

EXPLANATORY MEMORANDUM TO
THE DEE ESTUARY COCKLE FISHERY ORDER 2008

2008 No. 1472

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order will enable the Environment Agency to carry into effect and enforce regulations and restrictions relating to the dredging, fishing for and taking of cockles within a designated area of the Dee Estuary. The Agency will be able to manage and conserve the wild fishery by the use of licences to control the number of people who fish there and make regulations and levy tolls for the benefit of the fishery. Unlicensed persons will be excluded from the regulated area except for individuals taking no more than 5 kg of cockle daily by hand for personal consumption.

3. Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]

3.1 None.

4. Legislative Background

4.1 In 2004 the Agency made an application under the Sea Fisheries (Shellfish) Act 1967 to the Secretary of State and Welsh Ministers for a regulating Order in respect of cockles in the Dee Estuary, to grant them a right of regulating a fishery for 20 years. As the fishery straddles the border between England and Wales, the application was progressed jointly by the Secretary of State (acting for England) and Welsh Ministers (acting for Wales), and a single Order was made for the designated area.

4.2 The functions of the National Assembly for Wales were transferred to the Welsh Ministers by the Government of Wales Act 2006 on 25 May 2007.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure, and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Section 1 of the Sea Fisheries (Shellfish) Act 1967 allows the Secretary of State and Welsh Ministers to make regulating Orders granting rights to carry into effect and enforce regulations and restrictions relative to the dredging, fishing for and taking of any specified shellfish within a designated area. The purpose of a regulating Order is to help to preserve fisheries which might otherwise be at risk of over-exploitation.

- 7.2 The Act requires that all applications for regulating orders must be subject to public consultation. The Order must be advertised in draft form and all interested parties given the right to state their views and objections. If the applicant is unable to secure the withdrawal of these objections then, provided that they are not frivolous or irrelevant, the Act requires that a public inquiry is held and chaired by an Inspector appointed by the Secretary of State or Welsh Ministers.
- 7.3 Application for the proposed Order was subject to public consultation which ended on 13 February 2006. 36 representations to the making of the Order were received, and the Secretary of State and Welsh Ministers considered that 25 of these contained or constituted objections, and that none of them were frivolous or irrelevant. As none were withdrawn under the terms of the Act a public inquiry was held from 5 – 8 June 2007.
- 7.4 The Inspector's report of the inquiry concluded that the Order be made subject to minor amendments being made to the draft Order.
- 7.5 The Secretary of State and Welsh Ministers considered the findings of the consultation and public inquiry and concluded that the Order should be made.

8. Impact

- 8.1 An Impact Assessment is attached to this memorandum.
- 8.2 The impact on the public sector is that the Order places restrictions on other fishing practices which may take place within the area of the Order. These include practices that would damage or place at risk the cockle stock for which the Order has been given.

9. Contact

Pansy Barrett at the Department for Environment, Food and Rural Affairs Tel: 0207 238 4608 or e-mail: pansy.barrett@defra.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency: Defra	Title: Impact Assessment of Dee Estuary Cockle Fishery Order 2008	
Stage: Final	Version: Final	Date: 4 June 2008
Related Publications:		

Available to view or download at:

<http://www.>

Contact for enquiries: Pansy Barrett

Telephone: 0207 238 4608

What is the problem under consideration? Why is government intervention necessary?

Current management of the Dee estuary by the Environment Agency under byelaws is inadequate because the number of those exploiting the cockle fishery when the cockle beds are open can not be controlled. The high price commanded by cockles in the estuary attracts large numbers of fishers whose presence exacerbates pressure on the fishery causing damage to the beds, over-exploitation of stocks, adverse impacts on wildlife and incidents of disturbance. The negative effects of the fishing activity (which is non-excludable) on others, such as excess traffic, noise and social disturbance does not appear to influence the decision of most individuals of whether to fish or not. Intervention is necessary to provide the Agency with powers to conserve and better manage the fishery.

