



**North  
West  
Water**

0025b/25

BJB/PC

10 February 1989

Dawson House, Great Sankey,  
Warrington, WA5 3LW.  
Telephone Penketh (092 572) 4321

To: Members of the Regional Fisheries  
Advisory Committee:  
T A F Barnes (Chairman); J S Bailey;  
R Bailey; A G R Brown; F Bunting;  
J M Croft; P Ecroyd; J H Fell; W D Grove;  
C Holland; B Irving; Dr F Martin;  
P Neal; J B Oldfield; Dr Pugh-Thomas;  
J B Robinson

Dear Sir

Please attend a meeting of the REGIONAL FISHERIES ADVISORY COMMITTEE  
to be held at 2.15 pm on MONDAY 20 FEBRUARY 1989 at ST BEATHWAITE,  
LEVENS, KENDAL for consideration of the following business.

Yours faithfully

W H CRACKLE  
Secretary and Solicitor

A G E N D A

1. Apologies for absence.
2. Minutes of the last meeting (previously circulated and approved by the Board on 14 November 1988.
3. Memberships (oral report).
4. Fishing Licence Duties - 1990.
5. Ombudsmens Report - Finding of Maladministration.
6. Net Licences Allocation Criteria.
7. Renewal of Lune and Wyre Net Limitation Order.
8. Honorary Bailiffs.
9. Fish Mortality Incidents (oral report).
10. Fishing Byelaws.

11. Any other business

**Note:** Item 10 is Private and confidential and has only been circulated to Members of the Committee.

0520b VMT/PC/ES

MINUTES OF MEETING OF  
THE REGIONAL FISHERIES ADVISORY COMMITTEE  
HELD ON 17 OCTOBER 1988

Present:-

T A F Barnes (Chairman)

R Bailey	C Holland
A G R Brown	B Irving
J M Croft	P Neil
E P Ecroyd	Dr M Pugh-Thomas
J H Fell	

Officers in Attendance

Dr C Harpley	NRA Regional Manager (Designate)
C Newton	Regional Fisheries Manager
B J Briggs	Senior Admin Officer

## 182. APOLOGIES FOR ABSENCE

Apologies for absence were received from J S Bailey, F Bunting, W D Grove, J B Oldfield and J B Robinson.

## 183. MINUTES OF LAST MEETING

Mr Barnes advised members that the headquarters of the National River Authority would probably be at Richard Fairclough School, Warrington, rather than New Town House and that meetings of this Committee after 1 April 1989 were unlikely to be held at Dawson House.

Mr Briggs read a minute from the Water Recreation and Conservation Committee about the proposed abolition of the close season for coarse fish which indicated that the WRCC were still unhappy about that proposal. Commenting on that minute, Mr Barnes said that fishery owners, fishing associations and clubs would be recommended to make their own arrangements for a close season for coarse fish on their waters and it was intended that the Authority would impose a coarse fish close season on Authority waters.

In response to a question from Mr Ecroyd, Dr Harpley said that the Scottish Judiciary did not support the Scottish Police's contention of where the boundary between England and Scotland lay in the Solway, but actions against four haaf netsmen for allegedly fishing in Scottish waters were continuing.

RESOLVED

That subject to minute 178 - Fixed Engine Byelaws, being renumbered 178A, the minutes of the meeting of the Committee held on 23 May 1988 be approved as a correct record and signed by the Chairman.

184. PROGRESS ON SETTING UP NATIONAL RIVER AUTHORITY IN THE NORTH WEST

Mr Barnes informed members that Dr Harpley had been appointed as the Regional Manager for the NRA in the North West and that Mr Newton had been appointed as Regional Fisheries Manager. The Committee congratulated both officers on their appointments. The shadow NRA organisation had been set up and all the management team appointments had been made.

Dr Harpley said that committee structures would remain broadly as at present and would cover fisheries, flood defence and river basin management. Boundaries in the region were being standardised and a map showing the new boundaries would be produced at the next meeting of the Committee. In broad terms the Northern District would cover north and south Cumbria, Central District would cover the catchments of the rivers Wyre, Ribble, Sankey Brook and Alt, whilst the remainder would form the Southern District.

