



Department of
Primary Industries and
Regional Development

Fisheries compliance strategy

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Introduction

Western Australia has a long and proud history of managing its fisheries and habitats.

This history has been built on strong leadership from the Department of Fisheries and more recently the Department of Primary Industries and Regional Development (Department), as regulator, manager and steward of the State's fisheries resources.

As the key regulatory agency, the Department's compliance role is to achieve economic, social, equity and sustainability objectives by addressing:

- our ability and capacity to influence compliance with the rules; and
- the effectiveness, capacity and credibility of the compliance program.

It also undertakes activities to provide confidence and assurance to the community by influencing compliant behaviour and applying appropriate sanctions for breaches.

The Department's regulatory and compliance success has provided significant economic and social benefits to the Western Australian community through the development of a framework which provides high quality seafood and products for local and international markets, while also contributing to the overall health and maintenance of sustainable aquatic ecosystems.



Purpose

The purpose of the *Western Australian Fisheries Compliance Strategy* (the Strategy) is to provide an understanding of the principles underlying the Department's compliance role and how its compliance services are delivered to the Western Australian community.

The Strategy aligns with, and complements, the Department's *Compliance Framework and Risk Assessment Policy* which informs the risk-based model, compliance planning and the governance structure applied to fisheries compliance services.

The Strategy outlines the philosophy, functions, governance, services and tools essential for the delivery of an efficient, effective and credible compliance program with the robust capacity to deal with the broad spectrum of potential non-compliant activity.

It provides:

- a summary of the jurisdictional and statutory framework under which the Department operates;
- a brief explanation of the theory and principles underlying the compliance program;
- the organisational structure for the delivery of compliance services including functional areas, tools and services; and
- the governance and accountability processes for maintaining the integrity of the compliance programs.

Authorising environment

It is essential that a regulator understands the statutory framework under which it operates and delivers professional compliance services in accordance with the relevant legislation and powers.

Legislative Framework

The Department assists the Minister for Fisheries in the administration of the following legislation:

- *Fish Resources Management Act 1994**
- *Pearling Act 1990**
- *Fisheries Adjustment Schemes Act 1987*
- *Fishing and Related Industries Compensation (Marine Reserves) Act 1997*
- *Fishing Industry Promotion Training and Management Levy Act 1994*

The *Fish Resources Management Act 1994* and the *Pearling Act 1990* provide a wide range of compliance powers and controls relating to entry, search, inspection, seizure, arrest, prosecution, forfeiture and penalties, including imprisonment. These powers are exercised by Fisheries Officers appointed under the relevant legislation.

Fisheries Officers can, in certain circumstances, exercise powers under the following Acts:

- *Animal Welfare Act 2002*
- *Biosecurity and Agriculture Management Act 2007*
- *Conservation and Land Management Act 1984*
- *Criminal Property Confiscation Act 2000*
- *Criminal Investigation (Identifying People) Act 2002*
- *Criminal Investigation (Covert Powers) Act 2012*
- *Surveillance Devices Act 1998*
- *Western Australian Marine Act 1994*
- *Wildlife Conservation Act 1950*

Recourse to the above Acts, provides a range of additional powers to deal with specific compliance issues, particularly in regard to covertly monitoring compliance rates and addressing organised criminal activity in fisheries. The multi-faceted and integrated nature of compliance powers provides enhanced efficiency and effectiveness to Government and taxpayers in the application of compliance resources.

Jurisdiction

Except where specifically noted, fisheries involving the following species are managed by the Department to the 200 nautical mile limit of the Australian Fishing Zone (AFZ), in accordance with State law:

- all bony fish and sharks (except to the extent they are managed under a Joint Authority or by the Commonwealth);
- all aquatic invertebrates;
- all marine algae; and
- all seagrasses.

Combined, these species comprise some 40 managed fisheries, or effectively all fisheries undertaken off Western Australia, except fisheries jointly managed by the Commonwealth and Western Australia (Joint Authority Fisheries) under Western Australian legislation, and fisheries that are managed solely by the Commonwealth under Commonwealth law, as listed below.

