

Public Document Pack

Mid Devon District Council

Scrutiny Committee

Monday, 25 January 2016 at 2.00 pm
Exe Room, Phoenix House

Next ordinary meeting
Monday, 22 February 2016 at 2.00 pm

Those attending are advised that this meeting will be recorded

Membership

Cllr F J Rosamond
Cllr Mrs H Bainbridge
Cllr Mrs J B Binks
Cllr Mrs C P Daw
Cllr R M Deed
Cllr Mrs G Doe
Cllr Mrs S Griggs
Cllr T G Hughes
Cllr Mrs J Roach
Cllr Mrs E J Slade
Cllr T W Snow
Cllr N A Way

A G E N D A

Members are reminded of the need to make declarations of interest prior to any discussion which may take place

- 1 **APOLOGIES AND SUBSTITUTE MEMBERS**
To receive any apologies for absence and notices of appointment of substitute Members (if any).
- 2 **PUBLIC QUESTION TIME**
To receive any questions relating to items on the Agenda from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.
- 3 **MEMBER FORUM**
An opportunity for non-Cabinet Members to raise issues.
- 4 **MINUTES OF THE PREVIOUS MEETING** (*Pages 5 - 10*)
To approve as a correct record the Minutes of the last meeting of this

Committee (attached).

The Committee is reminded that only those members of the Committee present at the previous meeting should vote and, in doing so, should be influenced only by seeking to ensure that the minutes are an accurate record.

5 **DECISIONS OF THE CABINET**

To consider any decisions made by the Cabinet at its last meeting that have been called-in.

6 **CHAIRMAN'S ANNOUNCEMENTS**

To receive any announcements that the Chairman of Scrutiny Committee may wish to make.

7 **BUDGET 2016-17** (*Pages 11 - 18*)

To receive a report from the Head of Finance requesting Members to consider options available in order for the Council to move towards a balanced budget for 2016/17.

8 **MEMBERSHIP OF THE JOINT EAST AND MID DEVON CRIME AND DISORDER SCRUTINY PANEL 2015-16**

As Councillor Mrs N Woollatt and Councillor B A Moore will no longer be Members of Scrutiny, the Committee to agree replacements for membership of the joint East and Mid Devon Crime and Disorder Scrutiny Panel 2015-16. Current membership comprises Cllr T G Hughes and F J Rosamond. Councillor B A Moore was the substitute Member.

9 **ENVIRONMENT AGENCY** (*Pages 19 - 28*)

At the request of Councillor Mrs N Woollatt, regarding an incident of contamination of a Mid Devon river, the Committee to receive a report from the Environment Agency. An article referring to the incident is also attached.

10 **IDENTIFICATION OF ITEMS FOR FUTURE MEETING**

Members are asked to note that the following items are already identified in the work programme for future meetings:

Closure of Hospital Wards

Rural Broadband

Digitalisation for Members

St Andrews Street Project

Planning Enforcement Performance

Cabinet Member for Working Environment and Support Services

Mel Stride MP

Policy for the removal of Gypsies and Travellers from Land

Safeguarding

Note: - this item is limited to 10 minutes. There should be no discussion on items raised.

Jill May
Interim Chief Executive
Friday, 15 January 2016

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

If you would like a copy of the Agenda in another format (for example in large print) please contact Julia Stuckey on:

Tel: 01884 234209

E-Mail: jstuckey@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

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Public Document Pack Agenda Item 4

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **SCRUTINY COMMITTEE** held on 4 January 2016 at 2.00 pm

Present

Councillors

F J Rosamond (Chairman)
Mrs C P Daw, Mrs S Griggs, T G Hughes,
Mrs J Roach, T W Snow, N A Way, R Evans
and R F Radford

Apologies

Councillor(s)

Mrs H Bainbridge, Mrs J B Binks, B A Moore,
Mrs E J Slade and Mrs N Woollatt

Also Present

Councillor(s)

R L Stanley, N V Davey, C J Eginton, F W Letch and
R Wright

Also Present

Officer(s):

Kevin Finan (Chief Executive), Amy Tregellas (Head of
Communities and Governance and Monitoring Officer),
Andrew Jarrett (Head of Finance), Liz Reeves (Head of
Customer Services), Stuart Noyce (Waste and Transport
Manager) and Julia Stuckey (Member Services Officer)

99 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr Mrs J B Binks, Cllr B A Moore who was substituted by Cllr R F Radford, Cllr Mrs E J Slade who was substituted by Cllr R Evans and Cllr Mrs N Woollatt who was substituted by Cllr R M Deed.

