



**St Helena
Government**

Environment, Natural Resources and Planning Directorate

Compliance and Enforcement Strategy for Marine Operations in Saint Helena

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1 Acronyms and terminology

Exclusive Fishing Zone (EFZ) – Those waters extending from the seaward limit of 12 nautical miles (nm) to a maximum of 200 nm from the baseline of the Island.

Territorial Sea – The waters extending 12 NM from the baseline from which the breadth of the territorial waters adjacent to the Island of Saint Helena is measured.

ENRP - the Environment, Natural Resources and Planning Directorate.

MES – Marine Enforcement Section

MEO – Marine Enforcement Officer – Head of the Marine Enforcement Section.

SFO – Senior Fisheries Officer – Responsible for the licensing of vessels to fish in Saint Helena waters.

CEO – Chief Environmental Officer

IUCN – International Union for the Conservation of Nature

SHRI – Saint Helena Research Institute

IUU – Illegal, Unregulated and Unreported Fishing – This relates to foreign vessels illegally fishing inside Saint Helena's EEZ.

TAC – Total Allowable Catch

MPA – Marine Protected Area

EPO – Environmental Protection Ordinance, 2016

AIS – Automatic Identification System

VMS – Vessel Monitoring System

MMO – Marine Management Organisation, UK.

Stakeholder – Anyone that exploits marine resources.

Administrative Penalty – This is a monetary fine issued by the MEO

Non-Compliance – Someone conducting an activity that is prohibited under marine legislation/policy

Voluntary Compliance – This refers to the reason a stakeholder behaves in the way they do.

Voluntary compliance is where a stakeholder complies because they understand the regulation and the need for the regulation.

2 Overview

2.1 Introduction

This strategy has been developed to help inform marine stakeholders and the public as to how ENRP manages compliance and enforcement with regards to Saint Helena's legislation for its marine environment. It outlines the need for regulation, the legal basis on which any regulation is put in place and the actions ENRP are taking to ensure compliance with such regulation.

The entirety of the Saint Helena Territorial Sea and Exclusive Fishing Zone (EFZ) has been classified as an IUCN Category VI Marine Protected Area (MPA). This is defined as a protected area with sustainable use of natural resources.

In the past Saint Helena has had little in terms of enforceable regulation with regards to exploitation of the marine environment. SHG understands its regulatory responsibilities and has formed a new Marine Enforcement Section (MES) to ensure, that through regulation, the natural resources within the marine environment can be consumed and utilised in a sustainable manner.

The successful management of compliance with marine regulatory requirements on Saint Helena relies on key stakeholders and the general public. This makes it vital that we have a strong regime in place to ensure compliance with the legislation and broader marine management requirements.

Key actions have been identified that will need to take place for the effective implementation of this strategy. These actions along with targeted outcomes are noted in ANNEX 1.

2.2 Legislative background

The Governor in Council declared Saint Helena's Territorial Sea and EFZ an IUCN Category VI MPA under Section 30 of the Environment Protection Ordinance (EPO). Section 31 of the EPO ensures that a management plan is put in place for sustainable use of the MPA. Section 33 of the EPO makes it an offence to fail to comply with the management plan.

With regards to marine tourism the Marine Management Plan includes policy guidance to manage interaction with marine species. As part of the marine species interaction policy an accreditation scheme was launched to assist the marine tourism industry in undertaking marine tourism tours in line with the Marine Management Plan. More information can be found in MARINE ENVIRONMENT ACCREDITATION SCHEME FOR SAINT HELENA.

The fishing industry is currently managed under the Fishery Limits Ordinance 1977. Under this Ordinance it is an offence to fish from a vessel inside Saint Helena's Territorial Sea and EFZ without a valid fishing licence. The majority of fishing regulation comes from conditions attached to the fishing licence.

With the constant development of the fishing industry the Fisheries Limits Ordinance 1977 is no longer fit for purpose and a new fisheries Ordinance and Regulations is currently being drafted.