The following fisheries are managed by the Western Australian Fisheries Joint Authority (a body comprising the State and the Commonwealth Ministers) and managed in accordance with the *Fish Resources Management Act 1994*:

- Joint Authority Southern Demersal Gillnet and Demersal Longline Fishery**; and
- Joint Authority Northern Shark Fishery, east of Koolan Island.

* In January 2019, the *Fish Resources Management Act 1994* and *Pearling Act 1990* will be repealed and replaced by the *Aquatic Resources Management Act 2016*. A reference to these Acts refers to a reference in the new Act.

** The State and Commonwealth have jointly agreed to transition these fisheries to State jurisdiction. The transition will occur in 2018/19.

Fisheries undertaken in waters adjacent to Western Australia that are managed by the Commonwealth in accordance with Commonwealth legislation are:

- Northern Prawn Fishery;
- Southern and Western Tuna and Billfish Fishery;
- Western Deepwater Trawl Fishery;
- North-West Slope Deepwater Trawl Fishery;
- Southern Bluefin Tuna Fishery; and
- recreational fishing in the waters of any Commonwealth marine park.

Community support

A regulatory agency can only operate effectively where its objectives and outputs have community, political and stakeholder support. This support for compliance officers to maintain and exercise what some consider being intrusive powers such as entry, inspection, search and prosecution is subject to the continuing public recognition that the Department's compliance program delivers a public value.

Support for the Western Australian Fisheries compliance program has been achieved through the provision of an effective compliance service which aligns with community expectations. It is most important that the community perceives that the laws are being applied and enforced consistently and fairly without fear or favour, otherwise the credibility of the compliance program and the management arrangements risk being undermined.

Unlike private property, fish resources are common property managed for the community. This drives a complex range of motivations, interests and expectations of stakeholders that influence the compliance program. These stakeholders include non-government organisations, those who do not participate in fishing but consume fish, non-extractive tourism interests, local community groups, local government and conservation bodies.

Community and individual rights involving equity and access to fish resources, and the maintenance of resource shares amongst resource users are key drivers directing compliance resources. It is expected that the State will address these issues, as well as non-compliant behaviour impacting the interest of particular resource users.

The satisfaction rate of the Western Australian community across the key fisheries management areas trends at approximately 85% for the past five years. Fisheries Officers make over 140,000 face-to-face field contacts with clients annually, many of which involve the exercise of coercive search and inspection powers. These are generally accepted and supported by the community with a minimal level of complaint, and a frequent comment in fisher surveys is that there should be more inspections.



Scope of compliance services

Compliance Clients

The Department is responsible for delivering a wide range of compliance services to a diverse set of aquatic resource users, including:

- Commercial fishers
- Recreational fishers
- Charter operators
- Customary fishers
- Pearling sector
- Aquaculture sector
- Fish receiver and processing sector
- Fish wholesale and retail marketing sector
- Fish welfare sector
- Marine Parks and Reserves (fisheries component)
- Management of fish habitat protection areas and the Houtman Abrolhos Islands
- Biosecurity – including noxious and non-endemic fish, biofouling, disease and invasive marine pests
- Marine pollution
- Marine safety (mainly metropolitan region)
- Opportunistic and organised criminal activity in respect to marine resources

The following additional services are also provided by Fisheries Officers:

- Shark hazard mitigation
- Whale and Protected Species interactions with fishing activity
- Marine search and rescue
- Fish kills
- Whole of government marine expertise and fleet services
- Compliance services to the Australian Indian Ocean Territories

Physical environment

Compliance resources are widely distributed across the land mass of Western Australia and in the coastal and inland waters along the State's 20,000 kilometre coastline (including islands). This includes monitoring the behaviour of approximately:

- 750,000 recreational fishers holding 170,000 recreational licences for specific fishing activities
- 2,000 commercial fishermen with 1,200 licensed commercial fishing boats operating in over 40 managed fisheries; and
- 400 aquaculture licensees and associated employees.

