 30W.

Total area below mean high water springs (MHWS) on the definitive map is 10,656 hectares. Within the estuary there are five main cockle beds located on the West Kirby, Thurston, Bagillt, Mostyn and Salisbury banks. These beds vary spatially according to spatfall, exploitation and other external factors and it is possible that new beds may develop in the future.

What kind of Order are you applying for and which species will it cover?

A Regulating Order under section 1 of the Sea Fisheries (Shellfish) Act 1967.

Cockles (*Cerastoderma edule*).

FIS 3A (Rev, 4/01)

How long do you want the Order to last? Please explain why.

20 years. This is considered to be the optimum period having regard to possible changes in the future.

The aims of the plan are threefold:

- To develop a sustainable fishery that provides a consistent, regular income for fishermen.
- To minimise the impacts to the European site and local residents arising from fishing activities
- To improve fishery management, monitoring and enforcement.

Please give details of any businesses or activities, including other fisheries, currently operating on, or in the vicinity of, the site (you should make such parties aware of your proposals at an early stage). Please explain how the Order is likely to affect them.

Activity
Likely Effect

Cocklers

Fewer participants in a 'full time', sustainable fishery, more stable income.

Shellfish Dealers

Increase in harvest size and security of supply and therefore income.

Shellfish Processors

As for dealers plus potential to expand markets.

Commercial Sea Fishermen

More diverse, secure and sustainable fishery due to increased opportunities to participate in different fisheries on a seasonal basis.

Sea Anglers

No impact.

Wildlife interests

Less disturbance to wildlife, particularly birds, due to fewer fishermen with increased control and management. Bigger standing crop of cockles could increase wader populations if food is limiting. Ten-fold decrease in daily effort will minimise impacts from trampling, raking and discards.

Local Authorities

Reduced access problems and complaints of disturbance and litter from local residents. Need for increased sampling of cockles to confirm classification for hygiene purposes.

Conservancy Authority and Mostyn Docks (harbour and pilotage authority)

Possible interaction and conflict between proposed dredging operations and impact on cockle beds.

Local Residents

Reduced disturbance due to fewer fishermen and better management of access points.

General Amenity Users

As for local residents.

Watersports

Reduced damage to yacht moorings.

Industry

Continuing pressure to maintain and improve quality of discharges and water quality in the estuary.

Casual labour

Part time gatherers will not be permitted to remove cockles from the fishery except for personal consumption.

Please give the last three years' annual production figures of the fishery by volume and value.

The beds have been closed since 1996, except for brief periods in 1997, 2001, 2002, 2003 and 2005.

Cockle populations in the District vary from year to year, between beds and even within beds. This variation is due not only to levels of exploitation but also local environment factors which can affect the success of spatting. This interaction between environment and exploitation and spatting success is a feature of all exploited cockle fisheries.

In the absence of robust scientific information, the grantees are adopting a conservative approach and assuming that the cockles in the Dee Estuary are a discrete population which is dependent upon recruitment to the fishery within the estuary with little or no input from populations outside the estuary. There is however a shortage of knowledge regarding any interdependence of cockle beds in different areas. Future research into the genetics of cockle stocks may assist management of fisheries in the future.

A permit system has been in operation since Byelaws regulating fishing for shellfish in the River Dee and its estuary were made by the former National Rivers Authority and confirmed in 1995.

Accurate records for catch are not available as very few fishermen have submitted returns. Best estimates are:

2001: 808 permits issued. West Kirby bed yielded 2500 tonnes in 34 days, TAC unrecorded.

2002: 1017 permits issued. West Kirby and Salisbury beds yielded 1835 tonnes in 7 days, TAC=3772 tonnes.

2003: 859 permits issued. West Kirby and Thurstaston yielded 1182 tonnes in 16 days, TAC=2522 tonnes.

2005: 565 permits issued. Salisbury bed yielded 500 tonnes in 3 days, TAC=1150 tonnes.

Average cockle prices varied from £550 (2002) to £583 (2003). Best prices were £1900/tonne for large Salisbury cockles.

Please give details of any consultations with interested parties to date, including any objections raised and any agreements reached regarding future use of the fishery. Has this Management Plan been agreed with English Nature?

Extensive consultations with local fisheries interests and user groups were carried out in 1994 on the introduction of the new shellfish Byelaws referred to above, in order to assist with the conservation and management of the cockle beds.

Informal consultation was initiated with MAFF, English Nature and Countryside Council for Wales in 2000. In January to March 2001 further consultation on a proposed Regulating Order was carried out with a wide range of stakeholders (over 200) including the following representative groups:

Environment Agency Wales Northern Area Environment Group

Dee Estuary Forum

Dee Estuary Conservation Group

Dee Estuary Sea Fisheries Liaison Group (representatives of sea fishing interests, regulatory bodies and other relevant user groups on the river, who are broadly representative of local opinions)

The need for a Regulating Order also features as a major issue in the Dee Estuary Strategy and the former Local Environment Agency Plan (LEAP) and both of these have been subject to extensive public consultation. Support for the proposed Order was given by many respondents and a summary of the consultation process and key points (Tab 7) was submitted on 5th August 2004.

Following this consultation exercise, an informal draft management plan and regulating Order were submitted to DEFRA and WAG in December 2002 for consultation inside government. Changes to the management plan were suggested and incorporated by the grantee, which then consulted on those changes in October/November 2003.