2.3 Our stakeholders

This Strategy applies to a range of stakeholders. The main stakeholder industries exploiting Saint Helena's marine natural resources are;

- Fishing
- Marine tourism
- Marine Developments (predominantly sand extraction and waste disposal)

These industries will need to be managed effectively, the best way to do this is to introduce science informed regulation. A robust compliance and enforcement strategy must be implemented to ensure compliance with regulation

2.4 Our approach to achieving compliance

As more detailed marine regulation is introduced to Saint Helena, the MES will, where appropriate, take an educational approach to its compliance and enforcement. Education of stakeholders through timely and effective communication is key to achieving voluntary compliance. Having a robust, consistent and transparent enforcement strategy to deal with incidences of non-compliance will instill confidence in the approach and also encourage voluntary compliance.

Enforcement operations and investigations will mirror police procedures as closely as is appropriate and will be conducted in accordance with the Police and Criminal Evidence Ordinance 2003.

Whilst it is the stakeholder's responsibility to ensure their operations are conducted in line with any regulation, ENRP will always work with stakeholders to ensure they are aware of any regulation or changes to regulation that would affect their area of operation.

In order to achieve an effective co-management approach between ENRP and stakeholders, ENRP will;

1. **Engage with stakeholders to encourage compliance with marine legislation** – Changes in working practices may be required to achieve compliance. ENRP will work alongside stakeholders, allowing them to take the lead on managing their own actions to ensure this is done.
2. **Work toward achieving a shared approach** – Stakeholders have been working in the marine environment for a long time and have knowledge and resources that are highly useful to ENRP. ENRP will engage with stakeholders to ensure that any regulation put in place will best serve the marine environment as well as their respective industry.
3. **Be transparent, consistent and fair in dealing with marine stakeholders.** – ENRP will not discriminate or show favour between stakeholders. Processes will be in place to ensure consistency in any ENRP-stakeholder interactions.
4. **Take stakeholders into account.** Where possible ENRP will always consider socio-economic factors when developing management measures.

2.5 New regulation

In order to effectively manage the marine environment ENRP will have to introduce new science based regulation as per section 2.3. To ensure stakeholders are aware of any new regulation and the effects it will have on their industry ENRP will always undertake the following process:

1. **Publicise regulation** – Announcements will be made via the SHG website and social media channels. A press release will be circulated to Saint Helena's main media companies. The MES will display posters in prominent locations to further publicise regulation.

2. **Contact stakeholders** – Any new regulation or changes to existing regulation will be sent to any stakeholders that have provided contact details to either the MES, Senior Fisheries Officer or Chief Environmental Officer. Stakeholders will be contacted to arrange meetings with the MEO to discuss new regulation.
3. **Defined educational period** – A period of time will be specified as an educational period. During the educational period the MES will take an educational approach to minor offences related to the new regulation. More serious enforcement action will be taken if deemed necessary by the MEO.

3 Fisheries management

3.1 Fishing licences

For fishing to occur from a vessel within the Saint Helena Territorial Sea and EFZ the vessel must hold a valid Saint Helena fishing licence. A fishing licence is valid for 1 year, the licensing year runs from 1st April-31st March. There are currently 6 types of fishing licence;

3.1.1 Inshore commercial licence

This licence will allow a vessel to fish within the sea area up to 30 miles from shore. There are TAC and size limits associated with this licence. Fish caught under this licence can be sold.

3.1.2 Offshore commercial licence

This licence will allow a vessel to fish the sea area outside 30 miles. There are TAC and size limits associated with this licence. Fish caught under this licence can be sold.

3.1.3 Exploratory licence

This licence will allow a vessel to investigate a potential new fishery to determine if the fishery is commercially viable whilst being exploited in a sustainable manner. Data will be collected and provided to ENRP as per an exploratory research plan to determine the quantity of a fish species that may be exploited sustainably.

3.1.4 Recreational licences

This licence will be used to allow recreational fishing and spearfishing from a vessel. When the new Fishing Ordinance is complete a second recreational licence will be introduced to manage spearfishing where the fishery is accessed from the shore. There are daily catch limits associated with recreational licences. Any fish caught cannot be sold.

3.1.5 Sportsfishing (angling)

This licence will allow a person or business to license multiple vessels to take fare paying passengers on sport angling trips. Any fish caught cannot be sold.