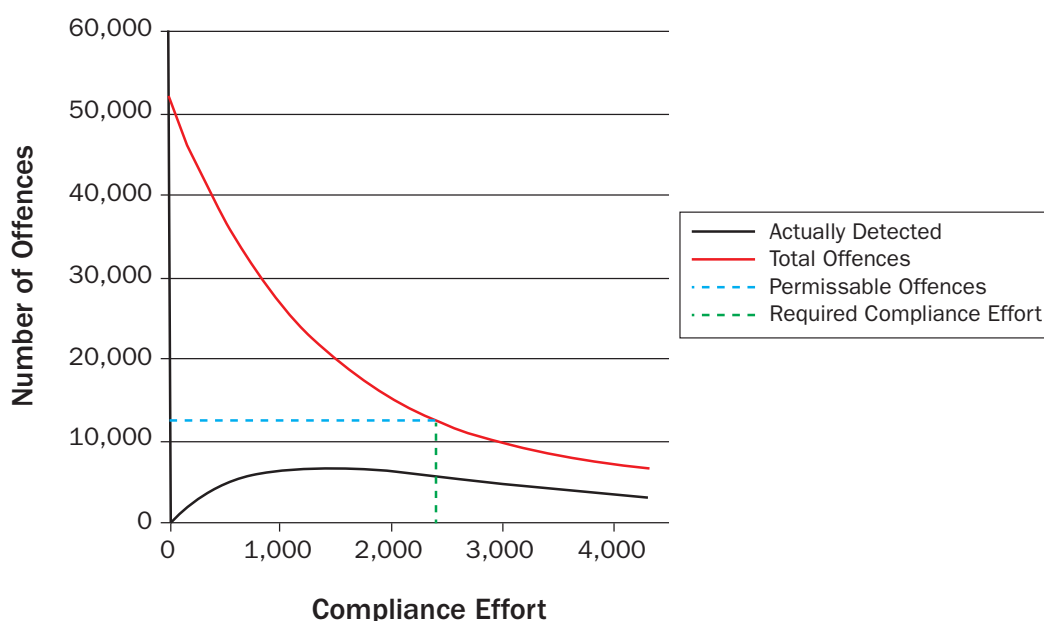


Compliance model

The Department's compliance model is based on the Australian *Fisheries National Compliance Strategy 2016-2020* (National Strategy). The National Strategy was developed with the involvement of senior compliance fisheries practitioners representing all major fisheries jurisdictions across Australia and New Zealand and has been adopted by the Commonwealth government and all State jurisdictions.

The National Strategy sets the fisheries compliance mission as “*aiming to achieve an optimal level of compliance which holds the level of non-compliance at an acceptable level, which can be maintained at a reasonable cost, while not compromising the integrity and sustainability of the resource.*”

Offence detection against compliance effort



A theoretical model showing how the number of offences in a fishery might vary depending on the compliance effort expended. It is not always appreciated that for most compliance problems, the red line and the black line are different.

Whilst it is not feasible or cost effective to achieve 100% compliance with fisheries management rules, the level of compliance must be sufficient to ensure the sustainability of aquatic resources and the equity of resource shares across and within sectors.

The compliance program must balance the economic and social value of the fishery against the risks arising from non-compliance and the cost of the compliance program.

The following core values are recognised as essential to achieving compliance outcomes:

- maintain productive working relationships with stakeholders and developing a partnership approach to fisheries management where possible;
- pursue cooperation with fisheries stakeholders to develop and implement fisheries policies and laws and identify potential risks and strategies;
- pursue cooperation across jurisdictions to form effective alliances between related agencies;
- integrate compliance strategies into fishery management arrangements during the initial planning stage;
- combat opportunistic as well as organised criminal involvement in fisheries;
- ensure that fisheries laws are administered and enforced fairly, reasonably and cost effectively for both fishers and compliance agencies;
- maintain the safety, effectiveness and integrity of fisheries compliance officers through training, effective policies and procedures, and accountable decision making; and
- investigate and implement new technology where it provides a cost-benefit to the compliance program or stakeholders.

