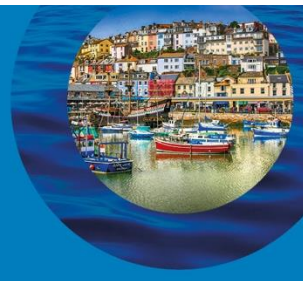




Marine
Management
Organisation

Management of Marine Non-Licensable Activities in England



...ambitious for our seas and coasts

1.0 Introduction

Marine non-licensable activities are those which do not require a marine licence. These include shore based activities such as bait collection and beach recreation as well as water based activities such as sailing and motor boating.

This paper sets out the roles of different authorities in the management of marine non-licensable activities in England, with a focus on those that lie outside the remit of the Marine Management Organisation (MMO) in accordance with better regulation principles¹. The principle centres on reducing regulatory burdens, particularly in areas of regulation overlap.

2.0 The role of key authorities

2.1 The Marine Management Organisation

Under section 129 of the Marine and Coastal Access Act 2009, the MMO may make one or more byelaws for the purpose of furthering the conservation objectives stated for a Marine Conservation Zones (MCZ) in England². Byelaw making powers include “prohibiting or restricting entry into, or any movement or other activity within the MCZ” and “prohibiting or restricting the anchoring of any vessel within the MCZ”¹. The MMO also has the powers to make emergency and interim byelaw where there is an urgent need to protect a site². These powers are extended to European Marine Sites (EMS) under Section 38 of the Conservation of Habitats and Species Regulations 2010³. European Marine Sites include Special Areas of Conservation (SAC) and Special Protection Areas (SPA).

2.2 Statutory Nature Conservation Bodies

Natural England may make byelaws to protect SSSIs under section 28R of the Wildlife and Countryside Act 1981, incorporating section 20 of the National Parks and Access to the Countryside Act 1949⁴. Natural England can request a Special Nature Conservation Order (SNCO) from the Secretary of State to protect the natural features of EMS from damage⁵. Where an SNCO is in place, Natural England can serve a 'stop notice' on behalf of the minister, which is a legal notice, informing the recipient that they must not carry out a particular activity⁴. Natural England also has byelaw powers for intertidal Sites of Specific Scientific Interest (SSSIs) and National Nature Reserves (NNRs)⁴.

2.3 Inshore Fisheries and Conservation Authorities

Under the Marine and Coastal Access Act 2009 (section 155), Inshore Fisheries and Conservation Authorities (IFCAs) have the powers to make byelaws in their district². IFCA powers cover the exploitation of sea fisheries resources which includes recreational fishing activities such as sea angling and bait digging⁴.

2.4 Harbour Authorities

Whilst most Harbour Authorities are limited to make byelaws for navigation, some Conservancies have a wider remit including conservation⁴. Some harbour authorities can restrict which parts of their harbour are available for navigation, however, this may depend

¹ <https://www.gov.uk/government/collections/better-regulation-in-defra>

² [The Marine and Coastal Access Act \(2009\)](#)

³ [The Conservation of Habitats and Species Regulations \(2010\)](#)

⁴ [The Wildlife and Countryside Act 1981](#)

⁵ [Managing marine recreational activities: a review of evidence \(NECR242\)](#)

on their powers laid out in the Harbour Revision Order or Harbour Empowerment Order⁴. The power to impose restrictions for nature conservation rather than navigational purposes again varies between harbour authorities⁴.

2.5 Local Authorities

Under the Byelaws (Alternative Procedure) (England) regulations 2016, Local Authorities (District Councils and London Borough Councils) have the authority to make and amend byelaws relating to the 'seashore'⁴. This includes activities such as access and dog walking. Under the Marine and Coastal Access Act 2009, public authorities must take any authorisation or enforcement decision in accordance with the appropriate marine policy documents (Marine Plan where present, otherwise the Marine Policy Statement), unless relevant considerations indicate otherwise¹. Non authorisation or enforcement decisions capable of affecting the UK marine area must also have regard to the appropriate marine policy documents¹. In general, Local Authorities are responsible for decisions down to the mean low water mark. The Wildlife and Countryside Act 1981 and Conservation of Habitats and Species Act 2010 also place legal duties on the Council where it is a landowner^{2, 3}.

3.0 Management Options

A study (NECR242) commissioned by Natural England and the MMO on the management of marine recreational activities included the following examples of management strategies⁴:

On-site access management, for example:

- designated areas for particular activities (voluntary agreements or underpinned by byelaws);
- provision of designated access points e.g. slipways, in locations likely to be away from nature conservation access (voluntary or permit condition or underpinned by byelaw)⁴.

Education and communication with the public and site users, for example:

- signs, interpretation and leaflets;
- voluntary codes of conduct and good practice guidance;
- wardening;
- provision of off-site education/information to local clubs/training centres and/or residents⁴.

Legal enforcement of, for example:

- byelaws which can be created by a range of bodies including regulators, Local Authorities and landowners (collectively referred to as Relevant Authorities);
- permitting or licence conditions⁴.