3.1.6 Sportsfishing (spearfishing)

This licence will allow a person or business to license multiple vessels to take fare paying passengers on sport spearfishing trips. Fish caught under this licence can be sold.

4 Marine tourism management

Presently any tour operators that plan to conduct vessel tours or dive tours interacting with the marine environment and its various species voluntarily enroll on the Marine Accreditation Scheme. The Accreditation Scheme provides training for tour operators to enable them to operate tours in line with the marine species interaction policy attached to the Marine Management Plan.

Moving forward, tours will be managed through a licensing system. Any stakeholder wishing to conduct marine tourism activities will have to apply for a licence under the EPO from the Chief Environmental officer.

The Chief Environmental Officer will attach conditions to the licence to ensure that marine tourism can take place with minimal disturbance to marine species and the marine environment in general. Enrolling on the Accreditation Scheme will be a mandatory requirement to attain a Marine Tour Operator Licence.

Whilst the rules and regulations are predominantly set out for tour operators, much of the policy is aimed at minimising the disturbance to marine species also applies to the general public.

5 Management of other marine operations

5.1 Marine developments

Any building occurring in or above the marine environment or any terrestrial development that will have a negative effect on the marine environment will be classed as a marine development. Any stakeholder wishing to conduct a marine development will have to apply for a marine developments licence from the CEO

Other marine operations such as sand extraction, dredging, subsea cable installation, mining, construction and waste disposal will also be classed as marine developments and managed where using a marine developments licence.

The Chief Environmental Officer will attach conditions to the licence to ensure any marine development is done in such a way that it does minimal damage to the marine environment. The MES will ensure compliance with environmental licences by conducting sporadic inspections on the activities of marine development licence holders to ensure any activities taking place adhere to conditions included in the licence.

5.2 Managing Scientific Research

Any scientific research taking place in Saint Helena waters that would in any way constitute an offence under the EPO requires a scientific licence. Applications to conduct research must be applied for via the [Saint Helena Research Institute](#), which if involving EPO listed species will be reviewed by the Chief Environment Officer.

As part of the application for a scientific licence, applicants will have to demonstrate that they have the financial resources, scientific competence to complete the research, and that all data/information gathered as part of the research is provided to Saint Helena. For further detail on research requirements, see SHRI 'Protocol for Researchers'.

6 Achieving and maintaining compliance

6.1 Achieving compliance

The MES recognises that the way it interacts with stakeholders can influence the behaviour of individuals and businesses undertaking marine operations. The Section's objective is to encourage compliance, however, the Section recognises that it is not appropriate to respond to all instances of non-compliance in the same way. The MES will use strong enforcement actions to deal with serious non-compliance where more serious infringements occur.

Ensuring that MES get the right balance of compliance and enforcement is a continual challenge, and one which requires a good level of base planning to achieve success. As a result, MES will implement a structured approach to planning compliance activities which is best shown in figure 1 below.

