

**DEVON & SEVERN
INSHORE FISHERIES AND CONSERVATION AUTHORITY**

**Minutes of the Authority Meeting
held on 13th September 2018 at Ferne Animal Sanctuary, Chard**

Present: Elaine Hayes (Chair)
Cllrs. Stuart Hughes (Devon), Ian Hall (Devon), Cllr Terry Napper (Somerset), Jonathan Hawkins (Devon), Robert Griffin (South Gloucestershire), Pam Buchan (Plymouth)
Natasha Bradshaw, Michael Cominetti, John May, Richard White, James Marsden, Mike Williams, Dave Cuthbert, Stephen Gledhill, Andrew Knights (NE), Rachel Irish (MMO), Simon Toms (EA)

Also Present: Mat Mander (Acting Chief Officer) Steve Dury (Somerset)
Sarah Clark (D&S IFCA) Martin Hutchings (Devon)
Hazel Mitchell (D&S IFCA) Ruth Porter (NE)
Angela Stirland (DCC Finance)

Apologies: **Cllrs:** Rufus Gilbert (Devon), Linda Hellyer (Devon), Andrew Eastman (Devon) who was going to deputise for Linda Hellyer, Vic Ellery (Torbay), Peter Bryant (North Somerset), Will Windsor-Clive (Gloucestershire),
David Morgan, Simon Pollentine, Simon Excell, Kaya Curry, Adam Parnell,

The Chair advised that John Butterwith, long term General Member of not only the Devon & Severn IFCA but the previous Devon Sea Fisheries Committee had resigned from the Authority with immediate effect. Thanks and praise were generally expressed for John's contribution.

The Chair appealed for any General Member to volunteer their time/services for either or both the Finance and General Purposes Committee and Byelaw and Permitting Sub Committee as representation was very low.

1. Declarations of Interest

There were no declarations of Interest

2. Welcome to new members and apologies for absence

Apologies were noted.

A welcome was made to Ruth Porter from Natural England who is involved with work associated with the IFCA.

3. Minutes of the meeting held on 14th June 2018

That the minutes be approved and agreed as a true and accurate record.

Proposed: Richard White

Seconded: James Marsden

All in favour

Resolved

4. Matters Arising

- 3 Draft rewording of the Authority minutes of December 2017 requested by John May to reflect the point he had tried to make at the meeting has been made by the Acting Chief Officer who would now send them to John for his comment.
- 3 Updated that Cornwall IFCA have similar problems with recuperating non payment of fines and currently have a contact within the court services who is looking into the matter. Once they have completed this the D&S IFCA will enrol his help in locating monies owed to them.
- 4.2 Libby West had contacted Cllr Napper to try and agree a mutually convenient date to meet but due to diary commitments and compassionate leave a date had not been possible prior to the quarterly meeting. Agreement of a date to meet is still being sought.
- 17 A letter was sent on 24th August 2018, copy attached at agenda item 14. No response had been received.
- 24 The ACO considered discussions with Cllr Buchan concerning the boundary line between Devon and Cornwall had been resolved but would contact her to ensure she was happy with the outcome.

5. Report on the F & GP Committee meeting held on 13th September 2018

The report to the Authority on what was discussed at the morning meeting was given at agenda item 21.

6. Matters brought forward by the Chair

There were no matters brought forward by the Chair

7. Budget Monitoring Report

It was to be noted that the tables within the report should read 2018/19 and not 2017/18.

Indications at the end of month 4 showed a projected underspend at year end of £51,200.

This was due primarily to staff cost savings as a result of the Chief Officer secondment and non cover by external agency staff in the north of the region, where the work will be undertaken by IFCA Staff.

The projected balance of the General Reserve Account at 31 March 2019 is £549,666.

The Acting Chief Officer highlighted that the projected underspend was based on spend as of month 4 and did not take into consideration expenditure, future intentions and obligations that have not yet filtered through to the figures shown. Legal Fees from the recent Court Case of £34,000 were still not accounted for and a submitted EMFF bid for an Infra Red Camera for the new vessel, viewed

as an essential addition to the new vessel may not be awarded and would therefore be funded from the budget.

