

## D&S IFCA response to 'Senior Officer Statement' by GCC (March 2019)

GCC states it “... *does not believe the Devon & Severn Inshore Fisheries Conservation Authority (D&S IFCA) is under 'severe budgetary pressure' as reported in the recent DEFRA report on IFCA's.*” The report referred to in the GCC statement, entitled ‘*Defra (2018) 'Inshore Fisheries and Conservation Authorities. Conduct and Operation 2014-2018'*’<sup>1</sup> was an independent report, published not by the Authority but by a Government department (Defra) and so carries additional weight. Moreover, the GCC statement is only a statement of a conclusion, not a reasoned and well-evidenced explanation as to how that conclusion is reached. Consequently this makes it difficult, if not impossible, to provide a specific, reasoned response.

The document entitled ‘IFCAs Reporting and Benchmarking’, prepared in April 2019 and provided hereto as Annex B, clearly establishes that:

- D&S IFCA’s annual budget is the smallest of nine mainland IFCAs. Compared to some IFCAs it is almost half their budget, e.g. Eastern and North Western IFCAs, as seen in the graph for 2017/2018. Since IFCAs came into being D&S IFCA has the smallest total budget of all mainland IFCAs.
- D&S IFCA has the lowest number of staff members than any other mainland IFCA.
- Whilst D&S IFCA has the lowest number of staff and the lowest budget of mainland IFCAs, its District consists of 4,522 km<sup>2</sup> of sea, which is the largest area of sea of all the IFCAs.
- When comparing the cost per km<sup>2</sup> of the marine area of the mainland IFCAs, D&S IFCA has the lowest budgetary cost per km<sup>2</sup>. The cost is £159 per km<sup>2</sup> which is approximately 75% less than the Northumberland IFCA’s cost per km<sup>2</sup> (the highest cost per km<sup>2</sup>) and more than £100 per km<sup>2</sup> less than the next lowest cost for Kent and Essex IFCA.
- D&S IFCA’s coastline is the second longest of all mainland IFCAs.
- Due to the D&S IFCA’s budget being the lowest of the mainland IFCAs the cost per km of coastline is also the lowest of the IFCAs.
- As of April 2019, when the document was prepared, D&S IFCA had 16 Marine Protected Areas (MPAs) in its District. This was the 5<sup>th</sup> largest number in the country, did not include designations such as Ramsar and Marine SSSI and meant 42% of D&S IFCA’s District was within a MPA. Almost all estuaries in the District are SSSI, including Salcombe Estuary Marine SSSI. All European Marine Sites are colocated with SSSI, for e.g. the Severn Estuary EMS is co-located with multiple SSSI including Bridgewater Bay SSSI. The Severn Estuary and Exe Estuary are also Ramsar sites.

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<sup>1</sup> <https://www.gov.uk/government/publications/fisheries-and-conservation-authorities-conduct-and-operation-2014-to-2018> Retrieved 14/10/2019.

<sup>2</sup> As of October 2019 D&S IFCA’s District had 10 European Marine Sites, 4 Tranche 1 MCZ’s, 2 Tranche 2 MCZ’s and 6 Tranche 3 MCZ’s.

- As of October 2019 an additional 3 MCZ's have been designated, which further increased the tasking of D&S IFCA's environment team<sup>2</sup>, making a total of 22 MPAs.

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- As a consequence D&S IFCA had, by April 2019, undertaken and completed 171 assessments of the gear feature interactions within MPAs, which is the second highest number of assessments of all the mainland IFCA's.
  - As of April 2019 the number of prosecutions taken is the 4<sup>th</sup> highest of the mainland IFCA's. The number of prosecutions has gradually increased since 2013.

All this has been achieved with the smallest annual budget of nine mainland IFCA's and reflects enormous credit upon D&S IFCA staff and the Authority.