100 **PUBLIC QUESTION TIME**

There were no questions from members of the public present.

101 **MEMBER FORUM**

There were no issues raised under this item.

102 **MINUTES OF THE PREVIOUS MEETING**

Subject to clarification regarding whether updates for the Pannier Market (Minute 95) would be three monthly or six monthly, the minutes of the last meeting were approved as a correct record and **SIGNED** by the Chairman.

103 **DECISIONS OF THE CABINET**

The Chairman informed the Committee that Councillor Mrs J Roach supported by Councillors R M Deed, R J Dolley, F W Letch, J L Smith, Mrs N Woollatt and R Wright had called-in Minute 100, Car Parking Charging Proposals of the Cabinet meeting 17th December 2015.

Cllr Mrs Roach informed the Committee of her reasons for the call-in, explaining that in her opinion:

- There had not been a business case to clearly weigh up the effects of these increases on the economic viability of the three towns.
- The decision was contrary to stated aims of regenerating the three towns and the aim to improve the economy of the whole district. It was therefore against Council policy.
- No provision had been made for the people who might want to use the long stay car parks for one or two hours. This could well include people who wanted to visit MDDC offices. The Phoenix House car park was frequently full of people making use of the 'free' period thus forcing people into the multi storey.
- The charging structure as proposed had inconsistencies.
- The impact on the short stay car parks had not been factored into the equation. It was likely to result in an increased use of the short stay car parks and a subsequent and significant reduction in income in the multi storey.
- The multi storey was for many years underused because of the fear of vandalism to cars, some people also found it intimidating as there were so few cars using it, over the past twelve months there had been an increase in the number of cars using the multi storey and it no longer had the feeling of desolation.
- In Tiverton, people may also go back to using the M&S car park thus resulting in a loss of retail sales in the town centre and a loss of income to MDDC.

Cllr Roach further explained that she could not understand why decisions such as this were being taken in isolation and not being looked at holistically. She requested that the Committee consider the viability of the towns and the impact that a raise to parking charges could have.

Discussion took place regarding:

- The valued work undertaken by the Car Parking Working Group and the Policy Development Group;
- The effect of increased parking charges to on-street car parking;
- Competition from neighbouring districts for retailers;
- Reductions to short stay tariffs and free parking included in the proposals;
- The need to encourage dwell time in the town centres.

It was **RECOMMENDED** that the Cabinet review its decision regarding the proposal from the Policy Development Group for Car Parking Charges.

(Proposed by Cllr Mrs J Roach and seconded by Cllr F J Rosamond)

Notes:- i) Report previously circulated and attached to Minutes.

ii) Cllr N A Way declared a personal interest as a Devon County Councillor

104 **CABINET MEMBER FOR HOUSING (00:34:28)**

The Committee had before it a position statement * from the Cabinet Member for Housing, summarising key areas within his portfolio.

Discussion took place regarding:

- Rough sleepers - of which 7 were currently registered with the authority. The Cabinet Member confirmed that arrangements were in place to accommodate these people in severe weather, if they required it;
- Right to buy – the Cabinet Member informed the Committee that calculations were currently being carried out to identify where the ‘tipping point’ would be with regard to the sale of properties. He explained that the authority held a debt on the properties and that income from rent was needed to cover this. There would become a point at which too many properties had been sold to cover the cost. He informed the Committee that building new properties was a way to avoid this as they were protected from right to buy for 15 years. The target was to build 300 homes in the next four years;
- Modular units and their advantages;
- The possibility of building on garage sites;
- The Government was pushing for home ownership rather than social renting;
- Affordability problems with property prices in Mid Devon;
- Temporary accommodation costs had been reduced by assisting people into private rent rather than bed and breakfast.

