

# Department of Environment, Food and Agriculture

Rheynn Chymmiltaght, Bee as Eiriny's



**Isle of Man**  
Government

*Reiltys Ellan Vannin*

## Isle of Man King Scallop Long Term Management Plan 2022 Capacity Reduction Programme (Policy)

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Policy History		
Version	Date Approved	Description
1.0	01 Jun 2022	Original policy document

### **Purpose**

The purpose of this policy is to introduce a capacity reduction programme in the Isle of Man King Scallop fishery, in line with the Short Term Objectives of the King Scallop Long-term Management Plan (LTMP).

### **Background**

The Department manages the fisheries within the territorial sea through a combination of regulations, byelaws and also through the conditions and authorisations associated with the Isle of Man Sea Fishing Licence.

Isle of Man sea fishing licences are issued by the Department under Sections 37 of the Fisheries Act 2012 (of Tynwald). Section 38 of the Fisheries Act 2012 enables the Department to vary a licence if it appears to the Department to be necessary or expedient for the regulation of sea fishing.

### **37 Licensing of fishing boats**

- (1) The Department may by regulations provide in any specified area of the sea within the territorial waters of the Island fishing by fishing boats is prohibited unless authorised by a licence granted by the Department (a "sea fishing licence").

### **38 Sea fishing licences**

- (2) A sea fishing licence may ... confer limited authority by reference, in particular, to the descriptions and quantities of sea fish that may be taken.
- (3) A sea fishing licence may authorise fishing ... subject to such conditions as appear to the Department to be necessary or expedient for the regulation of sea fishing.
- (7) The licensing powers conferred by this section may be exercised so as to limit the number of fishing boats, or of any class of fishing boats, engaged in fishing in any area, or in fishing in any area for any description of sea-fish, to such extent as appears to the Department necessary or expedient for the regulation of sea fishing
- (8) A sea fishing licence ... may be varied from time to time ... if it appears to the Department to be necessary or expedient for the regulation of sea fishing.

This includes variations that allocate and/or remove Specific Fishery Authorisations to fish for certain species in Section C of the licence, including King Scallop, which is otherwise prohibited by a [condition](#) of the Isle of Man Sea Fishing Licence. The administration of these authorisations is set out in the Specific Fishery Authorisation policy [\[SF/03/2022\]](#).

This policy aims to deliver the Long Term Management Plan for the Isle of Man King Scallop fishery (LTMP), which provides the strategic framework for the management of the fishery. Specifically, this policy aims to deliver the Short Term Objective to implement a Capacity Reduction Programme ('STO 2').

Having engaged with the industry through the Isle of Man Scallop Management Board ([SMB](#)), the Department held a public [consultation](#) on a Long Term Management Plan for the King Scallop fishery in August-October 2021. The consultation sought views on proposals and options to reduce capacity in the King Scallop fleet. A [summary of responses](#) to consultation is available online.

Following consultation, the LTMP was endorsed by the SMB, and implemented by the Department as the framework for the future management of the fishery.

### **Scope**

The following policy shall apply to those persons that may be authorised to fish for King Scallop within the territorial sea from a registered and licenced vessel, i.e. where a person is currently allocated an 'active' or 'dormant' authorisation as defined in policy SF/03/2022.

### **Capacity Reduction Programme**

This policy, which implements the Capacity Reduction Programme objective of the LTMP, applies a minimum track-record requirement for future eligibility in the fishery. To be clear, the track-record requirement is non-discriminatory, and applies equally to all authorisations irrespective of:

- the size or power of the vessel to which they were, or are, currently allocated; and,
- the home port to which the authorised vessel was, or is, registered.

In order to reduce capacity within the fishery, authorisations that do not meet **at least one** of the following criteria will become ineligible for access to the fishery by reverting to the Department and becoming extinct:

- Evidence of at least **54 days** fishing for King Scallops in the Isle of Man territorial sea during the period 01<sup>st</sup> November 2017 to 31<sup>st</sup> March 2020; **or**

- Evidence of at least **27 days** fishing for King Scallops in the Isle of Man territorial sea in any one season<sup>1</sup> during the period 01<sup>st</sup> November 2017 to 31<sup>st</sup> March 2020 (i.e. the 2017/18, 2018/19, and (part of) the 2019/20 season).

