



Authority Meeting

Draft Minutes
15th December 2022

Version Control and Drafting

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Minutes of the Authority Meeting
Held at Newton Abbot Racecourse on 15/12/2022

Present:

Chair: Professor Mike Williams

Councillors: Stuart Hughes (Devon County Council), Ron Peart (Devon County Council), Alistair Dewhirst (Devon County Council), James Stoneman (Plymouth City Council) deputising for Cllr Bill Wakeham.

General/ Statutory Members: Dr Emma Bean, Felicity Sylvester, Wayne Thomas, Mark Day, Rachel Irish (Marine Management Organisation), Dr Pamela Buchan (Vice Chair), Simon Thomas, David Morgan

Officers: Jessica Maunder (Devon County Council Finance), Peter Lappin (Devon County Council Finance), Simon Excell (Gloucestershire County Council)

D&S IFCA Officers: Mat Mander (Chief Officer – CO), Sarah Clark (Deputy Chief Officer – DCO), Olga Pepper (Finance & Administration Manager – F&AM), Neil Townsend (Principal Policy Officer – PPO)

Public: None.

Welcome

The Chair formally welcomed Authority Members to the meeting and thanked them for their attendance.

Action Items:

1. Apologies for absence

The Chair asked F&AM Pepper to read out the list of apologies. The names called out were as follows: Tom Birbeck, Caroline Acton, Cllr Nicole Amil, Cllr Paul Goggin, Natasha Bradshaw, Cllr Mike Murphy, Cllr Bridget Petty, Cllr Alan Preest, Jessica Bishop, Amy Booth, Jay Boyle, Simon Toms, Brian Glasson, Guy Baker, David Saunders, Cllr Phil Twiss, Cllr Christine Channon (acting as a deputy), Cllr Bill Wakeham, Cllr Paul Crabb, Jon Dornom.

2. Declarations of Interest

The Chair invited all to bring forward any declarations of interest. General Member Simon Thomas wished to declare his involvement within the Channel demersal NQS FMP Evidence Advisory Group.

3. To consider and approve the Draft Minutes of the Authority Meeting held on 13th of October 2022

The draft minutes from 13th October 2022 were examined page by page. The Chair, F&AM Pepper, and Rachel Irish suggested amendments to be actioned by F&AM Pepper.

That the minutes from the Main Authority Meeting held on 13th October 2022 are a true and accurate record.

Proposed: **Pamela Buchan** **Seconded: Cllr Hughes**

In favour: **10**

Against **0**

Abstain **2**

4. Matters Requiring Urgent Attention

The Chair briefly consulted with CO Mander and it was established that there were no matters that required urgent attention.

5. Questions from the Public

The Chair confirmed that he had received an email from Ms Sarah Ready. The Chair proposed that comments would be provided when Agenda Item number 8 was discussed ("To note report on HHJ Linford's Judgment, dated 4th October 2022"). There were no objections.

6. To note Budget Monitoring 2022/2023 Month 6

Devon County Council's Finance Officer Jessica Maunder introduced the Agenda Item outlining the information included in the Officer Paper. The budget approved in December 2021 agreed to the use of reserves of £65,500 to balance the budget for 2022/23. There have been additional items of expenditure for the year leading to variances against budget, listed within the Paper. Overspend in the amount of £20,500 was noted, mainly due to the pay award. The overspend has been partially offset by underspends and additional income elsewhere in the budget. The Authority received additional grant funding of £50,000 from Defra in November 2022 and it is anticipated that further £100,000 will be received for 2022/23. This has resulted in a projected contribution to general reserves of £22,500. Variances over £1000 were available to view within the Paper including that regarding Staff costs where overspend of £25,300 was noted due to an agreed pay award plus oncosts per FTE, an average pay increase of 5.4% rather than the 2% assumed as well as spinal point increases for three new members of staff on completion of probationary period. With the General Reserves balance at 1st April 2022 of £531,517, the Net transfer to General Reserves of £22,500 causing a favourable in year variance of £88,000, the projected balance of the General Reserves at 31st March 2023 is £554,017.

Jessica Maunder invited questions and comments. Cllr Dewhirst was interested to know why there was an underspend in reference to the Environmental Research Budget. CO Mander responded – the use of this budget varies year on year depending on a number of factors and the type and expense of surveys conducted. The Budget is expected to be fully utilised moving forward.