It was **RESOLVED** that the Chairman write, on behalf of the Committee, to the Minister for Housing to make the point that people in low paid employment, who were in Band E on the housing list, were in private rental accommodation with no security or long term tenure. They had no hope of buying their own home without a deposit, on a low income, or if self-employed. The Minister was to be asked what help would be given to help these people if social housing was not available?

(Proposed by Cllr Mrs J Roach and seconded by Cllr F J Rosamond)

Note: - * Position statement previously circulated and attached to the Minutes.

105 **ECONOMIC DEVELOPMENT UPDATE (01:01:07)**

The Committee had before it and **NOTED** a quarterly update * from the Economic Development Officer.

The Head of Communities and Governance outlined the contents of the report and informed the Committee that all members of the Economic Development Team were

undertaking training in order that they could offer support and advice to businesses within Mid Devon.

Note:- * Briefing paper previously circulated and attached to Minutes.

106 **HEART OF THE SOUTH WEST FORMAL DEVOLUTION BID**

The Committee had before it and **NOTED** a report * from the Chief Executive, informing Members of the work being undertaken to draft a business case for a devolution bid for the Heart of the South West (HotSW). Members were invited to consider the report to inform debate at a future Council meeting.

The Chief Executive informed the Committee that nineteen authorities had met and had talked in broad terms regarding what Devolution might mean. The bid was being led by the Leaders of Somerset and Devon County Councils, all Somerset and Devon Districts, Torbay Council, Plymouth City Council, Dartmoor and Exmoor National Parks and the Local Enterprise Partnership. It was hoped that finalised documents would be prepared which could be debated at an Extraordinary Meeting of Council on 27th January 2016.

The Committee discussed the difficulty in moving forward with Devolution due to the number of as yet 'unknowns' and the Chief Executive agreed that at this stage Members needed to be aware of what was being discussed in order to ensure that the Authority was involved in decision making when the time came.

Note:- * Report previously circulated and attached to Minutes.

107 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman informed the Committee that the Mr Mel Stride MP had offered to attend a meeting of the Committee at 5.00pm on a Friday. The Committee **AGREED** that a Special Meeting be put in place for this. It was **AGREED** that an officer from the Clinical Commissioning Group be invited to attend the same meeting.

The Committee expressed their thanks to the Chief Executive for this hard work and wished him well in retirement.

108 **UPDATES AND ITEMS TO NOTE REGARDING OUTSTANDING ITEMS (01.33.59)**

The Committee had before it * the results of a survey undertaken regarding Devon Safeguarding.

The Head of Communities and Governance explained that the survey had been carried out in the previous year and that Mid Devon had submitted 49 responses. Since the survey had been carried out all staff at Mid Devon District Council, with Safeguarding responsibilities, had attended training.

Discussion took place regarding a recent safeguarding incident that had taken place at a property managed by Mid Devon District Council Housing Services. The Officer explained that a review regarding the circumstances at the property was being undertaken by a multi-agency group, including Devon County Council and the Police. Housing staff had been aware of issues at the property and had attended to deal with

anti-social behaviour reports. However, there had been no children at the property on each occasion that officers had visited. It appeared that a number of referrals had been made to the Multi Agency Safeguarding Hub (MASH) by the school but that these reports had not been acted upon.

It was **RESOLVED** to invite the Chairman of the Devon Safeguarding Board, the Devon County Council Portfolio Holder and the senior officer at Devon County Council to attend a meeting of the Committee to answer questions regarding the number of referrals, who they had been made by, whether or not they were followed up and if not why not.

(Proposed by Cllr Mrs J Roach and seconded by Cllr F J Rosamond)

Note: - * Survey previously circulated and attached to Minutes.