8. Election of Chair to Byelaw and Permitting Sub Committee

Mike Williams and Richard White both left the meeting room for the next two agenda items.

An email was sent out to all members of the Byelaw and Permitting Sub Committee on 22nd August 2018 requesting nomination for the post of Chair to the Sub Committee due to the death of David Rowe in April 2018. Mike Williams expressed a wish to be considered for the post. No other nominations were received.

A recommendation that Mike Williams be appointed as Chair to the Byelaw Permitting and Sub Committee was proposed:

Proposed: James Marsden Seconded: Cllr Stuart Hughes

All in favour, none against

Resolved

9. Election of Vice Chair to Byelaw and Permitting Sub Committee

An email was sent out to all members of the Byelaw and Permitting Sub Committee on 22nd August 2018 requesting nomination for the post of Vice Chair to the Sub Committee. Richard White expressed a wish to be considered for the post. No other nominations were received.

A recommendation that Richard White be appointed as Vice Chair to the Byelaw Permitting and Sub Committee was proposed:

Proposed: Cllr Ian Hall Seconded: Dave Cuthbert

All in favour, none against

Resolved

10. Quadrennial Report to Parliament on D&S IFCA's performance

The senior team jointly created the Authority's Quadrennial report to Parliament This was the second report to Parliament on the performance of the IFCA's around the country. Importantly this time round the document will form part of the 2019 spending review tha will help determine if IFCA's continue to benefit from central funding support beyond 2020 when New Burdens finishes.

The deadline date for submission forced the report to be submitted without the opportunity for it to be endorsed by the Authority. It was submitted with a covering letter explaining this and that if the Authority had any comments and or amendments on the report these would be forwarded to DEFRA afterwards.

Feedback from the Authority members was that the report was positive, easily readable, that the case studies were sharp and clear and that praise should be extended to the authors.

11. Fisheries White Paper Response

The senior officer team prepared and submitted a response to the Fisheries White Paper consultation to highlight the potential opportunities that lay ahead in terms of fisheries and marine conservation and what this means for UK's fisheries management approach going forward.

The deadline date for submission forced the report to be submitted without the opportunity for it to be endorsed by the Authority. No comments were made by the Authority members to this response paper.

12. CIO Working Group Update

The working group met on 10th August 2018 and the outcome was that a set of objectives would be prepared that would form the basis of the CIO. A second meeting date would be arranged.

It was reported that Devon County had also received legal advice. This did not constitute legal advice to the D&S IFCA, on the creation of a CIO but would be shared with the working group to assist with their deliberations.

John May expressed an interest in possibly joining the Working Group.

13. Presentation by Natasha Bradshaw entitled: "IFCAs role in UK Coastal Governance: current insights and future possibilities".

Natasha informed the Authority prior to her presentation that even though she had completed her data collection, analysis and assimilating all her data for her PhD and final conclusions had not yet been written up. A full update would be provided to the Authority once completed.

14. Crown Court Case Report

The Acting Chief Officer provided a report on the Crown Court Case that had been held at Gloucester. The report provided members with a breakdown of the Authority's costs and how the Authority would need to improve how the prosecution's evidence was presented.

Members were invited to comment on the case and the report

Cllr Buchan expressed her thanks to all the hard work by officers over the period of the case but raised the following concerns:

1. Alternative options on Technology

With the considerable financial loss to the IFCA and the substantial costs incurred by the defendants having used only circumstantial evidence, Cllr Buchan questioned how these costs would compare to the costs of introducing camera technology to support VMS data to potentially make the evidence more

reliable. Cllr Buchan queried whether some similar cases who had pleaded guilty and had not gone to court had done so because they worried about the financial implications. Cllr Buchan was concerned that relying only on VMS data had resulted not guilty verdicts and asked whether there was still confidence in using this data to pursue cases or whether it was better to make a change.

