



Southern Inshore Fisheries and Conservation Authority Compliance and Enforcement Framework.

Southern Inshore Fisheries and Conservation Authority Compliance and Enforcement Framework

Inshore Fisheries and Conservation Authorities will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry

Purpose of the Document

This document sets out how Southern IFCA will approach compliance and enforcement. The IFCA is committed to the attainment of a fair, effective and proportionate enforcement regime. This document is part of a process of demonstrating the use of a transparent, risk-based enforcement framework that meets the standard set out in government guidance and is continuously reviewed and improved. This document sets out an enforcement framework that is compliant with government best practice. The document establishes a framework from which annual risk based enforcement plans may be developed. The document describes the IFCA's intelligence led approach and the enforcement actions available and aims to underpin delivery of **IFCA Success Criteria 2: IFCA's implement a fair, effective and proportionate enforcement regime.**

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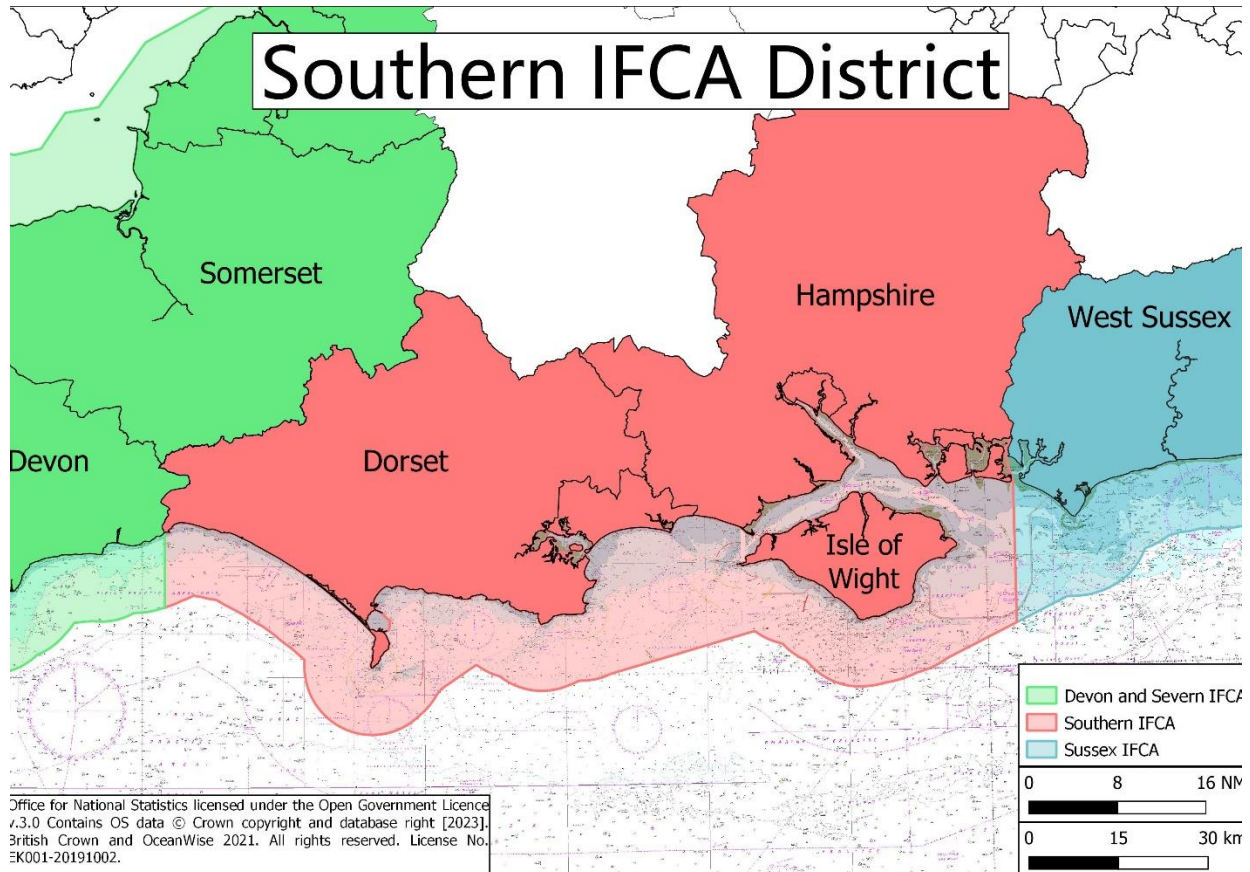
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Introduction

On the 1st April 2011, the Southern Inshore Fisheries and Conservation Authority (the Authority) was fully vested under the Marine and Coastal Access Act 2009 (MaCAA). The Authority took over the fisheries and conservation management responsibilities from the Southern Sea Fisheries District Committee (SFC) and the Environment Agency (EA) within the new district. The Authority's district covers all tidal waters (out to six nautical miles from the 1983 baselines) within Hampshire, Dorset and the Isle of Wight.