4.0 MMO focus on marine non-licensable activities.

The MMO is responsible for the management of marine non-licensable activities which take place within its jurisdiction (0-12nm). However there are many foreshore activities, which already fall within the remit of existing Regulators. The MMO does not propose adding further layers of management unnecessarily and as such considers the following activities outside of scope due to existing regulatory presence.

4.1 Walking (including dog walking)

This category includes walking by individuals with or without dogs on the upper shore or intertidal area⁴.

This activity is in the jurisdiction of the relevant Local Authority and/or the landowner.

In terms of dog walking, some public areas in England and Wales are covered by Public Spaces Protection Orders (PSPOs)⁶. Local councils must let the public know where PSPOs are in place⁵. For example, Fareham Borough Council have used such orders to direct people to put dogs on leads and issue fixed penalty notices to those that are causing a nuisance⁷.

4.1.1 Management Example – Dog walking in the Solent SPAs

In some areas, the need to manage recreational activity (normally increased levels due to new housing development), has led to partnership working between relevant authorities.

The Solent Recreation Mitigation Partnership (SRMP) has the purpose to facilitate joint working by local authorities and other bodies on the implementation of measures which will mitigate the impact of additional recreational activity which will result from planned housing development so that it does not have a significant effect on the three SPAs in the Solent⁸. These SPAs include the Solent and Southampton Water SPA, Portsmouth Harbour SPA and Chichester and Langstone Harbours SPA. SRMP is made up of fifteen local councils, Natural England, the Royal Society for the Protection of Birds, Hampshire & Isle of Wight Wildlife Trust, and Chichester Harbour Conservancy⁷. The brand name of this partnership is Bird Aware Solent⁹. It is funded by developer contributions from house builders⁷. The main recreational issue in this area is dog walking disturbing protected bird populations⁷. Management measures are therefore focused on this as well as general walking. A team of rangers carry out visitor engagement and education, run school visits, put up signage, prepare codes of conduct and carry out responsible dog walking initiatives⁷.

4.2 Motorised and non-motorised land craft

This category is defined as the use of motorised vehicles on the foreshore (including quad bikes, scramble bikes or cars) and the use of non-motorised vehicles (craft) with sails on the foreshore (including sand yachting, kite buggying and landboarding)⁴.

⁴ [Managing marine recreational activities: a review of evidence \(NECR242\)](#)

⁶ [GOV.UK Controlling your dog in public](#)

⁷ [Fareham Borough Council Public Space Protection Order for Dog Control](#)

⁸ [Solent Recreation Mitigation Partnership Terms Of Reference](#)

⁹ [Bird Aware Strategy](#)

This activity is in the jurisdiction of the relevant Local Authority and/or the landowner.

Motorised vehicle use of the foreshore is generally not permitted under the Road Traffic Act 1988 (as amended) and would require landowner permission⁴. Non-motorised vehicles, with a sail, are typically ridden on flat, expansive sandy beaches with suitable access⁴. British KiteSports is the National Governing Body for all forms kite-powered sports, including the land-based activities kite buggying and kite landboarding⁴. British KiteSports has a code of conduct however, this predominately relates to safety⁴. The British Federation of Sand and Land Yacht Clubs (BFSLYC) is the Advisory Body for land yachting (also referred to as sand yachting) activities⁴. BFSLYC has a Code of Practice for Recreational [land] Sailing⁴.

4.2.1 Management Example – Non-motorised land vehicles in Wirral SPA/SAC

As landowner within the Wirral SPA/SAC, Wirral Council granted a licence for Wirral Sand Yacht Club (licence granted further to a Habitat Regulations Assessment)⁶. The Council and the club drew up voluntary measures to minimise impacts on the environment⁶. These measures included zoning (designating an area where the activity is allowed) and temporal restrictions on the activity (only to be undertaken at very low tides when the sandbanks are driest, and not to be undertaken during winter months, to avoid the disturbance of birds)⁶. Compliance with these voluntary agreements is self-policed by the club and only members of the club are allowed to use sand yachts or parakarts⁶.

4.3 General beach recreation

General beach recreation is defined as activities undertaken on the foreshore including beach games, beachcombing, sunbathing, rockpooling, and swimming⁴. This note does not cover any beach activities which use motorised or non-motorised vehicles, wildlife watching, coastering, bait digging, shore angling or walking/dog walking⁴.

This activity is in the jurisdiction of the relevant Local Authority and/or the landowner.

General beach leisure activities are not covered by a national governing body or representative organisation⁴. Good practice messaging regarding minimising impacts on the marine and coastal environment, including wildlife, tend to come from relevant authorities (e.g. Local Authorities) and environmental Non-Governmental Organisations⁴. Examples include interpretation boards, signage (e.g. to prevent trampling on sand dunes or directions to less sensitive sites), leaflets promoting codes of conduct and wardens (often volunteers) encouraging adherence to codes of conduct⁴.

4.3.1 Management Example – Beach management on Cornwall Council beaches

Cornwall Council owns, manages or leases around 40 beaches across Cornwall¹⁰. By owning land or a beach and providing for public use the Council has legal obligations in respect of site management⁹. This therefore includes management of those which are designated as MPAs. To achieve this Cornwall Council has a beach management strategy which sets out a vision for beaches, underpinned by key outcomes⁹.