The track-record reference period includes 542 possible fishing days<sup>2</sup>. The track-record requirement of 54 days therefore represents a 10% participation rate in the fishery over the reference period. In order to account for unforeseen disruption to fishing vessel operations (such as prolonged maintenance periods), the SMB recommended that a second criteria should be considered whereby authorisations with 27 days (50% of the overall track-record requirement) in any one season may also qualify for the fishery.

Fishing during the reference period required, as a condition of the Isle of Man sea fishing licence, the completion of an electronic Daily Catch Return (eDCR; known as 'NESTFORM' submissions). Evidence of fishing activity against the track-record requirements is assessed and determined using the eDCR dataset, which is cross-checked and validated at the time of submission using statutory logbook and [Vessel Monitoring System \(VMS\) requirements](#).

### **Procedure**

Where the eDCR database shows that the track-record of fishing activity does not meet the eligibility requirements of this policy (above), Specific Fishery Authorisations for King Scallop shall revert to the Department and become extinct. This shall be implemented through a variation to the Isle of Man Sea Fishing Licence (to Section C of the licence).

This applies to 'active' authorisations (i.e. authorisations that are on active licences), and authorisations that may be 'dormant', (i.e. where they have been placed on-hold with the Department to allow for vessel replacement, or where an Isle of Man sea fishing licence has not yet been renewed for the 2022/23 licensing period).

King Scallop Specific Fishery Authorisations that have already reverted to the Department (i.e. are "latent") will also become extinct if they do not meet the eligibility criteria.

This policy includes an opportunity for affected person(s) to request a review of the Department's initial determination of authorisation eligibility. The following procedure will apply (summarised in Appendix 1):

#### **1. Initial consideration**

- 1.1. The Department shall analyse the eDCR database to initially determine whether the eligibility of an authorisation is implicated by this policy (**May 2022**).

#### **2. Initial notification and effect**

- 2.1. Where initial consideration determines that an authorisation does not meet the track-record requirement, the Department will write to the relevant affected person(s) in **June 2022**, informing them of the determination.
- 2.2. The affected person(s) may;
  - request a review in line with the review process below; or
  - accept the initial determination, and if the affected individuals have an active Isle of Man sea fishing licence, they may request a licence cancellation and for the Department to administer a pro-rata refund of the licence fee. **Note** that the cancellation of an Isle of Man sea fishing licence will remove access to all other commercial fisheries in the Isle of Man territorial sea.

#### **3. Stage 1 Review (Request)**

- 3.1. The deadline to submit a request for a Stage 1 review is **17:00 on Friday 15<sup>th</sup> July 2022**.
- 3.2. If no request is received by the Department by the above deadline, the authorisation for King Scallops will revert to the Department and become extinct.

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<sup>1</sup> A King Scallop fishing season begins on 01<sup>st</sup> November and continues to the following 31<sup>st</sup> May.

<sup>2</sup> 201 days in 2017/18, 200 days in 2018/19, 141 days 2019/20, taking account of the mid-season Christmas closures.

- 3.3. If a request is received by the Department before the deadline, the authorisations for King Scallops remain valid until the outcome of the Stage 1 review is determined.
- 3.4. Requests for a Stage 1 review can be made via email, or via post, to the Department.
- 3.5. The Department will set out the criteria by which a review will be assessed when writing to the affected person(s), which is specified below.

#### 4. Stage 1 Review (Procedure)

- 4.1. In order to consider a Stage 1 review, affected persons must clearly state the grounds for the review in writing to the Department.
- 4.2. Grounds for the Stage 1 review should be relevant to the **Review Criteria** (below), and may include any additional representations or information relevant to the decision.
- 4.3. Stage 1 reviews shall be considered in the context of supporting evidence and information provided by the affected person(s), who will be asked to provide consent for the specific use of any personal data provided further to GDPR requirements.
- 4.4. A request for a Stage 1 review does not necessarily need to be accompanied by supporting evidence or information; however, the absence of supporting information may impact upon the consideration and outcome of review case-file.
- 4.5. Case-files shall be *prepared* by the DEFA Sea Fisheries Policy Manager (HEO), and include all relevant data and information made available by the affected person(s).
- 4.6. Case-files shall be *considered* by either Head of Fisheries (SEO) or the Director of Environment (DIR), who will aim to notify the affected person(s) of the **Stage 1 review outcome by Friday 12<sup>th</sup> August**.
- 4.7. If the case for review is successful, the affected person(s) will be notified in writing by the Department, and the eligibility of the King Scallop authorisations will not be affected as a result of this policy.
- 4.8. If the case for review is unsuccessful, the affected person(s) will be notified in writing by the Department that the specified King Scallop authorisations have reverted to the Department and have become extinct.
- 4.9. Following an unsuccessful outcome (4.8), the affected person(s) may either then;
  - accept the outcome of the Stage 1 review, and if the affected individuals have an active Isle of Man sea fishing licence, they may request a licence cancellation and for the Department to administer a pro-rata refund of the licence fee. **Note** that the cancellation of an Isle of Man sea fishing licence will remove access to all other commercial fisheries in the Isle of Man territorial sea.; or
  - request a Stage 2 review within **30 days** of receiving notification of the Department's decision to amend the affected person(s) sea fishing licence<sup>3</sup>.