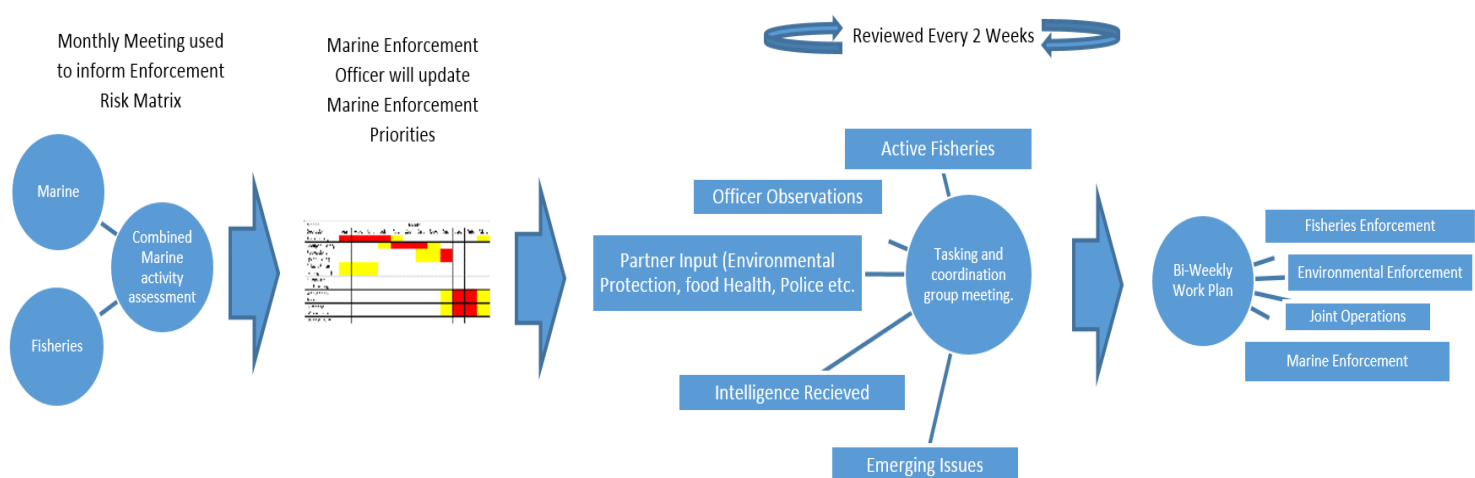


Figure 1 Planning Procedure for Compliance and Enforcement Activities

This approach is designed to take into account the risks and proactive responses to those risks identified and combine them with reactive responses to emerging risks throughout the year.

The compliance work-streams below highlight the priority enforcement risks for the coming year. These work-streams will be addressed through strategic and operational planning with targeted outcomes and associated actions.

6.2 Commercial fishing

6.2.1 Inshore commercial fishery

The MES will work closely with the Environmental Health Section within the Health Directorate in relation to food safety/hygiene to ensure compliance across the board. The MES will monitor vessel activities and vessel activity data, this will be compared with mandatory log book returns to ensure compliance with log book requirements. Officers will ensure compliance with licence conditions through targeted inspections and boardings.

6.2.2 Offshore commercial fishery

Any vessels issued with an offshore licence will be required to have a functional AIS/VMS. Any vessel that fishes the offshore area is required to land the entirety of their catch into Saint Helena.

Compliance checks will be conducted upon landing.

6.2.3 Exploratory fishing

Any exploratory licence issued will have an accompanying research program. Each licence will be individually assessed and enforcement requirements to achieve compliance will be considered. This may include requiring an observer being on board during fishing or the installation of remote electronic monitoring equipment (CCTV).

6.2.4 Unlicensed foreign vessels fishing Saint Helena's offshore waters (IUU fishing)

The MEO will implement an intelligence gathering system where vessels coming to Saint Helena will be encouraged to assist the MES through gathering information on sightings of any other vessels they encountered in Saint Helena waters (Visual or Radar). This intelligence will be submitted to the central intelligence hub set up by the Blue Belt compliance and enforcement team. Blue Belt will analyse the intelligence to best direct offshore surveillance at their disposal to detect any IUU fishing in offshore waters.

If an IUU incident is detected remote evidence will be collected. If, due to limited enforcement capabilities SHG are unable to achieve a prosecution, a flag state prosecution will be pursued through diplomatic channels.

6.2.5 Licensing of foreign vessels to fish Saint Helena waters

Foreign flagged vessels may be licensed to fish within Saint Helena territorial waters and EFZ. It will be stipulated as part of the licence that the foreign fishing vessel must carry an observer and a portion of the catch must be landed into Saint Helena. Compliance checks will be completed on the entirety of the catch when the vessel lands into Saint Helena.

6.3 Recreational fishing

MES will initially take a proactive approach to combat illegal sales of recreationally caught fish, adjusting workload appropriately once the scale of this issue has been assessed. Working together with food safety/hygiene, MES will identify and strictly limit the market opportunities for illegal fish sales. The MES will monitor vessel activities and vessel activity data, this will be compared with mandatory log book returns to ensure compliance with log book requirements.

6.3.1 Recreational spear fishing

MES will ensure compliance with specific spear fishing regulation through targeted inspections and boardings.