109 **IDENTIFICATION OF ITEMS FOR FUTURE MEETINGS**

Closure of Hospital Wards
Rural Broadband
Digitalisation for Members
Town Hall Development Site
St Andrews Street Project
Policy for the removal of Gypsies and Travellers from Council owned land
Planning Enforcement Performance
Budget
Cabinet Member for Working Environment and Support Services
Environment Agency Contamination Report
Planning Enforcement Performance
Mel Stride MP

(The meeting ended at 4.03 pm)

CHAIRMAN

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Cabinet & Policy Development Groups 14 January 2016

Budget 2016/17 - Update

Portfolio Holder Cllr Peter Hare-Scott
Responsible Officer Head of Finance

Reason for Report: To consider options available in order for the Council to move towards a balanced budget for 2016/17.

RECOMMENDATION: To consider and agree the updated budget proposals for 2016/17 included in Appendix 1.

Relationship to Corporate Plan: To deliver our Corporate Plan's priorities within existing financial resources.

Financial Implications: Now the Council has received notification of its Formula Grant Settlement it is imperative that it matches current and ongoing expenditure plans to estimated sources of income/funding.

Legal Implications: It is a statutory requirement for the Local Authority to set a balanced budget.

Risk Assessment: Service Managers and Finance staff have assessed volatility in income and large contractor budgets, taking account of current and estimated future demand patterns. This position has been revised based on an additional 2 months of financial monitoring information. In addition prudent levels of reserves will also continue to be maintained.

1.0 Introduction

1.1 On the 17 December 2015 the Council received formal confirmation of its Formula Grant Settlement. Our provisional formula grant award for 2016/17 amounts to **£3.04m**. This is unlikely to change significantly and is approximately £130k lower than what we first estimated.

As a direct consequence this increased the draft 2016/17 General Fund budget deficit but other savings proposals have helped to reduce the deficit to circa **£405k**.

1.2 Despite this it is both prudent and a legal obligation that we set a balanced budget and therefore further savings will be required.

1.3 It is useful that the formula grant announcement gave provisional figures for the three years following up to 2019/20: As we had predicted the Revenue

Support Grant, which currently stands at £1.7m, will completely disappear by 2019/20. The current and provisional future formula grant amounts are:

	15/16	16/17	17/18	18/19	19/20
	£m	£m	£m	£m	£m
Revenue Support Grant	1.7	1.02	0.5	0.18	0.00
Business Rates	<u>2.0</u>	<u>2.02</u>	<u>2.06</u>	<u>2.13</u>	<u>2.19</u>
Total Formula Grant	<u>3.7</u>	<u>3.04</u>	<u>2.56</u>	<u>2.31</u>	<u>2.19</u>

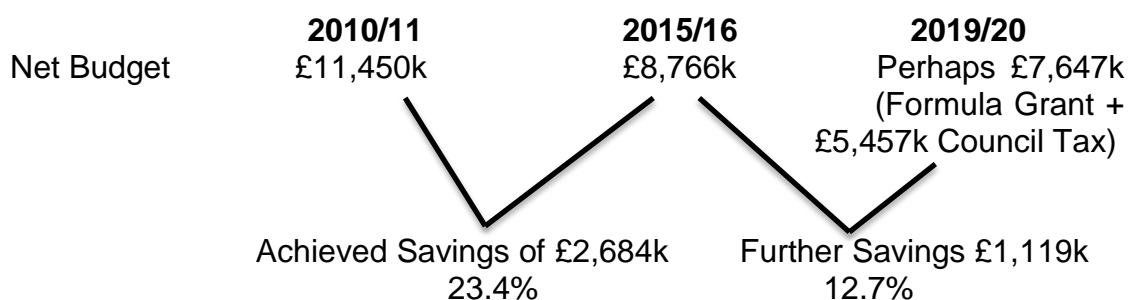
Slotting the provisional Business Rate Retention and Revenue Support Grant figures into the Medium Term Financial Plan shows that by 2019/20 we will need to find approximately **£1.1m** of savings, close to the amount we previously forecast. At this point we still have no details on the proposed changes allowing Councils' to retain more of the business rate income.