#### Stage 1 Review (Criteria)

- 4.10. The Stage 1 Review Criteria (above) includes;
  - Exceptional mitigating circumstances during the reference period that prevented the authorised vessel undertaking the required fishing activity during the reference period;
  - Different ownership during the reference period;
  - Fishing activity undertaken since the end of the reference period; and,
  - National Benefit (economic-link) to the Isle of Man resulting from the authorised activity.

#### 5. Stage 2 Review (Request)

- 5.1. A request for a Stage 2 review must be made in writing by the deadline, i.e. within **30 days** of receiving notification of an unsuccessful outcome to a Stage 1 review.
- 5.2. A stage 2 review will be conducted in line with Regulation 12 of the [Sea Fisheries \(Licensing\) \(Fishing Vessels\) Regulations 2021](#) (paragraphs 1-4).
- 5.3. A Stage 2 review is to ensure that the Stage 1 review process has:
  - considered all the evidence provided;

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<sup>3</sup> The 30 day period is defined in the [Sea Fisheries \(Licensing\) \(Fishing Vessels\) Regulations 2021](#), Regulation 12(1).

- made a full and fair assessment; and
  - come to a reasonable conclusion and outcome.
- 5.4. The 'reviewing officer' will be the Chief Executive Officer (CEO) of the Department, or an officer they have delegated for the purpose of this policy, who must not have had involvement in the Stage 1 Review.
- 5.5. The Department will aim to confirm the outcome of the Stage 2 review within 1 month of receiving the request for a Stage 2 review.
- 5.6. If the case for a Stage 2 review is successful, the affected person(s) will be notified in writing by the Department, and the eligibility of the King Scallop authorisations will not be affected as a result of this policy.
- 5.7. If the case for a Stage 2 review is unsuccessful, the Department will notify the affected person(s) of that outcome in writing. The affected person(s) may then decide to either;
- accept the outcome of the Stage 2 review, and if the affected individuals have an active Isle of Man sea fishing licence, they may request a licence cancellation and for the Department to administer a pro-rata refund of the licence fee. **Note** that the cancellation of an Isle of Man sea fishing licence will remove access to all other commercial fisheries in the Isle of Man territorial sea.; or
  - proceed to the appeal process (below).

## 6. Appeal (Court of Summary Jurisdiction)

- 6.1. Further to paragraph 5 of Regulation 12 of the [Sea Fisheries \(Licensing\) \(Fishing Vessels\) Regulations](#), affected person(s) that are the owner of a fishing boat affected by this policy, or an authority of State acting on their behalf, may appeal to the court of summary jurisdiction against the decision of the reviewing officer within 28 days of being notified of the decision made under this policy.

### **Related information**

The Fisheries Act 2012 can be found at: [https://www.gov.im/media/1347777/fisheriesact2012\\_2.pdf](https://www.gov.im/media/1347777/fisheriesact2012_2.pdf)

Information regarding the Future Fisheries Strategy can be found at:  
<https://www.gov.im/media/1349731/sea-fisheries-strategy.pdf>

Information on the Department's policies can be found at: <https://www.gov.im/about-the-government/departments/environment-food-and-agriculture/environment-directorate/fisheries/legislation-policy-and-enforcement/>

Information on commercial licensing requirements can be found at:  
[https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2012/2012-0005/FisheriesAct2012\\_4.pdf](https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2012/2012-0005/FisheriesAct2012_4.pdf)

Information on the Specific Fishery Authorisation Policy can be found at:  
<https://www.gov.im/media/1358247/specific-fishery-authorisation-policy-sf022022.pdf>

The Long-term Management Plan for the Isle of Man King Scallop Fishery can be found here:  
<https://www.gov.im/categories/business-and-industries/commercial-fishing/iom-licencing/isle-of-man-king-scallop-fishery/>

### **Frequently asked questions**

- *Who does this policy affect?*

This policy may affect person(s) with King Scallop authorisations.