185. CAPITAL PROJECTS

Mr Newton advised members of capital projects being carried out within the Region as follows:-

**SOUTH** An independent fisheries depot for bailiffs equipment and vehicles was being constructed at the former Davenham ET Works where tanks were also available for coarse fish rearing.

Plans were in hand for improving the existing depot at Chorley together with consideration of possible developments for fish rearing in conjunction with Leyland hatchery.

**CENTRAL** The fish counter at Forge Weir was being reconstructed and the Authority were also constructing a fish trap in order to collect hatchery brood stock.

Facilities for validating fish counters were being built and it was hoped that this Authority would become the acknowledged experts on fish counting technology.

**NORTH** Facilities for obtaining eggs for hatchery use were being updated.

The last one of the three fish passes being constructed on the River Caldew was opened on Friday, 14 October and

fish had already been seen upstream of the new pass. The Fisheries Department intended to monitor the effect of introducing salmon on the native brown trout population of a river system which had been devoid of salmon for 100 years. Some 40 to 50 kilometres of spawning ground had been opened up by the development of the Caldew fish passes.

In response to a question from Mr Croft, Dr Harpley agreed that arrangements should be made at some future date for a Committee inspection of the fish passes on the River Caldew and the River Kent.

186. FISHERIES BYELAW REVIEW

Members were advised that the various amendments to fisheries byelaws which they had approved at their last meeting had been sent to MAFF for informal consideration prior to commencement of formal statutory procedures for their implementation. As a result of comments by MAFF some minor cosmetic alterations had been made to the draft byelaws which had subsequently been advertised, the closing date for objections being 31 October 1988.

RESOLVED

That prawns be added to the list of baits which would be allowed in rivers and various named lakes between 15 March and 15 June in any year.

187. SEA FISHERIES BYELAWS - PROGRESS

Members received a report which outlined difficulties being experienced by the North Western and North Wales Sea Fisheries Committee in trying to prepare new Sea Fisheries Byelaws under the Salmon Act 1986 because of the physical peculiarities of the Morecambe Bay area and the Duddon and Ribble Estuaries where many migratory fish were being taken by sea fishing methods.

Members noted that a number of meetings had been held to try and solve these difficulties and were advised that more meetings were contemplated, but it was unlikely that the new byelaws would be ready until next year.

188. SERIOUS FISH MORTALITIES

Members received details of 7 incidents which had resulted in significant fish mortalities.

189. BUILDING PROPOSALS AT AINSTABLE

Mr Ecroyd asked why the Authority had not objected to proposals to build 11 houses at Ainstable. He added that a further 15 houses had been added to the village septic tank originally designed for

10 houses. The latest proposals would grossly overload the tank and cause further pollution to the beck which deteriorated from class 1 to class 3 below the discharge point. Mr Newton replied that the Fisheries Department had advised the Authority's Planning Section of possible problems if the proposals went ahead but was unaware of the result of his advice.

In response to a further question from Mr Ecroyd about the establishment of a new trout farm on the River Eden which would rely on abstractions of water from Croglin Beck, Mr Newton agreed to check the application for permission to abstract water from the Beck by this trout farm.

190 SEA OUTFALLS

Officers were unable to answer a question from Mr Bailey as to whether the existing sea outfalls would be abandoned when the new outfall was built on the Fylde coast and how would their location be marked if they were abandoned. Officers agreed to write to Mr Bailey once they had an answer.

191. In answer to a question from Mr Ecroyd, Mr Barnes advised members that the Board had decided that future meetings of the Committee would be held on:-

20 February 1989

22 May 1989

16 October 1989.

REGIONAL FISHERIES ADVISORY COMMITTEE20 FEBRUARY 1989FISHING LICENCE DUTIES - 1990

1. On 13 February 1989 the Board considered its budget and charges for 1989/90. Amongst the items considered was a recommendation that fishing licence duties be increased by an average of 7% and this Committee was asked for its observations on this recommendation.
2. Members will recall that, following three consecutive increases of 5% p.a. between 1985 and 1988, duties were raised by an average of 10% for the current year, in the light of Ministerial comment concerning the fall in the level of recoupment i.e. the proportion of direct fisheries expenses recovered from licence duties. At present it is too early to gauge the effects of this increase on the level of sales. An average rise of 7% in licence duties for 1990 would reflect the increase in direct expenses and would therefore maintain the present level of recoupment.
3. The policy has been adopted in recent years of rounding increases to the nearest 50 pence while, at the same time, maintaining a ratio of 4:2:1 between season, season concessionary and 7 day licences. If this formula is to be preserved, neither the increase in individual duties nor the overall increase can be an exact 7% but the following proposals provide the nearest solution:-