2.0 2016/17 General Fund Budget - Revised Position

- 2.1 Since the first round of PDGs and Cabinet meetings the Finance team and service managers have been revisiting a range of budgets to strive to deliver more savings or increase income levels.
- 2.2 This process has improved the General Fund budget by circa £422k (see **Appendix 1**) and now only leaves a budget gap of **£405k**. This reflects a lot of hard work and constructive negotiation over the past 2 months.

3.0 Conclusion

- 3.1 The Council still has approximately one month until the Cabinet will meet on the 11 February 2016 to formally recommend the overall budget and level of Council Tax for 2016/17 and officers will continue to work towards delivering a balanced budget position.
- 3.2 As has been said, on a number of occasions over the past few years, the Council's financial future is going to become increasingly challenging year on year and it is worth reflecting in terms of past, present and the future.



- 3.3 To date we have used the New Homes Bonus grant to fund economic development projects, help fund our capital programme and to fund certain "one off" revenue projects. Some other local authorities are already using the New Homes Bonus grant to various degrees to help fund their day to day spending (revenue expenditure).
- 3.4 So should we use more of ours in a similar fashion? The concern is one of *sustainability*. We do not know whether this funding will be provided

indefinitely. In fact the Department of Communities and Local Government is currently conducting a consultation where there is a proposal to cut the grant awarded to District Councils for new dwellings from six years to four. On top of this there is also consideration of changing the proportions awarded to district and upper tier authorities. This could result in Mid Devon receiving less and Devon County Council receiving more each year.

In the recent grant settlement we had a provisional forecast of our New Homes Bonus grant for future years:

	15/16	16/17	17/18	18/19	19/20
	£m	£m	£m	£m	£m
New Homes Bonus grant	1.6	1.8	1.8	1.2	1.1

You will notice the decrease after 2017/18 where the sum drops to £1.1m by 2019/20.

- 3.5 So how much New Homes Bonus grant do we currently hold? **Appendix 2** shows our predicted balance at 31 March 2015 to be £2,969k. We could fund the budget deficit from this grant which would mean that **£801k** of New Homes Bonus would be used to help fund the 2016/17 budget (the shaded area). However if the reserve is utilised in this manner there will be less monies available to fund future capital and economic projects.
- 3.6 Should this level of supported funding continue year on year then it would comprise circa 73% of our expected grant in 2019/20 and leave little available for capital. Clearly this would be a strategy involving considerable risk in the long term, especially if the grant were to be stopped in its entirety, which is a possibility.
- 3.7 It is also worth mentioning that as a district we are comparatively poor in terms of assets with much of the capital programme funded from “Right to Buy” receipts and the New Homes Bonus grant. We do not have a large portfolio of surplus assets which we could sell and use for new capital projects, some of which could reduce our annual running costs.
- 3.8 As the government is now paying central grants much more on a basis of “payment by results” more authorities are seeking financial security by striving to become self-financing. As an authority we too have broadened our approach. The Tiverton Market Walk project is an example where Mid Devon now has additional income from the shop units to help support the revenue budget, but with increased risks if those units are not let. We also have the benefit of the feed-in tariff from the solar panels installed on Phoenix House and other locations. Whilst this income is beneficial and has helped our position, the amounts that we need to balance our budget in the foreseeable future are significantly higher.
- 3.9 Members have now approved a draft Corporate plan with key defined focus areas, the question is how those aspirations can be met with a *sustainable* budget base, ideally with as much as possible under our own control. Going forward difficult and challenging decisions on the scope and extent of service delivery will be required to meet this objective.