6.4 Sports fishing

6.4.1 Sports spear fishing

MES will ensure compliance with specific spear fishing regulation through a high level of observer coverage in the first few seasons followed by targeted inspections and boardings where required. The MES will monitor vessel activities and vessel activity data, this will be compared with mandatory log book returns to ensure compliance with log book requirements.

6.4.2 Sports angling

The MES will monitor vessel activities and vessel activity data, this will be compared with mandatory log book returns to ensure compliance with log book requirements. Officers will ensure compliance with licence conditions through targeted inspections and boardings.

6.5 Marine wildlife interaction tours and dive tours

An educational approach will be taken to ensure all stakeholders will be briefed on the interaction guidelines and complete the Marine Accreditation scheme training. Completion of this training will form part of a Marine Tourism Licence condition. Visiting yachts will also be informed of interaction guidelines and the requirement to use a local operator upon arrival in Saint Helena. During the peak season observers will join tours and proactive intelligence gathering activities will take place to best allocate enforcement resources.

This educational approach will also be taken in relation to the local residents, utilising events such as Marine Awareness Week and other designated days throughout the year to promote responsible use of the marine environment.

6.6 Marine development licensing

Licences will be assessed on a case by case basis to decide on the level of enforcement effort required to ensure compliance. The amount of enforcement effort will be evaluated on the potential for financial gain through non-compliance and potential environmental damage caused by non-compliance. Cases of illegal unlicensed activity will be investigated in response to intelligence gathered.

6.7 Arising threats

The Marine Enforcement Officer will analyse intelligence gathered of any new arising unforeseen threats and make adjustments in the enforcement risk register to allocate appropriate enforcement resources.

6.8 Monitoring compliance

The main tool in monitoring compliance with regulation is an effective intelligence management system. ENRP will use a split intelligence management system to best manage marine compliance. Intelligence regarding offences committed by Saint Helena vessels or foreign vessels licensed to fish in Saint Helena waters will be managed by the MES who will provide marine intelligence briefings to the police directorate when required. If intelligence is gathered of offences with regards to IUU offshore fishing then intelligence will be submitted to the Blue Belt intelligence hub managed by the UK Marine Management Organisation (MMO).

Credible intelligence is the key to any risk based enforcement strategy. In the past information has been provided by the public, the fishing industry, Saint Helena Commercial Fisherman's Association, NGO's and other stakeholders. In order for effective management this needs to continue. Any information passed to the MEO or Police Directorate will be processed with the strictest confidence. Reports of offences can be made by calling the Marine Crime Hotline on 64642

The MES will carry out compliance and enforcement activities throughout the year, responding to the seasonal increase in certain activities at particular times of year. Figure 2 indicates the periods of the year when the key enforcement risks of 2020-2021 will be being managed. White highlighted months being periods where enforcement action will be mostly reactive in response to intelligence gathered, yellow highlighted months will include sporadic proactive compliance enforcement inspections and red highlighted months will include heightened levels of enforcement checks and targeted operations in response to intelligence. This approach and the specific times this happens are the result of a risk prioritised assessment of necessary enforcement activities. Working in partnership with statutory partners such as the Environmental Health and the Police Directorate the MES will share intelligence and work collaboratively to enforce the law in a fair, impartial, effective and proportionate way. This collaborative approach brings value for the taxpayer and effective use of limited resources.