	<u>Present Duties</u> £	<u>Proposed Duties</u> £
<u>SINGLE ROD &amp; LINE (whole area)</u>		
1. Salmon		
Season	32.00	34.00
Part Season from 1 June	24.00	26.00
Season concessionary	16.00	17.00
Part season concessionary	12.00	13.00
Seven day	7.75	8.50
2. Migratory Trout		
Season	13.00	14.00
Season concessionary	6.50	7.00
Seven day	3.25	3.50

	<u>Present Duties</u> £	<u>Proposed Duties</u> £
3. Non-migratory trout (brown trout, rainbow trout and char)		
Season	5.50	6.00
Season concessionary	2.75	3.00
Seven day	1.75	1.75
4. Freshwater fish and eels		
Season	4.50	5.00
Season concessionary	2.25	2.50
Seven day	1.25	1.25

#### COMMERCIAL EEL FISHING

Fixed eel traps (per trap p.a)	48.00	51.00
Eel or Fyke nets (per net p.a)	1.00	1.00
Traps, putcheons or baskets (per 25 or part thereof p.a)	10.00	11.00

#### NETS AND FIXED ENGINES

(Area within the boundaries of the former Cumberland River Authority)

Whole area drift, hand or whammel net (not exceeding 275m in length when wet)	203.00	217.00
Whole area heave or haaf net	40.00	43.00
River Eden coop	189.00	202.00
River Derwent coop	422.00	452.00
South West Cumberland garth	210.00	225.00

<u>Present Duties</u> £	<u>Proposed Duties</u> £
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#### NETS

(Area within the boundaries of the former Lancashire River Authority)

River Ribble, drift, hang or whammel net (not exceeding 140m in length when wet)	130.00	139.00
River Lune, drift, hang or whammel net (not exceeding 300m in length when wet)	215.00	230.00
River Lune, draw, draft or seine net (not exceeding 185m in length when wet)	186.00	199.00
River Duddon, draw, draft or seine net (not exceeding 185m in length when wet)	178.00	190.00
River Lune: heave or haaf net	83.00	89.00
River Kent: lave net	97.00	104.00
River Leven: lave net	80.00	86.00

NOTE: Fishing for eels with rod and line in tidal and estuarial waters seaward of the high water mark (as defined on the Ordnance Survey Map : 1 to 50,000 series) is exempt from the licensing system.



4. Any variation of licence duties requires local consultation and public advertisement within the region and, subsequently, the approval of the Minister of Agriculture, Fisheries and Food.
5. It is recommended that the Fisheries Liaison meetings be asked to comment on these proposals and that their comments be taken into consideration by this Committee at its meeting on 22 May 1989 when it formulates its observations for the Board.

0564b BJB/ES

NORTH WEST WATERREGIONAL FISHERIES ADVISORY COMMITTEE20 FEBRUARY 1989OMBUDSMAN'S REPORT - FINDING OF MALADMINISTRATION

1. The Local Ombudsman has issued a report following investigation of a complaint against the Authority relating to the allocation of haaf net licences for the Solway Firth for 1988. The Ombudsman found that injustice had been caused by maladministration.
2. In accordance with Section 31, Local Government Act 1974 the attached report was laid before the Board who were advised that Authority officers disagreed strongly with the finding of maladministration, but nevertheless proposed that the report should be accepted and that the Authority provide a remedy.
3. Fortunately, two of last year's licencees had decided not to apply for a licence in 1989, so one of these two licences was allocated to the complainant.
4. The finding of maladministration also had to be advertised in the local press and copies of the report made freely available to members of the public; as expected, this has prompted other netsmen who were refused Solway haaf net licences last year to submit formal complaints to the Ombudsman. One such complaint is currently being investigated by the Ombudsman, another has been forwarded to but not yet received by the Ombudsman.