Pamela Buchan wished to ensure that £50,000 had been received from Defra with the further £100,000 to be received. CO Mander confirmed this and noted that without the funds in question the Authority would experience significant financial difficulties.

(Felicity Sylvester arrived at the meeting)

The Chair updated the Members on funding related communications with Defra. Since the meeting between D&S IFCA's Officers and Local Authorities (observed by Defra officials) on 30/09/2022, the Chair has been seeking to arrange a follow up meeting with Defra. Communications, so far, have been conducted via emails, some but not all acknowledged by Defra. Gloucester County Council helped to secure a 30-minute meeting on 13/12/2022 between the Chair, CO Mander and Defra's Tim Robbins following which the Chair wished to highlight the points:

- The New Burden Funding was awaiting sign off. It is anticipated to be available until 2024/5 as per the spending review which means reduced urgency regarding fiscal events.
- Following the meeting on 30/09/2022 Defra is not considering splitting of the D&SIFCA between Devon based Local Authorities and the remaining Local Authorities.

- Consultation regarding the funding formula for the Local Authorities is a possibility, to take place after April 2023.

The Chair thanked the Gloucester County Council for arranging of the meeting and invited questions and comments. There were none.

7. To consider and approve the Revenue Budget and Capital Programme for FY 2023/24

Devon County Council's Head Accountant Peter Lappin introduced the Agenda Item. Peter reminded that the preparation of the Revenue Budget and Capital Programme is a responsibility of the CO and the Treasurer. The Members were reminded that the Authority's budget received £50,000 and is expecting £100,000 which influenced the year's 2022/2023 financial position. The £65,000 transfer from General Reserves was offset and instead £22,500 was forecast to be paid into the Reserves (after any additional and inflation related cost). At the time when the budget was being prepared, the £150,000 had not been confirmed. It is now anticipated to be received for the year 2023/2024 as well which resulted in two scenarios included in the report (an uncommon approach). The two scenarios consider the budget including and excluding the £150,000. Scenario 1.3 *Recommend to the Authority to note if additional funding is received of £150,000, that £2,400 will need to be transferred from the general reserve to meet the 0% increase in levy* is likely to apply. CO Mander noted that without the £150,000 there would be a 20% budget gap in the levy. Peter Lappin pointed out, as per table 2 within the paper, that the amount potentially required to be transferred from reserves in year 2023/24 (£2,400) can be described as "small". It is projected that as at 31st March 2023 the General Reserves will have a balance £551,617. Peter Lappin invited questions and comments from the Members.

CO Mander provided insight into other IFCA's situations in terms of the next year's budget. Southern IFCA is observing a 0% percent increase. Amongst other IFCA's the range of expected increase was between 2.5% and 5% with the highest suggested increase of 7.5%. The current financial situation nationwide means challenging times for services like IFCA's. CO Mander reminded Members that the Chancellor had confirmed that Departmental Spending from SR21 was secure, but no additional money would be provided to reflect inflationary costs; Defra had confirmed that they were reviewing all allocated spending including the £1.5M due to inflation related impacts. CO Mander wished to stress strongly that although it was safe to assume the receipt of the £150,000, there is always a risk as it had not been confirmed. The Chair stated that confirmation was likely in March 2023. Cllr Dewhurst requested the Officers to clarify that there would not be a decrease in the Environment Research budget and make certain that it remains as is. CO Mander confirmed that, but advised that savings needed to be made with the legal budget suffering the largest decrease. He added that this cost fluctuates year on year, and it will be monitored. Cllr Dewhurst wished to stress that D&S IFCA is a conservation authority, and this should be the priority when allocating funds. CO Mander reminded that, as per the conversation with Defra, the additional monies have no longevity, according to the spending review, and a question about what cost to focus on is a difficult one. Discussions turned to any other income that D&S IFCA can potentially secure (e.g., Waddeton Licencing or vessel charters). Fees for charters are to be reviewed as per the report and are expected to increase in the future. Cllr Dewhurst pointed out that the Officers' recommendation (1.2) is for the Members to approve the fees. Although fees for Waddeton Fishery Licences remain unchanged for 2023/2024, CO Mander informed Members that if they were to increase at some point in the future, this would result in minimal additional income. Felicity Sylvester enquired about making the Authority's vessel available for charter, who deals with the promotion of this service and what is the level of income received in the current tax year. D&SIFCA's Officers will deliver this information to Felicity Sylvester.