English Nature and the Countryside Council for Wales have been consulted on the plan throughout and are supportive of its objectives. Further modifications were made to the draft plan at their instigation in March 2004. The management plan was endorsed by CCW, the lead conservation agency for the estuary, in June 2000.

Following Defra and WAG's publication of the revised draft management plan in January 2006, an opportunity was given to the public to make representations about and objections to the making of the regulating order. 36 responses were received, leading to a public inquiry, and the grantees have taken account of these, in making further revisions to the draft management plan.

■ Cultivation and Management Practices

Please give details of the following:

● ~~for a Several fishery (or the Several areas of a Hybrid Order)~~

- ~~— proposed method of cultivation (e.g. inter-tidal; sub-tidal; ground, trestles (trays, bags); floating; long-line; suspended);~~
- ~~— husbandry plans (e.g. control of pests/fouling organisms; removal of sediment; provision of cultch; establishment of artificial reefs; general stocking densities);~~
- ~~— supply of seed (natural resources available as seed; hatchery reared stock);~~
- ~~— harvesting methods; and~~
- ~~— estimated production of each species to be cultivated for the first five years of the Order.~~

■ **Cultivation and Management Practices continued**

- **for a Regulated fishery (or the Several areas of a Hybrid Order)**
 - proposed regulations and restrictions to be applied to the fishery;
 - number of licences likely to be issued against each likely demand, and the criteria you intend to use to allocate licences;
 - proposed harvesting methods; and
 - estimated landings for each species to be cultivated for the first five years of the Order.

The following are the restrictions and regulations on harvesting that the grantees intend to impose on the fishery:

Restrictions and Regulations on Harvesting

1. The method shall be restricted to hand-gathering only with a rake head not exceeding 30 centimetres in width.
2. Cockle beds shall be opened and closed individually depending upon levels of harvesting and survey results (TAC) at the discretion of the grantees, in order to safeguard a sustainable population level.
3. Only cockles which are retained by a gauge having a square opening of 20mm along each side of the square can be taken.
- 4 A cockle shall be deemed to be removed from the Fishery as soon as it is placed in any container (including bags, sacks and other similar receptacles), trailer, vehicle or vessel.
5. Sorting and washing of cockles must be undertaken before cockles are removed from the Fishery.
6. No cockle bags or other equipment or litter are to be left on the beds following fishing.
7. No person shall engage in any activity which disturbs or damages the Fishery without the prior written consent of the grantees.
8. No mechanically driven vehicles are permitted on the Fishery without the prior written consent of the grantees.
9. No vessels greater than 10 metres may be used for the purpose of removing or receiving cockles and must be operated solely by a licence holder, except with the written approval of the grantees for the purpose of ensuring the safe navigation of the vessel.
10. Annual close season shall be from the 1st day of January to the 30th of June following.
11. No fishing for cockles between one hour after sunset and one hour before sunrise.
12. There shall be a weekly closed period on Sundays unless so directed by the grantees.
13. The decision whether to open the fishery will be taken in May/June each year, following completion of stock assessment surveys and consultation with the Sea Fishery Liaison Group.
14. A TAC will be established each year based on cropping a scientifically calculated proportion of the available biomass above the 'giving-up' density on any one bed on the 1st July. This proportion is likely to be around 30% in most years but the proportion and the "giving-up density" may be varied as the grantees consider appropriate in the interests of maintaining a sustainable fishery, having regard to the stock assessment survey and in consultation with the Sea fishery Liaison Group.

15. Fishing will not be permitted during periods when a severe weather order is in effect under section 2(6) of the Wildlife and Countryside Act 1981: closure and reopening of the beds will be in accordance with the guidelines established for the statutory suspension of waterfowl shooting in severe weather.

16. Except in emergencies or unless otherwise agreed by the grantees, no person may access the fishery for the purpose of dredging, fishing for or taking cockles, or leave the fishery after cockling, except—
(a) at points above mean high water, and at times, which may be designated by the grantees from time to time; and
(b) in compliance with the terms and conditions of any such agreement given by the grantees.

17. The grantees shall ensure that any decision regarding designation of access made for the purpose of these regulations is given appropriate publicity in the vicinity of the fishery and to the licence holder.

18. The grantees may, in writing, exempt any person from any regulation or restriction if it is necessary for the purpose of preserving, improving, or developing the fishery or for scientific, stocking or breeding purposes.

Conditions of Licences.

1. No licence-holder shall fish for, take or attempt to fish for, or take or remove cockles from the Fishery except in accordance with the licence conditions and fishing regulations.

2. A licence shall only be issued to an individual.

3. A licence shall not be transferable.

4. A licence must be carried by the fisherman and be available for inspection at all times.

5. A valid licence must be produced when requested by a grantee Officer and the fisherman shall not continue to fish for cockles until a valid licence is produced.

6. Subject to regulation 4 of Schedule 1 to the Order, a licence shall cover the whole of the Fishery.

7. Each licensee (other than an apprentice licensee) will be allocated an individual daily and /or annual quota based on the total TAC, and following consultation with the Sea Fishery Liaison Group.

7a. The licensee shall not, except with the prior approval of the grantees,

i. transport beyond mean highwater more than their daily quota in the period between 0001hrs and 2359hrs of the same day, or

ii. more than their annual quota during the period of the open season.

8. Information required on a licence shall include a photograph of the licence holder, a unique licence number, name and address of licence holder and period of validity.

9. Licences will run annually for the period specified on the licence.

10. When the beds are open the licence holder shall complete daily landing declarations and place them in a grantee mailbox at the designated landing points. Such declarations shall include the date on which and beds from which any cockles were taken, weight (kg) harvested and (where appropriate) buyer details.