Fisheries management only succeeds with an integrated approach encompassing communication, research and enforcement. Full compliance with EU, UK and local fisheries and environmental legislation is the overall aim of the Authority. This aim is best achieved through the adoption of an adaptive co-management approach to fisheries management. The key to achieving high compliance is ensuring that those users who are potentially affected have a real opportunity to engage with the Authority over the local management approach to be taken. By engaging in the management process, the Authority and all users get a far better understanding of the requirements of the other interested parties. Conflicts of interest will not always be resolved but, having gained an understanding of why actions are taken; affected users are far more likely to accept the approach taken.

Where consensus with the management approach is not achieved or where the potential gain is significant, the risk of illegal activity increases. The risk is even greater where an effective enforcement deterrent is not in place. The deterrent is only effective where the risk of enforcement action is high and the consequences are serious. In recognition of the need to have an effective deterrent, fines applicable to byelaw offences have risen from a maximum of £50,000 to unlimited.

The Authority uses various compliance measures to ensure, where possible, that no person(s) illegally engaged in fishing related activity removes fishing opportunities for others or gains an unfair market advantage by breaking the rules and that law abiding person(s) are not disadvantaged by being compliant. It will also seek to use appropriate compliance and enforcement measures, where it considers it to be necessary, to ensure that the marine environment is not adversely affected by fishing activities.

This document describes Southern IFCA's Risk Based Approach to Compliance which is informed by the IFCA's Intelligence Led Model.

BACKGROUND

Better regulation

Where the Authority undertakes compliance activity, it will work in accordance with the Hampton Principles of Better Regulation as set out in the Regulators' Compliance Code and the Legislative and Regulatory Reform Act 2006 (as amended). In carrying out its functions, the Authority will ensure that:

- We abide by the Code for Crown Prosecutors
- any action taken, including compliance related or investigative, is proportionate to specific, identified, risk or need for intervention;
- it is accountable for its regulatory activity – to its stakeholders, its partner organisations, Ministers, local taxpayers, the general public and the Courts;
- its actions are consistent, in that it should make similar (but not necessarily the same) decisions about activity in similar circumstances, in accordance with its delegated responsibilities, statutory objective and guidance;
- its regulatory actions are transparent, by publishing information to its regulated stakeholders indicating what enforcement action it can take and may take in appropriate circumstances;
- all its activities and, in particular those that would place a "burden" on a regulated person (such as monitoring, inspection, investigation and compliance actions), are targeted using a risk based approach, ensuring such action is for a specific identifiable need, for example, limiting random inspections to specific identified compliance requirements;
- Inshore Fisheries and Conservation Officers (IFCOs) appointed by the Authority are highly trained, competent and adhere to the inspection code of practice; and
- it works closely with partner organisations to make best use of available resources and share information.

Regulations that the IFCA's manage

Southern IFCA manage sea fisheries resources through a suite of measures including byelaws. A full copy of these byelaws may be found here: [All Regulations : Southern IFCA \(southern-ifca.gov.uk\)](https://www.southern-ifca.gov.uk/all-regulations) Southern IFCA also has powers to enforce certain national regulations for the protection and management of sea fisheries resources.

IFCA enforcement powers

It was recognised through the drafting of the MaCAA that the enforcement powers available to the Sea Fisheries Committees (SFCs) needed updating to provide IFCA's with a greater ability to effectively enforce the legislation available to them. Inshore Fisheries and Conservation Officers' (IFCOs) common enforcement powers are conferred by sections 245 to 261 and fisheries enforcement powers conferred by sections 264, 268, 269 and 284 of

MaCAA. IFCOs also have powers under the Sea Fishing (Enforcement of Conservation Measures) Order 2000 as amended.