--- COMMISSION FOR LOCAL ADMINISTRATION IN ENGLAND ---

REPORT BY THE LOCAL OMBUDSMAN

on an

INVESTIGATION INTO COMPLAINT NO. 88/C/0120

against the

NORTH WEST WATER AUTHORITY

15 December 1988

29 Castlegate  
YORK  
YO1 1RN

## THE COMPLAINT

1. The complainant, whom I shall call Mr Jones for the purposes of this report, alleges that the North West Water Authority (N.W.W.A.) failed to give proper consideration to his application for a licence to fish.

2. An officer of the Commission has interviewed Mr Jones. Another officer has talked with Mr Jones by telephone, has interviewed officers of the N.W.W.A. and has inspected N.W.W.A.'s files.

## THE INVESTIGATION

3. This report is about the way the N.W.W.A. dealt with applications to fish by haaf net in the South Solway Firth. A haaf net is a rectangular net mounted on a wooden beam measuring up to 18 feet in length. Fishing on the northern side of the Solway Firth is controlled by the owners of Scottish fishing rights and is not within the jurisdiction of the N.W.W.A.. Only from the start of the 1988 fishing season did the N.W.W.A. have power to limit the numbers of licences to fish in the southern half of the Solway Firth. For the next 10 years the number of licences available in the southern half is limited to 165, whereas previously N.W.W.A. had been issuing more than 230 licences.

4. The North West Water Authority (Limitation of Heave or Haaf Net Licences - Solway Firth) Order 1986 provides:-

1. The number of licences to be issued in any year for fishing for salmon and migratory trout with heave or haaf nets in waters in the Solway Firth shall be limited to 165, provided that if the aforesaid number is insufficient to satisfy the applications of all persons who, during the year preceding that to which the licence is to relate were dependent upon fishing for their livelihood and held a licence for fishing with heave or haaf nets in the Solway Firth a sufficient number of additional licences shall be issued to satisfy such applications.
  
4. In allocating licences .... the Authority shall take into consideration any representations made by a local body representing the interests of net fishermen, and any other relevant considerations.
  
6. Notwithstanding anything in the Act or in the foregoing provisions of this Order, the Authority shall not be obliged to issue a licence to any person who is the holder of a permit issued by Scottish proprietors to fish by heave or haaf nets in the Solway Firth.
  
7. All applications for licences shall be made in writing to the Authority not later than 31 December in the year prior to that for which the licence is to relate. The Authority shall not allocate licences for any year before the first day of January (of that year) and shall as far as possible complete the allocation of such licences by the first day of February (in that year). Any applicant who is allocated a licence shall take up such licence not later than 28 days after allocation, failing which the Authority may re-allocate such licence to another applicant.
  
5. By 31 December 1987 the N.W.W.A. had received 220 applications. A licence was not allocated to Mr Jones

although he had held an English licence since 1972. N.W.W.A. say that the panel allocating licences had to try to find a way of selecting the most qualified 165 applicants from the 220 which applied, knowing that their criteria could be questioned by those who were not successful.

6. At least so far as the complainant is concerned there is no question of N.W.W.A. needing to increase the number of licences in accordance with paragraph 1 of the Order: although he held a licence from the N.W.W.A. in 1987 he is not dependent on fishing for his livelihood.

7. Before allocating the licences the N.W.W.A. met three times with representatives from the Haaf Netters Association who stated (originally) that they did not want the holders of Scottish permits to be allocated English licences. The Association changed their minds about wanting any sort of limitation at an extraordinary meeting on 19 July 1986, and so informed the N.W.W.A..

8. Officers decided that they would not allocate licences to applicants who had held a Scottish permit to fish on the northern side of the Solway Firth during 1987. Salmon fishing takes place there from 1 March until 9 September. The officers of N.W.W.A. say that paragraph 6 of the Order must be taken as referring to those who have held a permit during the year when the application is made: their own licences are issued for the period ending on 31 December in

a particular year and they say they assume this also applies to Scottish permits, although one of their officers informed me that Scottish permits were not dated. N.W.W.A. assumed that the purpose of paragraph 6 was to prevent the same fisherman holding both English licences and Scottish permits at the same time. Officers say that custom and practice in Scotland ensures that, provided they have not disgraced themselves, previous permit holders are accorded priority when permits are issued there. N.W.W.A. say it is fair and reasonable to assume that any person who has held a permit for a number of consecutive years would again receive a permit for the following year, in the absence of any proof that Scottish permits were to be withdrawn.