What are the policy objectives and the intended effects?

Under the terms of the Sea Fisheries (Shellfish) Act 1967 a single regulating Order of 20 years is to be granted jointly by the Secretary of State and Welsh Ministers to the Agency to enable the Agency to introduce quotas for cockle stocks and a system of licensing to restrict the number of persons authorised to exploit the fishery. The Order will allow the Agency to enforce regulations and restrictions relative to the dredging, fishing for and taking of cockles, over a designated area expanding to 10,656 hectares.

What policy options have been considered? Please justify any preferred option.

There are two policy options:

Option 1 - current byelaw management; and

Option 2 - introduction of a regulating Order.

Option 2 is the preferred option as it will allow the Agency to introduce additional restrictions and regulations on the fishery and reduce the number of participants in the fishery to manageable proportions. This option will better preserve and improve the fishery which is at risk of over-exploitation

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Each July/August the Secretary of State and Welsh Ministers will review the management of the fishery when assessing the Agency's annual returns for the preceding year ending 31 March.

Ministerial Sign-off

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Jonathan ShawDate: 8th June 2008

Summary: Analysis & Evidence

Policy Option: 2	Description:
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Agency liable for public inquiry costs, ca. £50K. Estimated annual cost of 50 licences issued to fishermen is £49500. £1170 administrative costs to fishermen applying for a new licence (ca. 2 hours more to complete application papers for licences than for permits). £292 administrative costs to renew their licence in subsequent years (ca.0.5 hours to complete registration forms). Total cost based on 20 year appraisal period.
	One-off (Transition)	Yrs	
	£ 51k	1	
	Average Annual Cost (excluding one-off)		
£ 50k		Total Cost (PV)	£ 784k
Other key non-monetised costs by 'main affected groups' Costs of lost fishing opportunity for current permit holders not granted a licence will vary between £0 when the beds are closed and up to £14000 when the beds are open based on average cockle landings of 14 tonnes for 2001- 2006 with a cockle price of up £1000 per tonne .			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Savings of approximately £200,000 due to reduced involvement in management of fishery by bodies other than the Agency because of improved management and regulation of fishery. Total benefit based on 20 year appraisal period.
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
£ 200k		Total Benefit (PV)	£ 2,942k
Other key non-monetised benefits by 'main affected groups' Reduced social nuisance, increased environmental protection and improved safety ensuring sustainability of cockles. Consistent and regular income for local business (i.e. processors and merchants). Additional returns to licensed fishermen (ranging from £0 – 112k) as improved fishery management means longer fishing seasons and more certainty of beds being open.			

Key Assumptions/Sensitivities/Risks

Cockle stocks remain at sustainable levels and are not unduly affected by other environmental factors.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £ 2,158k	NET BENEFIT (NPV Best estimate) £ 2,158k
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What is the geographic coverage of the policy/option?	Dee Estuary			
On what date will the policy be implemented?	1 July			
Which organisation(s) will enforce the policy?	Environment Agency			
What is the total annual cost of enforcement for these organisations?	£ 49500			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£ N/A			
What is the value of changes in greenhouse gas emissions?	£0			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro 292	Small	Medium	Large
Are any of these organisations exempt?	No	N/A	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of	£ £300 annual	Decrease of	£ Net Impact £ £300 annual

Key: Annual costs and benefits: Constant Prices (Net) Present Value

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

1 Introduction

1.1 The Environment Agency currently manages the Dee estuary under byelaws using the powers of a Local Sea Fisheries Committee by virtue of the Sea Fisheries (Regulation) Act 1966, s. 18. It has been faced with criticism from local MPs, fishermen and the general public about the large number of people who fish for cockles when the cockle beds are open giving rise to over-exploitation of the cockle stocks and damage to the fishery and social nuisance. In 2005 over 500 people exploited the fishery for the 3 days that one bed was open over an area of 80 ha. The beds have been closed since August 2005 because of low cockle stocks.