IFCOs have these powers for the purpose of enforcing:

- Any byelaws made under section 155 or 157 of MaCAA for the district (or having effect as if so made); Sections 1 to 3, 5 and 6 of the Sea Fish (Conservation) Act 1967 (c.84) and any Orders made under any of those sections;
- Any provision made by or under an Order under section 1 of the Sea Fisheries (Shellfish) Act 1967 (c.83);
- Any provisions of, or any rights conferred by, section 7 of that Act;
- Any byelaws made under section 129 or 132 of MaCAA;
- Section 140 of MaCAA;
- The Sea Fishing (Enforcement) Regulations 2018 (SI 849/18) (The Sea Fishing (Enforcement) (Amendment) Regulations 2020
- Delegated Marine Enforcement Powers under section 235(1)(a).

Byelaw review

IFCAs are in the process of undertaking a review of all of the inherited byelaws as well as introducing and reviewing existing byelaws introduced since 2011. This provides the Authority with an opportunity to develop legislation that supports better management of sea fisheries resources and increases its ability to deliver the duties under section 153 and 154 of MACAA. In line with the proposals set out in the Authority's Annual Plans, the outcomes of the byelaw reviews create a legislative structure to support the delivery of the IFCA vision. The review of the byelaws will also allow the drafting of legislation that is easier to enforce.

The legislation may well be drafted to incorporate the greater use of technology in the enforcement approach adopted by the Authority. The new byelaws will also assist the IFCAs management of the illegal, unlicensed fishing activity that is a key pressure on both the commercial catching and recreational fishing sectors and further can threaten marine protected areas.

Compliance Risk Management

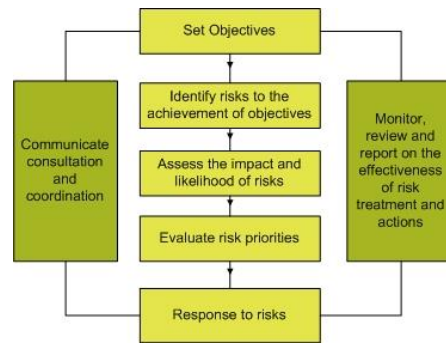
The IIA's¹ International Standards defines a risk as "the possibility of an event occurring that will have an impact on the achievement of objectives. Risk is measured in terms of impact and likelihood."

Risk management, is central to good governance and effective strategic management. It is a structured, consistent and continuous process for identifying, assessing, deciding on responses to and reporting on opportunities and threats that affect the achievement of its objectives.

Risk management in inshore fisheries management is concerned with positive and negative aspects of risk. In other words risk management is used to evaluate opportunities that may benefit the inshore fishery and marine environment (upside risk) as well as managing things that could have an adverse impact (downside risk). This means risk management can not only be applied in a holistic way it can also be used on a range of activities from strategic initiatives, projects and investments to processes and operations.

Diagram 1 The following diagram demonstrates a typical risk management process;

¹ International Institute of Auditors



Compliance Risk Register

The Authority operates a risk based approach to enforcement. The approach meets recommendations set out in the Hampton Review² and makes best use of the limited resources available. The approach is delivered through identifying the fisheries that occur in the district that the Authority currently manages or enforces legislation against.

Purpose

The Compliance Risk Register provides focus for enforcement activities and is a keystone document forming part of the Compliance Plan. The Register will identify priorities for enforcement based responses and operational plans that will be delivered making the best use of resources and providing the best possible protection regarding sea fisheries sustainability and the marine environment. A compliance Risk Register is a form of risk assessment and is used to identify and evaluate risks and their potential effect. This approach is taken so that together with key stakeholders and the wider community we can accurately gauge whether enough precautions are being taken or more should be done to prevent or reduce the harm to the sustainability of a fishery and/or the marine environment.

Risk Based Framework

To help analyse risks and develop proportionate enforcement action, Southern IFCA uses a matrix scoring system to identify the extent of the risk, its impact and the probability of such an occurrence. By using a risk based approach to our fisheries (which include the stock and method of fishing) this enables us to assess current enforcement activities and/or develop alternative initiatives where resources can be tasked efficiently against an accurate understanding of sustainability and emerging trends for both its regulatory infringement risk and conservation impact upon those fisheries and the marine environment. The overall risk level for each fishery is calculated as the mathematical product of the impact and likelihood levels (risk = impact x likelihood). From this product, which is called the Risk Value, each issue can be assigned a Risk Ranking, depending upon where a risk value falls within one of a number of predetermined categories. Colour coding denotes the overall risk level for each fishery and fishing method and gives guidance on whether the risk is low, medium or high. This makes it a simple procedure to highlight within the risk matrix how regulatory enforcement will be prioritised.