Compliance strategies

There is not one compliance strategy that provides a universal solution in dealing with fisheries non-compliance. Compliance programs must be tailored to the nature and characteristics of the non-compliance being addressed.

The compliance strategies adopted and resources allocated differ for each fishery based on the availability of data and intelligence, the extent and nature of non-compliance problems and the causes of non-compliance.

The Department's compliance program is aligned to support the three key compliance strategies recommended by the National Strategy:

- maximising voluntary compliance;
- effective deterrence; and
- organisational capability and capacity.



Voluntary compliance

Compliance with the fisheries management rules is mandated by statute and a person is not permitted to choose whether to voluntarily comply or not.

'Voluntary compliance' is a colloquial term used to describe situations where individuals make a conscious effort to comply without the regulator continuously monitoring their behaviour. Auditing client behaviour in a natural resource regulatory environment can be a challenging and expensive exercise. Maximising voluntary compliance is a key element in the delivery of an efficient and effective compliance program.

Given the limited availability of compliance resources relative to the diversity, geographic spread and levels of activity in the fishing and related sectors, the Department's compliance program relies on the assumption of widespread 'voluntary compliance' combined with a low, but effective monitoring rate.

Voluntary compliance occurs generally as a result of a number of factors: ⁽¹⁾

- an understanding of the reasons for a rule or regulation (e.g. why it is there);
- the belief that those reasons are sound; and
- the belief that by complying, the community (or individual) receives a benefit.

Voluntary compliance is actively promoted and supported through:

- Provision of information and education activities on;
 - the rules, policies and regulations,

- the rationale and rules behind management decisions, and
- the science underpinning fisheries and aquatic resource management;
- school-based programs promoting the value of the aquatic environment and conservation messages;
- positive reinforcement by in-field patrol contact, including proactive advice and assistance, community presentations and attendance at public events/displays;
- education campaigns targeting the importance of complying with the rules and the promotion of sustainable marine resource use;
- stakeholder engagement through school talks, and industry/sector and public meetings to facilitate compliance; and
- ensuring the legislation is as simple as possible so measures such as gear controls and area closures can be easily understood and complied with.

Deterrence

Deterrence is generally defined as ‘the act or process of discouraging actions or preventing occurrences by instilling fear, doubt or anxiety’. ⁽¹⁾

The essential elements in establishing a credible deterrent are:

- a perceived high probability of being apprehended;
- a perceived high probability of sanctions being applied; and
- the magnitude of sanctions outweighing the potential benefit of non-compliance.

The simple sanction of being named for a fisheries offence can be a powerful deterrent in some fishing communities.

Deterrence activities includes awareness programs which increase the perceived likelihood of getting caught, while promoting the severity of the sanctions imposed on those who are caught.

Enforcement

Strong enforcement is applied to those who intentionally choose not to comply with their compliance obligations.

Enforcement consists of activities designed to monitor compliance and take appropriate action when non-compliance is detected. Effective enforcement is one type of deterrence.

Enforcement activities typically include:

- overt and covert inspection, surveillance and monitoring;
- overt and covert investigation of offences;
- prosecutions and court imposed fines, suspensions and forfeitures; and
- administrative actions (licence suspension, cancelation and restrictive conditions).

Principles of enforcement

Enforcement action may be taken by the Department in order to conserve the fish resources of the State and protect their environment, or other relevant objectives under Fisheries legislation that require enforcement action.

Enforcement action will be taken in proportion to the seriousness of the alleged offence and/or the environmental impact, taking into account the conduct of the parties.

Fisheries legislation and enforcement is to be applied consistently across all sectors of the community, industry and government with all requirements administered fairly.

The Department’s compliance program also operates in accordance with the Office of Director of Public Prosecutions [Statement of Prosecution Policy and Guidelines 2005](#).

Enforcement tools

A four-tier approach may be taken in respect to offenders under Fisheries legislation and involves the following enforcement tools:

- Infringement Warning Notice – involves issuing a written warning in lieu of a penalty;
- Infringement Notices – involves a penalty;
- Letter of Warning – a written warning in lieu of a prosecution; and
- Prosecution – instigation of legal proceedings and/or proposed court action.