2 Rationale for government intervention

2.1 Government intervention is necessary to provide the Agency with powers to better manage and conserve the fishery. The byelaws have proved inadequate as a means of managing the fishery mainly because the number of participants cannot be limited nor can individual quotas be set. This lack of control has proved significant during periods when the price commanded by wild cockles has been high with large numbers of people being attracted to the fishery.

2.2 The only means of control offered by the byelaws is closure of the beds. When unmanageable numbers of people descend on the beds to take cockles, the only way to avoid over-fishing, or damage to the beds or the social nuisance that could ensue, is to close the beds, usually for long periods. This in turn exacerbates the problems because, when the beds are re-opened, participants naturally fish for as much cockle as they can take in with the expectation that they will have little time in which to take it. This causes damage to the beds, over-exploitation of the cockle stock, adverse impacts on wildlife, incidents of disturbance or social nuisance and health and safety concerns. Enforcement is also a major problem with large numbers of participants.

2.3 Impacts on wildlife in the vicinity of the fishery are significant as the estuary is one of the UK's top habitats for wetlands, shorebirds, wild fauna and flora and has been classified as a Special Protection Area under the Wild Birds Directive, a candidate Special Area of Conservation under the Habitats Directive and a Ramsar site under the Ramsar Convention.

2.4 The granting of a regulating Order will provide the Agency with powers to enable it to better manage and conserve the cockle stocks and meet its environmental obligations, as detailed above. Specifically, the Agency will be able to introduce quotas for cockle stocks and a system of licensing to restrict the number of persons authorised to exploit the fishery and be able to set individual quota limits (in addition to an overall quota limit for the fishery). The Order allows the Agency to enforce regulations and restrictions relative to the dredging, fishing for and taking of cockles.

2.5 Regulating Orders are considered to be an effective tool in the management of the exploitation of shellfisheries. Regulating Orders are proactive tools that allow for a more tailored response to pressures on shellfisheries than byelaws. As such their increased use in appropriate areas is considered to be beneficial. There are also likely to be increasing pressures on the inshore fishing sector if current fishing trends continue. Proactive management is required to ensure that valuable activities such as fishing for shellfish and cultivation can continue whilst ensuring, so far as possible, that this does not prevent other activities taking place.

3 Background

- 3.1 The estuary comprises 5 main cockle beds. The beds at Bagillt, Mostyn and on the Salisbury Banks (the latter consists of a main bank and a separate small southern outcrop) are on the Welsh side of the Estuary: the beds at West Kirby and Thurstaston are on the English side.

Agency application for a regulating Order

- 3.2 In September 2004 the Agency made an application under the Sea Fisheries (Shellfish) Act 1967 ("the Act") to the Secretary of State and Welsh Ministers for a regulating Order in the estuary in respect of cockles to regulate the fishery for 20 years.
- 3.3 Along with its application form, the Agency submitted a detailed management plan which sets out its reasons for applying for the Order. The plan includes the provisions that the Agency wants the Order to contain, factual matters such as the shellfish species to be covered, the area of the proposed fishery and the types of cultivation methods they intend to use.
- 3.4 Before submitting its formal application the Agency obtained written consents from those with rights to land under the area of the Order. The Agency also consulted other users of the area, including other fisheries, recreational, conservation and sporting interests along with navigation and harbour authorities.
- 3.5 As the fishery straddles the border between England and Wales, the application has been progressed by the Department for Environment, Food and Rural Affairs and the National Assembly for Wales together, and a single order will be made.

Appropriate Assessment

- 3.6 English Nature was notified by the Agency in 2001 of its intention to apply for a regulating Order and was supportive of the application but commented that an appropriate assessment was required in accordance with the terms of the Habitats Directive under Regulation 48, which would reflect environmental impacts on the estuary.
- 3.7 Subsequently the Agency prepared an appropriate assessment which showed that its management plan for the fishery would have no adverse affect on the integrity of the European site.