In addition, Cornwall Council supports the Cornwall Marine and Coastal Code Group. They have produced the Cornwall Marine and Coastal Code Guidelines which includes a section focusing on activities at the coast. Guidelines to avoid disturbance to protected species include paying attention to signs and avoiding trampling vegetation¹¹. These guidelines also cover activities at and in the sea.

¹⁰ [Beach Management Strategy for Cornwall Council Beaches](#)

¹¹ [Marine and Coastal Code Guidelines](#)

4.4 Wildlife watching from the land

Wildlife watching from the land includes viewing a range of marine species such as marine mammals, basking sharks and birds from the land⁴.

This activity is in the jurisdiction of the relevant Local Authority and/or the landowner.

There is no National Governing Body for commercial wildlife watching activities⁴.

4.4.1 Management Example – Seal watching in the Winterton-Horsey Dunes SSSI

Although the Winterton-Horsey Dunes SSSI is not designated for the protection of seals, this site provides a good example of management of wildlife watching from the land.

The Friends of Horsey Seals have worked with Horsey Estate, Natural England, Environment Agency, National Trust and the Broads Authority to initiate a 'seal warden scheme' to protect the grey seal population from disturbance by the public⁶. The scheme encourages visitors to respect the voluntary beach closure between November to January, plus raising awareness and appreciation of grey seals⁶. The group comprises approximately 100 volunteer wardens and the group provides guidance on seal watching, both on site and on their website, where they also promote the Countryside Code and a code of practice for photographers⁶. In addition to encouraging adherence to the voluntary beach closures, the wardens also educate visitors to the site, undertake seal counts, additional monitoring and survey work and prepare the beach for the seal breeding season by litter-picking at the start and end of the breeding season to help clean up after the huge amount of visitors⁶.

4.5 Coasteering

Coasteering is an activity that involves traversing along the intertidal, subtidal and supralittoral zones, using a combination of scrambling, walking and swimming to complete the journey, without the aid of boats, surf boards or other craft. It often involves a series of jumps into deeper water⁴.

This activity is in the jurisdiction of the relevant Local Authority and/or the landowner.

There is no National Governing Body for coasteering activities. However, the National Coasteering Charter (NCC) is an Advisory Organisation which represents companies offering coasteering experiences⁴. The Charter has a Code of Conduct for Coasteering Guides - which includes a specific section on protecting the natural environment, including in relation to avoiding disturbance of seabirds and seals at sensitive times⁴.

Management of coasteering is carried out by voluntary agreements with groups or representative bodies such as the British Mountaineering Council and the NCC⁴.

4.5.1 Management Example – Coasteering in Pembrokeshire

A coasteering feasibility project was undertaken for the whole of the Pembrokeshire coastline by project partners and local activity centres⁶. The project was led by Pembrokeshire Coastal Forum and included the Countryside Council for Wales (now Natural Resources Wales), The National Trust, The National Park Authority, SAC officers, Pembrokeshire Outdoor Charter Group⁶. The project involved the collation of GIS data layers on the distribution of sensitive features that may be impacted upon by the activity of coasteering, which were overlain on maps. Areas were then mapped out where the activity could take place, which areas may require management measures and which areas were designated as too sensitive. This process has been used to create voluntary zonation agreements on suitable and non-suitable areas for commercial coasteering development⁶.

4.6 Bait collection

Under the Marine and Coastal Access Act (2009), bait collection became classed as a sea fisheries resource¹. This activity is therefore in the jurisdiction of the relevant Inshore Fisheries and Conservation Authority. Natural England are also responsible for management of this activity in National Nature Reserves and SSSIs.

4.6.1 Management Examples:

- Eastern IFCA Whelk Permit 2016 (revoked): bait digging falls within definition of 'fishing', although there are no prohibitions with regard to bait digging specifically but permit conditions are flexible.
- Eastern IFCA MPA byelaw 2016 & 2013 (revoked): bait digging falls within definition of 'fishing' and allows the IFCA to manage bait digging through restriction or prohibition.
 - Protected Area Byelaw - Regulatory Notice 4: Prohibits all 'fishing' by handwork within area of Humber Estuary SAC.
- North Western IFCA Protection for European Marine Site Features 2014: No person shall collect bait or work fisheries by hand in the Morecambe Bay EMS without written authorisation from NWIFCA.
- Sussex IFCA Marine Protected Area Byelaw 2017 & 2015 (revoked): bait digging falls within definition of 'fishing'.
 - Schedule 3 - Management measures for Pagham Harbour MCZ limits collection of marine worms (*Annelida*) to 1kg per calendar day.
- Devon & Severn IFCA have conducted an assessment on 'Managing Hand Working Fishing Activity: A focus on Bait Digging'.
- Natural England: Lindisfarne NNR bait digging byelaw. Digging, collection and /or removal of bait of any description by hand or mechanical means is strictly prohibited¹². The Reserve currently provides a voluntary bait-collection zone for anglers to collect lug and rag worm for their own use. The sale of bait is prohibited. The Police and NIFCA support Natural England with this work.

¹² [Lindisfarne National Nature Reserve Blog](#)