In addition to these enforcement tools, Fisheries Officers also have the power to seize fish and fishing gear that on reasonable grounds is believed to be the subject of, or used in the commission of an offence. Likewise, Fisheries Officers may seize any item where the item may afford evidence of the commission of an offence. Fisheries Officers may also seize vehicles, vessels or any other thing where there is reasonable grounds to suspect it has been used in the commission of an offence.

The seizure of vehicles and vessels may be considered by the Department to provide a specific and general deterrent where serious offences have occurred. Some of the circumstances where this action may be considered include:

- unlawful interference with fishing gear;
- illegal sale or purchase of fish;
- unlicensed commercial fishing operations;
- where the vehicle or vessel are used to transport large numbers of protected fish;
- concealment of illegal fish particularly involving purpose built compartments;
- recidivist offenders with a significant record of offending; and
- exceeding bag or boat limits by significant amounts.

The seizure of vehicles and vessels generally requires the approval of a Compliance Manager. It is then a decision for the courts to determine whether these items are permanently forfeited to the Crown.

Discretion

The Department has discretion in considering the appropriate enforcement actions to be applied.

It is recognised that it is not possible to set pre-determined standards in regard to how a particular situation should be dealt with. The circumstances of each offence and the previous history of the person involved will be taken into consideration by Fisheries Officers in each case when determining what action is to be taken.

To identify the appropriate enforcement action to take in a particular circumstance, the Department will generally consider the following:

- the enforcement measure that is necessary to ensure compliance with the objects of the legislation and those most likely to achieve the best biodiversity, conservation or environmental outcomes or to promote the objects of the relevant Fisheries legislation;
- the seriousness of the incident having regard to the potential impacts on the aquatic environment;
- failure to comply with informal requests, lawful directions or notices given by the Department;
- previous history of the offender with regard to compliance with Fisheries legislation and the frequency of offences;
- whether false or misleading statements have been made;
- avoided costs and/or profits realised;
- culpability of the offender, including any mitigating or aggravating circumstances;
- issues of public concern, including the need for specific and general deterrence, legal precedents; and
- statutory time limits.

Prosecution

Prosecution is an enforcement tool to be employed where it is the appropriate response to a particular circumstance. It is not an option to be applied only as a last resort and is an important component of the Department's overall compliance approach.

To ensure there is consistency in enforcement action undertaken by the Department, all prosecution briefs are reviewed taking into account prosecution guidelines and the public interest. Serious matters are referred to the State Solicitor's Office for review and advice.

The decision to prosecute

A primary consideration in any decision to prosecute is the extent to which a prosecution will fulfil the statutory objectives and purpose of the legislation.

Two essential conditions are to be met before commencing the prosecution action. Firstly, that there is sufficient evidence to establish a prima facie case and secondly that it is judged to be in the public interest.

Factors which may weigh in favour of prosecution

Factors which might require the prosecution to proceed in the public interest and which should be balanced against any factors weighing against, include:

- the need to maintain the rule of law;
- the need to maintain public confidence in basic constitutional institutions, including Parliament and the courts;
- the entitlement of the State or other person to be awarded compensation, reparation or forfeiture, if guilt is adjudged;
- the need to ensure consistency in the application of the law;
- the need for punishment and deterrence; and
- the circumstances in which the alleged offence was committed.