Public consultation on regulating Order

- 3.8 Under the terms of the Act the Agency's application (including the draft Order and management plan) for a regulating Order was subject to a one month public consultation in the local area which ended on 13 February 2006.
- 3.9 36 representations to the making of the order were received, and the Secretary of State and Welsh Ministers considered that 25 of these contained or constituted objections, and that none of them were frivolous or irrelevant. As none were withdrawn under the terms of the Act a public inquiry was triggered. Under the Act the Agency are liable for all costs relating to the public inquiry of £50,000 on average. Costs for previous public inquiries have ranged from £30,000 - £100,000.
- 3.10 13 representations fully supported the draft Order and the proposed method of managing the fishery set out in the management plan. 3 sought confirmation relating to particular aspects of the scheme and the remaining 20 disputed an element of the methods proposed to regulate and manage the fishing. A further 5 were received over the period leading up to the inquiry.
- 3.11 The Secretary of State and Welsh Ministers appointed an Inspector to conduct the inquiry and produce a report of his findings. The inquiry was held from 5 - 8 June 2007. The Inspector's report concluded that the Order be made subject to minor amendments being made both to the draft Order and management plan.

4 Policy options

Option 1 (Current byelaw management)

- 4.1 To date the Agency has managed the fishery using their byelaw making powers under the Sea Fisheries (Regulation) Act 1966 as a Sea Fisheries Committee. The byelaws enable the Agency to prescribe limits on size, fishing method, close season and a requirement for permits. Returns on cockle catches are required from permit holders but are rarely provided. The Agency is not empowered to recover its costs under the 1966 Act and it is difficult to use byelaws to limit the number of permits issued.
- 4.2 The Agency's management regime involves the following tasks:
- (A) throughout the year (whether the beds are open or not):
- (1) undertaking stock monitoring surveys in the spring to estimate the level of stock that could be taken from each bed whilst leaving a required minimum stock density. The estimated total surplus is calculated as the 'total allowable catch' (TAC);
 - (2) enforcing the existing byelaws; the environmental crime team perform routine patrols and respond to any illegal incidents reported.
- and
- (B) when the beds are open:
- (3) estimating the duration (in days) of opening by dividing the TAC by the estimated daily catch; the latter assumes that each permit holder can gather 0.5 tonnes of cockles per day; a similar calculation can be applied to each individual bed;
 - (4) administering the permit system;
 - (5) administering catch returns. Over the 4 years when beds have been open between 2000 and 2006, the number of catch returns has never exceeded 17% of the number of permits issued and is usually less than 4%;
 - (6) maintaining a significant presence at access points to enforce the byelaws; liaising with other agencies, (such as the police or the Marine and Coastguard Agency) to seek a consistent approach to regulating the fishery.

Costs

- 4.3 Under current byelaw management there are environmental and social nuisance costs. Large numbers of fishermen damage the beds and other intertidal features through trampling, raking and discards. Nuisance is caused through noise, littering and large numbers of vehicles/lorries gathering at access points.
- 4.4 The Agency's current costs for managing the fishery are variable but are estimated to be around £50K.
- 4.5 Ensuring the safety of those involved in the fishery can also be costly. In 2005 the Salisbury Bank was opened briefly. The joint costs to the Environment Agency, the police (North Wales and Merseyside), the Maritime and Coastguard Agency and the Health and Safety Executive in providing safety cover for inexperienced fishermen was estimated by the Agency to be over £250,000 for two fishing days. Moreover, on almost every occasion when a bed has been opened, the Maritime and Coastguard Agency reported safety incidents. The inability to restrict the number and the recipients of permits contributes to the need for such expenditure. Under byelaw management, the Agency is unable to recover its costs from the fishermen.