9. Mr Jones had told the N.W.W.A. that he had held a Scottish permit during 1987 and for 14 years previously but had referred them to information supplied by his father who was also an applicant. He wrote that the Scottish fishery was up for sale and he had been informed that no permits would be available to them in the future. There is no indication on the N.W.W.A.'s files of what inquiries they made at the time to check this statement. Officers say there had previously been rumours that the fishing rights were to be sold. They knew a buyer was being sought but were unable to obtain further details. N.W.W.A. say that they did their utmost to confirm the statements made by Mr Jones' father about the sale of the Scottish fishery but that all their efforts were thwarted by the veil

of secrecy which surrounded the sale. Mr Jones maintains that on the information supplied by his father and referred to in Mr Jones' application, N.W.W.A. should have known that he was not going to hold a Scottish permit in 1988.

10. N.W.W.A. later wrote to Mr Jones:-

"Your application was rejected because you held a Scottish licence in 1987. The comments on your application form were noted but enquiries led us to believe that Scottish licences would still be available from whoever purchased the (...) fishery. It is not a question of doubting your word; we simply have not been able to get confirmation that Scottish licences are to be withheld in 1988."

11. Mr Jones did not obtain a permit to fish in the northern part of the Solway Firth during 1988.

12. The Net Limitation Order contains provisions as to how any licences should be allocated in future. These require preference to be given to an applicant who held a licence in the preceding year and then to persons resident in the locality who:-

(a) are mainly dependent on fishing for their livelihood,

and

(b) have had a parent or grandparent who was a licensed haaf netsman on the Solway.

N.W.W.A. say that haaf netting is considered to be a sport rather than a commercial activity and that of the 220



applications submitted in December 1987 only three were from those dependent on fishing for their livelihood. They do not expect, therefore, that there will be many applicants in future in that priority category. N.W.W.A. say that as Mr Jones lives in the area, has a parent who was also a licenced haaf netsman and himself held English haaf net licences for many years up to 1988, these points will weigh in his favour when licences become available.

#### CONCLUSION

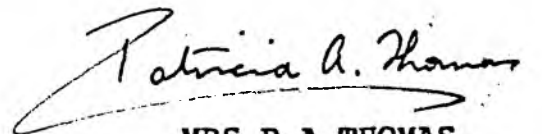
13. Paragraph 6 of the Order presents N.W.W.A. with some difficulty: at the time licences are sought or allocated by N.W.W.A. it is arguable that no applicant is likely to be the holder of an extant permit issued by Scottish proprietors: Scottish permits do not seem to be expressed to run to the end of the calendar year. Officers are no doubt right in perceiving the intention to be to prevent the holding of both English licences and Scottish permits at the same time. Excluding from consideration those who held a Scottish permit in the previous year is not necessarily a fair way to give effect to that intention.

14. Moreover, paragraph 6 states that the N.W.W.A. "should not be obliged to issue" licences to holders of Scottish fishing permits. The paragraph does not prevent N.W.W.A. from issuing such permits should they consider it appropriate.

15. N.W.W.A. told Mr Jones that their inquiries led them to believe Scottish permits would still be available. I have not seen evidence to substantiate that: N.W.W.A. were more accurate in saying they had not been able to confirm Mr Jones' statement that Scottish permits would not be issued in 1988. In the absence of confirmation one way or the other, it would have been fairer to give him the benefit of the doubt: Mr Jones had indicated to N.W.W.A. that he would not be the holder of a Scottish permit.

16. For the reasons set out above, I consider there was maladministration by N.W.W.A.. Mr Jones' application was refused and under the present terms of the Order he may not receive a licence in the future. Redressing that injustice will not be easy. If a licence cannot be allocated to him, then I consider some financial compensation should be made.