10a. No licence holder shall fish, take or attempt to fish for or remove cockles from the Fishery unless the licence holder has complied with the provisions of condition 10.

11. No persons other than licence holders are to be carried on vessels/vehicles authorised for use in cockling, while the licence holder is engaged in cockling activity.

12. Licence holders may not be assisted by any other person in any way, including raking, riddling, bagging, carrying, clearing dead cockle and boat handling.

13. Licence holders operating a vessel must comply with any direction given to them by the Dee Conservancy Harbour Master or the Port of Mostyn Harbour Master.

14. A licence holder may use a jumbo (an implement with a flat base and vertical handle which is used to bring cockles to the surface) to assist hand gathering provided it has a base not exceeding 140 centimetres long and 40 centimetres wide.

15. A Licence holder shall not remove cockles from the Fishery other than in landing bags issued by the grantees (Landing Bags) directly to that Licence holder and identified as being so issued by a numbered tag. Licence holders shall not transfer Landing Bags, use Landing Bags issued to other Licence holders, alter or tamper with Landing Bags or otherwise treat Landing Bags in a manner whereby the individual Landing Bag cannot be identified by its numbered tag. A Licence holder shall upon request by a grantee Officer make available Landing Bags and the contents thereof for inspection and shall not continue to fish until such Landing bags are produced.

Supplementary Conditions of Apprentice Licences

16. No apprentice licence holder shall fish for, take or attempt to fish for, or take or remove cockles from the fishery except when accompanied by and under the superintendence of their sponsor licensee.

17. An apprentice licence holder shall share their sponsor's daily and / or annual quota such that the aggregate catch of an apprentice and their sponsor shall not exceed the sponsor's daily and / or annual quota.

18. An apprentice licence holder shall comply with the terms of the grantee's Apprentice Scheme.

19. An apprentice licence holder shall inform the grantees of any changes in the sponsor / apprentice working relationship within 5 working days of such a change arising.

Number of licences issued/allocation criteria

Need For a Licence

Under the order, a licence will be required to fish for cockles within the Fishery. It will be an offence to fish for cockles without a licence.

It is the aim of this management plan to allow up to 50 fishermen to participate in the Fishery, on an annual basis. The figure of 50 licences is based on the following justification:

- Total Annual Catch (TAC) is estimated to vary between 500 and 2500 tonnes.
- Maximum annual exploitation rate is estimated at 50 tonnes/person
- Exploitation rate above 50 licences will result in an unsustainable, part time fishery
- Ecological requirements of European site require fishing pressure/ disturbance minimised.

At times when the grantees considers that the fishery could sustain it, short-term non-renewable licences will be issued at the grantees discretion. It is proposed to allocate these licences on a points system to people

who have a track record in the commercial cockle fishery on the Dee Estuary.

Stock surveys take place in May/June each year and TAC will be predicted as the total biomass of takeable cockles exceeding the giving-up density available in each bed on 1st July. A takeable cockle is defined as one that is retained by a gauge having a square opening of 20mm measured across each side. This equates to a standard 50% retention length of 25mm for a 20mm gauge. Cockles of this length are in their second year of growth and will have spawned at least once.

Stock surveys will estimate the biomass of each cohort in each bed within the fishery.

Commercial fishing will be permitted when average density of 25mm cockle on at least one bed exceeds the 'giving-up' density and all beds that reach the minimum density will be open until 31st December subject to TAC. A bed will be open unless TAC=0 or the results of the appropriate assessment or the application of the oystercatcher behaviour and feeding model require otherwise.

This management regime has been assessed for its impact on the protected features of the Dee Special Protection Area using an oystercatcher behaviour and feeding model and was demonstrated to retain sufficient cockles for overwinter survival of birds using 2003/04 data. The model will be recalibrated annually and consequently the giving-up density may change and beds may need to be fished sequentially from September, subject to the findings of the annual appropriate assessment.

Initial Allocation of Licences

More than 50 valid applications were received for the first fishing season. 50 licences were therefore allocated to the applicants on the basis of experience of active and material participation in the commercial Dee Estuary cockle fishery, in accordance with the grantee's published licence allocation policy.

Further details of the allocation process, including details of the appeals process, are set out by the grantees in a formal licence allocation policy to be followed by its officers and is attached to this Management Plan.

Separate arrangements apply for the allocation of apprentice and short term non-renewable licences; see sections 9 to 11 of the grantee's licence allocation policy.

Apprentice licences

In addition, in order to enable new entrants to participate in the fishery, the grantees will introduce an Apprentice Scheme in Year 3 of the Regulated Fishery (i.e. the 2010 fishing season). The Scheme will only operate once and the grantees do not currently intend nor shall it be obliged to implement the Apprentice Scheme or similar schemes in subsequent years.

A maximum of 3 apprenticeships will be available, with the final number to be determined at the discretion of the grantees and based on the results of both the annual stock assessment of the fishery and the appropriate assessment to be carried out in accordance with the Habitats Regulations.

Each apprenticeship shall involve participation in the fishery for two full seasons and each apprentice will be offered a one year apprentice licence in two consecutive fishing seasons (subject to progress with the apprenticeship in the first fishing season). A full licence fee will be required for an apprentice licence in each year of issue.