² <http://webarchive.nationalarchives.gov.uk/+/http://www.bis.gov.uk/policies/better-regulation/improving-regulatory-delivery/implementing-principles-of-better-regulation/the-regulators-compliance-code>

Risk Matrix

The following tables 1 & 2 explain the factors to be taken into consideration when scoring each risk value and table 3 is the risk matrix indicating the risk rankings and suggested outcomes. For example, for a risk where there is a major threat to the marine environment or stock and the likelihood is a common occurrence, a risk ranking of 20 is scored (impact 5 x likelihood 4) categorised as high risk and action would be necessary. Or, for a risk where there is no immediate threat to the marine environment or stock but it could occur, a risk ranking of 3 is scored (impact 1 x likelihood 3) categorised as medium risk and therefore light touch approaches such as education, self-regulation or even taking no action and just monitor the situation could be considered.

Table 1 Impact Definitions
Impact Table

Level	Descriptor
1	No immediate threat to the stock No immediate threat to the marine environment * No immediate threat to fisheries/conservation management system and reputation †
2	Minor threat to the stock Minor threat to the marine environment Minor threat to fisheries/conservation management system and reputation
3	Moderate threat to the stock Moderate threat to the marine environment Moderate threat to fisheries/conservation management system and reputation
4	Major threat to the stock Major threat to the marine environment Major threat to fisheries/conservation management system and reputation
5	Extreme threat to the stock Extreme threat to the marine environment Extreme threat to fisheries/conservation management system and reputation

* habitat / ecosystem / other species and/or endangered, threatened or protected species

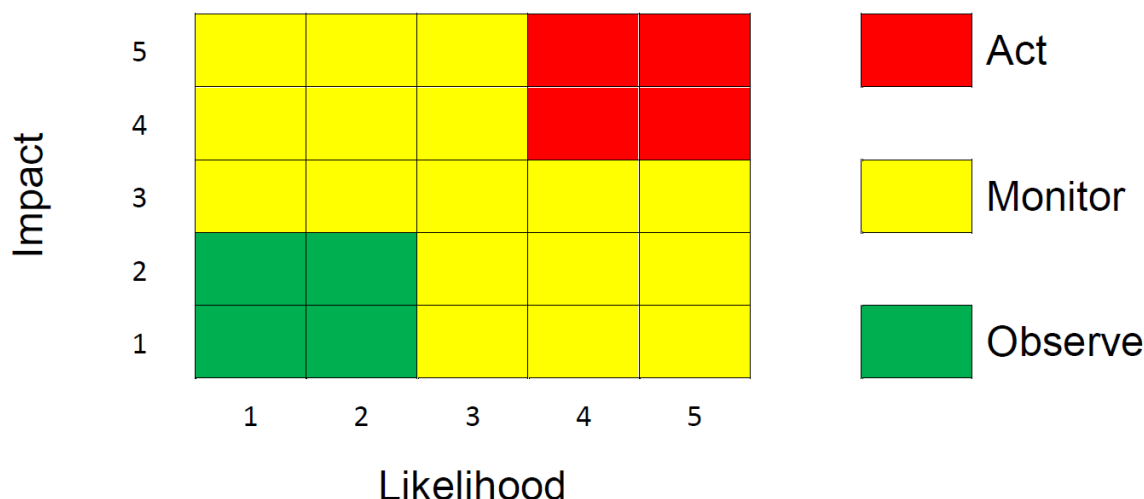
† Fisheries management system is the community led approach supported by industry and government institutions

Table 2 Likelihood Definitions
Likelihood Table

The Likelihood Table that was developed also has qualitative criteria that range from 'remote' to 'common or repeating occurrence'.