15 December 1988

  
MRS P A THOMAS  
Local Commissioner

0562b BJB/ES

NORTH WEST WATERREGIONAL FISHERIES ADVISORY COMMITTEE20 FEBRUARY 1989FISHING NET LICENCES - ALLOCATION CRITERIA

1. At their meeting on 6 January 1989, the Licences Allocation Group realised that the criteria contained in legislation was often insufficient to assess priority when considering net licence applications from fishermen with similar backgrounds.
2. After examining the criteria used by other Authorities, the Group have decided that, after taking into account specific criteria included in the appropriate Net Limitation Order, the following criteria will be applied to all net licence applications:-
  - a). Did the applicant hold a licence last year and is he dependent on fishing for a livelihood.
  - b). Did the applicant hold a licence last year and did he receive a significant income from fishing or make regular use of that licence.
  - c) Is the applicant dependent on fishing for his livelihood.
  - d) Is the applicant endorsed on another's licence and does he fish with that licensee regularly.
  - e) Is the applicant related to an existing licensee.
  - f) Does the applicant live within a reasonable distance of the fishery (eg 10 miles).
  - g) Will the applicants other work or activities prevent regular use of a licence if granted.
  - h) Is the applicant of good character and without convictions for fishing or related offences.
  - i) Will the applicants age or health affect the proper and regular use of a licence if granted.
  - j) Has the Authority been requested by an independent authority (eg the Court, the Police, a fishing association) not to issue a licence to the applicant.
  - k) Has the applicant held a similar licence in the past and, if so, for how many years.
  - l) Has the applicant made previous unsuccessful applications for a licence and, if so, for how many years.
3. The Committee are asked to note the above arrangements.

0563b BJB/BCS

NORTH WEST WATERREGIONAL FISHERIES ADVISORY COMMITTEE20 FEBRUARY 1989RENEWAL OF LUNE AND WYRE NET LIMITATION ORDER

1. On 7 December 1979, the Minister of Agriculture Fisheries and Food confirmed an Order limiting the number of nets which could be used in the rivers Lune and Wyre as follows:-

River Lune

Drift, Hang or Whammel Nets	-	10
Draft or Seine Nets	-	1
Heave or Haaf Nets	-	26

River Wyre

Heave or Haaf Nets	-	4
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2. The fish population in the river Wyre is incapable of supporting commercial fishing operations and since 1963 restrictions on netting have applied. These activities have had to be renewed at regular intervals, and on 27 October 1986 when they were last authorised, MAFF suggested that more permanent arrangement should be introduced. The current byelaw proposals have adopted the MAFF suggestion by banning all netting in the river Wyre.
3. Net Limitation Orders have a maximum life of 10 years so that the current Order will expire on 6 December 1989.

Although they would like to see a clause in the Order allowing them to take relevant considerations into account when allocating licences, the Officers believe that the general terms of the Order are both equitable and effective in preventing over-fishing in the Lune estuary and would be reluctant to see any material change in the number of nets allowed.

4. It is recommended that the Board be asked to authorised the Secretary and Solicitor to commence the appropriate statutory proceedings for renewal of the existing Lune and Wyre Net Limitation Order with the following amendments:-

- (a) Deletion of all references to the river Wyre.
- (b) Inclusion of the following clause:-

"In allocating licences under this Order, the Authority shall take into consideration any representations made by any local body representing the interests of net fishermen, and any other relevant considerations".

NORTH WEST WATERREGIONAL FISHERIES ADVISORY COUNCIL20 FEBRUARY 1989HONORARY BAILIFFS

1. In addition to full and part-time bailiffs employed by the Authority, warrants are also issued to 'honorary' bailiffs. Honorary bailiffs are, in the first instance recommended by individual fishery owners or angling clubs to deal principally with anglers on designated waters. The honorary bailiffs are appointed mainly to deal with licence evasion, but their warrant entitles them to act as a constable on their designated waters, to seize unlicensed fishing tackle which is in use and, in certain circumstances, to arrest offenders.
2. In the past honorary bailiffs have occasionally caused the Authority embarrassment by being unable to carry out the duties properly or by being too authoritarian and interfering in other clubs waters.
3. Some five years ago the then Regional Fisheries Officer tried to resolve this issue by withdrawing warrants from honorary bailiffs whom he considered had not achieved adequate standards. Letters notifying these men were sent and considerable protests resulted. Warrants were reinstated.
4. With the advent of the Police and Criminal Evidence Act 1984 the manner in which constables carry out their duties became more clearly defined. Honorary bailiffs warrants are no longer issued to untrained staff and operating rules and performance standards are more clearly stated. The rules and standards are straightforward and are designed to allow the Authority to monitor the activities of honorary bailiffs and to ensure that procedures are standardised throughout the region. Despite this, many honorary bailiffs are failing to operate in accordance with their instructions, for example, many do not maintain regular links with their nominated fisheries staff contact or submit quarterly reports of their work, even after being reminded of the necessity for regular communication.
5. A warrant gives a bailiff certain powers, it also imposes certain obligations. The officers feel that the warranting of persons who are not prepared to meet their obligations can no longer be justified and it is intended that the Regional Fisheries Manager will refuse to renew the warrants of any honorary bailiffs who fail to carry out properly the instructions and duties associated with that warrant.