Individuals participating in the fishery under the authority of an apprentice licence (“apprentices”) will be subject to enhanced regulation by the grantees. Additional licence conditions will apply to apprentice licences, as set out above. Apprentices must only participate in the fishery when accompanied with another licensee who has agreed to act as the apprentice’s ‘sponsor’. Apprentices will not be allocated an individual daily or annual quota but instead will share their sponsor’s total allowable catch (‘TAC’).

The full terms under which apprenticeships must be undertaken are set out in the grantee’s Apprentice Scheme (a copy of which is attached to this Management Plan).

If an apprentice successfully completes their apprenticeship in accordance with the Scheme the grantees will invite them to apply for a licence to enable them to participate in the fishery with effect from the fishing season immediately following the completion of the apprenticeship unless exceptional unforeseen circumstances apply. Such a licence will be issued on the same terms and conditions as the 50 licences currently in operation in respect of the fishery and the grantees will increase the current number of licences available in respect of the fishery accordingly.

If an apprentice fails to successfully complete their apprenticeship in accordance with the requirements of the Scheme (for example, because they have not complied with enhanced regulation, failed to participate in the fishery or failed to undertake such qualifications as identified by the grantees to be necessary), they can apply for a licence in accordance with the Licence Allocation Procedure unless exceptional unforeseen circumstances apply.

Proposed harvesting methods

Hand gathering only

■ For BOTH several and Regulated fisheries

Please explain your plan for the enforcement and monitoring of the Order and evaluation of the aims of the Management Plan.

Stock assessment surveys will be carried out bi-annually (May/June and Sept/Oct) using standard methodology (West 2003). TAC will be determined using data on the standing crop present on 1st July and stock removal will be estimated by monitoring quotas, checked against the autumn stock assessment.

Evaluation/monitoring of Plan objectives

Objective 1. Sustainable fishery providing regular income:

- liaison with sea fishery liaison group to agree TAC, quotas etc.
- stock monitoring /maintenance of exploitable stock at predicted levels
- improve understanding of cockle population dynamics

Objective 2. Minimise impacts to European site and local residents:

- complete and implement CEH stock model
- monitor bird populations in conjunction with RSPB.
- monitor beds for illegal fishing
- ensure access and exit from beds is at agreed points.
- agree voluntary code of conduct with shellfish liaison group, taking into account a risk assessment to be carried out by the Dee Conservancy.

Objective 3. Improve management, monitoring and enforcement:

- employ sea fisheries officer and seasonal enforcement team
- use new resources to improve understanding of population dynamics
- produce annual fishery, monitoring and enforcement plan
- regular monitoring of quota and byelaw/regulations compliance
- use stock model (2004) to predict food requirements for shorebirds, predict effects on shorebird populations of different management scenarios, recommend methods for setting sustainable TAC and advise on close season.

The grantee's enforcement and prosecution policy will be applied in developing a specific plan for the Dee. This enforcement and monitoring plan will be reviewed in consultation with the Dee Sea Fisheries Liaison Group on an annual basis and will contribute to a regular review of the overall management plan at intervals of not greater than 5 years.

■ Hygiene and disease

Directive 91/492/EC requires classification of shellfish harvesting areas. What is the current hygiene classification status of the area to be covered by the Order? Has any part of the site been designated under the Shellfish Waters Directive (79/923/EEC)? Please give details.

The cockle beds are under the jurisdiction of 4 local authorities, the Metropolitan Borough of Wirral, Cheshire County Council, Ellesmere Port and Neston Borough Council and Flintshire County Council. Currently all beds are class B.

Please give details of any history of shellfish disease problems (e.g. *bonamia*, *martellia*) in the area.

Diarrhetic Shellfish Poisoning was identified on West Kirby and Mid Salisbury in 2002 and on Mostyn in 2003. Beds were clear in 2005.

■ The environment

Has any part of the site been designated as, or will the Order impact on:

- a Special Area of Conservation (SAC) under the Habitats Directive? Yes No
- a Site of Special Scientific Interest (SSSI)? Yes No
- a protected wetland under the Ramsar Convention? Yes No

If **YES** please give details:

In addition to its importance for cockles, the estuary is also important for wildlife and is designated as a RAMSAR site, a SSSI, a SPA and cSAC. Hilbre Island is also designated as a local nature reserve.

Waders such as oystercatchers are a significant feature of the bird population and the grantees are working closely with organisations such as the RSPB and English Nature.

Impacts arising from the current system include disturbance to birds and direct damage to cSAC/SPA supporting features arising from trampling, discards, raking, illegal fishing and removal of undersize cockle. The introduction of an order by reducing maximum daily effort and increasing enforcement will therefore be beneficial to both fisheries and wildlife. In addition the proposed licensing arrangements will help regulate and stabilise the number of fishermen which will reduce civil disturbance and access problems experienced in the past.

A voluntary code of conduct has been produced by the North Western and North Wales Sea Fisheries Committee (NWNWSFC) and it is proposed that this code will be adapted and pro-actively promoted for the Fishery, based on risk assessments and consultation with the Dee Sea Fisheries Liaison Group.

The Management Plan is a plan or project under the Habitats Regulations and an appropriate assessment has been completed, concluding no adverse impact to the features of interest. The assessment has been submitted to the conservation agencies who have agreed in principle with the conclusions.

Changes in fishing practice are listed as a Potentially Damaging Operation for the SSSI and there will be a need to obtain assent from the conservation agencies under the CRoW act.

Please give any other relevant information.

