

CHAPTER 9

PARTICIPATORY GOVERNANCE IN INSHORE FISHERIES CO-MANAGEMENT IN ENGLAND AND WALES

PAUL KNAPMAN

ORCA - EU, 230 Freshwater Road, St John's, Newfoundland, Canada, A1B 1B2

Abstract

First established in 1888, the Sea Fisheries Committees (SFCs) of England and Wales predate the concept of modern inshore fisheries management. However, their organisational structure, function and working practices are closely aligned with principles that are now commonly advocated and associated with good governance, not least because of the extent of participation that they provide to the fishing industry in a largely co-management system. In this chapter, I provide an outline of the institutional framework within which SFCs operate; explain their structures and functions; evaluate their governance credentials and, using my first hand experience of working at a senior level within a SFC, offer a critique of the effectiveness of SFCs as an inshore fisheries co-management model.

9.1 Introduction

For more than one hundred years the majority of inshore¹ fisheries within England and Wales have been managed by Sea Fisheries Committees (SFCs). The first SFCs were established soon after the confirmation of the *Sea Fisheries Regulation Act* in 1888. The Act allowed for the establishment of sea fishery districts and the appointment of a committee, responsible for regulating and developing the fisheries within their district. County councils were established in the same year and it was, by and large, through application by these local authorities to the government that SFCs were created and financially maintained. Today, there are twelve SFCs districts that cover the majority of the inshore fisheries of England and Wales (see Figure 9.1.) Their empowering legislation was consolidated in 1966 and further legislation has provided for additional fisheries and environmental responsibility within their districts.

While all SFCs are established and empowered by the same legislation there are distinct differences between them making it difficult to provide a standard model that accurately describes all of the SFCs (Symes 2002). For instance, there are differences in the geographical scale of the fisheries districts; in the varying complexity of the local authority structure within the districts, which in turn affects the size of the Committee; in the size and structure of the workforce; and in the number and content of the regulatory instruments used by SFCs.

In sections two to five of this chapter, I explain the structure and functions of SFCs, their links with two national fisheries management bodies, and their relationship with the fishing industry. In sections 6 and 7, drawing upon my personal experience of working

¹ Inshore fisheries in the UK are generally considered to be those fisheries within the six-mile fishery limits.

as a Chief Fishery Officer for a major SFC, I provide a critical appraisal of the work of SFCs by examining, first, the extent to which they embody principles of good governance, and, second, their effectiveness in managing inshore fisheries. In the conclusion, I argue that if SFCs are to continue to play a valuable role, they must improve the calibre of local authority members and the impartiality of industry members, and they must be provided with adequate funding and regulatory flexibility.

9.2 Structure of Sea Fisheries Committees (SFCs)

9.2.1 SFC DISTRICTS

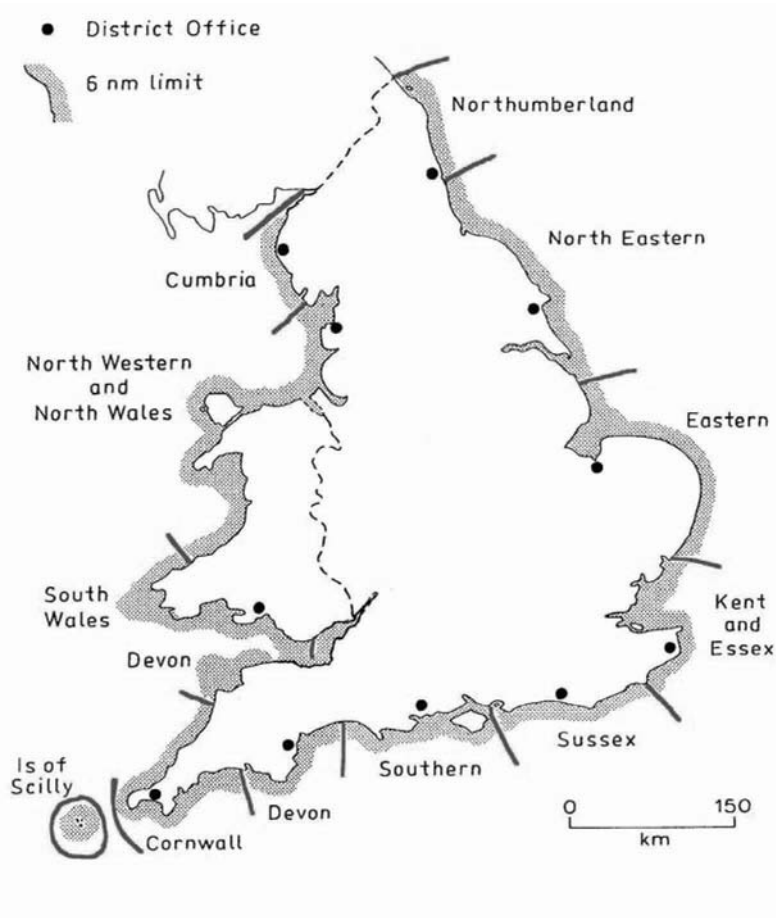


Fig. 9.1. Sea Fisheries Districts (adapted from Symes, 2002)

The SFCs districts vary in size from the smallest (Northumberland) with a coastline of 111 kilometres and sea area of approximately 1,372 square kilometres, to the largest (North Western and North Wales) with a coastline of approximately 1,713 kilometres

and sea area of 6,860 square kilometres. The districts generally coincide with county council boundaries, although changes caused by local government restructuring mean there are instances where this is no longer the case. Districts extend seaward six miles from baselines (the line from which seaward limits are drawn, such as the mean low water or lines drawn between headlands across the mouth of a bay), and inland to the high water mark or, in the case of an estuary, usually to the lowest bridging point or the tidal limit.