0565b BJB/ES

PRIVATE AND CONFIDENTIALNORTH WEST WATERREGIONAL FISHERY ADVISORY COMMITTEE20 FEBRUARY 1989FISHERY BYELAW REVIEW

1. At the meeting on 17 October 1988, Members were advised that the draft byelaws they had previously approved had been advertised and that the closing date for objections was 31 October.
2. A total of 20 objections were received and are summarised on the appendix to this report. Two objections have been withdrawn following negotiations, and negotiations are continuing in three cases.
3. The officers feel that negotiations with objectors to byelaws 1 and 28 would not be appropriate for the following reasons:-

Byelaw 1

The present close season was established after pressure from MAFF to standardise the close season on the Solway. The close season was established earlier last year when MAFF confirmed the 1981 byelaw but altered the dates to those now proposed. However, MAFF subsequently felt that because the byelaw was made before the Part V Order which permitted it and only confirmed afterwards, there might be an element of ultra vires, so they requested NWW to re-make byelaw 1 in the same terms to formalise the position.

Byelaw 28

MAFF themselves want information on fishing effort and have asked for it at various working groups. The report of the Salmon Advisory Committee under the Chairmanship of Professor Dunnett has recommended that statutory powers be sought to obtain this information if necessary.

4. Negotiations have been in progress for some time about Byelaw 22 and some amendments have already been agreed with objectors. The only outstanding item is a proposal by some of the objectors that the appropriate controls can be introduced by amendments to the Angling clubs lease; the officers are reluctant to accept that proposal because not only could the lease be varied at any time, but also the fisheries bailiffs would have no power to apprehend people who ignore that lease.
5. Byelaw 7 proposals have created great media interest, but despite this, only three objections to the byelaw were received.

The officers feel that these proposals have been discussed at great length both inside and outside this committee and that it is unlikely that future negotiations would result in agreement. However, they accept that the proposals are very emotive and that there is a sparcity of information about the effects on other wildlife and bankside vegetation of abandoning the statutory close season for coarse fish. For that reason they intend to make it quite clear that Angling clubs can impose their own close season on waters which the clubs control. It is also hoped to carry out research, probably in conjunction with external conservation organisations, into the effects of abandoning the statutory close season, but such moves could only be carried out after implementation of the byelaw.

6. Officers from MAFF have been in contact with the Authority recently asking whether the byelaw proposals were ready to be sent to them for attention; they have been advised of the current negotiations and told that the proposals will be forwarded as soon as possible.
7. In order to prevent delay, it is recommended that the Board be asked to authorise the Chairman of this committee (Mr T A F Barnes) to approve any amendments to the fishery byelaws resulting from the current negotiations prior to their formal submission to the Minister of Agriculture Fisheries and Food.

## FISHERY BYELAWS - SUMMARY OF OBJECTIONS

Byelaw Number	Objector & Nature of Objection	Comments
1. (Close season netting salmon and trout)	<u>J Thompson + 8 Others</u> - Suggest that present close season remains - the gain of 4 days in February when no fish are present is of no value when losing 1 day in September when the fish are running.	
	<u>Solway Haaf Netters Association</u> - Suggest that the close season should run from the 15 September to 28 February to allow more fishing in September when the weather is more clement and fish more likely to be present. This would bring the season into line with the River Tweed and would introduce a common start date for the netting season in the North West Water area.	
	<u>Bendle Dodds &amp; Co</u> - Byelaw is unnecessary; there is no reason to further curtail fishing in the Solway now that the Net Limitation Order has been introduced. The alteration to byelaw 1 affects the River Eden where previously draw, draft or sein nets were allowed. The close season should not be altered whilst the Order prohibiting use of these nets is in force.	The use of draw, draft of seine nets in the Eden was prohibited by byelaw - there is no time limit on a byelaw so Bendle Dodds suggestion, if accepted, would make it impossible to alter the close season without re-introducing netting in the Eden.
7. (Close season for freshwater fish).	<u>M James + 7</u> - Very emotive objection about the need for close season to protect fish stocks, wildlife and the environment.	
	<u>Lancashire Trust for Nature Conservation</u> - Close season byelaw will be detrimental to nature conservation. Research is needed before such changes should be considered. The absence of evidence of detrimental effect on waters where there is no close season is due to inadequate monitoring of those waters and should not be used to justify these changes.	



