



## **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 protect and conserve both fisheries and the wider marine environment. The 2009 Act places a duty on NEIFCA to sustainably manage sea fisheries resources within its district and to protect marine ecosystems from the impact of exploitation. NEIFCA must ensure effective management of exploitation on marine habitats including, amongst other things, activities such as commercial fishing, recreational sea angling and bait collection. NEIFCA has an additional duty under Section 154 of the 2009 Act to further the conservation objectives of Marine Conservation Zones.

This enforcement policy statement has been drafted 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 to uphold the law, hold individuals accountable for their actions and encourage a reduction in levels of non-compliance.

## **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 the level 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 and financial administrative penalties are important ways to bring offenders to account for breaches of the law where appropriate to do so. NEIFCA will use its powers of enforcement in accordance with the principles outlined within 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 the marine environment from over-exploitation and damage. Such enforcement is informed by the principles of proportionality in applying the law and securing compliance and consistency of

approach. Broadly speaking, enforcement action will be targeted and delivered in a transparent and accountable manner.

#### **4.0 Proportionality**

Proportionality means relating the level of enforcement action to the associated activities and their respective impacts on both sea fisheries resources and the wider marine environment.

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

The Authority's enforcement delivery is founded on a risk based approach ensuring that any resulting action 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 and the action is focussed on those who are responsible for causing the greatest risk of harm to the marine environment

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 resources to the most sensitive marine areas.

Through its risk-based and intelligence-led enforcement NEIFCA 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 directed against those responsible for a breach. 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.

Decisions relating to marine environmental protection are taken in line with current guidance from government, statutory nature conservation and marine management bodies. All formal byelaw regulations are supported by an environmental and/or regulatory impact assessment.

Evidence logs are produced to support management decisions. Regarding nature conservation and enforcement activities, such work is undertaken by competent, qualified and warranted Inshore Fishery and Conservation Officers and any decisions regarding sanctions are ultimately taken by the Chief Officer in consultation with the Authority's legal advisors and its senior operational management team to ensure both consistency and proportionality.

We strive to be consistent in the manner in which we make our decisions. Our monitoring control and surveillance activities are risk-based and intelligence-led. Likewise in undertaking any investigation and enforcement action each individual case is considered on a case by case basis but we work to ensure that similar matters are dealt with in a similar manner as far as possible. Officers and prosecutors work to national agreed conventions as noted above.

## **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 agendas and minutes of both full NEIFCA committee and sub-group meetings. Our joint enforcement work is supported regionally, through a joint partnership group which meets twice a year and nationally, through the National Inshore Marine Enforcement Group (NIMEG) which meets four times a year. These groups ensure regional and national consistency in enforcement delivery and regular meetings are held with relevant stakeholders and interested parties to discuss the Authority's work and developing role.

NEIFCA is also an active member of the National Association of Inshore Fisheries and Conservation Authorities which supports and encourages national consistency in delivery.

## **8.0 Accountability**

Regulators are accountable to the public for their actions. This means that enforcement authorities must have policies and standards in place, against which they can be judged, including adequate mechanisms 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 and the EU as well as 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 very seriously and strives to ensure that it complies with all the legal obligations placed upon it when determining which course of action to take.

NEIFCA will ensure that its officers are appropriately trained and have a clear understanding of the powers that they are both acting under and subject to. All the Authority's enforcement officers undergo extensive and continuous training throughout their careers in all areas and aspects of their enforcement work. NEIFCA officers are bound by the Authority's 'code of conduct' which is published on the Authority's website. NEIFCA seeks to achieve compliance through education, advice and guidance wherever possible. NEIFCA will always use the most appropriate and proportionate action (including enforcement action if necessary). Such action may include the following sanctions:

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