9.2.2 THE COMMITTEE

SFCs are local government committees and, as such, are solely funded by local authorities. All of the Committees are composed of a 50/50 split between representatives from those local authorities that contribute funds for the SFCs and representatives appointed by the Fisheries Minister who are considered to be “acquainted with the needs and opinions of the fishing interests of that district or as being persons having knowledge of, or expertise in, marine environmental matters” (MAFF 2001). Ministers’ appointees must include a representative from the Environment Agency (EA) and at least one marine environment expert. All of the Ministers’ appointees are appointed for four years and can be re-appointed. A small number of Committees have also appointed a representative from the recreational fishing sector: such appointments reflect more a legacy, than a statutory requirement, resulting from encouragement by a former Fisheries Minister who was an enthusiastic sea angler (Symes 2002). While the latter appointment may be considered an anomaly, it makes very good sense to include a stakeholder group that has a significant economic interest in inshore fisheries: members of over a million households participate in sea angling each year and spend over £500 million (DEFRA 2004), a significant part of which finds its way into the local economies of coastal communities.

In the case of fishing industry representations, nominations are invited through public notice: for example, via the fishing industry press, and by direct invitation to fishing organisations regularly consulted on fisheries-related issues by the Department for Environment, Food and Rural Affairs (DEFRA). While named as ‘Ministers’ appointees’, in reality, it is the DEFRA District Inspector of Fisheries, who will be acquainted with the fisheries nominees within the relevant SFC districts, who, in consultation with DEFRA administrators, confirms the appointments. The EA nominate their own representative and, in the case of the marine environmental specialist, DEFRA consult with the statutory nature conservation advisors – English Nature (EN) and/or the Countryside Council for Wales (CCW) – before making invitations and appointments.

The Committee, when considering an environmental issue, may also co-opt anybody it considers to be suitably qualified to provide advice. Some Committees have taken to inviting representatives from EN and CCW to attend meetings and contribute advice as and when appropriate. It is also regular practice for DEFRA District Inspectors of Fisheries to be invited to attend.

Local authority representatives are democratically elected Councillors. When elected to serve on a local authority, Councillors are expected or required to sit on a number of local committees. In some instances, they will be chosen by senior officials to sit on particular committees; this might be as a result of an individual’s expertise or experience in the subject or issue for which the committee is responsible, or, where a

committee is dealing with a highly politicised issue, members may be appointed for political reasons. In other instances, Councillors will volunteer for committees. In the majority of cases, Councillors volunteer to sit on SFCs, and, if re-elected, often continue to do so for many years. Although SFCs are apolitical, they can occasionally become politicised, particularly when Councillors who have been elected on a fisheries-related manifesto are appointed to the Committee.

The size of the Committee is dictated by the number of Councillors. Two SFCs have as many as 18 Councillors and so, with the required corresponding number of Minister appointees, their Committees have a full complement of 36 members. In contrast, the smallest Committee has only 8 members. The average size of a Committee, however, is 20. These differences are attributable to the length of a Committee's coastline and/or the complexity of the local government structures within it. Three Committees (Isles of Scilly, Cornwall and Cumbria) are made up of a single contributing local authority with the rest ranging between 2 and 11. The distribution of seats between the local authorities approximates to their relative contributions to the funding of the SFC (Symes 2002).

The Committees have their own standing orders (Committee rules), which have evolved over time, often being influenced by their constituent local authorities. The Committees are, by law, obliged to meet quarterly, give two weeks notice of their meetings, one week's notice of the agenda and keep a detailed record of the minutes. Committee meetings and papers are open to the public, unless registered as being of a private or personal nature. Most Committees have chosen to have at least one sub-committee to deal with more technical or financial aspects of the Committee's work. These sub-committees may meet on a regular basis, or, as needs require.

There is no overarching rule about how the Chairman of a Committee is appointed or their length of tenure. The Eastern SFC rotate chairs between the 3 local authorities every two years; South Wales and Cumbria alternate between local authorities and DEFRA appointees; while the other Committees leave it to their members to decide on an annual basis. The Committee's Chairman occupies an influential position, requiring a heavy time commitment and close working relationship with the Clerk and Chief Fishery Officer (CFO).

As a minimum, meetings of the full Committee involve the reporting of sub-committee meetings; a report and review of the work of the Committees Officers; and a report of the fishing and other activities (such as offshore developments and nature conservation issues) within the district. If necessary, consideration of existing and future management is undertaken, as well as discussion and confirmation of appropriate action on any relevant national or European issues.