The most telling statistic is that in 2010, in a document entitled '*Allocating New Burden Funding to Inshore Fisheries and Conservation Authorities and their funding local authorities*'<sup>3</sup>, Defra identified the need for an extra 18.67 officers to complement the then 7 warranted officers in order for D&S IFCA to fulfil its statutory enforcement duties. That would constitute an enforcement team of 25 warranted fisheries officers.<sup>4</sup> At present D&S IFCA has an enforcement team of 4 officers. When you have 4 persons attempting to do the work of 25 persons, then by any rational yardstick the matter is severely under resourced and the Authority would challenge GCC to present a rational, reasoned argument otherwise. One could also convincingly argue that 4 persons could not feasibly execute the work of 25 persons and that to that extent D&S IFCA is already failing to fully discharge its statutory functions.

Additionally, the same 2010 document identified an indicative budget for D&S IFCA of £957,807.<sup>5</sup> The original proposed budget of ~£950,000 in 2011 was vetoed by the Severn Councils and an alternative budget of ~£590,000 (approximately only £40,000 more than the last Devon SFC budget) was suggested. Eventually an arbitrary number, in the middle of those two figures, was agreed and the 2011/2012 budget was set at £736,000. This year it is £724,000. Consequently this Authority believes it is beyond any rational disputation that D&S IFCA faces severe budgetary pressure and that there is a very real prospect that D&S IFCA is in danger of having to inform the Secretary of State in the near future that it can no longer fulfil its statutory functions.

The GCC statement also raises the matter of the level of D&S IFCA financial reserves. This matter was discussed by the F&GP Sub Committee at its meeting on the 14<sup>th</sup> March. It was specifically noted that an IFCA has no statutory power to borrow money, unlike a local authority, and therefore on a precautionary basis a higher level of reserves is deemed prudent than would be the case with a local authority, such as GCC. It may that GCC, in its assessment, has omitted this consideration. Additionally, in 2018 the National Audit Office stated "*The concern is that, if local authorities are continually dipping into their reserves, particularly to*

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<sup>3</sup> A copy of which accompanies this letter. <sup>4</sup> At P.31 <sup>5</sup> At page 34.

*cover regular ongoing spending, it's not a position that can carry on indefinitely".<sup>4</sup> The current level of reserves are in accordance with D&S IFCA's policy on reserves and indeed the F&GP Sub Committee, at this meeting, expressed " ...a preference to have the level of the General Reserve Account increased if possible ... though believed realistically to be unlikely." It should*

be noted that at this meeting of the F&GP Sub Committee local authority representatives were present, including from the north of D&S IFCA's District.

The GCC statement also raises the issue of the withholding of some of the New Burdens funding by GCC and other local authorities in the north of the D&S IFCA's District. At the outset it is important to acknowledge that D&S IFCA has never stated this withholding to be illegal and D&S IFCA also willingly concedes that GCC has paid in full the amounts formally levied on it. Nevertheless, it remains the case that DEFRA intended these monies to be utilised for the purposes of and by the Authority, less any reasonable administrative costs incurred by GCC. The table below shows that over the life of the IFCA some £515,731 has been retained by the local authorities identified in the table. Given the severe budgetary pressure D&S IFCA is under, as outlined above, this is a significant deprivation, with GCC's retention amounting to £142,957. After staff costs are stripped away D&S IFCA is left with an operating budget of approximately £140,000 p.a., so GCC's retention is equivalent to a full year's operating costs for D&S IFCA. In the light of D&S IFCA's severe budgetary pressure and the very real prospect that it may not be able to continue to fulfil its statutory functions, it is open to question whether GCC's retention of these funds is in the public interest and can be demonstrated to amount to reasonable administrative costs incurred, notwithstanding the legality of the action.