■ Checklist of documents to accompany the Management Plan

- | | Tick box |
|---|-------------------------------------|
| • Your completed Management Plan application form (FIS 3A) | <input checked="" type="checkbox"/> |
| • Two copies of the Admiralty chart of the area | <input checked="" type="checkbox"/> |
| • All necessary consents | <input checked="" type="checkbox"/> |
| • For companies incorporated under the Companies act, a copy of the Memorandum and Articles of Association and any Special Resolution | <input type="checkbox"/> |
| • For other corporate bodies, copies of relevant instruments of incorporation, charter or local Acts of Parliament | <input type="checkbox"/> |
| • Additional sheets | <input type="checkbox"/> |

Emyr Roberts, CEO, Natural Resources Wales



John Leyland, Area
Manager, GMMC Environment Agency

Signature

5 August 2004
As revised 8 June 2007, 1 July 2008, 20 May 2009, 28 June 2010, 17 June 2013 and 12 Nov 2015

Date

Please now send this form and the documents listed above to the Department for Environment, Food and Rural Affairs at the address given on the front page

Attached sheet: further information on Cultivation and Management Practices

Licence Fees.

The licence fee payable will be calculated annually based on the predicted costs of monitoring, management and enforcement for the year including staff time and on-costs:

$$\text{Licence Fee} = (A \times B / N)$$

Where: A = annual working days on survey, enforcement, administration and other related work.
 B = staff cost per working day £.
 N = number of licences

It is the grantee's intention, whenever possible, to open cockle beds for exploitation every year. However, in any year when it is necessary to close all beds to protect spawning stocks a proportion of the licence fee may be refunded to all current licence holders once survey, enforcement and other costs have been calculated.

Staff costs are also likely to be lower in such years. Similarly, there may be a refund in years when stocks are low.

Fees for short-term non-renewable and apprentice licences will be calculated on the same basis.

THE DEE ESTUARY COCKLE FISHERY ORDER

LICENCE ALLOCATION PROCEDURE

DEE REGULATING ORDER

1 LICENCE APPLICATIONS

- 1.1 The decision to advertise licences will be at the discretion of the grantees and based on licence availability. Advertisements are to be placed on the grantee's website and in appropriate media for a period of 1 month.
- 1.2 Applications must be received by the grantees by the date set out in the advertisement. Applications will not be accepted after the closing date.
- 1.3 An application will not normally be considered from any applicant who has not reached school leaving age before the last day of the season in the fishery for which he has applied.
- 1.4 In cases where fraudulent information is supplied by a fisherman the application to which the fraudulent information relates and where applicable, any separate application submitted by the person who supplied the fraudulent information, shall be deemed null and void.

2 LICENCE ALLOCATION PROCESS

- 2.1 A cockle licence **MUST** be allocated to all successful applicants upon the tendering of the correct duty for the relevant instrument **UNLESS** the applicant is banned from holding a fishing licence by the courts. (This is a legal requirement under the Act).
- 2.2 The Licence Officer (NRW middle management level with good knowledge of the Dee cockle fishery supported if necessary by grantee representatives from the Licence Committee) shall initially consider all applications by assessing:
 - (a) the details on the application form;
 - (b) the content of the applicant's curriculum vitae (C.V.); and
 - (c) any original supporting documents supplied with the C.V. including a Fit and Proper Persons Assessment (FPPA) found within the application pack.

The above categories of information, all of which should be submitted to the grantees in writing, shall collectively be called Assessment Information.

- 2.3 Assessment Information should demonstrate:
 - (a) the extent to which the applicant has actively and materially participated in the Dee cockle fishery or
 - (b) operated as a commercial fisherman on the Dee.
- 2.4 In submitting Assessment Information to the grantees, applicants should take into account the following:

Evidence of active and material participation in the Dee cockle fishery or as a commercial fisherman on the Dee

- (a) suitable evidence provided with the C.V. could include tax returns, catch returns, genuine sales invoices, landing dockets, log books, photographs and diaries;

- (b) evidence must be original and no copies will be accepted;
- (c) Assessment Information that does not clearly demonstrate active and material participation in the Dee cockle fishery or commercial fishing on the Dee will be disregarded;
- (d) where the Licensing Officer considers there to be any dubiety as regards the legitimacy of any Assessment Information, he may:
 - ask the applicant for further information, and
 - refer the application to the Licensing Committee for verification,
 before determining whether or not the Assessment Information should be disregarded;

Evidence that participation occurred as a Commercial Fisherman

- (e) applicants must demonstrate that their participation in the Dee cockle fishery or other fishery was as a commercial fisherman (i.e. where a substantial portion of their income is derived from sea fishing which may include the Dee sea fishery, other cockle fisheries, other sea fisheries or as a seaman on a commercial vessel, as well as income from the Dee cockle fishery);
- (f) evidence of working as a commercial fisherman could take the form of tax returns or audited accounts. Where these are not available then the content of the applicant's C.V may be taken into account;

Evidence of a disability inhibiting participation in the fishery

- (g) in order to comply with the requirements of the Equality Act 2010, where an applicant can demonstrate active and material participation in the Dee cockle fishery during at least one full fishing season and he considers that he would have been able to demonstrate participation in the fishery during one or more subsequent fishing seasons but for the fact that he was unable to participate throughout that season due to illness or disability, then he may submit evidence of his illness or disability (in lieu of evidence of participation) in order to claim participation throughout the fishing season or seasons in question;
- (h) evidence of illness or disability could include evidence of statutory payments received throughout the period in question (for example, in the form of statutory sick pay, disability living allowance or incapacity benefit, or other statutory payments that relate to disability or incapacity to work,) or production of contemporaneous medical records which satisfactorily demonstrate that the applicant was medically unfit to participate throughout the fishing season or seasons in question.