9.2.3 THE OFFICERS OF THE COMMITTEE

Committee-appointed Officers are responsible for the fisheries management duties and for informing and providing advice to the Committee. Symes (2002) describes three different internal staffing models for SFCs (Figure 9.2). There are minor variations of these models but they serve to show the difference in size and complexity. Six of the Committees have chosen to combine the role of Clerk and CFO, while two have also

chosen to break with convention and use more modern titles (Director, Chief Executive) for the same post. The role of the Clerk (a dated term which conveys the history of SFCs) is primarily to oversee the administration of the Committee and the presentation of byelaws, and serve as a point of contact for the public. The CFO is responsible for the day-to-day management of the staff and their activities.

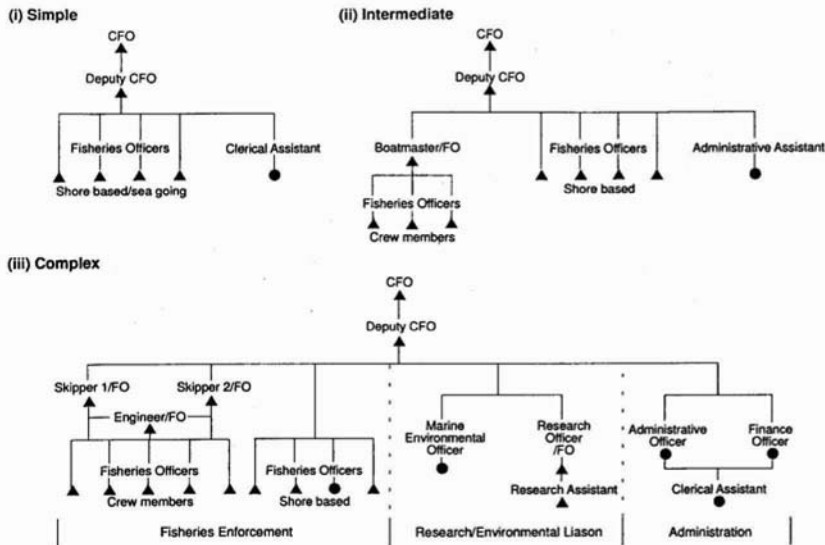


Fig. 9.2. The various internal staffing structures of SFCs (Symes 2002)

A Deputy CFO and Fisheries Officers undertake the primary SFC role of enforcing local, national and European Union (EU) regulations. This can be in either a shore-based or a sea-going capacity. All of the SFCs, except the Isles of Scilly, have a patrol vessel and at least one Rigid Inflatable Boat (RIB) used for interception and boarding of fishing vessels. This requires that the Fisheries Officers have a dual role using their seamanship skills as skipper, mate, engineer or crew-member. To be suitably qualified to undertake the duties of a Fisheries Officer, familiarity with the fishing industry, sea-going experience/qualifications and, more commonly these days, a degree are considered to be prerequisites. This often means Fisheries Officers are drawn from the fishing industry, the armed forces and the merchant navy, and from those who have gained further education qualifications. All SFCs provide training on enforcement and some also provide additional training opportunities, in particular seamanship, to ensure that officers meet the ever-increasing requirements associated with conditions imposed by insurance companies.

Some SFCs with extensive molluscan and crustacean fisheries in their districts have been able to invest in scientifically qualified research staff, thereby providing a capability to undertake stock assessments, detailed monitoring and stock enhancement. One Committee, the Eastern SFC, has been able to invest in a new vessel designed and dedicated to fisheries and environmental research.

Changes brought in during the 1990s requiring SFCs to manage fisheries with a regard for the marine environment, have also resulted in the addition of an Environment Officer for those Committees fortunate enough to be able to resource such a post. The designation of areas to protect nature conservation interests; the development of offshore industries which have to meet environmental standards; and a general move toward a more integrated approach to the management of the coastal zone, have meant a considerable increase in the time needed for SFCs to carry out this environmental aspect of their work. Where SFCs are unable to finance an Environment Officer post, the Chief and Deputy Officers often take on these duties.

A Finance Officer may be appointed to the Committee or, alternatively, some Committees may have access to a local authority Finance Officer who works on behalf of the Committee. The Administrative Officer is an essential member of staff; among their many duties, they are often the initial point of contact with the fishing industry, the public and Committee members.

9.3 Functions of SFCs

9.3.1 MANAGEMENT TOOLS – BYELAWS AND REGULATIONS

The original 1888 Act that established SFCs, and which was consolidated in 1966, enables SFCs to make byelaws to help manage the fisheries within their district. This, and subsequent Fisheries Acts, empowers SFCs to, among others things, specify particular times or seasons for fishing; restrict the size of vessels; describe types of fishing gear that are restricted or prohibited; set minimum landing size limits for fish and shellfish; and restrict fishing activities for “marine environmental purposes”, which includes the conservation of marine flora and fauna (Phillipson and Symes 2001).

The creation of a byelaw often stems from a request by the industry, through a Committee member or from correspondence to the Chairman or CFO. The Chairman will call upon the Committee and use the working knowledge of its Officers to confirm, or otherwise, the necessity for action and whether a byelaw could be used to resolve the problem. A byelaw is intended to benefit the fishery as a whole, not to discriminate against any groups or individual, and cannot be less restrictive than those imposed at a national or European level.