**Defra New Burdens Funding Retained by the Severn Councils Annually and over the life of the D&SIFCA**

Local Authority	2011 – 2012 Levy	2012 – 2013 Levy	2013 – 2014 Levy	2014 – 2015 Levy	2015 – 2016 Levy	2016 – 2017 Levy	2017 – 2018 Levy	2018 – 2019 Levy	Total levy paid 2011 – 2019	Annual NBF Paid	Total NBF 2011 – 2019	Variance 2011 – 2019
Bristol City Council	41,612	43,013	41,584	39,640	39,640	39,166	40,505	41,449	326,609	50,851	406,808	80,199
Gloucestershire County Council	106,572	110,160	106,499	101,522	101,522	100,306	103,735	106,151	836,467	122,428	979,424	142,957
North Somerset Council	34,100	35,248	34,077	32,484	32,484	32,095	33,192	33,965	267,645	42,574	340,592	72,947
Somerset County Council	117,030	120,971	116,950	111,484	111,484	110,149	113,915	116,569	918,552	133,952	1,071,616	153,064
South Gloucestershire Council	30,049	31,061	30,029	28,625	28,625	28,283	32,394	29,250	238,316	38,110	304,880	66,564
									2,587,589		3,103,320	515,731

The GCC statement also refers to the inequity of the current D&S IFCA funding model. This has been a recurring theme with GCC and other Severn Authorities since the inception of the

<sup>4</sup> <https://www.publicfinance.co.uk/feature/2018/03/running-road-councils-using-rainy-dayreserves1>  
Retrieved 14.10.2018

Authority, with no productive result other than to increase the sense of grievance and frustration of all parties. It is quite clear that the funding model for D&S IFCA is not working, was structurally flawed and has not worked satisfactorily from inception and its structural deficiencies have now led D&S IFCA to the point where, the former Chair, Ms. Elaine Hayes, warned in March 2019 that the IFCA was on the point of being unable to meet its statutory functions. Primary responsibility for this situation must rest with DEFRA officials who, in 2010, devised the funding model and who have failed subsequently to address these structural deficiencies.

As has been repeated ad nauseum the ability to address these deficiencies in this funding model does not lie with the IFCA, nor with its constituent Local Authorities. Only the Secretary of State can amend the Statutory Instrument that created this funding model. Consequently, there is little or no point in GCC rehearsing this argument with D&S IFCA.

As reported to the Authority in the September 2019 meeting, strong representations have been made to DEFRA reiterating Ms. Elaine Hayes' warning that D&S IFCA hovers on the brink of being unable to fulfil its statutory functions. It has also been emphasised that there is a very real prospect, if not a probability, that unless the issues of funding delivery and the deficiencies of the funding model are addressed the Chair of the Authority will have to write a formal letter to the Secretary of State to inform him or her of this situation. In response DEFRA has stated that the current public spending review is being held in a 'holding pattern' for 2019-20, with a new spending review being prepared for September 2020, to take effect in 2020-2021. DEFRA has also undertaken in the months prior to September 2020 to review the current funding model for D&S IFCA, which will involve consultation with the constituent local authorities, the IFCA and other stakeholders. The Acting Chief Officer and Chair are awaiting a telephone conference call with DEFRA shortly which we are given to understand will initiate this review process by DEFRA.

It therefore seems that best way forward is for GCC to proactively engage with DEFRA and to participate constructively in this review process. To this end you may wish to contact Ms. Rachel Muckle ( [rachel.muckle@defra.gov.uk](mailto:rachel.muckle@defra.gov.uk)) and Mr. Simon Brockington ([Simon.Brockington@defra.gov.uk](mailto:Simon.Brockington@defra.gov.uk)) at DEFRA, outlining GCC's concerns.

D&S IFCA

October 2019

## **Annex A**

### **a. 3 year Budget Forecast**

*The budget process setting for 2019/2020 had been very difficult but it became apparent that the level set would be unsustainable. Angela Stirland, Devon CC Finance, was tasked to produce a 3 year budget projection of the cost to run the IFCA for the years 2020/2021 to 2022/2023, with the intention to provide an understanding to Funding Authorities and Authority members what the absolute bare bone basic liabilities costs of running the D&S IFCA are.*