Factors which may weigh against prosecution

Factors which may singly or in combination, render a prosecution inappropriate in the public interest include:

- the trivial or technical nature of the alleged offence in the circumstances;
- any mitigating or aggravating circumstances;
- the youth, age, physical or mental health, or special infirmity of the alleged offender, witness or victim;
- the alleged offender's previous history;
- the staleness of the alleged offence including delay in the prosecution process, which may be oppressive;
- the degree of culpability of the alleged offender in connection with the offence;
- the obsolescence or obscurity of the offence;
- whether the prosecution would be perceived as counter-productive to the interests of justice;
- the availability and efficacy of any appropriate alternative to prosecution;
- the lack of prevalence of the alleged offence and the need for deterrence;
- whether the consequences of any resulting convictions would be unduly harsh and oppressive, notwithstanding the imposition of any mandatory additional penalty;
- whether the alleged offence is of minimal public concern;
- the likely length and expense of the trial, if disproportionate to the seriousness of the alleged offending;
- whether the alleged offender is willing to cooperate in the investigation and prosecution of others or the extent to which the alleged offender has done so;

- whether a sentence has already been imposed on the offender which adequately reflects the criminality of the circumstances; and
- whether the alleged offender has already been sentenced for a series of other offences and the likelihood of the imposition of an additional penalty is remote.

The following matters are not to be taken into consideration in evaluating the public interest:

- the race, colour, ethnic origin, sex, religious beliefs, social position, marital status, sexual preference, political opinions or cultural views of the alleged offender or any other person involved;
- personal feelings concerning the alleged offender;
- possible political advantage or disadvantage to the government or any political group or party;
- the possible effect of the decision on the personal or professional circumstances of those responsible for the prosecution decision; or
- the potential imposition of any mandatory additional penalty.

Reasonable prospects of conviction

It is not in the interest of justice to initiate or continue with a prosecution which has no reasonable prospect of resulting in a conviction. Generally, the resolution of disputed questions of fact is for the court and not the Department. Evaluation of the prospect of conviction will be based on all available advice and the experience of the Department.

Organisational capacity and capability

Aquatic resources and their associated fisheries are subject to uncontrollable and fluctuating environmental and economic factors. These in turn influence behaviour.

Regulatory agencies operating in this field must have the organisational capacity and capability to respond and adapt to changing compliance circumstances.

The ability to identify and address emerging compliance threats requires an appropriate risk assessment and planning processes; and a broad range of compliance tools readily available for deployment.

It is critical to the success of any regulatory agency to have professional and well trained staff.

The Department builds operational capacity and capability by:

- investing in new and emerging technology;
- maintaining compliance systems;
- exploring alternate compliance delivery models; and
- ensuring a skilled and safe work force.

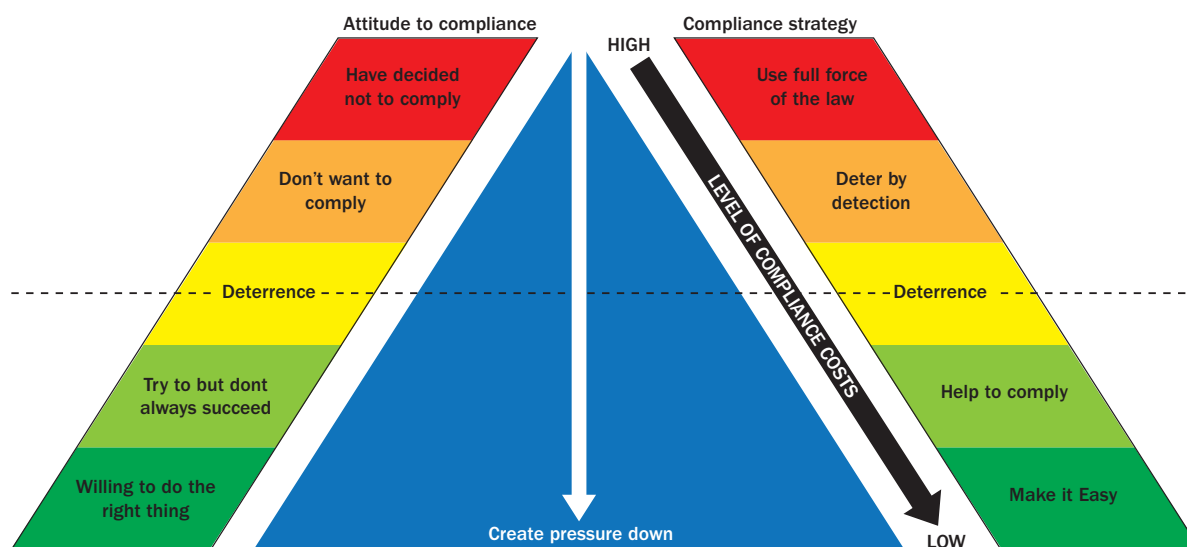
The current capability includes:

- electronic catch and entitlement monitoring;
- satellite vessel monitoring;
- electronic inspection, intelligence and prosecution systems;
- formal risk assessment and planning processes;
- advanced covert surveillance capacity;
- social media and education;
- offshore and remote area operational capability;
- specialist training;
- licensing system with linked administrative law sanctions process;
- data collection and analytical systems;
- adequate authorising environment; and
- illegal fishing hotline.

Approach to delivery of compliance resources

In each case, the characteristics of the potential non-compliant behaviour and the attitude of the offenders are major factors in determining the appropriate compliance strategy.

The Compliance Pyramid below reflects the Department's approach to delivering a range of escalating compliance services ranging from encouraging and assisting those who wish to comply, to deterring those who do not wish to comply through the use of enforcement, monitoring and surveillance methodologies.



(Adapted from Ayres and Braithwaite, the Australian Taxation Office Compliance Model as referred to by AMFA) ⁽⁴⁾

Characteristics of fisheries non-compliance

There are a range of factors which present significant and unique challenges to fisheries compliance in detecting, monitoring and measuring the extent of non-compliant behaviour. These include:

- illegal activity which is easily concealed and often occurs offshore, in remote locations or at night where observation and detection are difficult;
- unlike illegal drugs, it can be impossible to distinguish the legal or illegal provenance of fish once taken, landed or found in the market;
- the illegal removal of fish is generally not obvious or noticed (i.e. a farmer can count sheep in a paddock whilst fishermen, scientists or compliance officers cannot readily determine if fish were illegally harvested from the stock or a particular area);
- the State's long coastline and large number of recreational fishers means compliance resources are limited when compared to the spatial distribution of aquatic activity and participation rate;
- unlike most criminal activities there is no direct or obvious victim and the harm being done to the community is less visible. (i.e. while a housebreaking or car theft is obvious, has a victim and is likely to be reported – the covert illegal removal of 200 abalone from a reef is not obvious and is almost never reported);
- the extent and impact of illegal activity is not easily measured and can be masked by environmental factors impacting fish stocks or the inability to collect meaningful data;
- fishing activity occurs across a broad range of bioregions and ecosystems and is governed by many different management arrangements and rules. Non-compliance can therefore occur as a result of ignorance, which creates a compliance burden for fishers and compliance officers alike;
- active opponents who may employ counter measures to defeat the compliance approach;
- high rewards and minimal capital investment required to illegally harvest high value /low volume fisheries found in inshore WA waters; and
- a large market for fresh seafood where strong incentives exist to deal in illegally taken product.

Illegal fishing activities are costly and difficult to monitor, and the attended risks and harms are often invisible. As a result it is essential that the compliance program is proactive in allocating resources to detecting and determining the scope and magnitude of non-compliant behaviour.

Many of the above factors favour opportunistic and organised criminal activity in profitable, high yield fisheries such as lobster, demersal scalefish, marron and abalone, where potential illegal returns are high for both licensed and unlicensed operators. The apprehension of these classes of offender, particularly where counter measures are employed, can be extremely complex and difficult. The use of sophisticated compliance technology and covert operations is required and used in these cases.

Management control measures

The Department applies a range of legislative control measures on fisheries and other aquatic resource users to ensure that it meets its key objectives of:

- ecological and economic sustainability of aquatic resources;
- confidence and equity in resource allocation and access;
- reduced opportunities for recidivist offenders and organised crime to exploit aquatic resources; and
- confidence in the management of aquatic resources.