Benefits

- 4.6 Under current byelaw management, there is essentially open access to the fishery with, in some years, permits for over 1,000 individuals to gather cockles from the beds being issued. These individuals are benefiting from commercial and personal cockle consumption. However, the fishery has been closed since August 2005 as stock levels of takeable cockles were below the minimum threshold for exploitation. Given this it is clear that the benefits to these individuals are variable and uncertain.

Option 2 (Introduction of a regulating Order)

The Agency submitted an application for a regulating Order in September 2004 in respect of cockles for the Dee estuary. As the proposed fishery straddles the boundary between England and Wales the Order is to be made by both the Secretary of State (acting for England) and Welsh Ministers (acting for Wales).

Costs

4.7 The Order will authorise a licensing system, and the details of its proposed operation are contained in the Agency's management plan. Licences will be issued annually for a period of up to one year. The Agency intends to restrict the issue of full licences to no more than 50 each year to minimise any adverse impacts on the conservation sites and ensure a sustainable fishery. A toll fee for the licences has been set at £992. However the Order will allow the number of licences to be varied if circumstances change.

4.8 Individuals currently fishing in the area who are not issued with a licence will no longer be able to fish apart from for personal consumption up to the limits as discussed above. The table below sets out the number of permits issued between 2001 and 2006 in the area and the estimated catch returns. However not all permit holders exercised their right to fish. The Agency estimates that on average each year 400 permit holders exploited the fishery when the beds were open.

Estimated catch returns for 2001 – 2006 are as below:

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

2002: 1071 permits issued. West Kirby and Salisbury beds yielded 1500 tonnes in 7 days.

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

2004: 0 permits issued. All beds closed.

2005: 565 permits issued. Salisbury bed yielded 500 tonnes in 3 days.

2006: 0 permits issued. All beds closed

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

4.10 The current price of live cockles varies between £300 and £1000 per tonne. This gives some indication of the likely cost of lost income to commercial fishermen who are not issued with licenses. Assuming an average number of fishermen of around 400 less the 50 licensees, this suggests that around 350 individuals will be affected. On average over the period the catch return per fishermen was estimated at 14 tonnes. Applying the average 2002 cockle price this would imply a lost income of £7700; applying the current price of live cockles of £1000 per tonne would imply a potential lost income of £14000. However since the fishery has been closed since August 2005 this is an uncertain source of income for fishermen.

4.11 The number of licences to be issued will be determined by the Agency according to the number of licences that the fishery might sustain, bearing in mind the range of catches achieved, advice from the local Dee Sea Fisheries Liaison Committee, the aims of the Order and the aim to minimise and adverse impact on the conservation sites.

4.12 Licences will be allocated to those people who have a track record of commercial cockling in the fishery, which would be assessed on a points based system. Each year licences will be allocated

to all licence holders from the previous year, unless they do not wish to continue fishing. In those circumstances any shortfall will be made up from a waiting list of other applicants.

- 4.13 The Agency estimate that fishermen applying for a licence should allow for up to 2 hours more to complete and prepare their applications papers than for permit applications. For 50 fishermen the annual administrative burden will be £1170 at a wage rate of 11.70 per hour based on 2007 prices (or £1082 based on 2005 prices).

The wage rate is calculated from the Office of National Statistics Annual Survey of Hours and Earnings using the skilled agricultural category code 51, which may be accessed on the internet at

http://www.statistics.gov.uk/downloads/theme_labour/ASHE_2007/tab2_1a.xls

Mean wage (per week)	316.8
Mean wage (per hour)	$316.8/35 = 9.05$
Mean wage per hour including 30 % overheads	$9.05 \times 1.3 = 11.70$
Wage rate	11.70
Administrative burden for 50 licence applications each taking 2 hours (2007 prices)	$50 \times 2 \times 11.70 = 1170$

The administrative burden in terms of 2005 prices is calculated from the Office of National Statistics data on average earnings which may be accessed from the internet at <http://www.statistics.gov.uk/STATBASE/tsdataset.asp?vlnk=392&More=N&All=Y>

Administrative burden for 50 licence applications each taking 2 hours (2005 prices)	$1170 \times 0.925 = 1082.25$
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- 4.14 On renewal of licences the annual administrative burden for 50 fishermen will be £292 based on 2007 prices (or £271 based on 2005 prices), allowing up to 30 minutes for completion of renewal papers. The fishermen need to renew their licences once every year.