Simon Excell suggested a standstill budget for year 2023/24. If the £150,000 is not received, there will be further depletion of the General Reserves. Simon reminded that during last year's budget setting discussions, it was agreed that the current approach to funding was not sustainable. Simon noted no development since

the funding meeting on 30/09/2022 and encouraged all to continue discussions with Defra and to continue to put pressure on Defra for a response, which was echoed by Emma Bean. The Chair reminded Members that D&S IFCA had been engaged in conversation with Defra since 2018 and wished to reiterate Simon's suggestions. The Members were reminded that the funds from Defra come with expectations of work to be delivered which will be set out within the Annual Plan for 2023/2024. With the focus on delivery of additional national work, work devoted to local issues will be compromised. Discussion with Defra regarding the work required is expected to follow in March 2023. Felicity Sylvester enquired about any work delivered specifically for the benefit of the Gloucestershire and South Gloucestershire County Councils, to show good value for money to the respective local taxpayers. CO Mander explained that D&S IFCA does not determine where it undertakes its work based on the funding contributions from the individual Local Authorities; the CO reminded Felicity Sylvester that no local taxpayers' money had ever been received from Somerset and Severn based local Authorities. New Burdens' Funding (NBF) had been used to cover these Local Authorities' contributions. Members were invited to reflect upon a situation where if the New Burdens funds were not available, what that means in terms of any contributions required from the Local Authorities. Emma Bean reminded Members of the work delivered by D&S IFCA's officers regarding the Hinkley Nuclear Station consultation and the dredging and disposal at Portishead, both of which were beneficial to the Severn Authorities. Felicity accepted this but insisted that a conversation needs to be had regarding the level of service provided; a topic which Gloucestershire and other Severn Local Authorities have echoed since the creation of the IFCA. The Chair reminded that D&S IFCA has no control over the funding formula hence the discussions currently being conducted with Defra. All that the Authority can do is to operate within its Statutory Order. Emma Bean expressed concern about the lack of presence of the Severn Local Authorities in the D&S IFCA's meetings. If they are not present how will they be made aware of any discussions? The Chair offered that he would contact the Severn Local Authorities via email to encourage involvement and would update the remaining Members in writing regarding any progress. David Morgan wished to make this an action and in order to truly obtain any result, "encouraging" the discussion was not sufficient. CO Mander noted that the Severn Authorities were present in the meeting on 30/09/2022 (apart from Bristol City Council). The meeting resulted in a good discussion however no agreement was reached. As a result, Defra must engage via an official consultation. The Chair will share a written update on the proceedings. Simon Excell shared Emma Bean's frustration regarding the lack of the Severn Authorities' attendance. Simon Thomas advised that the matter should be registered with the Fisheries Minister. The Chair notified the Members that Tim Robbins was leaving Defra and that the new appointed contact moving forward would be Louise Farmer. There were no further questions or comments.

That the members consider and approve the Revenue Budget and Capital Programme for FY 2023/24

Proposed: Cllr Hughes Seconded: Cllr Dewhirst

<i>In favour:</i>	<i>12</i>
<i>Against</i>	<i>0</i>
<i>Abstain</i>	<i>1</i>

8. To note report on HHJ Linford's Judgment, dated 4th October 2022

CO Mander introduced this Agenda Item. There was a high level of media interest in the HHJ Linford's Judgment in reference to a court case involving the fishing vessel Stella Maris of Newquay. Unfortunately,

the matter was not always reported accurately. CO Mander referred to the Officers' report and the main points highlighted were as follows:

- The basis of HHJ Linford's decision to stay proceedings was the ill health of the Master, this is set out in the Judgment and Andrew Oliver's (Partner at Andrew Jackson Solicitors LLP) case summary which was published in for the Fishing News
- Following the Appeal case, no precedent had been set as reflected in the Judgment and Andrew Olivier's article. The importance of this point was also highlighted by the Chair.
- HHJ Linford was critical of the time taken to deal with the case, but Officers maintain that any delays to the case were upon the request of the Appellants.
- HHJ Linford was critical of the Prosecution's evidence but as Officers observe and Andrew Oliver did in his article, the evidence was never heard at the Crown Court.
- There has never been a 'no case to answer' submission by the defence to challenge D&S IFCA's evidence in any of the cases brought to trial. In the most recent case in October 2021 where D&S IFCA's evidence would undoubtedly qualify as an 'IVMS only' case in the eyes of those challenging D&S IFCA's approach to enforcement, D&S IFCA's evidence was not challenged with a submission of 'no case to answer' by the fishers' barrister. After a trial which included hearing evidence from the Master and Owner, they were found guilty on all six charges by the District Judge. No appeal against conviction was made. HHJ Linford made reference in his Judgment to the existence of a video of the Stella Maris of Newquay that the Appellants maintain was provided to D&S IFCA. HHJ Linford accepted that D&S IFCA had not withheld evidence and did not have the video but accepted that the video more likely than not existed. CO Mander explained that Officers had provided evidence that was presented in the trial in the Magistrates' Court that questioned the evidential importance of a video to either the prosecution or the defence if indeed one had been taken at the time a local fisher had reported seeing the vessel in the Marine Protected Area.

CO Mander confirmed that the email from Ms Sarah Ready had been circulated to all Authority Members before the meeting. Regarding the communication from Ms Sarah Ready relating to the legal costs incurred and criticising the Authority for the level of funds dedicated to pursuing legal actions – CO Mander highlighted that a significant proportion of the extra cost in the case of FV Stella Maris of Newquay was due to the D&S IFCA having to consider a series of abuse of process applications from the Appellants and then the Appellants being unready for trial.

The floor was open to questions and comments from the Members. Mark Day wished to obtain a comment from CO Mander regarding Kaja Curry (understood by Mark Day to be representing MMO) currently looking for the public's opinion on D&S IFCA. CO Mander responded - this action is a part of the Quadrennial report by Defra on all the IFCA's for the benefit of the Parliament. As part of it, Defra is required to consult with the stakeholders. Defra hired an independent contractor (Kaja Curry) to help design questions and to collect views. Pamela Buchan clarified that Kaja Curry is not employed by the MMO. DCO Clark highlighted that the consultation initially was focused on limited areas of the D&S IFCA's District (Brixham, Plymouth and Ilfracombe). Mark Day stated that Ms Sarah Ready is introducing this in a different light – as an investigation conducted due to Defra's concerns regarding D&S IFCA's work. David Morgan felt it was important to note that he had met Kaja Curry but did not discuss the matter due to his membership within the Authority. CO Mander highlighted that mostly mobile fishing was mentioned in the consultation initially and he had since contacted Defra to suggest reaching out to a wider range of stakeholders, in particular those involved in potting activities in areas of Dartmouth, Salcombe and East Devon. Upon an enquiry from Rachel Irish, CO Mander confirmed that the report regarding the appeal in the FV Stella Maris of Newquay case is an external

document. The Chair noted that this is the case in reference to Andrew Olivier's report as well. There were no further questions.

9. To note the report on the pressures and the risks to the crustacea pot fisheries in D&S IFCA's District.

Members received the report introduced by DCO Sarah Clark. DCO Clark explained that a paper had been presented to the B&PSC regarding concerns, raised by shellfishermen operating in D&S IFCA's District, relating to the potential impacts (in terms of effort and sustainability) of more efficient (vivier) potting vessels should they be displaced into the inshore water of D&S IFCA's District as a result of the Trade and Co-operation Agreement (TCA) with the EU. The concerns had been exacerbated by the proposed introduction of an Emergency Byelaw by Cornwall IFCA which might result in the displacement of the vivier vessels currently working in CIFCA's District into D&S IFCA's District. D&S IFCA's Commercial Potting Permit holders have reached out to the Officers and raised concerns with the hope to inform future measures.

CO Mander informed Members that Cornwall IFCA conducted a consultation with the view to introducing an Emergency Byelaw prohibiting vessels over 12m from deploying pots in their District. Since consultation started there has been some level of political intervention and Cornwall IFCA Officers decided that there was not sufficient support to continue with the introduction of the Emergency Byelaw. D&S IFCA has closely observed the process. Work and engagement with potters in the North Devon part of the District has begun and will form part of the Annual Plan. The Officers invited questions and comments from the Members.