2.5 The Licence Officer shall consider the Assessment Information for each applicant against the following criteria:

Active and material participation in the River Dee in either the commercial cockle fishery or as a commercial fisherman between 1990 and 2015

5 points for every annual income tax return submitted as a commercial fisherman*

4 points per year for verifiable cockle/catch returns from the Dee

3 points per year for verifiable cockle/catch returns from elsewhere in UK

2 points per year for owning and running a registered fishing boat

2 points for every year qualified as a Day Skipper or above

1 point for current qualification in First Aid at Sea

1 point for current qualification in Firefighting

* For each qualifying year, applicants must demonstrate that all or part of their income was from fishing and therefore declared to the Inland Revenue.

Note: One of the stated aims of the management plan is to provide a regular and sustainable income for fishermen (ie individuals who regularly participate in the fishery). It would be inappropriate if the grantees were to award licences to individuals who were unable to demonstrate through their income tax returns that they were registered as fishermen and that cockling/fishing revenues had been declared.

3 INVESTIGATION PROCEDURE

- 3.1 If the Licence Officer has insufficient information on which to reliably assess any applicant's degree of material participation in the Dee fisheries, whether as a commercial fisherman or otherwise, he may consult the applicant and / or the Licence Committee for advice on the veracity, extent and applicability of the evidence supplied.
- 3.2 The Licence Committee will consist of an appropriate member of the NRW Environmental Crime team, an Environment Agency Officer and up to four nominated members the Dee Sea Fisheries Liaison Group
- 3.3 In order to avoid conflicts of interest, any member of the Licence Committee who has applied for a licence must declare the fact of that application to the Licence Committee, and may not take any part in the consideration of any Assessment Information.
- 3.4 The Licence Committee, using their knowledge of the history of the fishery and participation of individuals in the fishery will, where possible, advise the Licence Officer as to whether there is any information in support of the application. The rationale behind all decision making will be recorded.
- 3.5 Where the Committee is in doubt as to the veracity of the documentation supplied then this may be referred to the Police Forensic Documentation Unit for assessment.
- 3.6 If, following consultation with the Committee, the Licence Officer has insufficient information on which to reliably assess any applicant's degree of active and material participation in the Dee cockle fishery or as a commercial fisherman on the Dee, he may instigate investigation of such applications. In particular, the Licence Officer may make enquiries of grantee Officers, the applicant or any other persons, who could provide information to assist in determining the application and must record any response in writing if made orally.
- 3.7 In the unlikely event that the top applicants are tied on points, they will be called forward for interview by the Licence Committee to determine the most suitable applicant.

4 DECISIONS

- 4.1 The Licence Officer must gather and examine all the information he has obtained including:
 - (a) the Assessment Information that has been substantiated;
 - (b) views of the Licence Committee, if any; and

- (c) any other information that the Licence Officer has obtained during any investigation he may make into the application under section 3 above.

He must then note in writing all facts that he finds as a result of his assessment of the information and apply the criteria outlined in 2.5 to those findings of fact to reach a decision.

- 4.2 Unsuccessful applicants must be notified as soon as practicable and be given the opportunity to appeal against the decision. Such appeal must be lodged within 10 working days of the grantees giving notice of the decision.
- 4.3 Successful applicants who would not be affected by any appeals should also be notified as soon as practicable.
- 4.4 Notification of successful applicants, who could be affected by the outcome of appeals, by any other applicants, should be delayed as far as possible within prescribed timescales to allow the determination of any appeals.
- 4.5 If any appeals are still outstanding, all applicants who could be affected by the subsequent outcome of such appeals should be made aware of this delay.

5 RIGHT OF APPEAL

- 5.1 Any decision by the Licence Officer that an applicant is not entitled to a licence should be sent together with notification of the right of appeal.
- 5.2 Together with notification of the right of appeal the applicant shall be supplied with:
 - (a) the Assessment Information, subject to any legal restrictions;
 - (b) a copy of any other information that may have been received during the Licence Officer's investigation into the application, if any, and taken into account in making the decision, subject to any legal restrictions;
 - (c) any finding of facts by the Licence Officer;
 - (d) the reasons for the decision of the Licence Officer; and
 - (e) a copy of the Appeal Procedure in section 6 below.

6 APPEAL PROCEDURE

- 6.1 The Appeal Panel should consist of 3 individuals. Of these, two will be NRW grantee managers, neither of whom should be more than two reporting tiers removed from the level of Executive Director North and Mid Wales Operations. The third panel member should be a grantee manager from Environment Agency. A grantee Legal Adviser shall support the panel. The Licence Officer and their two immediate Line Managers will be ineligible to be panel members.
- 6.2 A grantee manager will chair the panel but decisions will be reached by consensus. A written record will be made of all proceedings of any Appeal Panel.
- 6.3 When a licence applicant registers an appeal against a refusal within the set time-scale (10 working days from notification) he shall be asked to stipulate whether he proposes to attend and be heard by the Appeal Panel or to submit his appeal in writing only. Arrangements will then be made for a meeting of the Appeal Panel within no more than 15 working days of the registration of the appeal.

