



NEIFCA Enforcement & Compliance Policy

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1.0 Introduction

The North Eastern Inshore Fisheries and Conservation Authority (“NEIFCA”) was established on 1 April 2011 by virtue of the Marine and Coastal Access Act 2009 (“the 2009 Act”) to ensure the sustainable exploitation of sea fisheries resources fisheries and to protect the wider marine environment within its District. The 2009 Act also places a duty on NEIFCA to further the conservation objectives of Marine Conservation Zones (MCZs).

This enforcement policy statement is in accordance with the Regulators’ Compliance Code and the regulatory principles required under the Legislative Regulatory Reform Act 2006. It sets out the general principles and approach which NEIFCA is expected to follow. The appropriate use of enforcement powers, including prosecution, is important both to secure compliance with the law and to ensure those who have duties under it may be held to account for harm caused to the marine eco system.

2.0 The Purpose and Method of Enforcement

The purpose of NEIFCA is to sustainably manage the marine ecosystem by limiting impacts from exploitation of the marine environment.

The purpose of enforcement is to:

- Ensure that those engaged in fishing comply with all legal requirements.
- Ensure those who breach legal requirements, including company directors and managers who fail in their responsibilities are held to account.
- Improve levels of compliance.

NEIFCA has a range of powers at its disposal in seeking to secure compliance with the law and to ensure a proportionate response to criminal offences. This includes giving advice to stakeholders, gathering evidence, evaluating options and proposing management solutions in order to protect local fisheries and eco systems.

Prosecution, formal caution, fixed administrative penalties and verbal re-briefs are important ways to bring offenders to account for breaches of the law and where appropriate to do so. NEIFCA will use its powers of enforcement in accordance with this policy.

NEIFCA will use its discretion in deciding when to investigate or what enforcement action may be appropriate. Its decisions will be made in accordance with the following principles.

3.0 The Principles of Enforcement

NEIFCA believes in firm but fair enforcement of those laws which protect marine ecosystems from the impact of exploitation. They should be informed by the principles of proportionality in applying the law and securing compliance; consistence of approach; targeting of enforcement action; transparency about how it operates, what those regulated should expect and accountability for its actions.

4.0 Proportionality

Proportionality means that any enforcement action taken will be informed by an assessment of the respective level of risk of harm to the marine ecosystem.

Applying the principle of proportionality means that NEIFCA will take account of the seriousness of the alleged offence alongside its impact on the marine ecosystem.

A risk-based approach is central to the Authority's enforcement delivery and will ensure that any subsequent action taken is proportionate to the scale and impact of the activity in question.

5.0 Targeting

Targeting means making sure that resources are targeted primarily on those whose activities give rise to the most serious risks of harm to marine ecosystems and any subsequent action is focussed on such. Such targeting will also be informed by intelligence collated collaboratively by Authority officers and key partner agencies.

The primary drivers which underpin NEIFCA's risk-based approach are based upon the legal requirements of the regulations to protect the marine environment through sustainable risk-based management practices. Strategic deployment of resources is determined in line with these principles, which identify the sensitivity of an activity and the likelihood of it causing environmental harm. This enables prioritisation and targeting of resource to the more sensitive marine areas.

Through its risk-based and intelligence-led enforcement our officers will strive to identify those operators who are working in the highest risk areas using methods which are likely to cause the greatest damage. Operators who are compliant and adopt the least damaging methods of exploitation are likely to be inspected less than those who are non-compliant.

Enforcement action will be directed against those who are legally responsible for any breach of regulation. Where several parties are accountable for their actions NEIFCA may take action against more than one when it is appropriate to do so in accordance with this policy.

NEIFCA maintains an overriding risk management policy which covers all areas of operation including comprehensive risk registers and an enforcement risk matrix.

The risk registers are reviewed and updated on a six-monthly basis or sooner if the need arises. The authority's risk-based management policy and associated risk registers are posted on the authority's website

6.0 Consistency

Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends. NEIFCA recognises that in practice, consistency is not a simple matter.

Any decisions will be taken in line with current guidance from Government, statutory nature conservation and marine management bodies and all supporting legislation is underpinned by an environmental and/or regulatory impact assessment.

Enforcement and compliance work is only undertaken by competent, qualified and warranted Inshore Fishery and Conservation Officers and any decision making surrounding sanctions is independently supported by the Authority's legal advisors to ensure that both consistency and proportionality is maintained throughout.

Consistency of approach is key to the Authority's decision making. All monitoring control and surveillance activities are both risk-based and intelligence-led. All investigation and enforcement actions are tailored to each individual case and the circumstances surrounding such although as far as possible, similar matters will be dealt with in a similar manner. In terms of consistency of standards all Officers and supporting prosecutors work to nationally agreed conventions and protocols from investigation through to any formal sanctioning.

7.0 Transparency

Transparency means helping stakeholders to understand what is expected of them and what they should expect from NEIFCA.

All NEIFCA's actions are undertaken against a background of public accountability. The NEIFCA website is used to provide information about its functions and guidance about its activities. We publish key policies, plans and reports and proceedings of NEIFCA meetings which are available on our website. Information is also circulated via regular newsletters and notices posted throughout the NEIFCA district. NEIFCA retains active membership of the National Association of IFCAs and supports a regional joint coastal enforcement group where partner authorities meet to discuss the delivery of enforcement and compliance work alongside a national Inshore Marine Enforcement Group (NIMEG). Continuing active engagement within these groups enhances both the consistency and standard of NEIFCA's approach to statutory work including enforcement. Regular meetings are also held with relevant stakeholders and interested parties to discuss the work of NEIFCA.

8.0 Accountability

Regulators are accountable to the public for their actions. This means that enforcing authorities must have policies and standards against which they can be judged and an effective and easily accessible mechanism for dealing with comments and handling complaints.

NEIFCA procedures for dealing with comments and handling complaints are set out within its feedback and communication strategies which are published on its website.

We are accountable to the Courts, the fishing industry, its representatives, the government and the public at large. Accountability is ensured through transparent reporting channels which includes reporting on the outcome of prosecutions.

Ensuring a high level of compliance in all areas where NEIFCA has the regulatory responsibility is fundamental. Without compliance there could be potential social, economic and environmental impact.

NEIFCA takes its enforcement responsibilities seriously and strives to ensure that it complies with all legal obligations placed upon it when determining which course of action to take.

NEIFCA ensures that its officers are appropriately trained and clearly understand the powers that are available to them. Enforcement officers undergo regular training in all areas of their enforcement work. Officers must also follow the NEIFCA 'code of conduct' which is published on the Authority's website. First and foremost we seek to achieve compliance through education, advice and guidance wherever possible. We will use appropriate and proportionate action (including enforcement action if necessary) where this has not been successful. The range of enforcement tools which NEIFCA may use in order to achieve compliance include:

- Verbal warning or re-brief
- Advisory letter
- Official written warning
- Formal caution
- Financial administrative penalty
- Prosecution

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