The byelaw-making process requires SFCs to draft and advertise the byelaw for two consecutive weeks; to allow 28 days for any objections to be lodged; and to take account of any objections before giving 14 days notice to DEFRA of their intention to submit the byelaw for approval. In the case of a byelaw made on environmental grounds, the SFC also has to have consulted with EN or CCW before giving notice to DEFRA. Once the application has been received by DEFRA, they give one month’s notice to the European Commission to ensure that they are satisfied that it does not conflict with any Community Regulation, and, at the same time, DEFRA assesses the byelaw to ensure it fits with the conditions set out in the SFCs’ empowering Acts. Only after this does DEFRA finally confirm, by way of Ministerial approval, the byelaw.

When set out sequentially, this appears to be a straight-forward and relatively quick process, but, in reality, it can take a considerable amount of time. With increasing litigation and legal challenge by the fishing industry, DEFRA are particularly keen to ensure that any byelaw they confirm is not successfully challenged. This often requires SFCs to invest considerable time in gathering and providing substantive information to confirm the need for a byelaw, and it may require a number of attempts at drafting the byelaw before DEFRA are willing to accept it. To complicate matters, there have sometimes been inconsistencies in the legal opinion of DEFRA on similar byelaws from different SFCs. These have been attributed to differences in legal opinion of new staff within DEFRA's legal department and changes in opinion following new case law.

As well as byelaws, SFCs can use Regulating Orders to manage molluscan and crustacean fisheries. The main advantage of a Regulating Order is that it allows SFCs to licence fishing activity for shellfish within a designated area and, in so doing, set licence conditions, such as the use of a prescribed fishing method, daily quotas, and the time and areas that can be fished. A licence fee can also be levied, the proceeds of which must be re-invested in the fishery. Regulating Orders can also be combined with Several Orders – Orders that 'sever' the public right to fish – allowing fishermen to lease an area of seabed on which they can cultivate their own shellfish (such as mussels and oysters), and on which no other fisherman can legally fish. This combination of Orders is sometimes referred to as a Hybrid Order.

There are, however, two disadvantages in issuing these Orders, and this has meant that not every SFC with a shellfishery has chosen to use them, preferring to use byelaws instead. The first disadvantage is that the establishment of an Order requires consensus from the fishing industry, which is always a challenging task. If this cannot be achieved it may be resolved by a public enquiry, at the expense of the Committee. Given the financial constraints within which many SFCs must operate, negotiation is the favoured approach, which can lead to a significant dilution in the management potential of the Order. The second disadvantage is that once consensus has been agreed and the Order is in place, the number of licences can only be reduced by fishermen leaving the industry. And so, matching the number of licences to the available resource is constrained. This inflexibility is compounded by the fact that adapting management measures in the future must be re-negotiated with the fishing industry.

9.3.2 ENFORCEMENT OF BYELAWS AND REGULATIONS

The preferred option for enforcement by SFCs is one of prevention of infringements: prosecution is a last resort. This policy is reflected in the relatively low total number of annual prosecutions that SFCs chose to take by contrast to the relatively high number of Home Office written warnings (DEFRA 2004). These warnings are valid for two years; if a case is compiled against the individual during this period, and a prosecution is actioned, the Home Office warning can be used against the offender. However, it is often the case that the punishment meted out by the court is not considered by the SFC to act as a sufficient deterrent. The maximum fine for a breach of a byelaw is £5,000, and fishing gear can be forfeited, but, so far, neither of these penalties has been applied to their full extent. High profile policing at times of year and in areas where offences are more likely to occur, is common practice and results in fewer breaches of local regulations. Also, there is generally a good relationship between SFC Fisheries Officers

and the fishing industry, and this helps to ensure awareness of local byelaws. Moreover, owing to changes in legal opinion caused by case law and new European human rights legislation, some byelaws and regulations associated with Regulating Orders may be *ultra vires*, and so SFCs are not inclined to prosecute, preferring to issue a Home Office warning.

9.4 Relationship between SFCs and other organisations

9.4.1 NATIONAL COORDINATION

The Association of Sea Fisheries Committees (ASFC) provides a national representative and coordinating function, as well as a central source for disseminating information, for all of the SFCs. The ASFC is constituted by the SFCs, all of which contribute funds toward its operation. The ASFC is made up of a Chairman and Vice Chairman, elected from the Chairmen of the twelve SFCs and a Chief Executive who is employed on a part-time basis. Given that resources are insufficient to provide a full time post, the Chief Executive is able to call upon CFOs for specialist support when dealing with coordinated responses to national consultations and attending national meetings.

The ASFC meets at least four times a year and is generally attended by the Chairman, Clerk and/or the CFO of each SFC. The meetings discuss and coordinate action on national and European issues that affect the SFCs, and provide an opportunity to share information and experiences between SFCs. The Fisheries Minister will address one of the ASFC quarterly meetings and discuss an agenda of issues set by the ASFC. The CFOs also meet independently at least three times a year to discuss in more detail issues that cut across all of the SFCs. Their collective knowledge and experience is particularly important in informing the ASFC on technical aspects associated with fisheries management.

9.4.2 OTHER INSHORE MANAGEMENT ORGANISATIONS

While SFCs are the primary inshore fisheries managers in England and Wales, there are two other important national organisations that have fisheries management responsibilities within the six-mile fishery limit. These are the Sea Fisheries Inspectorate (SFI) and the Environment Agency (EA). Some of their jurisdictions and responsibilities overlap with those of SFCs, which can make for a complex system of management and enforcement. Indeed, this complexity and apparent double or even triple accounting of management and enforcement has been one of the main reasons for a major review, commissioned by DEFRA in 2004, that aimed to look at the most effective organisation of enforcement in relation to the long-term needs of the fishing industry. Although it is not my intention to make comparisons between the three organisations, it is important to explain the roles of the SFI and the EA in order to understand their working relationship with the SFCs.