Contact for more information: Andrew Jarrett – Head of Finance
Background Papers: Draft 2016/17 Budget Papers
Grant Settlement Email
File Reference:
Circulation of the Report: Management Team, Members & Relevant Service
Managers

2016/17 Budget Changes (since Nov PDG's)

	£
Budget gap estimated at November/December PDGs and Cabinet	826,890
<u>Confirmed Changes</u>	
Central government Formula grant worse than expected	130,000
Sparsity grant funding + maybe homelessness	(100,000)
Employers pay award based on officers on below SCP18	15,000
Salary reductions after redundancies (elections, CF, Comms, Econ Dev) + backfunding	(130,000)
Grant budget savings	(15,000)
Moorhayes utility saving re solar panels	(2,000)
Add extra planner matched by increased income	
	<hr/> 724,890
<u>Further Proposals and Work in Progress</u>	
2% Council tax increase (No Council tax freeze grant available)	(50,000)
Increased car parking income	(141,000)
Use some of Market Walk "profit"	(150,000)
some form of member budget - i.e. £500 per member for local stuff	21,000
DCC share of waste saving	
Sinking fund for amenity car parks	
Review position on grass cutting	
Apprentice levy - check when starts 0.5% of pay bill - not until 2017	
HRA recharges	
Check HB subsidy	
Change of £1 coins - costs of conversion of car park machines	
New budget gap after the above changes/revisions	<hr/> 404,890 <hr/>

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Appendix 2

New Homes Bonus (NHB) Summary

	£k
Balance at 31/3/15	(1,887)
2015/16 award	(1,613)
Estimated use of NHB to fund 15/16 capital programme	531
Projected balance at 31/3/16	(2,969)
2016/17 provisional award	(1,800)
	(4,769)

Monies Committed in 2016/17 General Fund Budget

Community Development	21
Business Development	43
Digital Strategy Staffing	102
Business Development	100
Legal Services	18
Corporate Training	12
Recycling premises move	100
Budget deficit funding	405
	801

Available for 16/17 Capital Funding / Economic Development Projects

	(3,968)
2015/16 capital programme slippage funding	1,766
2016/17 capital programme funding	1,091
Projected balance at 31/3/17	<u><u>(1,111)</u></u>

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Environment Agency

Our response to Pollution Incidents

Including details of the incident reported by George Monbiot

The Environment Agency receive most reports of pollution incidents, via our 24hr Incident hotline (0800 80 70 60), into our Incident Communication Service team. Details of these incidents including the; type of pollutant, the location and impact to the environment are recorded on our National Incident Recording System (NIRS) database and then passed out to one of the 16 Area Offices for assessment and action.

Once received in an Area office, an Environment Officer will undertake an initial assessment of the incident based upon the information the caller has supplied. Where possible, if contact details have been supplied, the Environment Officer will contact the caller to gather additional information. At this stage a number of factors are taken into account; the sensitivity of the location, the type of pollutant, when the incident was seen in relation to when it was reported, the pollution history of the location and the actual impact that has been witnessed by the reporter.

The Environment Officer will then classify the incident as either:

- Category 1: Major impact
- Category 2: Significant impact
- Category 3: Minor impact
- Category 4: No impact

Our level of response depends on this classification:

- Category 1: Try to attend within 2 hours
- Category 2: Try to attend within 2 hours
- Category 3: Attend only if the incident has the potential to escalate to category 1 or 2; if the site is considered sensitive e.g. possible impact to bathing water; failing Water Framework Directive waterbodies, or there is a known pollution history at a site.
- Category 4: No attendance

We appreciate all incident calls from members of the public; they are a valuable source of information for us. Nationally, the Environment Agency dealt with over 20,000 incidents last year. We appreciate that what may be classified as a minor incident can have a significant impact on those living nearby. However we have to use our limited resources to the best effect for the wider environment and public benefit. All of our incident reports, even those not attended are retained on our NIRS system. Should evidence of

greater environmental impact, repeat occurrence or new information come to light, we can link the reports together and escalate our response if required.

The Pollution incident reported by George Monbiot

The incident was seen by George Monbiot on Saturday 26th September 2015, it was reported to the Environment Agency (via our hotline) on Monday 28th September.

The local Environment Officer assessed the incident as category 3, but with the potential to escalate to a category 2 if the incident persisted. The incident was attended. We met with the farmer, inspected the watercourse showing him the sewage fungus that had grown in the tributary of the River Culm as photographed in George Monbiot's article. We also collected samples as evidence of the discharge and its impact on the receiving water. We inspected the farm infrastructure to try and identify the pollution source. The cause was identified and the farmer agreed to immediately take steps to stop the pollution.