- 6.4 The appellant, if electing to attend a hearing, will be advised that a legal adviser or other representative or supporter may accompany him. He should also be asked to inform the Panel at least 2 days in advance if he proposes to offer witnesses to present evidence on his behalf at the hearing.
- 6.5 Within an attended appeal hearing the Panel chair will provide the opportunity for each of the Licence Officer and the appellant to present evidence, to call relevant witnesses and for each to question the other for clarification or to challenge evidence presented.
- 6.6 If the appellant chooses to present his case in writing only the Licence Officer will ensure that all evidence for the Appeal Panel is provided in writing.
- 6.7 Whatever the appeal format, the Licence Officer will, as a minimum, provide to the appeal panel all of the information supplied to the appellant with the notification of refusal as laid down in section 5.2 above.
- 6.8 Immediately after the hearing or the review of written submissions the decision of the Panel will be communicated to the Licence Officer who will notify the appellant within no more than 48 hours.
- 6.9 The Licence Officer must ensure, and make a written record, that the appellant is in possession of all of:
- (a) the information supplied when his application was originally refused (as set out in section 5.2 above);
 - (b) the written record of the appeal hearing;
 - (c) a record of any new information considered in the appeal; and
 - (d) any findings of fact and the reasons for the decision of the Appeal Panel.

7 PROCEDURE FOR OFFERING LICENCE

- 7.1 The Licence Officer shall write to all successful applicants advising them of the offer of a licence on payment of the appropriate duty and informing them of the last date upon which payment may be made (“the payment deadline”).
- 7.2 The payment deadline must be twenty working days after the date of the offer.
- 7.3 The Licence Officer shall issue a licence within five working days of receipt of a cleared payment provided that the payment is received (and cleared if necessary) no later than 5.00pm on the payment deadline.
- 7.4 The Licence Officer shall not issue a licence until payment is made and if payment has not been received (and cleared as necessary) by 5.00pm on the payment deadline, the offer of a licence will lapse and the grantees will be entitled to offer the licence to another applicant.
- 7.5 If the licence offer is accepted, the successful applicant(s) will be required to serve the first two seasons as a probationary period, with the potential for removal of licence if the required standards are not met. (The standard would be adherence to the Licence Conditions as a minimum. Should the probationary licensee(s) be convicted of an offence on the fishery, the licence(s) would be cancelled. Except in exceptional circumstances, the grantees require that all probationary licensees complete a minimum of 60 tides to be fished in each of the probationary seasons.

8 ALLOCATION OF LICENCES IN SUBSEQUENT YEARS

- 8.1 Individuals who have held a licence (other than a short-term non-renewable licence or an apprentice licence) in the preceding season, as well as any person who falls within paragraph 11.3 of this Policy, will be notified of the need to apply for the coming season by post. This letter, together with an application form and a Statement of Applicants Rights, should be sent at least six weeks prior to the closing date. The application form must contain details of the information that the grantees are prepared to take into account when considering the application.
- 8.2 Applications for the coming season will only be accepted after the end of the preceding season. Application forms, together with a Statement of Applicants Rights, should be made available from the date of the advertisement.
- 8.3 If a licensee from the preceding season has not returned his application form at this stage, he should be contacted with a view to determining whether any special mitigating circumstances warrant late acceptance of an application.
- 8.4 Licences that become available prior to the start of the season will be offered to individuals after being successfully selected through the LAP process.
- 8.5 Licences will be allocated to all individuals who held a licence, (other than a short-term non-renewable licence or an apprentice licence) during the preceding season, and any person who falls within paragraph 11.3, who wish to continue fishing.
- 8.6 Failure to renew a licence in any year when licences are available will result in the fisherman losing his/her entitlement to a license. Exception will only be made for long term illness on receipt of medical evidence.
- 8.7 After year 3 of the fishery, up to 3 apprentice licences may be issued in accordance with sections 10 and 11 below.
- 8.8 Except where otherwise provided for in the Order, if a licence holder dies or relinquishes the licence after the initial allocation, the licence should be reallocated to the most suitable applicant after the LAP process has been completed.

9 ISSUE OF SHORT-TERM NON-RENEWABLE LICENCES

- 9.1 Subject to the provisions of paragraph 9.7 below, the decision to issue short-term non-renewable licences, including the number and duration of such licences, will be at the discretion of the grantees and based on the results of both the annual stock assessment of the fishery and the appropriate assessment to be carried out in accordance with the Habitats Regulations.
- 9.2 After the LAP has been completed, applicants will be ranked according to their points score. Those applicants that were unsuccessful in gaining a licence will be ranked and remain on file for 24 calendar months. Should another licence become available unexpectedly in that year, rather than run the whole process again, the licence offer will be made to the person ranked highest on file. In the event that no licences are made available after the 24 month period has elapsed, the LAP process would be run again in the year in which it is required. Should the grantees wish to issue short-term non-renewable licences, they will be offered to those on the top of file ranking depending on the number required. The grantees will write to each individual advising them of the offer of a short-term non-renewable licence on payment of the appropriate duty and informing them of the last date upon which payment may be made (“the payment deadline”).
- 9.3 The payment deadline must be twenty working days after the date of the offer letter.

- 9.4 The grantees shall issue a short-term non-renewable licence within five working days of receipt of a cleared payment provided that the payment is received (and cleared if necessary) no later than 5.00pm on the payment deadline.
- 9.5 The grantees shall not issue a short-term non-renewable licence until payment is made and if payment has not been received (and cleared as necessary) by 5.00pm on the payment deadline, the offer of a short-term non-renewable licence will lapse and the grantees will be entitled to offer the short-term non-renewable licence to the next individual ranked on the file of unsuccessful applicants.
- 9.6 A short-term non-renewable licence issued under this section cannot authorise an individual to fish for cockles for the entire duration of the fishing season to which it relates.
- 9.7 Allocation of a short-term non-renewable licence under this section does not entitle an individual to allocation of a licence (short-term non-renewable or otherwise) in subsequent seasons under section 8.5 above.
- 9.8 Individuals who receive an offer of a short-term non-renewable licence under this section will retain their place on the file or the issue of a licence under section 9.2 above irrespective of whether they accept or decline the offer of a short-term non-renewable licence.