9.4.3 THE SEA FISHERIES INSPECTORATE (SFI)

The SFI is the fisheries enforcement arm of DEFRA. It is responsible for enforcing

European and national fisheries regulations throughout the English and Welsh territorial waters and beyond, to the limit of the Exclusive Economic Zone (EEZ) or the median line. British Sea Fisheries Officers (BSFO) – their full title reflecting their national role – are strategically based around the coast to ensure compliance with the regulations by monitoring fish landings, national quotas, fishing vessels, fishing gear and by administering fishing vessel licences. They also enforce legislation concerning fish marketing and the protection of the marine environment with respect to dumping and removal of substances at sea. Statistical data gathering, involving the collection and collation of logbooks and landing declarations, as well as biological sampling, is also an important role of the SFI. This information is used by scientists at the Centre for Environment, Fisheries and Aquaculture Science (CEFAS) and by policy-makers involved in stock assessments, quota management and national and European conservation measures.

The SFI's sea-going capability is contracted to the Royal Navy's Fisheries Protection Squadron, and chartered civilian aircraft are used for aerial surveillance of fishing activity, along with satellite monitoring of vessels greater than 15 metres in length. The SFI headquarters are in London, where an operations room coordinates offshore enforcement activity and liaises with its staff around the coast. Senior SFI staff are in close proximity to support the Fisheries Minister at short notice (for what can on occasions be a 'hot potato' of a portfolio) and to react to the needs and maintenance of the other civil service divisions responsible for developing and implementing national and European fisheries policies and legislation.

There are no formal national agreements on working practices between the SFI and SFCs. Instead their working relationships are dependent on the type of fisheries within their districts, which may or may not bring SFI and SFC Officers into regular contact with each other. Where they do, the demarcation of roles, responsibilities and working practices are usually clearly established and are often designed to reduce any inconvenience to the fishing industry. The sharing of surveillance and monitoring information is also common. Most SFCs have at least one officer who is warranted as a full BSFO or has partial BSFO powers to undertake pre-agreed enforcement work with, or on behalf of, the SFI. Another important factor is the personal relationship between the SFI's District Inspector and the SFC's Chief Fisheries Officer. If they get on well, it makes for improved liaison. District Inspectors are usually invited to attend SFC Committee meetings as a matter of courtesy.

9.4.4 THE ENVIRONMENT AGENCY (EA)

The EA was formally established in 1995, as a non-departmental public body, by the *Environment Act*, sponsored largely by DEFRA and the Welsh Assembly Government (WAG). The regionally-structured EA has a very broad remit which, among other things, includes fisheries management. As well as inland fisheries, the EA are responsible for the management of migratory species (mainly salmon, trout and eels) within the six-mile fishery limit, where it has the power to limit the number of licences for salmon and eel and to use byelaws to regulate fishing activity. The EA also has a responsibility to manage some sea fisheries. As a result of historical events, there are a number of estuaries where the EA act as a Sea Fisheries Committee, (the Dee, Severn, Taw-Torridge, all of the estuaries in Cornwall and the tidal reaches of the Thames). The EA is dependent on grant-in-aid from DEFRA to undertake its sea fisheries role, though seen in a positive light.

in some cases it uses other resources, such as income it gains from its national rod licensing scheme.

Fisheries management advice is discussed and agreed through EA-appointed Regional Fisheries, Ecology and Recreation Advisory Committees (RFERACs), though, as their title suggests, fisheries is just one of a host of issues these committees consider. SFCs may be represented on the RFERACs, but, in contrast to the constitution of SFCs, which require an EA representative, this is not statutorily prescribed. The EA's regional fishery officers employ a combination of shore-based and sea-borne inspection and enforcement using small, rapidly deployed inshore craft. As SFCs operate in many of the same inshore areas as the EA, a number of their officers are usually cross-warranted so they can enforce EA byelaws. As with the SFC/SFI working relationship, there are no formal national guidelines on working practice. The EA and SFC approach to collaboration has evolved and is influenced by the type of fisheries, the coincidence of enforcement activity and the relationship between senior staff of both organisations. Liaison between the EA and SFCs can generally be regarded as good.

9.5 Relationship between SFCs and the fishing industry

It is difficult to measure how SFCs are regarded by the fishing industry. As with any organisation charged with an enforcement and management role, they can be viewed with suspicion and treated with disdain by those who are averse to authority or are willing to push the limits of lawfulness. However, drawing upon my personal experience of having worked for a SFC, my informed, if subjective, view is that the relationship between that of the SFCs and the industry is, for the most part, constructive. The appointment of industry representatives to the Committees provides an opportunity for fishermen to have a say in the management of the local fishing industry. Such participation can endorse the personal standing of individuals and the organisations; allow for a closer relationship to be established between fishers and senior SFC officers; and lead to an improved understanding of the way SFCs function and an appreciation of the constraints they work under.