We returned the following week to ensure the incident had stopped and we agreed some long term infrastructure improvements that would permanently prevent a reoccurrence of this incident. During this inspection the watercourse was checked again and the fungus had now almost completely disappeared.

The Environment Officers who visited the site reported that it was evident from the inspection that there has been a great deal of attention to stock welfare and investment in farm infrastructure; in the form of a new barn with a slatted floor, under floor slurry storage with a capacity for seven months storage - three months more than is required by the Silage, Slurry and Agricultural Fuel Oil regulations (SSAFO). This incident was avoidable but there was no evidence of intent and we did not find it indicative of a poorly managed farm.

There is an Environment Agency routine water quality monitoring point at Bridgehouse Bridge just over 100m downstream of this incident. The results from this sample point over the last year do not show any issues with the water quality. This also indicates this incident was not a long term chronic issue.

When we consider our enforcement response to a pollution incident we take into account a number of factors. In this case we considered; the environmental impact of the incident, the level of the farmers' co-operation in dealing with us, the immediate steps taken to stop the pollution and improve the site to prevent future incidents and the fact there was no pollution history at this farm.

Our enforcement response to this incident was a formal warning. We also recovered the costs for our time investigating this incident from the farmer.

This type of incident with this level of impact is not unusual in agricultural catchments. We deal with many similar incidents across Devon & Cornwall each year.

Stuart Hunter
Environment Management Team Leader
Devon North Land & Water Team

Dec 2015

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theguardian

Toothless Environment Agency is allowing the living world to be wrecked with impunity

The farcical investigation of the pollution case I exposed in a Devon river highlights how budget cuts have left the agency incapable of enforcement

George Monbiot

Thursday 12 November 2015 12.38 GMT

It could scarcely have been a starker case. The river I came across in Devon six weeks ago, and described in the Guardian, was so polluted that I could smell it from 50 metres away. Farm slurry pouring into the water, from a pipe that I traced back to a dairy farm, had wiped out almost all the life in the stretch of River Culm I explored.

All that now grew on the riverbed were long, feathery growths of sewage fungus. An expert on freshwater pollution I consulted told me that the extent of these growths showed the poisoning of the river was “chronic and severe”.

Here, as a reminder of what I saw, are some of the pictures I took:

Sewage fungus on the river bed:

Slurry pouring from a pipe cut into the riverbank:

And mingling with the clear water of the river:

I reported the pollution to the Environment Agency's hotline. It told me it was taking the matter seriously. So when I received its report on the outcome of its investigation, I nearly fell off my chair.

It had decided to take no action against the farmer, as "the long-term ecological impacts on the environment were fortunately low". How did it know? Because there was "no evidence of a fish kill".

Why in the name of all that's holy should there be evidence of a fish kill? This is a chronic pollution case, not an acute one. Fish kills are what you see when a sudden poisoning occurs, as pollutants are flushed into a healthy living system. Chronic pollution deprives fish of their habitats and prey, but no investigator in their right mind would expect to see them floating belly up in the river as a result. They are simply absent from places where you would otherwise have found them.

And if a riverbed covered in nothing but sewage fungus suggests a "low" ecological impact, I dread to think what a high one looks like.

The same inability to distinguish between an acute event and a chronic one was revealed by another of the agency's statements: the pollution "had a short-term impact". The slurry had plainly been pouring out of the pipe for months, as the luxuriant growths of sewage fungus show. It would doubtless have continued, had I not reported it.

The Environment Agency also told me that it had inspected the farm, and found no problems with the infrastructure, as there was plenty of space for slurry storage under the floor of the barn where the cows were kept. But, the problem, as I had explained to them, had nothing to do with slurry storage in the barn. It was caused by leakage from the outdoor slurry lagoons, where I found cow manure pouring down the hill.

They could scarcely have made a bigger mess of their investigation if they had tried. The mistakes the agency made are so fundamental and so obvious that it makes me wonder whether they are mistakes at all. What does a farmer have to do to get prosecuted these days, detonate an atom bomb?