- *What activities does the policy cover?*

The policy covers the Capacity Reduction Programme in the Isle of Man King Scallop fishery.

- *When does this policy take effect?*

The policy came into effect on the 16<sup>th</sup> May 2022. This is the 1<sup>st</sup> version of this policy.

- *How often will the policy be reviewed?*

This policy will be reviewed prior to the start of the start of the 2023/24 King Scallop fishery.

- *Why has the department introduced this policy?*

The Department has introduced this policy with the aim of delivery one of several Short Term Objectives outlined in the Long-term Management Plan for the Isle of Man King Scallop fishery.

- *How was this policy decided upon?*

This policy has been determined following the development of a Long-term Management Plan for the Isle of Man King Scallop Fishery with the Isle of Man Scallop Management Board, which included a public consultation on proposals (including capacity reduction) during 2021.

- *What authority has the Department got to introduce this policy?*

Section 38, Subsection (8), Paragraph (a) of the Fisheries Act 2012 enables the Department to vary a licence issued by the Department (under Section 37), if it appears to the Department to be necessary or expedient for the regulation of sea fishing. This includes variations that remove authorisations (specified in Section C of the Isle of Man Sea Fishing Licence) to fish for specific species (i.e. Specific Fishery Authorisations), including the authority to fish for King Scallops.

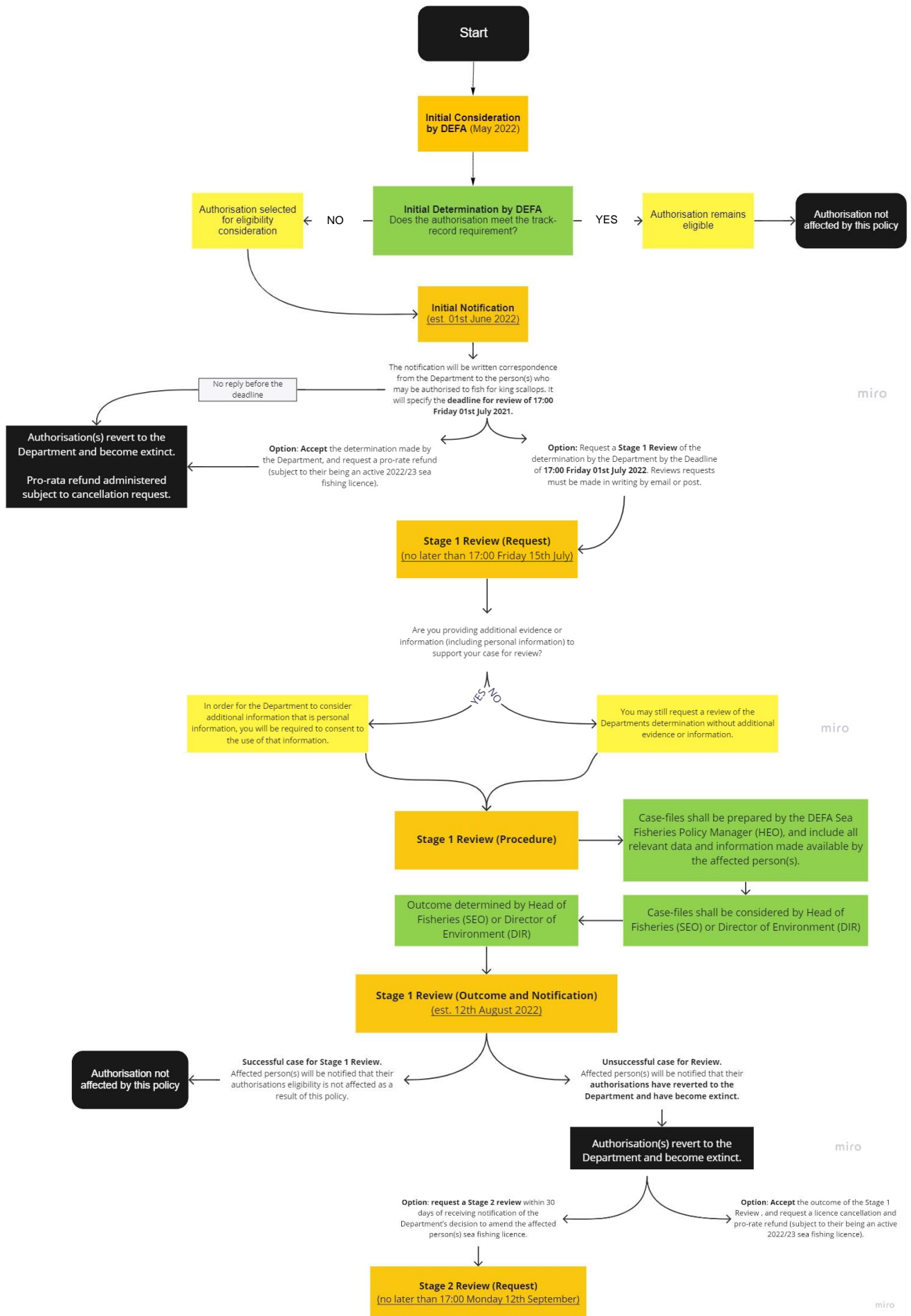
- *What happens if the Authorisation for King Scallops that is allocated to my Sea Fishing Licence is affected?*