For their part, SFC officers can set out to establish close relations with the fishing industry. For instance, regular shore- or sea-based inspections help to develop familiarity and allow for the sharing of information and assistance in understanding management measures and fishing activity. Polite and efficient inspections which result in minimum inconvenience are more likely to be tolerated, while responding readily to an opportunity to assist a fishing vessel in difficulty also goes a very long way in improving relations, not least because the demonstration of good seafaring skills is recognised and respected.

It is often the case that CFOs, while attending local or national meetings, find themselves in a position where they, in effect, represent the fishing industry. While it is not their role to do so it is, when inshore fishermen are not present at these meetings, the CFO who is called upon, or feels obliged, to express the views of the fishing industry and offer their technical knowledge. This is fed back to the Committee when the CFO reports to a quarterly meeting and, in turn, it may filter back to the local industry and be seen in a positive light.

The attitude or mindset of some sectors of the inshore fishing industry is more amenable to regulation and respectful of management than that of other sectors. For example, those fishermen who restrict their activities to local areas may have a greater appreciation of what the SFCs are trying to achieve. Crab and lobster fishermen, who represent a significant proportion of the inshore fishing fleet, and so fall under the jurisdiction of SFCs, appear to be more conservation-minded. This might be partly because regulations for crustacean shellfish are easier to understand and abide by (primarily based on minimum size), combined with the fact that their method of fishing allows for the return of undersize fish which have a high likelihood of surviving and contributing to their fishery in the future. By contrast, nomadic fishermen, who work on a much larger fishing area, with mobile gear that are subject to complex regulations, are less selective in their fishing methods, and have a greater tendency to fish irresponsibly, risk breaching local regulations, and move on, in the belief that any adverse effect from overfishing or damage to fish and other habitat that they might have done will have recovered by the time they return.

9.6 Discussion

9.6.1 SFCs AND PRINCIPLES OF GOOD GOVERNANCE

Turning now to a critical appraisal of the work of SFCs, I focus on two questions: first, to what extent do SFCs exemplify ‘good governance’?; and, second, how effective are they at their job of inshore fisheries management? Beginning with the question of SFCs’ credentials as exemplifiers of good governance, we should note that ‘governance’ is not a term readily used by those involved with the management of inshore fisheries in England and Wales, and probably not elsewhere. It appears to have crept into the vocabulary as a result of research conducted by academics and specialists from the economic, social, environmental and legal sectors with an interest in the issues associated with fisheries management. The use of ‘new’ terminology and the involvement of ‘new’ people does not sit easily with many who are involved with the fishing industry. Any industry steeped in tradition is likely to be suspicious of what it might perceive as outsiders with new ideas getting involved with their business. SFCs are no different. However, the reality is that the term ‘governance’ – meaning the sum of the legal, social, economic and political arrangements with respect to fisheries management – is what SFCs are primarily about, and the way that they function and operate follows many of the principles associated with good governance (as articulated by the FAO and DEFRA). The analysis below highlights eleven such principles; six principles relate to SFC governing **processes**; five principles relate to SFC governing **policies**. The six **process** principles are as follows:

- The SFCs are **devolved and decentralised** management bodies. While DEFRA has a role to play in appointing half of the Committees’ membership and in confirming their byelaws, SFCs remain able to operate in a largely autonomous way
- SFCs provide **stakeholder involvement**. The fishing industry and environmental interests are represented and a number of Committees also have a DEFRA appointee representing sea angling interests

- The opportunity of these stakeholders to participate in SFC discussions and vote on issues that affect the management of their fisheries, realises another principle of good governance, that of **subsidiarity**
- The appointment of **democratically elected** Councillors to SFCs gives the Committees strong political **accountability**
- The appointment of EA representatives and marine environmental specialists, from academia or wildlife NGOs, to SFCs, and the invited participation of SFI District Inspectors and statutory nature conservation agencies, help to improve liaison and **institutional integration**. This is further enhanced by regular contact with these and numerous other organisations with an interest or role in the inshore region. The increased interest in integrated coastal zone management (ICZM) and various statutory and voluntary marine nature conservation initiatives, combined with the key role that SFCs play in managing fishing, has brought and, in some cases, forced SFCs, to integrate more. While this has at times caused uneasiness between organisations owing, in part, to a lack of understanding of their respective roles, this generally reflects the growing pains that new working relationships often experience
- The open meetings and the administrative requirements associated with SFCs, provide for **transparency** in the way they operate, though the selection and appointment by DEFRA of its fishing industry appointees is not transparent.

The five **policy** principles are as follows:

- The requirement for modern fisheries management to take account of the marine environment, and of the potential effects of fishing on habitats and species other than commercial fish, has recently become a facet of the work of SFCs. The DEFRA appointment of a marine environmental specialist, and, in some instances, the employment of an Environmental/Conservation Officer has provided Committees with a broader knowledge base and capability. A number of SFCs have introduced byelaws with a strong environmental component, and one SFC has introduced a byelaw specifically for environmental purposes. This represents the first tentative steps at what might be termed the **ecosystem-based approach**.
- SFCs have been more willing and able to act in accordance with the **precautionary approach**, in the past – as have DEFRA or, more precisely, their previous incarnation the Ministry of Agriculture, Fisheries and Food (MAFF) – in their role in confirming SFC byelaws. For example, some of the older byelaws that restrict access to the inshore fishing grounds were made on a precautionary basis, inasmuch as they restricted larger fishing vessels from entering the fisheries owing to their fishing potential. However, these measures were taken at a time when the precautionary approach was not formally enshrined as a principle of good governance. Today the formal application of the precautionary approach presents more of a challenge to SFCs owing to the risk of imposing contentious restrictions on the fishing industry without being able to demonstrate reasonable or measurable benefits. Given the litigious nature of some fishermen, on the one hand, and the call for application of a precautionary approach by influential environmental organisations on the other, SFCs (and DEFRA) are placed in a difficult position. Their reaction has generally been to favour the need for hard science. This reduces the risk of challenge from the fishing industry and allays

fears that once a byelaw is made on strong precautionary grounds the floodgates will open with demands of more of the same from environmental groups. But, it also negates the ability to take action before a serious problem rises.