If this were an isolated case, you could put it down to ineptitude, albeit ineptitude raised to the status of an Olympic sport. But responses like this are now the norm at the Environment Agency. It has been so brutally disciplined by cuts and by ministers' demands that it leave farms and other businesses alone, that it is now almost incapable of enforcement.

Even when the fish kills it appears to see as the only real proof of pollution do occur, in the great majority of cases it doesn't even bother to assess them, let alone investigate and prosecute. Freedom of Information requests by the environmental group Fish Legal reveal that the agency sent its investigators to visit just 16% of reported fish kills.

There was massive regional variation. While in the Anglian Central region, covering parts of Norfolk, Cambridgeshire and surrounding counties, the agency inspected 61% of these events, in Devon they investigated only 3%. (I suspect that it was only because I'm a journalist for a national newspaper that they came out at all in the case I reported). In the fishery areas on either side of it - Cornwall and Wessex - the inspection rate was, er, 0%. If you want to pollute rivers in these regions, there's nothing stopping you.

The Environment Agency no longer prosecutes even some of the most extreme pollution events. In 2013, a farmer in Somerset released what the agency called a "tsunami of slurry" into the Wellow Brook. One inspector said it was the worst pollution she had seen in 17 years. But the agency dithered for a year before striking a private agreement with the farmer,

allowing him to avoid possible prosecution, criminal record, massive fine and court costs, by giving £5,000 to a local charity.

New rules imposed by the government means that such under-the-counter deals, which now have a name of their own - enforcement undertakings - are likely to become more common. They are a parody of justice: arbitrary, opaque and wide open to influence-peddling, special pleading and corruption.

I see the agency's farcical investigation of the pollution incident I reported as strategic incompetence, designed to avoid conflict with powerful landowners. Were it to follow any other strategy, it would run into trouble with the government.

These problems are likely to become even more severe, when the new cuts the environment department has just agreed with the Treasury take effect. An analysis by the RSPB and the Wildlife Trusts reveals that, once the new reductions bite, the government's spending on wildlife conservation, air quality and water pollution will have declined by nearly 80% in real terms since 2009-10.

It's all up for grabs now: if you want to wreck the living world, the government is not going to stop you. Those who have power, agency, money or land can - metaphorically and literally - dump their crap on the rest of us.

Never mind that the government is now breaking European law left right and centre, spectacularly failing, for example, to ensure that all aquatic ecosystems are in good health by the end of this year, as it is supposed to do under the water framework directive. It no longer seems to care. It would rather use your tax money to pay fines to the European commission than enforce the law against polluters.

I've heard the same description of Liz Truss, the secretary of state for environment, who oversees the work of the Environment Agency, from several people over the past few months: "Worse than Owen Paterson". At first, I refused to take it seriously. It's the kind of statement that is usually employed as hyperbole, such as "somewhere to the right of Genghis Khan", or "more deluded than Tony Blair". But in this case, they aren't joking. Preposterous as the notion of any environment secretary being worse than Paterson might seem, they mean it.

Nowhere, as far as I can discover, in Liz Truss's speeches or writing before she was appointed, is there any sign of prior interest in the natural world or its protection. What we see instead is perhaps the most extreme manifestation of market fundamentalism on this side of the Atlantic. She founded the Conservative Free Enterprise Group, and was co-author of the book *Britannia Unchained*, that laid out a terrifying vision of a nation run by raw economic power, without effective social or environmental protection. Now she has a chance to put that vision into practice.

Those who have tried to engage with her describe her as indissolubly wedded to a set of theories about how the world should be, that are impervious to argument, facts or experience. She was among the first ministers to put her own department on the block in the latest spending review, volunteering massive cuts. She seems determined to dismantle the protections that secure our quality of life: the rules and agencies defending the places and wildlife we love.

Bureaucracy and regulation are concepts we have been taught to hate, through relentless propaganda in the media. But they are essential pillars of civilisation. They make the difference between a decent society and a barbarous one.

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