Level	Descriptor
1	Occurrence practically impossible (remote risk)
2	Not likely to occur or 'haven't heard of it happening'
3	Could occur, or 'I've heard of it happening'
4	Known to occur, 'it has happened in the past'
5	Common or repeating occurrence

Risk Matrix



Multiplication of numbers indicate risk value, the colours/shades indicate risk rankings, High - Act, Medium – Monitor and Low - Observe

Table 3 Classification of Risks

Removal of Undersized	Removal of undersized fish can have a deleterious effect on the fish stocks by removing animals before they have had a chance to reproduce. A consequence of the removal of undersized fish may be growth overfishing. One type of growth overfishing occurs when animals are harvested at an average size that is smaller than the size that would produce the maximum yield per recruit. This can reduce the yield in fisheries and is associated with economic impacts.
Fishing within a Prohibited Area	Protected Areas may be used to manage ecosystem overfishing. Marine Protected Areas are "Any area of the intertidal or sub tidal terrain, together with its overlying water and associated flora, fauna, historical and cultural features, which has been reserved by law or other effective means to protect part or all of the enclosed environment." (IUCN) examples of marine protected areas include Marine Conservation Zones, Special Protection Areas, and Special Areas of Protection (amongst others). Protected areas may also be used or be associated with fisheries stock management benefits e.g. where they protect resources from exploitation at particularly vulnerable periods in their life history, or where they protect essential fish habitats from degradation.
Fishing within a Prohibited Period	Restricting the time that fishing can occur is used to reduce fishing effort and therefore mortality. Management by this mean can also be applied as an aid to compliance. Limiting the amount of time when a fishery is exploited influences the economic potential of a fishery and in so doing alters the types of fisheries which may be undertaken.
Fishing within a Prohibited Season	Management measures which create prohibited season (temporal restrictions) are used to protect resources from overexploitation at times when a species is particularly vulnerable to overexploitation or degradation. Examples of such times include when fish congregate to spawn.
Fishing with a Prohibited Method/Technique	By restricting certain fishing methods and techniques it is possible to reduce fishing effort to avoid growth, recruitment or ecosystem overfishing. This may be achieved by restricting larger, more efficient and/or damaging methods or by restricting certain gear configurations i.e. net mesh sizes so as to control the type of size of fish caught.
Fishing with Prohibited Gear Configuration/Quantity	By restricting certain fishing methods and techniques it is possible to reduce fishing effort to avoid growth, recruitment or ecosystem overfishing. For example, this may be achieved by restricting the length of fishing net which may be used.
Removal from the fishery	Restrictions on the removal of fish from the fishery may be as a consequence of a harvest control rule i.e. so as to avoid recruitment overfishing. Examples include the establishment of Total Allowable Catches (and their associated quotas), or to close fisheries in the advent of disadvantageous economic or resource conditions. They may also be used to ensure complete prohibition where species are unable to support economic harvest; this may be due to the animals' life history or prior overfishing.

Intelligence Led Approach

The risk management process is underpinned and supported by an intelligence led model (ILM). Southern IFCA as an intelligence-led organisation and by relies on information. Capabilities are built which enable information to be gathered, recorded, evaluated, disseminated, retained and disclosed as necessary from a range of available information sources. An ILM allows Southern IFCA to direct resources to collect information to fill identified knowledge gaps.

Information refers to all forms of information obtained, recorded or processed by Southern IFCA, including personal data and intelligence. Intelligence is defined as information that has been subject to a defined evaluation and risk assessment process in order to assist with decision making. In addition to being evaluated, information is analysed. Analysis involves identifying critical links and associations that assist in understanding risk, offending behaviour and demographic problems. From that analysis intelligence products are developed and considered at either strategic or tactical levels where priorities are identified and decisions are made on the deployment of resources. A review and evaluation of all the tactics employed is also undertaken to identify the lessons learnt to benefit future strategic and tactical directions. This analysis is then fed into the organisational memory and becomes a part of the organisation's information sources thereby enabling Southern IFCA to obtain an accurate overall picture of risks, emerging trends, priorities and the initiatives being delivered.

Intelligence is also used to inform the risk management process on the likelihood and impact of risk and develop responses to those risks based on best possible evidence against an accurate understanding of sustainability and emerging trends.

In Southern IFCA the ILM business process is imbedded into its risk management process.

IFCA Assets

The Authority currently employs 15 members of staff. Enforcement is the primary role for 6 of these officers. These officers also form the core crew for the Authority's vessels. Officers do not hold warrants until the Deputy Chief Officer is satisfied that they are competent in this role and they are properly trained. Initial training is given to all enforcement officers. IFCA Success Criteria 4: IFCA's have appropriate governance in place and staff are trained and professional.

Code of Conduct for Inspections

Southern IFCA in accordance with the principles of better regulation has published a code of conduct for inspections. This sets out how inspections will be carried out by Officers of the Authority. It can be viewed online here [CoC-Inspections-SIFCA.pdf \(toolkitfiles.co.uk\)](https://www.toolkitfiles.co.uk/CoC-Inspections-SIFCA.pdf)

The Authority has 3 main assets at its disposal for undertaking enforcement at sea. A vessel review is in the process of being undertaken. This has the potential to significantly change the way in which the Authority undertakes its seaborne duties.