- The management approach used by SFCs is based on restrictive access to inshore fisheries, created through byelaws, and Regulating and Several Orders. In so doing, preference for smaller vessels and the zoning of some inshore areas for particular forms of fishing have been deliberately, or, in some instances, inadvertently created. While this approach has been endorsed by the fishing industry, it challenges some elements of **equity** that are espoused as representative of good governance. For example, inter- and intra-generational equity may be compromised by the ‘closed shop’ effect that Regulating Orders entail by restricting new entrants to the fishery; while cross boundary equity is not always secured, because some shared stocks may be administered in different ways by adjoining districts (such as imposing different minimum landing sizes). However, since the majority of the inshore fisheries are considered to be at or close to the maximum acceptable levels of fishing, and there is a desire to manage fisheries to match the local circumstance, it is difficult to see how any other approach, given the constraints of the management tools they have at hand, can be used by SFCs.
- The diversity of fisheries and conservation issues within the inshore area, and the limited resources that SFCs command (some more than others), means that SFCs have to target enforcement action and, in so doing, ensure that action is **proportional** to the possible or likely infringements.
- The devolved management approach offered by SFCs allows for management that matches the local fisheries and the conditions within which they operate. As a result, the regulations between Fisheries Districts may be very different and, therefore a **consistency of approach** may be difficult to achieve. Where SFCs use different regulations to manage similar activities, cross-border cooperation, ‘learning by doing’ and the sharing of experience all contribute to improved consistency. Transparency – ensuring that the enforcement system is widely communicated, and that decisions are clearly explained – also helps to promote consistency.

From the above list of process and policy principles associated with good governance, which the SFC ‘model’ achieves in greater and lesser degrees, there can clearly be seen a participative mode of governance. Breaking it down further, within the participative mode, the SFC model has a strong co-management element and, to a lesser degree, an environmental stewardship element which, with time, is certain to become more prominent.

9.6.2 THE EFFECTIVENESS OF SFCs

The second question that I focus on, in my critical appraisal of SFCs, is how effective are they at managing inshore fisheries? There is a broad range of answers to this question depending on who we ask, where they are coming from, and their experience of SFCs. The following analysis is based on six key criteria, which, from my own experience of working within a SFC, I consider to be important in assessing the overall effectiveness of a SFC.

First, the calibre of the Committee members is a vital component in the overall effectiveness of SFCs as inshore fisheries managers. An ideal would be to have a

Committee made up of (1) local authority representatives with a good background knowledge and appreciation of the reality of modern inshore fisheries; and (2) industry representatives who were truly representative of the fishing industry and did not try to influence decisions to favour themselves. Alas, this is an unlikely combination: while there are some Committee members who fit these descriptions, many others do not, and, indeed, some members may unwittingly or deliberately hinder the effectiveness of the Committee.

With respect to (1) the local authority representatives, members are often appointed with limited or no background knowledge or understanding of technical matters associated with fishing, and an apparent inability to grasp many of the issues, even after a considerable length of time serving on the Committee. There may be others with an unrealistic, romantic image of small-scale, low-intensity fishing, who are unaware of the fishing and earning potential of modern fishing vessels and the ‘cut-throat’ nature of the business. Others may have a preoccupation with cost efficiency and may be ignorant of the reality of maintaining a sea-going capability. In the worse case, a member may fit all three descriptions.

There can also be difficulties with (2) the DEFRA fishing industry representation. It is often hard to find a working fisherman willing and able to contribute to SFCs. As a result, DEFRA may receive a limited number of suitable nominations. This might be due to the lack of financial incentive for active fishermen to forfeit a day’s fishing. The reimbursement of travel expenses and loss of earnings at local government rates are unlikely to adequately compensate a fishermen and/or his crew. It may also be indicative of the fact that the majority of fishermen are not particularly comfortable debating issues in a formal setting. This difficulty is compounded by the pressure of trying to represent the views of an industry that is notoriously bad at achieving a consensus; there’s a saying that, ‘if you get two fishermen together you’ll get three points of view’. While a confident and articulate fisherman can be very influential, he is likely to have many requests made on his time by people looking for an industry point of view and, if he is a working fisherman, he will be constrained by how much he can afford to do. A lack of suitable nominations may also reflect fishermen’s perception that their input will have negligible benefits – a perception that the fishing press regularly perpetuates with regard to local, national and European fisheries management policy.