The ACO considered that vessel monitoring was still the way forward and at the heart of what the Authority did in terms of enforcement. Vessel monitoring had more benefits for the management of the industry and not just as tool for enforcement purposes. Lessons learned in this case on how to present the gathered information and how to collate the evidence would influence future cases.

The ACO advised that there is an initiative at European level to have a fully documented fishery with cameras but currently the technology is still costly and not compatible for wide use on smaller vessels. Gear technology using sensors is also being considered.

2. The effects on the reputation of the D&S IFCA

The ACO agreed that there was inevitable damage to the reputation of the IFCA but was encouraged by the support from parts of the commercial fishing sector. He believed the IFCA had gained considerable support from the proactive approach to the way enforcement had developed over the last few years.

Cllr Buchan believed that it was morally unacceptable to place small scale fishermen in financially vulnerable situations. The ACO made it clear that all cases can be heard in the Magistrates' Court but it was the defence in this particular case that had asked the magistrates to consider moving the case to the Crown Court.

3. Legal advice.

Cllr Buchan requested access to legal advice that had been received in this case. Cllr Buchan also suggested that the financial risk associated with such cases should be included in the Authority's risk assessments. The ACO would check to see if the legal advice could be shared.

The ACO reiterated that the process of proceeding with any investigation goes through the prosecuting agent who is bound by the Code of Crown Prosecutors. The solicitor provides a response which includes his opinion regarding the evidential and public interest tests of the case. The Chief Officer, in consultation with the Chair considers this report and reviews the case before deciding on how to proceed on behalf of the Authority. This avoids any of the officers involved in the case being part of the decision process on the course of action to take.

Other Members disagreed with the ACO's approach on page 3, paragraph 5 of the report where the ACO was of the opinion that the Authority should not take any further cases where the defence had the opportunity to raise the option of having the case heard in Crown Court were made. Members believed that to have a robust enforcement approach all options, including the opportunity to take cases to Crown court, should be available to the Authority.

Several members still felt that despite the outcome of this one particular case and with the knowledge that any case could succeed or fail, the D&S IFCA as a prosecuting Authority had a public duty to take these cases to court and there would always be some risk involved. Members felt that over analysis of this case outcome was not particularly helpful and members should reflect on the overall enforcement history. The court decision should not deter the Authority when considering how to proceed with any potential future infringements.

James Marsden suggested that future consideration on whether the Chair and Vice Chair of the Byelaw and Permitting Sub Committee could help the Chief Officer/Acting Chief Officer with reviewing and making the decision on how to proceed with potential legal cases.

15. Letter to DEFRA on mechanism to repay Fixed Administrative Penalty

The Acting Chief Officer wrote a letter to DEFRA on 24th August 2018 requesting details on the mechanism on how to repay monies received from Fixed Administrative Penalties. As yet no response had been received and the Committee would be advised of the outcome.

16. Vessel Monitoring System Update

The fitting of 84 units to vessels has now been completed on the towed gear sector and were sending positional reports either every 10 minute and 3 minute reporting taking place when operating within restricted areas. With vessel monitoring now in place for all the towed gear vessel force it would allow the Authority to meet a long term commitment of considering whether some of the displacement of towed gear vessels in the region could be reversed.

There had been a setback in the progress of the national roll out of IVMS regarding how the project was financed. All the IFCAs collectively took advice on the financial risk and no reassurance could be given so the EMFF bid was withdrawn. Different funding options were being considered.

17. AIFCA Update

The Chair reported that no response to her meeting with the Chair and Vice Chair of the AIFCA on 13th July 2018 where she repeated the D&S IFCA concerns have been received. There appears to have been little progress against the challenge made to the AIFCA of its effectiveness and delivery. The Chair would contact them for a response/update to enable information to be given to the Authority at the December meeting where membership of the AIFCA is due for review.