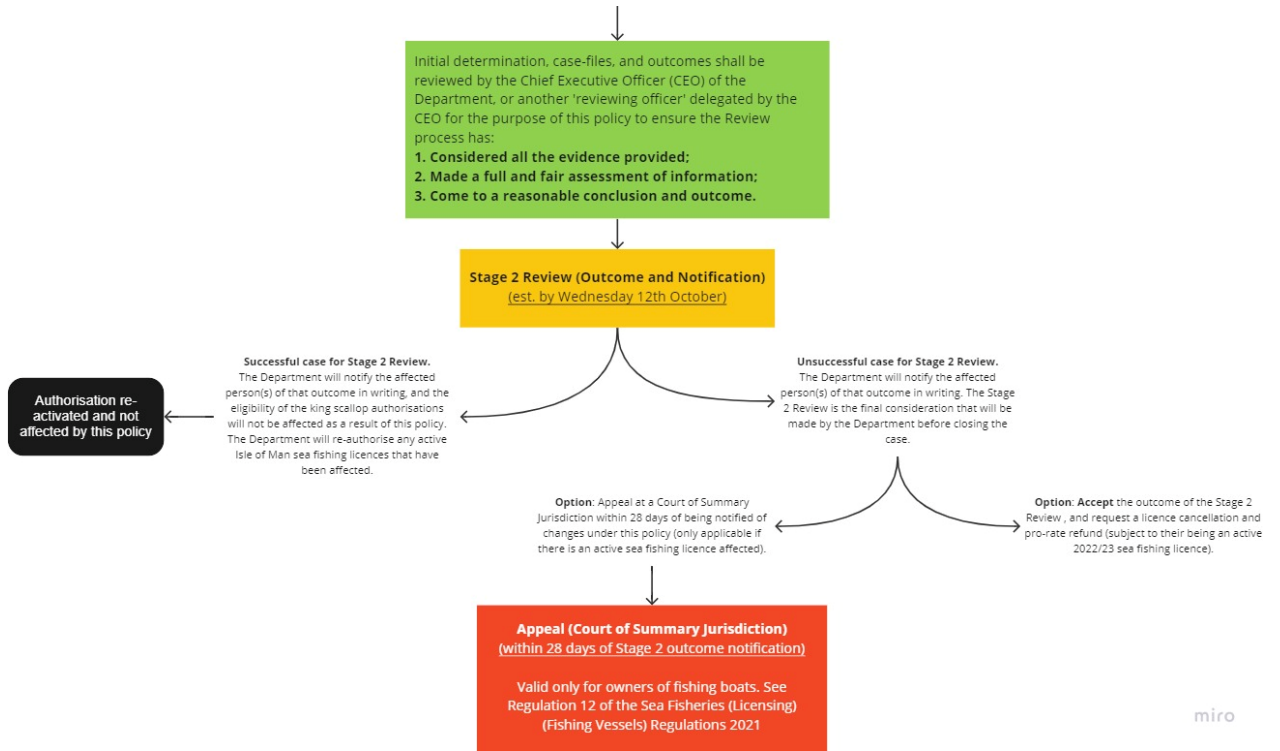
After initial consideration, if the authorisation for King Scallops fails to meet the track-record requirement, the Department will write to the affected person(s). Should they request a review of, they may write or email the Department clearly stating the grounds of a review, together with any supporting evidence or data.

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## **Appendix 1 – Review Process flow-map**

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