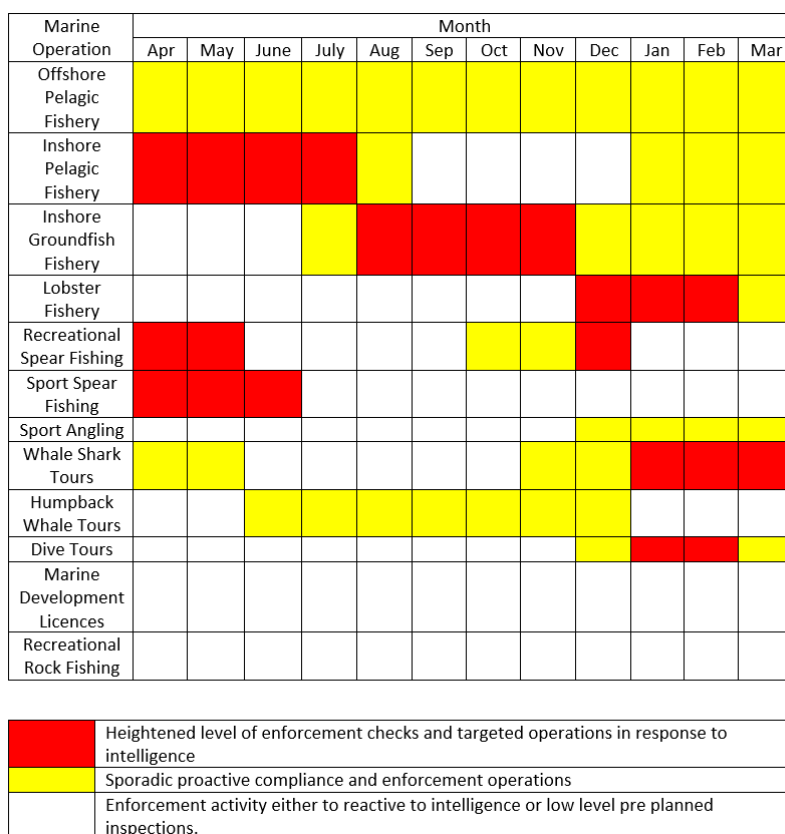


Figure 2 Enforcement Risk Register

Monitoring compliance is essential as it will allow ENRP to;

1. Determine levels of compliance and patterns or trends in stakeholder behaviour.
2. Identify the necessity of, and the type of awareness/education campaign required.
3. Keep the enforcement risk register (Figure 2) up to date to effectively distribute limited resources.

6.9 Compliance activities

Officers will be effectively communicating regulations to all stakeholders involved throughout, ensuring that understanding is properly documented, as well as conducting pre-season checks and briefings for fishermen. Officers will respond to emerging threats using intelligence led targeted operations where required. Boarding's and landing inspections will be conducted whilst utilising body worn video to gather best evidence of any offences.

6.9.1 Fisheries Enforcement Activities

Boardings - Officers will conduct sea patrols and will carry out routine boardings of fishing vessels. The following inspection procedure will be carried out during any boarding.

1. Establish who is master of the vessel
2. Check log book has been filled out correctly
3. Compare log book to catch on board
4. Inspect fishing method and fishing gear being used
5. Inspect catch

Landing inspections - Officers will also be operating on shore carrying out landing inspections. During a landing inspection the following procedure will be used.

1. Establish who is master of the vessel
2. Check log book has been filled out correctly
3. Compare log book to catch
4. Inspect catch

Deviations in procedure will occur where the MEO deems necessary. A boarding inspection sheet will be completed to document the inspection.

6.9.2 Proactive intelligence Gathering

If an investigation is taking place, information will not be made public unless it is deemed absolutely necessary to aid in the progression of the investigation. An example of this could be if the MEO wants to appeal for information from potential witnesses. If a request for information needs to be published it will be done in accordance with SHG's processes for transparency and information handling using the same procedure used by the Police Directorate when a police appeal for information is released.

6.9.3 The observer programme

In order to monitor compliance, licence holders may be required to carry observers whilst they conduct activities managed by a licence. It is anticipated that due to limited resources that whilst observing compliance they may also be required to collect scientific data in relation to the marine activity being undertaken

- **Selecting Observers** – Observers will either be SHG staff or may be hired by SHG to perform the observer role. A process will be in place to select the correct observer for the job. The observer must not be an immediate family member of the licence holder under observation. The observer must have no financial interest in the marine environment. The observer must not hold any grievance with the licence holder under observation.
- **Training Observers** – Observers will receive training on what constitutes an offence, what to look out for and the documenting of offences. They will also receive training on the collection of scientific data.
- **Reporting Process** – Observers will report details of any offences witnessed to the MEO who will investigate and take appropriate action.

7 Compliance and enforcement response

7.1 Responding to non-compliance

The MES uses the most appropriate compliance and enforcement option in response to each offence. Responses range from education and/or warnings or fixed penalty notices to suspension of licences and criminal prosecution.