Partnership working with other enforcement agencies is a requirement under the Authority's Success Criterion. This approach is already well established within the Authority with joint enforcement meetings and inspections (at sea and ashore) being regularly undertaken by IFCOs, Marine Enforcement Officers from the MMO and the Environment Agency. Southern IFCA has established a series of Memoranda of Understanding with partner organisations which establish how we work together.

The Authority liaises with other enforcement agencies including the Local Authorities, Food Standards Agency, Police (Civil and Military), Gangmasters Licencing Authority, UK Border Force and other IFCAs.

IFCAs have access to the Monitoring Control and Surveillance System (MCSS). This system collects fisheries effort data nationally to inform management and enforcement actions. Using such a system allows for greater intelligence sharing and better co-ordinated enforcement actions.

First and foremost our greatest asset for sources of information is the community we serve. We regard regular contact and engagement with the community as our most important source of information and through our Communication and Engagement plan we shall work to develop our links and methods of feedback to ensure that we are a listening organisation as well as being recognised and heard.

We take a systematic approach to the management of information. Southern IFCA employs a reporting system and shares information for the purpose of the prevention and detection of crime with partners through agreed frameworks. All information received regarding the prevention and detection of crime is analysed and evaluated and where appropriate acted upon through a tactical response i.e. proactive or reactive patrols or operations or through other appropriate means.

Summary of enforcement actions

The Authority will endeavour to use an adaptive co-management approach, where compliance is achieved through engagement, understanding and advice. Where compliance is not achieved by this approach, the Authority has a range of enforcement actions available to it:

Verbal warning

A verbal warning is issued when a minor infringement in legislation is detected. This approach is used to remind person(s) of relevant legislation and is recorded. If the person(s) commits a similar offence, the individual involved may face a higher level of enforcement action.

Advisory letter

Where it is believed that breaches of the law may have been committed and it is appropriate to do so, an advisory letter may be sent reminding the person(s) of the need to obey the law. This may be sent without prejudice to other purely civil remedies.

Official written warning

Where there is evidence that an offence has been committed but it is not appropriate to implement formal prosecution proceedings, an official written warning letter may be sent to the regulated person(s), outlining the alleged offending, when it occurred and what regulation(s) were breached. It will also set out that it is a matter which could be subject to prosecution should the same behaviour occur in the future. This may be sent without prejudice to other purely civil remedies.

Simple cautions

A simple caution (known previously as a Home Office Caution) may be offered by the Authority. Issuance of a simple caution may be deemed to be the most appropriate means to deal with the offence(s), particularly where there is no identified financial gain. A simple caution is only offered when the Authority is prepared to instigate legal proceedings and prosecute if the person(s) decides to decline the simple caution.

Financial administrative penalties

The Authority may issue a Financial Administrative Penalty (FAP), the level of which may be up to £10,000, as an alternative to criminal prosecution in certain circumstances. There are four basic levels of administrative penalty depending on the nature of the offence committed and where it is deemed appropriate for a financial administrative penalty (FAP) to be offered. These range from £250 to £2,000 as set out in the first column of the table below.

Penalty levels	First offence	Second offence	Further offences
Level 1	£250	£500	Referred for prosecution
Level 2	£500	£1,000	Referred for prosecution
Level 3	£1,000	£2,000	Referred for prosecution
Level 4	£2,000	£4,000	Referred for prosecution

All penalty offences have been categorised. Each category of offence has been rated according to the seriousness of the breach in question to determine the basic penalty level. These levels also take into account historical analysis of court penalties while offering an incentive for you to opt against referral for prosecution.

Category	Penalty level	First offence	Second offence	Further offences
Marketing offences	1	£250	£500	Referred for prosecution
Miscellaneous	2	£500	£1,000	Referred for prosecution
Technical conservation (Gear)	3	£1,000	£2,000	Referred for prosecution
Technical conservation (Catch)	3	£1,000	£2,000	Referred for prosecution
Recovery offences	3	£1,000	£2,000	Referred for prosecution
Control offences (including Registered Buyers and Sellers and UK licence offences)	3	£1,000	£2,000	Referred for prosecution
Access	4	£2,000	£4,000	Referred for prosecution
Illegal, unregulated and unreported fishing offences	4	£2,000	£4,000	Referred for prosecution
Undersize fish offences (UK, EU, byelaw)	2	£500	£1,000	Referred for prosecution
IFCA access offences	3	£1,000	£2,000	Referred for prosecution
IFCA technical conservation (catch)	2	£500	£1,000	Referred for prosecution
IFCA technical conservation (gear)	2	£500	£1,000	Referred for prosecution
IFCA permit	1	£250	£500	Referred for prosecution

Further information on FAPs is available in the Authority's FAP guidance posted on its website.