The second key issue follows on from the first: that the industry nominees who are chosen to sit on a SFC may not fairly represent the views of the industry. In the worse case scenario they may prefer to influence opinion for their own benefit, and deliberately attempt to undermine a management approach which will restrict their fishing activities. While pecuniary interests should be declared at Committee meetings, members who declare their interests are still allowed to debate issues, and, given that some local authority members may fit the profiles highlighted above, they can be misled by deliberate deceptions.

Third, there may be differences of opinion or uncertainty among Committee members about whether their management of inshore fisheries ought to be for the benefit of the local fishing industry. The Fisheries Act that establishes SFCs does not help, only referring to their regulatory role as one of preventing damage to inshore fisheries from

inappropriate fishing activity. If the majority of members take the view that management is for the benefit of the local fishing industry, the general bias of management decisions is likely to be in favour of the industry rather than the resource. Given the reality of the varying calibre and motives of some Committee members, this can mean that fishing industry representatives misinform the Committee, resulting in the dilution or rejection of management proposals designed to protect the resource. For example, suppose the officers of the Committee undertake a comprehensive shellfish stock assessment and propose a total allowable catch (TAC), but the industry rejects the assessment, saying that there is significantly more shellfish available. The Committee then takes account of the industry's 'guesstimates', and agrees a revised and increased TAC. The local authority representatives feel that by negotiating and achieving a consensus they have reached a good resolution, while the industry representatives are satisfied because they are able to catch more fish. However, despite a large investment of public money in a stock assessment, considerable effort on behalf of the officers and advice given in good faith, the Committee has chosen to put the industry first rather than the resource. This is a familiar story, but one that is more often associated with the level of governance undertaken in Brussels than in inshore fisheries.

Fourth, the relationship between the CFO and Committee Chairman is a critical factor, because, together, it is their responsibility to manage this complex mix of individuals by use of strong interpersonal skills, patience, second-guessing and good preparation. With a successful chairman supported by a pro-active CFO, the Committee can be focused into achieving positive results. A good relationship between the CFO and his officers is also vitally important – CFOs have to be strong in their convictions and skilful at maintaining team spirit, because it can be easy for officers to become disenchanted or demoralised as a result of some Committee decisions. However, given the wide-ranging demands put on CFOs, it is difficult for them to constantly maintain such qualities. Likewise, SFC Chairmen do not always match up to these exacting specifications.

Fifth, the principal legislation which provides the SFCs with their regulatory powers are remnants from Victorian times, and they are no longer appropriate for the management of a modern inshore fishing sector. Some fishermen have invested in consultants and sought legal advice in order to learn how to exploit the loopholes in local regulations, and, in some circumstances, this has led to a serious undermining of the effectiveness and credibility of SFCs. The protracted byelaw-making process, and the SFCs' restricted legal scope to be proactive in dealing with a highly inventive and adaptive industry, creates a real potential for damage to fish stocks and the marine environment as fishermen develop and use new methods of fishing. This can result in a 'fire-fighting approach' in the way SFCs operate, requiring them to redirect resources from normal enforcement duties to deal with problems that could have been avoided by proactive measures. Working within this type of constraining legislative framework stifles the ability to be strategic and can create a 'navel-gazing' culture rather than one of innovation and flexibility.

Finally, with the greater demands placed on modern fisheries management to ensure the sustainability of both fish stocks and the marine environment, SFCs need to be adequately and consistently funded, so they can attract and employ the appropriate mix of skills and utilise state-of-the-art technology and hardware. The Eastern SFC is the only SFC that has been able to keep pace with the resourcing needs of a modern inshore fisheries management body, with a staff complement and hardware that allows them to

undertake the full range of fisheries management functions. The annual cost for this SFC is approximately £1.2 million. If the value of the commercial inshore fisheries of England and Wales is in excess of £130 million; the value of sea angling is £500 million (DEFRA 2004); and our coastal waters contain some of our greatest diversity of marine wildlife (English Nature 2004), it makes sense to have an adequately resourced organisation which is capable of maintaining and enhancing the economic and biological value of our inshore area.

9.7 Conclusion

In this analysis of Sea Fisheries Committees in England and Wales, I have explained their structure and functions, and their relationship with other fisheries management bodies, and I have evaluated their credentials of good governance and their effectiveness in managing inshore fisheries. My conclusion is that for over 100 years, SFCs have performed a valuable role in successfully managing inshore fisheries – the state of inshore stocks in comparison to those generally associated with the offshore provides testimony to this fact – but SFCs face many challenges which they are not fully equipped to deal with. First, a way has to be found of preventing some industry representatives from unduly influencing SFC decisions in their favour and for local authority representatives to be more aware and appreciative of the local fishing industry. Induction training for all new members so they fully understand and appreciate the role of the Committee would help (not least by stiffening local authority representatives' resistance to any inappropriate tendencies shown by their colleagues from the industry), while reimbursement of loss-of-earnings to working fishermen could encourage a wider representation from the industry. Second, increasing responsibility conferred on already over-worked SFCs for the protection of the marine environment must be matched by increased funding allowing them to invest in human and hardware resources that give them the capacity to broaden their capability and, as a result, their general outlook, as more than fish stock managers. Third, legislation is urgently required to give SFCs the flexibility they need to respond more speedily to local events to prevent them from turning into crises for the marine environment. Fourth, any proposal to merge SFCs into a nation-wide Marine Agency should be resisted, because it would undermine their essential characteristic – local autonomy.

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