

## Financial Administrative Penalty (FAP)

### **Summary**

The D&SIFCA currently has £19,800 in Financial Administrative Penalty funds within a separate account held by the Authority. There is no advice nationally on what to do with these funds and the D&SIFCA is currently likely to overspend by £18,000 on legal expenses for the 2017/18 budget year.

### **Background**

The legislation which permits the use of this mechanism of fining for fisheries offences does not set out what will happen to the fines once they have been paid to an IFCA.

The matter has been raised with Defra, who have in turn raised it with the Treasury. As yet and after three years of questions this issue is still no closer to being resolved.

The D&SIFCA are currently facing a £18,000 overspend on the legal fees budget for 2017/18 as a result of preparing cases for FAPs along with other court cases. If the IFCA were asked to compile their costs associated with the investigation and legal advice involved on the issuing of a FAP then these costs would exceed the current amount held in the FAP account.

If the Treasury were to ask for the FAP money to be paid back to the national purse then the IFCA could legitimately ask for their proper costs to be reimbursed.

With the Government starting to consider the possibility of full cost recovery from offenders from their activity and the desire that the public purse should not be required to fund the management of these offences there is a good case for the D&SIFCA to retain all the money currently held within the FAP account.

This issue has a parallel between the use of speed cameras to address the speeding of motorists on roads. There is an accusation that the speed fines are being used to address budget short falls. This has been countered by the introduction of clear policy on costs for the administering of the speed camera network and the costs derived from the speeding fines.

The D&SIFCA currently has sufficient funds within its reserves to repay the money if the Treasury does decide to require the FAP funds to be paid back to the state. Therefore there is low risk in the D&SIFCA utilising the current amount of fines.

The D&SIFCA could decide to recoup a percentage of the FAP fund and then to look at setting up a local environment grant fund. This would allow funds generated from fines for those who have contravened byelaws designed to protect the local environment to be used to help local environment projects designed to enhance areas of the district.

The grant fund would need to be for relatively small amounts of money and members of the Authority would need to oversee the applications and the granting of money to projects. This would obviously add additional work to members and officers to help with the management of the fund.

If the amount of FAP money currently held by the D&SIFCA was attributed at 50 / 50 the new environment project fund would have an initial £9,900 to disperse. In future years the amount

could be much less as this figure is the combination of five years of banking FAP fines. Given the current amount an average fund of £2,000 per year might be available, which would allow for four grants at a modest £500 per application. But, this amount cannot be guaranteed in the future.

Clear terms of application would also need to be developed to ensure that a clear policy was developed to allow this to happen. From a reputational point of view it would show the IFCA utilising funds from byelaw contravention to benefit the local environment.

### **Recommendation**

- 1. That the D&SIFCA produce a policy that all FAP fines are returned to the D&SIFCA to recover the costs associated with the prosecution of offences within the district.**
- 2. The D&SIFCA produces a policy to the partial use of FAP fines to cover the legal costs of issuing and collecting FAPs on a percentage basis. The remaining percentage of the money is used to set up an environmental project fund.**
- 3. If option 2 is chosen what percentage would members wish to use for the environment fund projects of the FAP fines money annually?**