Administrative burden for 50 licence renewals each taking 30 minutes (2007 prices)	$50 \times 0.5 \times 11.70 = 292.50$
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Administrative burden for 50 licence renewals each taking 30 minutes (2005 prices)	$292.5 \times 0.925 = 270.57$
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- 4.15 The 'toll' is based on the estimated annual costs of the Agency managing the fishery (£49500) divided by the 50 licences to be issued.

- 4.16 For comparison the Dee estuary draft net salmon and migratory trout fishery imposes a licence fee of £533, estimated as varying between 19% and 33% of income since 2001. In the Burry Inlet, fees (of £685 in 2006) have varied between 0.6% and 6% of estimated gross average income.

Benefits

- 4.17 Limiting the number of fishermen entitled to take cockles from the beds and ensuring that those who do are suitably qualified will alleviate the current problems providing benefits of increased

environmental protection of the area and reduced social nuisance. These benefits have not been quantified but can be considered to be relatively significant in the estuary. Currently fishing has a significant impact on protected features but this is expected to change to no impact. Nuisance can persist for a few days or even months.

- 4.18 In future, with the reduction in problems outlined above, we anticipate that involvement in the management of the fishery by bodies other than the Agency will reduce leading to savings of at least £200,000 (see paragraph 4.5 where the savings relate to the total costs of the organisations involved in the operation of the fishery less the Agency's on-going costs to manage the fishery). Under a regulating Order, the Agency is able to charge fishermen to recover costs associated with regulating the fishery.
- 4.19 The Order should provide a more consistent and regular income for licensed fishermen and reduce the risk of unexpected and early closures of the beds to prevent overfishing and to allow regeneration. The average recorded catch for 2001 - 2006 estimated by the Agency was 14 tonnes per person assuming that 400 were fishing. Assuming 50 licence holders then the average annual catch per licence holder would be 112 tonnes. Therefore the annual value of landings per fishermen is estimated at up to £112,000 for a 5 year period based on £1000 per tonne cockle price. The value of the landings will vary depending on the current cockle price. For comparative purposes, the catch from the Burry Inlet, a similar fishery to the Dee ranged from 557 to 3400 tonnes for 55 licence holders between 2003 and 2005 i.e. from approximately £10,000 to £62,000 per licence holder.
- 4.20 It is not possible to quantify the income of licence holders as we do not hold information on the outgoings of individuals involved in the fishery or on earnings from other fishing activities they may be involved in.
- 4.21 Under the current situation the majority of those exploiting the fishery do so for commercial gain, the number of those collecting cockles for personal consumption is difficult to quantify. Currently, although individuals are permitted to remove up to 25kg of cockles for personal consumption over a 7 day period, the fishery has only been open intermittently in recent years, with the result that, in practice, non-commercial fishermen have often been limited to an annual personal allowance of just 25kg. Personal consumption can apply to an individual and their family. The Order provides an exemption from the need to hold a licence (or pay a toll) where an individual takes no more than 5 kg of cockle daily by hand for personal consumption. If the Order engenders a typical annual catch of some 1500 tonnes, and the opening of the fishery for about 60 days each year, then a personal allowance of 5kg a day would provide for a maximum annual personal consumption of some 300kg. The Agency estimate that up to 20 individuals may take up this option per year. Individuals currently fishing within these limits will not incur any costs from the order and should benefit from the greater certainty of keeping the beds open which it confers.

