D&S IFCA Authority Meeting – September 2026

Agenda Item 11
Annex B

# Inshore Fisheries and Conservation Authorities

# Enforcement Policy

## Statement of Intent

All Inshore Fisheries and Conservation Authorities (IFCAs) are committed to the delivery of a fair, effective, consistent and proportionate enforcement regime through an intelligence led and risk-based approach and ongoing engagement with affected stakeholders.

## Introduction

This document sets out the IFCAs approach to achieving compliance and it provides the general principles that will be followed.

In undertaking their regulatory responsibilities the IFCAs start from the position that the majority of the people, organisations and industries engaged in the inshore fisheries, whether recreationally or commercially, are compliant with the regulations and controls that affect them. The IFCAs will work with all parties to ensure that they understand what rules apply to their particular activity and the rationale that makes regulation necessary. To support compliance and awareness of the regulations as they apply to people, IFCAs will provide guidance and will seek to publicise the restrictions that are in place.

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 perceived 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 increased in 2015 under the Marine and Coastal Access Act 2009[1] from a maximum of £5,000 to unlimited fines.

The IFCAs use 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. IFCAs will also seek to use appropriate compliance and enforcement measures, where they consider it to be necessary, to ensure that the marine environment and sustainability of stocks are not adversely affected by fishing activities.

The IFCAs appoint warranted Inshore Fisheries and Conservation Officers (IFCO) who have the necessary powers under the Marine and Coastal Access Act 2009 to enable them to conduct inspections and investigations (see Conduct of Investigations below). This includes powers to inspect vessels, vehicles and premises, to seize items, fish and fishing gear, to request and copy documents and to detain a vessel to port. The IFCAs officers are fully trained and competent and in exercising their powers they will comply with the IFCO Code of Conduct.

[1] https://www.legislation.gov.uk/id/uksi/2015/664

**Better Regulation**
Where the IFCAs undertake compliance activity, they will work in accordance the principles set out in the Legislative and Regulatory Reform Act 2006[2] and the requirements of the Regulators' Code[3]. In carrying out its functions, each IFCA will ensure that:

I. Any investigative or compliance related action it takes is **proportionate** to specific, identified, risk or need for intervention;

II. It is **accountable** for its regulatory and enforcement activity – to its stakeholders, its partner organisations, Ministers, local taxpayers, the general public and the Courts;

III. 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;

IV. Its regulatory actions are **transparent**, by publishing information to its regulated stakeholders indicating what enforcement action it can take in appropriate circumstances and what enforcement action it has taken;

V. 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[4], ensuring such action is for a specific identifiable need, for example, limiting random inspections to specific identified compliance requirements;

VI. IFCOs' are highly trained, competent and adhere to the IFCO Code of Conduct; and

VII. IFCAs will work closely with partner organisations to make best use of available resources and share information.

**Stakeholder Engagement**
As set out in the IFCAs Regulation and Compliance Strategy, an important element in achieving understanding and compliance is ensuring that those stakeholders who are potentially affected by measures taken by an IFCA have a real opportunity to engage with its work. By engaging in the management process, the IFCAs and all stakeholders are able to properly understand the often-varying perspectives of other parties and the relevant statutory obligations for the IFCAs.

A key element of the warranted IFCOs role is ongoing engagement with the commercial and recreational fishing sectors, which includes not only on matters relating to compliance and enforcement but also on wider matters of concern that stakeholders would like the IFCA to be aware of.

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[2] The statutory principles of good regulation can be viewed in Part 2 (21) on page 12: http://www.legislation.gov.uk/ukpga/2006/51/pdfs/ukpga_20060051_en.pdf.
[3] Regulators' Code - GOV.UK
[4] The Compliance Risk Register and Tactical Co-ordinating Group are the means by which this is achieved, in accordance with the IFCA Regulation and Compliance Strategy.

**Enforcement Outcomes**
The IFCAs 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 IFCAs have a range of enforcement actions available that may be applied as necessary and proportionate to the circumstances of the case. Each option, with the exception of No Further Action, will be recorded by the IFCA and may be taken into consideration when considering enforcement options in cases where there is subsequent offending by the person concerned.

***No further action***
Where an IFCA decides that there is not sufficient evidence of an offence, or it is not in the public interest to pursue any further investigation of an offence or to take further action, the investigation of that offence will be concluded. In such circumstances, the IFCA will advise all parties and may still communicate with any party who was suspected of committing an offence, in order to raise awareness and highlight illegal practice in respect of the legislation under which the offence had been suspected.

***Verbal Warning***
A verbal warning may be issued when a minor infringement of legislation is detected. Often used if there is no previous evidence against the person for a similar suspected offence, where the matter can be immediately rectified and there has been no significant harm to fisheries or the marine environment, the intention is to remind the person of relevant legislation, and their obligation to comply.

***Advisory Letter***
Where it is believed that breaches of legislation 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 comply with legislation. An advisory letter may be sent to confirm a verbal warning and may be sent without prejudice to other purely civil remedies[5].