Each incident of non-compliance will be dealt with individually, and each case will be assessed with a sanction appropriate to the seriousness of the offence applied.

The following factors will be considered when deciding what sanction is appropriate:

1. Evidence of an offence.
2. The law.
3. Ecological impact.
4. Economic impact.
5. Previous offences of the offender.
6. Previous enforcement response to similar offences.
7. Any mitigating circumstances.

After considering the above factors the MES has a number of enforcement options available to promote compliance and discourage offences. These options are as follows:

7.1.1 Enforcement responses

1. **Advisory approach** – This will be used mostly during an educational period when an offence is detected and the MEO deems that the offence has occurred because of a lack of understanding of the regulation. Even with this option available stakeholders should be aware that it is their responsibility to ensure what they are doing is legal.
2. **Warning letter** – A warning letter outlines the legislation/licence condition under which the offence was committed, identifies the area of non-compliance, advises the offender of next steps and how to achieve compliance, the consequences of ongoing non-compliance and compels compliance. A warning letter will be used in response to minor offences, and also used if an offence is detected and the MEO deems that the offence has occurred because of a lack of understanding of the regulation outside of an educational period. Records of warning letters will be held for 1 year. If further offences are committed by a person within 1 year of receiving a warning letter then more serious sanctions will be applied.
3. **Administrative penalties** – If an offence is committed and the MEO deems that the offence is serious enough that a warning letter would not be a proportional response then the MEO will issue an Administrative penalty. If an offence is committed and the offender has received a warning letter within the last 12 months then an administrative penalty will be issued. An administrative penalty will only be issued if an evidential threshold has been met where the MEO believes the offender would be found guilty of the offence in court. The financial amount of an administrative penalty issued would be governed by the regulations under the Criminal Justice (Fixed Penalties) Ordinance, 2020.
4. **Court proceedings** – In the case of an offence so serious that it is beyond the powers of the MEO to issue a proportional response, then the case will be referred to the courts. In the case of reoccurring minor offences, where the MEO has been unable to achieve compliance through escalating sanctions, the case will be referred to the courts. If an offender is issued with an administrative penalty and fails to pay before a specified deadline, the case will be referred to the courts.

Suspension or revocation of a licence – The Senior Fisheries Officer has the power to suspend or revoke a fishing licence and the Chief Environmental Officer has the power to revoke a Marine Development Licence. This would be done if the MEO has exhausted all other enforcement options and non-compliance is still occurring or if the nature of the non-compliance is likely to have a serious adverse effect on the marine environment. The courts may also decide to revoke or suspend a licence as part of sentencing upon conviction

8 Appendix 1 - Outcomes and strategies for implementation and action

Table 1 Summary of the Saint Helena Compliance Strategy: Outcomes and strategies for implementation and action.

Outcome	Strategies for implementation and action
1. Effective regulation introduced to manage sustainable fishing.	<ul style="list-style-type: none"> • Develop fishing licences with revised conditions based on the licensing policy. • Implement licensing system using process for introducing new regulation stated in section 1 of this strategy.
2. Effective regulation introduced to manage marine tourism.	<ul style="list-style-type: none"> • Draft marine tourism policy. • Draft regulations under the EPO to facilitate licensing system. • Implement licensing system using process for introducing new regulation stated in section 1 of this strategy.
2. Effective regulation introduced to manage marine developments.	<ul style="list-style-type: none"> • Draft marine developments policy. • Draft regulations under the EPO to facilitate licensing system. • Implement licensing system using process for introducing new regulation stated in section 1 of this strategy.
3. Government, marine sectors and community understand and respect roles and responsibilities of the Marine Enforcement Section	<ul style="list-style-type: none"> • Communicate roles and responsibilities in existing policy and legislation to all stakeholders • Continue to work with the marine sectors to strengthen compliance and further develop roles which complement and strengthen statutory responsibilities • Government agencies collaborate to ensure appropriate policy approaches and cross-agency administrative arrangements for the marine sectors
4. High level of voluntary compliance with marine regulation	<ul style="list-style-type: none"> • Compliance & Enforcement Strategy is implemented as written in order to achieve and maintain compliance.