5 Risks

Following scientific analysis of the stock levels the Agency advises that the beds should be opened this year as the regeneration of the stock is now such that if the cockles are not fished this season future stocks may be limited. Mortality will be dependent on factors such as summer temperatures, winter storms and the predation of birds. There are continuing risks with all shellfisheries that changing environmental factors may reduce stock levels in future years and so affect the returns from the fishery.

6 Conclusion

- 6.1 The current byelaw management system is not flexible or powerful enough to limit access to the fishery or address the associated problems. The environmental, social, enforcement and safety

cover costs of the current situation are considered to outweigh the benefits to individuals, therefore this option is not considered viable.

- 6.2 Option 2 is the preferred option because the environmental and social benefits combined with the reduced total enforcement costs for other bodies previously involved in policing the fishery and the increased certainty surrounding returns for licence holders from a well-managed fishery outweigh the total costs. The net benefits of option 2 compared to a baseline of doing nothing are considered to be greater. A regulating Order provides an effective legislative mechanism to manage the fishery in a way that should avoid the current problems caused by intensive levels of fishing, for example by limiting the number of permits issued and setting individual quotas. A fishery operating with 50 licences will be easier for the Agency to manage, is sustainable and will encourage self-policing as each of the licencees will enjoy a greater sense of ownership. This number of licencees is also consistent with a precautionary approach to safeguard the conservation features of the estuary.

7 Annual review of Order

- 7.1 The Secretary of State and Welsh Ministers will review the Agency's management of the Order each July/August. Data from the Agency's annual accounts and returns and production details of how the fishery is progressing will be used to inform the review.
- 7.2 If the Secretary of State and Welsh Ministers are not satisfied the Agency are managing or developing the fishery appropriately or the fishery is not proving sustainable, the 1967 Act allows them to withdraw the Agency's grantee rights.

8 Competition Assessment

Part-time gatherers will not be permitted to remove cockles from the fishery except for personal consumption. Unfair competition between professional fishermen and casual participants will be removed, thereby securing a reasonable income for those with a long term interest in the operation of the fishery. Shellfish dealers and processors will benefit from increases in harvest size and security of supplies and therefore income.

9 Small firms impact test

The licensees are likely to be full-time, local commercial fishermen with a track record of fishing for cockles in the Dee estuary. 50 licensees should be able to earn a regular and significant income. There will be no impact to sea anglers. All commercial fishermen in the area are considered to be small firms, however this order treats all firms equally.

10 Legal aid

We do not anticipate any increased burden on the courts as a result of this measure. In fact, it can be argued that fewer fishermen taking part in the fishery will reduce the likelihood of offences taking place.

11 Environmental impacts

Limiting the number of licences will reduce the risk of over-exploitation of the cockle stocks. The wider ecological impact on the cockle beds and disturbances to birds will be much reduced. Licensed fishermen are less likely to take undersize cockles, leave debris or damage the beds.

12 Social impacts

Smaller numbers of fishermen will minimise any nuisance caused to local residents and harvesting of cockles will become the norm rather than the exception on the estuary. The fishermen are likely to have greater 'ownership' of the fishery and engage with the Agency over its management, policing and 'well-being'. Licensees are likely to be knowledgeable fishermen, aware of safety risks and holding the necessary experience, training and equipment to fish safely.

13 Health impact assessment

Reduced risks of injury to fishermen because there will be a more regulated fishery with fewer participants. Likewise there will be less social disturbance to local residents and therefore improved wellbeing.

14 Race equality assessment

There are no race equality impacts associated with this measure.

15 Gender equality assessment

No gender equality impacts have been identified.

16 Disability equality assessment

No disability equality impacts have been identified.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes/No	No
Sustainable Development	Yes/No	No
Carbon Assessment	Yes/No	No
Other Environment	Yes	No
Health Impact Assessment	Yes/No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	Yes/No	No
Rural Proofing	No	No

