

Devon and Severn IFCA News

D&S IFCA Responds to Court Case Ruling

Response to HHJ Linford's ruling on the application to adduce evidence and stay proceedings in the case between Mark Manning and Julian Campbell Baker and Devon and Severn IFCA



As a regulatory authority D&S IFCA is committed to securing the economic welfare of our coastal community, while protecting our marine environment for the benefit of the public and future generations.

D&S IFCA accepts the Court's decision to stay proceedings in this case. The reason for the stay of proceedings were that one of the defendants was too unwell to be tried, and further delay would have been unfair.

D&S IFCA hope that both defendants' health improves now that proceedings in this case have been concluded and that they both continue fishing in the knowledge that this matter is behind them.

The Court reiterated that the primary cause of delay was the approach of the appellants and their previous legal teams in taking and abandoning issues, and in repeatedly being unready for trial. We recognise that those criticisms did not attach in any way to the defendant's barrister Mr Telford, who conducted the closing stages of the appeal.

- The full Crown Court Ruling by HHJ Robert Linford can be viewed [here](#).

(Please be aware that the full ruling (link) was updated on 6th November 2022. Due to an administration error, the previous ruling (pdf) omitted two consecutive pages. This has now been rectified, although the format of the full ruling is unfortunately a mixture of portrait and landscape viewing).

D&S IFCA is encouraged that the Court made clear that there could be no criticism of the D&S IFCA's decision to investigate or prosecute the case, the judge stating:

"This judgement must not be seen as critical of the decision to investigate or to prosecute. I am not critical of it – they have done what they think right". The Court also recognised that "this case does not establish precedent; it is highly fact specific and exceptional".

The defendants and the Court refer to a letter from the Defra Minister in 2019. D&S IFCA's approach to its investigations is entirely consistent with the views expressed by the MMO in

the letter. Vessel Monitoring System data does only provide the vessel's position, speed, and course at a moment in time. As with most data, it requires analysis and corroborating evidence to determine its use and value.

D&S IFCA has never sought to prosecute on Vessel Monitoring System data alone, but always presents additional corroborative evidence, as indeed it did in this case. Vessel Monitoring System data has to date formed a component of 48 investigations by D&S IFCA since 2014. 25 investigations were not taken further due to a lack of evidence. The remaining 23 met the evidential and public interest tests and resulted in either conviction or a Financial Administrative Penalty being accepted by the defendants in all but two cases. Other IFCA's and the MMO have used Vessel Monitoring System data in a similar way to D&S IFCA, and this too has resulted in successful prosecutions or acceptance of Financial Administrative Penalties.

There has never been a successful application to halt a prosecution by D&S IFCA on the basis of inadequate evidence having been produced or to exclude Vessel Monitoring System evidence from a case brought by D&S IFCA. That is an endorsement of the D&S IFCA's determination only to prosecute when there is adequate evidence to establish an answerable case.

D&S IFCA recognises that as a regulator of inshore fishing and conservation there will inevitably be tension from time to time with those subject to its regulation. D&S IFCA was reassured by comments in the most recent judgement rejecting entirely submissions to the Court suggesting that the D&S IFCA had not adequately dealt with questions of disclosure of evidence. The integrity of the prosecution team was expressly recognised and accepted by the court.

D&S IFCA takes seriously its regulatory position. Effective monitoring and enforcement are necessary to prevent illegal trawling and scallop dredging and thereby protect fish stocks, prevent long lasting or irreversible damage to Marine Protected Areas and the livelihoods of the majority of law-abiding fishers. This includes reducing the significant financial costs that some fishers suffer when pots and fixed nets are towed away by illegal fishing.

D&S IFCA will continue to use all available and admissible evidence, including Vessel Monitoring System data, to support its enforcement action. D&S IFCA supports Marine Scotland's introduction of Remote Electronic Monitoring of its scallop dredging fleet. D&S IFCA will be reporting shortly the findings of its pilot project using similar on-board cameras and sensors to support the vessel positional data already available. This will enhance the D&SIFCA's ability to remotely monitor fishing and protect the marine environment.

D&S IFCA takes seriously its responsibility to be fair but robust in its approach to enforcement in order to preserve inshore fishing resources into the future for the benefit of our coastal community and those working in the fishing industry.