***Official Written Warning***
Where an offence has been committed and the sufficiency of evidence test has been satisfied but it is not considered to be in the public interest to implement formal proceedings, an official written warning letter may be to the alleged offender, outlining the offence, when it occurred and that it will be held on record and may be taken into consideration should further offending occur. This may be sent without prejudice to other purely civil remedies.

***Simple Caution***
This option is not used by all IFCAs[6], but where it is, a simple caution may be offered by the IFCA to a person over 17 years of age who is liable for a suspected offence. It may

[5] Civil remedies are procedures and sanctions, used to prevent or reduce criminal activity as an alternative to using formal court proceedings.
[6] Simple Cautions are used by Cornwall, Devon & Severn, Kent & Essex, Isles of Scilly, and North Eastern IFCAs.

be used for the disposal of an infringement where the evidential test is satisfied, and it is in the public interest to offer this sanction.

This disposal may be most appropriate in circumstances where there is no significant financial gain from the offending.

A caution can only be issued to a person who admits the offence and accepts the caution. The caution is a criminal record and may be considered by the Court should the person be convicted of a similar offence in the future.

Simple Cautions' will be issued in line with guidelines set by the Ministry of Justice.[7]

***Financial Administrative Penalty***

The IFCAs may issue a Financial Administrative Penalty (FAP) as an alternative to criminal prosecution, the level of which will vary according to the circumstances but will not exceed £10,000.[8]

A FAP will only be issued where the evidential test has been satisfied and it is in the public interest to offer this sanction. It may be issued to the owner, skipper and/or charterer of an English or Welsh vessel wherever it operates.

Payment of the penalty by any party on whom the FAP has been served will discharge the liability for prosecution. If a FAP is not paid within the required timescale (28 days), or the FAP is not accepted, the matter will automatically proceed to court (note that non-payment of the FAP is not an offence).

FAPs are not issued for offences concerning the obstruction of officers in the performance of their duties.

***Prosecution***

The ability to take criminal prosecutions is essential in discouraging serious non-compliance. The purpose is to secure a conviction to enable the court to apply appropriate sanctions including fines and where appropriate, forfeiture of fishing gear, fish and containers and suspension or disqualification from holding an IFCA permit.[9] The court may also determine that the costs of prosecution or a proportion thereof be paid by a defendant.

In order to prosecute or issue a FAP, offer a simple caution or issue an official written warning, the IFCA has to be satisfied that there is:

1) **Sufficient evidence** of the alleged offending and;

2) That there is a clear **public interest** in taking criminal proceedings or a lesser sanction.

The two elements of decision making are aligned with the principles set out in the Code for Crown Prosecutors[10].

[7] Simple cautions: guidance for police and prosecutors - GOV.UK
[8] The Sea Fishing (Penalty Notices) (England) Order 2011
[9] Section 164 Marine and Coastal Access Act 2009
[10] The Code for Crown Prosecutors | The Crown Prosecution Service

*Sufficiency of Evidence Test*

The IFCA 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. The IFCA must consider what the defence case may be, and how it is likely to affect the prospects of conviction. 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 IFCA 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 IFCA will always consider the public interest in prosecuting.

*Public Interest Test*

Where there is sufficient evidence to justify a prosecution or offer any form of out-of-court disposal, the IFCA must go on to consider whether a prosecution is required in the public interest.

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 sea fisheries resources, whether recovery species are involved and any issues as to quota status;
- The level of culpability of the suspect;
- The suspect’s age and maturity at the time of the offence;
- 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 suspect;
- 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.

Decision making in relation to both the evidential and public interest tests will be documented and will be considered initially by an appropriate officer who has not been directly involved with the investigation and independently by the IFCA's solicitors.

*Companies and Company Office Holders*

Criminal proceedings may be commenced against all those persons suspected of the offence(s). Where there is sufficient evidence and it is in the public interest, proportionate and appropriate to do so, the IFCA may commence proceedings against companies or other bodies liable for offending and company directors or other statutory office holders, where we believe there is evidence of personal liability

**Conduct of Investigations**

The IFCOs have a range of powers available in order to assist in the prevention and investigation of offending. For the purpose of carrying out any relevant functions the powers[11] include:

- The power to board and inspect fishing vessels or marine installations;
- The power to enter and inspect premises;
- The power to enter and inspect premises and, in exceptional circumstances, dwellings;
- The power to require production of and to inspect documentation;
- The power of seizure and retention of items;
- The power of forfeiture in respect of fish and fishing gear suspected to be unlawful;
- The power to detain vessels or marine installations:
- The power to use reasonable force, if necessary, in the exercise of their powers.

IFCOs will exercise their powers appropriately, lawfully, courteously and proportionately to the particular circumstances. Inspections and investigations will be carried out in accordance with relevant legislation, including the Police and Criminal Evidence Act 1984 (as amended) and the Criminal Procedure and Investigations Act 1996. Officers will act in accordance with the Standards of Professional Behaviour set out in the IFCO Code of Conduct.

[11] Chapter 2, Common Enforcement Powers Marine and Coastal Access Act 2009