10 ISSUE OF APPRENTICE LICENCES

- 10.1 After year 3 of the regulated fishery, the grantees may issue up to 3 apprentice licences in each year. An apprentice licence is a licence which is issued subject to the terms set down in the grantee's Apprentice Scheme and to the supplementary licence conditions identified in the grantee's Management Plan.
- 10.2 The decision to issue apprentice licences, including the number of such licences, will be at the discretion of the grantees and based on the results of both the annual stock assessment of the fishery and the appropriate assessment to be carried out in accordance with the Habitats Regulations.
- 10.3 Should the grantees decide to issue 3 (or fewer) apprentice licences, it shall publicise for applications to be submitted to it through the issue of a press release. It shall also write to all licence holders, all members of Sea Fisheries Liaison Group and all individuals held on file who meet the age criterion set down in paragraph 10.4 (a) below.
- 10.4 An application for an apprentice licence will only be accepted by the grantees where the applicant has demonstrated, through the information submitted with their application, that he or she:
- (a) Is aged between (and inclusive of) 16 and 24 years of age on 1 July in the first season of the apprentice scheme running;
 - (b) has secured the sponsorship of an existing licence holder who is willing to abide by the terms of the grantee's Apprentice Scheme; and
 - (c) can provide certificates from a recognised training provider in Sea Survival and First Aid.
- 10.5 The following information should be submitted together with an application for an apprentice licence, in order to provide the grantees with evidence as to the qualifying criteria listed in paragraph 10.4 above:
- (a) the applicant's birth certificate;
 - (b) written confirmation from a licensee that they are willing to act as a sponsor; and

- (c) copies of the Sea Survival and First Aid certificates obtained, together with contact details of the training providers should be submitted together with the application.
- 10.6 If an applicant for an apprentice licence is unable to demonstrate that he or she meets the qualifying criteria listed in paragraph 10.4 then their application for an apprentice licence shall be refused.
- 10.7 In the event that the grantees accept more applications for apprentice licences than the number of apprentice licences available, the grantees will determine which applicant[s] shall be issued with apprentice licence[s] by way of a random draw. The grantees will maintain a reserve list for unsuccessful qualifying applicants, whose details will be added in the order in which they were drawn.
- 10.8 All applicants will be informed of the outcome of their application prior to the start of the season in any year the apprentice scheme is proposed to start, or as soon as possible thereafter.
- 10.9 Where the grantees propose to offer an applicant an apprentice licence, the grantees will write to the individual advising them of the offer of an apprentice licence on payment of the appropriate duty and informing them of the last date upon which payment may be made (“the payment deadline”).
- 10.10 The payment deadline must be twenty working days after the date of the offer letter.
- 10.11 The grantees shall issue an apprentice licence within five working days of receipt of a cleared payment provided that the payment is received (and cleared if necessary) no later than 5.00pm on the payment deadline.
- 10.12 The grantees shall not issue an apprentice licence until payment is made and if payment has not been received (and cleared as necessary) by 5.00pm on the payment deadline, the offer of an apprentice licence will lapse and the grantees will be entitled to offer the apprentice licence to the next applicant on the list of unsuccessful qualifying applicants referred to in 10.7 above.

11 APPRENTICE LICENCES IN SUBSEQUENT YEARS

- 11.1 Before the commencement of the second season following the grant of the apprentice licence, the grantees shall invite all apprentice licencees who are considered by the grantees to have made adequate progress towards successful completion of the apprenticeship in accordance with the Apprentice Scheme to apply for an apprentice licence for a second year.
- 11.2 Except in exceptional circumstances, apprentice licencees shall not be invited by the grantees to apply for further apprentice licences thereafter.
- 11.3 Before the commencement of any fishing season), any individual who has held an apprentice licence for two preceding fishing seasons and is considered by the grantees to have successfully completed their apprenticeship in accordance with the Apprentice Scheme shall be invited to apply for a licence for the fishery, in accordance with paragraph 8.1 of this Policy.
- 11.4 Any apprentice licencee who fails to successfully complete their apprenticeship in accordance with the Apprentice Scheme shall not receive an offer of a licence for the fishery.
- 11.5 Any individual who applies for but does not receive an offer of an apprentice licence under section 10 or 11 of this Policy will retain their place, if any, on the file for the issue of a licence under sections 8.5 or 9.2 if applicable.

LICENCE FEES

The licence fee payable will be calculated annually based on the predicted costs of monitoring, management and enforcement for the year including staff time and on-costs:

$$\text{Licence Fee} = (A \times B / N)$$

Where:

A = annual working days on survey, enforcement, administration and other related work.

B = staff cost per working day £.

N = number of licences

It is the grantee's intention, whenever possible, to open cockle beds for exploitation every year. However, in any year when it is necessary to close all beds to protect spawning stocks a proportion of the licence fee may be refunded to all current licence holders once survey, enforcement and other costs have been calculated.

Staff costs are also likely to be lower in such years. Similarly, there may be a refund in years when stocks are low.

Fees for short-term non-renewable and apprentice licences will be calculated on the same basis.