18. Byelaw and Permitting Sub Committee Update

The quarterly meeting that was planned for the 18th August 2018 had to be cancelled because it was not quorate, alternative dates had been sent out to reconvene in October.

The priority will be to discuss the upcoming work:

- a. Work had not yet started on the Hand Working Byelaw,

- b. The Emergency Application Byelaw needs replacing,
- c. Five year review of the Mobile Fishing Permit Byelaw,
- d. Review Wrasse Fishery Management

19. **Quarterly Report**

The quarterly report was taken as read but the following points were raised:

- Page 11, Investigations Table – Offence date of 8th July 2018 there was no outcome inserted. This would be updated.
- Page 6 – Meetings – A copy of the presentations from the meeting at Brixham of the Marine Conservation Society requested by James Marsden had not been received.
- Page 3 – Wrasse Fishery - John May requested that consideration was given to monitor the habitat where Wrasse had been taken as the fishery progressed, to identify what environment change had occurred. Sarah Curtin, a Masters student and part time D&S IFCA environment officer is doing work on pot saturation and her draft thesis had just been given to Sarah Clark to reviewed prior to submission to the University. Sarah Clark will provide feedback at the next quarterly meeting.
- Rachel Irish thought it would be informative if an item on collaborative working was incorporated into the Quarterly Report.

20. **Social Media Reports by Alison Heimann**

No points raised or questions asked over the information reports produced at the meeting but if any points needed to be clarified they should be sent through the Acting Chief Officer who would forward them to Alison Heimann for response.

21. **Draft minutes of the F&GP Committee meeting of 14th June 2018 and update of meeting held 13th September 2018**

The minutes of the F&GP Committee of 14th June 2018 were taken as read and no comments were raised.

The Chair provided feedback of matters discussed at the morning meeting which were:

- Proposed changes to the way the Communications Contract was managed were discussed with the Acting Chief Officer. The ACO would prepare a further report for consideration
- HR matters to incorporate consistency in respect of working hours
- Update on the AIFCA as also provided to the main Authority
- Officers were working on updating the Health and Safety Risk Assessments with a view to having an external audit with time frame to be confirmed.

In response to the Budget Monitoring Report the Chair advised that Cllr Napper had asked in light of the current underspend and the considerable financial difficulties within Somerset Council whether consideration of a reduction or review of the charges to Somerset Council could be undertaken. The Chair though sympathetic to the financial constraints of Somerset Council and all Funding Authorities advised that as the levy to pay the D&S IFCA was received from New Burdens Funding from DEFRA currently no actual cost to Somerset

Council is incurred. Cllr Hughes commented that all funding Authorities would have to be treated equal. The Acting Chief Officer also pointed out the figures provided did not include expenditure subsequently incurred or programmed for a later date. It was confirmed that New Burdens Funding to IFCA's would be part of the 2019 spending review.

22. Any Other Business

Rachel Irish offered her services/knowledge for investigative processes.

The Chair announced that she would be stepping down as both Chair and General Member of the Authority in June 2019 and asked members to consider who they would like to replace as Chair.

25. Date of next meeting

Friday 14th December 2018 - Devon County Hall, Exeter

AGENDA ITEM	ACTION	RESPONSIBLE
4.3	Approval of rewording of minutes of Dec 17 to more accurately capture comments made by John May	Acting Chief Officer
4.3	Update on Non Payment of Fines	Acting Chief Officer
15	Response to letter to DEFRA on repayment of Fixed Administrative Penalties	Acting Chief Officer
17	AIFCA Update	Chair
19	Quarterly Report - Outcome of offence committed on 8 July 2018 at Budleigh	Acting Chief Officer
19	Copy of the presentation from the meeting at Brixham with the MCS to be sent to James Marsden	Sarah Clark
19	Quarterly Report – John May's question on environmental effects on the reef due to the Wrasse Fishery	Sarah Clark
13	Whether legal advice relating to the Crown Court Case could be provided to members	Acting Chief Officer