Royal Society for the Protection of Birds - Late objection because Society not formally consulted and unaware of proposals. S22 Water Act 1973 gives W.A. responsibility for furthering the conservation and enhancement of natural beauty and removal of close season will lead to bankside disturbances during breeding season and, therefore, reduce conservation value. Will also contravene above Act. Claims that SFF Act 1975 concerned only with fish are incorrect - the Act was used to introduce lead shot ban to protect swans!

- Refuse to withdraw objection because:-
- (i) inadequate consultation led to Authority taking inadequate account of impact on wildlife.
  - (ii) Cannot accept that, in other areas where no close season, there has been no detrimental effect on wildlife because not aware of research into this and would like details of any such studies. Published evidence indicates the benefits of the close season to breeding birds.
  - (iii) If many clubs intend to introduce their own close seasons, why remove the statutory close season.
  - (iv) "Nature reserves" are insufficient to compensate for removal of close season.
  - (v) Nature of angling involves prolonged pressure at bankside and removal of bankside vegetation, so angling is unlike other forms of water sport.

10(iv)  
(Authorised  
Fixed engines)

T Dias + Petition - This byelaw needs to be modified in order to allow the continued use of flounder nets in the Solway.

Objection withdrawn

North Western and North Wales SFC - Restricting of netting in the 3-6 mile belt could lead to WA regarding this as a minimum requirement in the 0-3 mile belt. Proposal is unnecessarily restrictive.

19 (Prohibition of taking under-sized fish)	<u>Egremont &amp; District AA</u> - Locals fish for small migratory trout known as "Smelts" which are between 9" and 11" long. If minimum size is increased to 12" this activity would have to cease, so present size restriction (namely 10") should remain.	
22. (Fishing near weirs)	<u>J H Fell</u> - This byelaw must have "crept in by mistake" and "should be deleted in toto".	Objection withdrawn following byelaw amendment.
	<u>C J Thompson &amp; Wilson</u> - Club rules have now been amended so that the need for this byelaw has been removed.	Negotiation in progress.
	<u>National Trust</u> - Same comment as made by C J Thompson above.	Negotiation in progress.
	<u>Lune &amp; Wyre FA</u> - This byelaw seriously jeopardises the fishing of some riparian owners who own one short stretch near a weir.	
	<u>J Ingham</u> - This amendment is unnecessary.	Negotiations in progress.
25 (Return of foul hooked fish)	<u>C G Thompson &amp; Wilson</u> - It is technically possible using certain types of fly or spinner, for fish to take the fly or spinner and thus be hooked in the outside of the mouth. Would not object if the byelaw was limited to worm fishing only.	
28 (Returns of net rod catches)	<u>T Donnockly</u> - The byelaw request for information about the number of days spent fishing should be deleted.	
	<u>Carlisle AA</u> - The byelaw is unnecessary where it asks for details of the number of days spent fishing and that part should be deleted.	Refuse to withdraw objection.
	<u>Eden &amp; District FA</u> - The byelaw requirement to supply details of days fished puts an unnecessary burden on	Refuse to withdraw objection but suggest more stringency in

anglers, acts as a disincentive to submit returns and could create antagonism between the Authority and fishermen.

ensuring that anglers send returns.

Solway Haaf Netters Association -This is an invasion of privacy and might be used to draw comparisons between netsmen and rod anglers.

Will reconsider objection in light of WA comments.

Dr R B Broughton - There is a serious omission in not mentioning the return of gravid fish to water. There should also be regulation of bait for migratory fish to avoid large catches by anglers using prawns.

Comments noted.