*The Chair distributed a table showing the metrics and funding across all the IFCAs highlighting that the D&S IFCA is doing the job with half the funding of one of the other IFCAs and it was at risk of not fulfilling its statutory requirements. It was to be noted that all other IFCAs had received a 2% increase in their budgets for 2019/2020.*

*Two budget forecast scenarios were provided to the Authority*

**Scenario 1** – *The calculations were based on the Chief Officer, Tim Robbins, returning to his post at the end of his secondment period and the staffing structure would revert back to prior his departure. Though all figures, ie: inflation, etc could not be accurately predicted assumptions were taken in producing the Medium Term Financial Plan. A 2% increase in levy was deemed appropriate to apply, but it would still mean the D&S IFCA would need to provide the recurrent savings to be found of £78,920 for 2020/2021 and future financial years. This is to maintain a bare bones budget only.*

**Scenario 2** – *The calculations were based on the Chief Officer, Tim Robbins, not returning to his post and the current staffing structure continuing. No obvious savings would be envisaged or required, but this puts immense pressure on staffing levels already under strain with the current secondment of the Chief Officer.*

*A statement sent by Gloucestershire County Council on D&S IFCA finances was distributed to all members prior to the meeting and the Chair opened up discussions on this paper to members after making the following points:*

- The D&S IFCA has consistently worked to keep its annual budget as low as possible to support the expectations of all its funding Authorities which has in turn reflected in a financial net benefit from New Burdens Funding into their budget for which no recognition or thanks have been received.*
- Though aware all funding Authorities are under financial strain the IFCA has a statutory duty, not discretionary, to perform/discharge its legal responsibilities and if it feels it gets to the point where they cannot do this the situation becomes very difficult.*
- Reminded the members that at inception of the IFCA Gloucester has never forgiven the D&S IFCA or itself for failing to make appropriate representation about the Marine and Coastal Access Act and the subsequent calculation of how funding would be coming forward from those Authorities that were*

*designated as Coastal. This could not be blamed on the D&S IFCA who are only performing the duties they were instructed to do requiring the support from all Authorities. The constant sniping has been detrimental and inhibitive to the working practices.*

- The annual underspends can be related to never having for a full calendar year a full compliment of staff which has resulted in savings on the budget during the transitional period of resignation and recruiting. The money saved has been put back into the General Reserve to boost the balance to aid the IFCA going forward.*
- The level of the General Reserve Account needs sufficient cash reserves to operate and to cover costs if the IFCA was dissolved. The D&S IFCA has no ability to raise money through loans, it is used for cash flow to cover expenditure not immediately covered from income due, ie: levy regularity of payments and to operate. It was to be noted that £460,000 of the General Reserve Account came across from Devon Sea Fisheries Committee when it transitioned into the D&S IFCA. Only £43,000 had been added to the account since that inception.*

*A request to obtain details of the levels of reserves of all the IFCAs was asked of the Acting Chief Officer and to be distributed to members.*

- If Gloucester County Council has the view that the budget setting and forecasting continues to be unfavourable to them it is an issue that they should put to central Government and not through the D&S IFCA, effectively punishing the D&S IFCA for the fact it does not like National Legislation and the National Funding Formula, something out of IFCA's control.*

*A consensus across members expressed disappointment and felt it unacceptable that no representative from Gloucestershire County Council attended the meeting after issuing this statement.*

*A preference to have the level of the General Reserve Account increased if possible was expressed though believed realistically to be unlikely.*

*Cllr Napper believed underlying concerns from Plymouth had fuelled and sparked off this statement from Gloucestershire and a request was made for the Chair to write to Cllr Buchan, Plymouth City Council to ask if they had specific concerns to put them through the whole Authority.*

*The Acting Chief Officer expressed his major concerns if through the spending review New Burdens Funding would not be continued. This funding represents over 50% of the overall D&S IFCA budget and as the levy would still have to be found within local Authority budgets the D&S IFCA would not be sustainable without it and the situation would become critical.*

## **Annex B**

**Report on Devon & Severn IFCA's Performance and Benchmarking**

*[This report can found attached to Agenda item 9](#)*