Mark Day wished to share his concern on the subject of whelk. With the neighbouring Southern IFCA introducing a pot limit, an approach of abiding by the rules when fishing in the Southern District but "dumping" in D&S IFCA's District may be taken. CO Mander agreed that there is a need for management. He reminded the Authority that the main purpose of its actions is to manage fisheries for sustainability not the fishing effort alone. There is a concern that the focus on the management crab and lobster fisheries could make the whelk fishers more vulnerable due to displacement into this fishery. CO Mander explained that engagement with North Devon fishers had been positive, and one whelk fisher expressed the view that the whelk fishery over the past few years has been good, and they are supportive of the increase in whelk size introduced by D&S IFCA. Mark Day was of the opinion that D&S IFCA's fishers are in favour of the pot limits and restrictions. CO Mander commented that fishers in North Devon have a relatively modest number of pots, and these provide a good return in terms of landings, and therefore there is the possibility of a reasonable balance regarding effort and landings. There are opportunities for co-management and conversations to be had with the fishers regarding the sustainability of the stock. Mark Day noted that the global price of whelk is stable.

David Morgan stated that the TCA limit of 12300 tonnes for all non-quota species was exceeded in 2019 but more up to date data was not available. The UK and European Union may discover that with the non-quota limits being met this may result in the displacement of effort from EU waters, which may mean an increase in the number of fishing vessels in Devon. David Morgan stated that the shift from offshore to inshore fishing in the Cornwall IFCA District is not because of the EU's rules, but due to the poor levels of stock offshore. Cllr Dewhirst pointed out the duty to support "conservation" and the Authority should concentrate on that when it comes to conserving fishing efforts, although the concern of the owners of the smaller fishing vessels is understandable. CO Mander reassured that no areas have been closed. DCO Clark reminded Members that the type of effort and efficiency of vessels will have a direct impact on the stock levels and D&S IFCA must find the balance whilst ensuring a viable fishing industry. DCO Clark explained that the EU has not yet enforced the TCA tonnage limits set. The tonnage set under the TCA used landings from a reference period between 2012 and 2016. However, since this time many new vessels have been built and are currently being

built and this could lead to the tonnage level being exceeded and if enforced by EU could lead to displacement back into UK waters, which is a real threat. The Chair reminded that D&S IFCA is not a competition controlling Authority, just a body monitoring the level of stock and any actions will be reasoned by that.

Felicity enquired about the involvement of the Officers in the Fisheries Management Plans (FMP) engagement events and pointed out a printed presentation on the Crab and Lobster FMP given by Seafish. Felicity asked if Members were informed of these events. DCO Clark confirmed that Officers had attended some of these events and that D&S IFCA sits on many of the FMP groups. In terms of communication DCO Clark highlighted the existence of the permitting system allowing D&S IFCA to engage with all the permit holders in relation to the FMP engagement events and the presence of the officers in person and on-line meetings. CO Mander welcomed Felicity's feedback and expressed interest in using the report for circulation. PPO Townsend outlined the main methods of communications between D&S IFCA and stakeholders. DCO Clark noted that stakeholders' feedback in terms of communication will inform further decisions regarding crab management. The Chair reassured that the Members would be kept informed of any upcoming actions including the work of the Byelaw and Permitting Sub-Committee's work and any cooperation with the Southern IFCA.

10. To note the report on the work of the Byelaw and Permitting Sub-Committee.

CO Mander explained that the Officers' Report is for the benefit of all Members and in particular any Members who are not part of the Sub-Committee. Aligning with the current topic under review by the Governance Working Group - communications - the Officers want to ensure that the Members as well as all the stakeholders are well informed about the byelaw review work. Currently, formal consultation is being conducted on the proposed introduction of two new Byelaws which ends on 20th January 2023. The Byelaws being proposed are the Size of Fishing Vessels Byelaw 2022 and the Mobile Fishing Permit Byelaw 2022. Responses have been received and are being collated. CO Mander invited questions and comments. Felicity Sylvester enquired about an opportunity to share comments regarding the Netting Permit Byelaw. CO Mander informed Felicity Sylvester that this will be possible during the review of the Netting Permit Byelaw that will be conducted in the near future. There were no further questions.

Agenda Items number 11 and 12 were for information only and no questions or comments were noted.

The Chair concluded the meeting, and the date of the next Authority meeting was reported to be 16th March 2023.

Agenda Items for Information:

11. AIFCA Chief Officer's report

12. Date of next meeting

The next Full Authority Meeting is to be held on Thursday the 16th of March 2023.

End.