Prosecutions

The ability to take criminal prosecutions is essential in discouraging serious non-compliance; the purpose is to secure conviction and ensure that the offender can be punished by a Court at an appropriate level, thus acting as a deterrent to any future wrong doing to both the offender and others who may engage in similar criminal behaviour.

A prosecution may be commenced where it is felt that the matter is too serious or not suitable for another form of disposal such as a fixed administrative penalty, warning or caution.

In order to prosecute, the Authority has to be satisfied both that there is sufficient evidence of the alleged offending and that there is a clear public interest in taking criminal proceedings.

The Authority will only commence a prosecution if it is satisfied that there is a realistic prospect of conviction against each suspect on each charge on the available evidence. If a case does not pass this test, it will not go ahead regardless of how important or serious it may be.

If a case passes the sufficiency of evidence test, the Authority will consider whether it is appropriate to prosecute, or whether it is appropriate to exercise one of the enforcement options available to it as set out above. In determining the correct response in any individual case, the Authority will always take into account the public interest in prosecuting.

The following lists of public interest factors in favour and against prosecution are not exhaustive and each case must be considered on its own facts and on its own merits.

- whether the implications of the offending for the enforcement of the regulatory regime undermines the management approach taken.
- the impact of the offending on the environment, including wildlife, and also, where applicable, having regard to the objectives of Marine Protected Areas.
- with regard to offences affecting fish and fish stocks, whether recovery species are involved and any issues as to quota status.
- the financial benefit of the offending or other financial aspects of the offence, including the impact on other legitimate operators.
- whether the offence was committed deliberately or officials were obstructed during the course of the offending / investigation.
- the previous enforcement record of the offender.
- the attitude of the offender including any action that has been taken to rectify or prevent recurrence of the matter(s).
- where offences are prevalent or difficult to detect and the deterrent effect on others by making an example of the offender.

A prosecution is less likely to be required if:

- the court is likely to impose a nominal penalty;
- the seriousness and the consequences of the offending can be appropriately dealt with by an out-of-court disposal which the person(s) accepts ;
- the offence was committed as a result of a genuine mistake or misunderstanding;
- the financial gain or disturbance to sensitive marine habitat can be described as minor and was the result of a single incident, particularly if it was caused by a misjudgement;
- there has been a long delay between the offence taking place and the date of the trial, unless there are key mitigating circumstances that caused the delay;
- the person(s) played a minor role in the commission of the offence; the suspect is, or was at the time of the offence, suffering from significant mental or physical ill health.

Customer Complaints Procedure

Southern IFCA are committed to providing an exemplary service. If you are not satisfied with an aspect of our service, we encourage you to let us know and we will do our best to resolve the matter as quickly as possible. For full details [Feedback : Southern IFCA \(southern-ifca.gov.uk\)](https://www.southern-ifca.gov.uk)

Summary

Southern IFCA is a small organisation with a broad range of powers and responsibilities. With over 2700 km² of coastal waters to manage Our coastal waters are home to some of the most important fisheries in England and include nationally and internally protected areas. With over 2700 km² of coastal water to manage it is essential that we make effective use of our resources.

This document establishes the framework for our Compliance Plan and describes our intelligence led approach. The framework of the risk register is intended to communicate how and why we allocate resources to risks and also to develop a dialogue with the community we serve. By establishing this process in an open and transparent manner we are inviting engagement in our risk planning. We consider that this will allow our compliance to be better directed and informed.

The intelligence led model which we employ demonstrates how the information we receive is considered and where necessary and appropriate acted upon. This approach is used both in a reactive and proactive fashion and at strategic and tactical levels. Our intelligence led approach informs our compliance risk register.

By summarising our enforcement actions we describe what actions may be taken so that this might act as a deterrent, but also to reassure those who abide by the law that the sanctions that are available to us may be a remedy to criminal activity