These control measures include:

- fishing access rights to limit, monitor or restrict activity through licences;
- entitlement limits through quota, boat and possession limits;
- spatial (area) closures such as stock protection, nurseries and resource sharing;
- temporal (period) closures such as stock protection, nurseries and resource sharing);
- taking, possession and selling of Totally Protected Fish (stock protection);
- reporting requirements, including fishing returns and nomination;
- gear restrictions;
- prohibition on dealing and sale in fish products through the black market;
- biosecurity controls and fish translocation such as aquaculture operating conditions;
- prohibition on interference with fishing gear or catch; and
- lease and licence conditions such as lights and boundary markers for public safety.

It is the role of the compliance program to ensure compliant behaviour with the control measures.

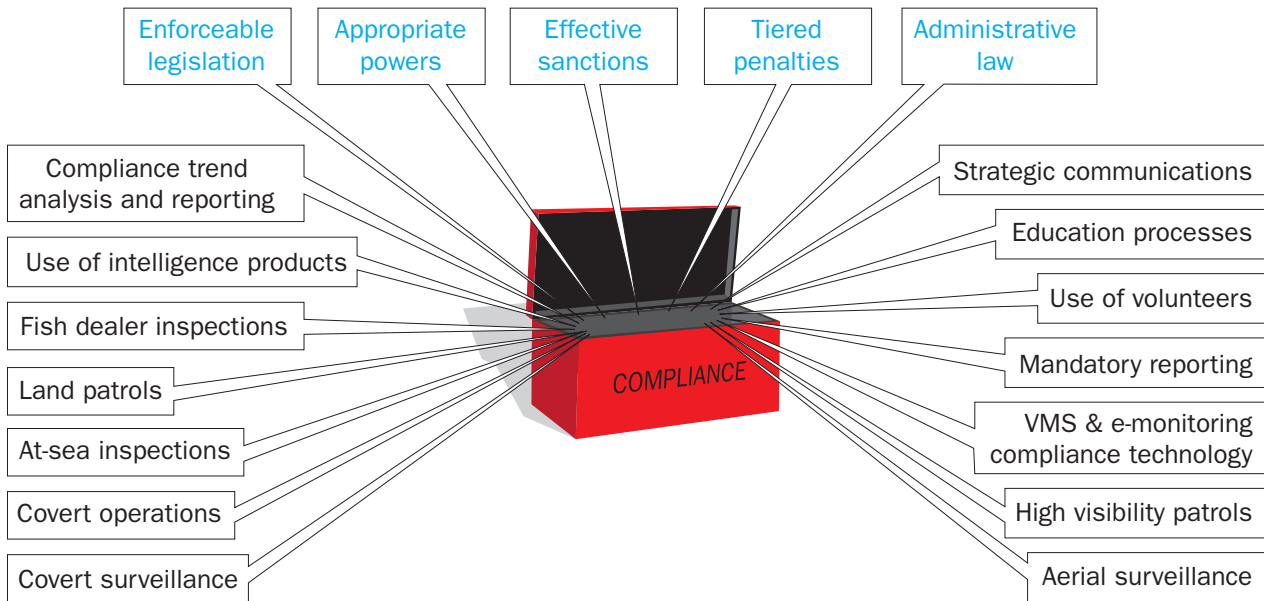
Application of compliance tools

The compliance program deploys a wide range of tools to encourage compliant behaviour with the Department's control measures. To maximise voluntary compliance it is essential to ensure the aquatic resource user knows and understands why the control measures are in place, while retaining the enforcement capacity to apprehend those who intentionally decide not to comply.

No single compliance tool provides a universal solution to addressing non-compliant behaviour and in most cases multiple tools must be applied to each specific compliance problem.

In cases where the illegal activity is highly profitable, difficult to detect and is being undertaken by active opponents utilising counter measures, the use of sophisticated compliance tools such as covert surveillance and covert operations are essential.

Our compliance toolbox



The table below sets out compliance tools used to monitor and ensure compliance with the key management control measures used by the Department:

Management Control	Management Purpose	Key Compliance Tools
Licensing	<ul style="list-style-type: none"> Ecological and economic sustainability Equity in resource allocation and access Reduced opportunities for organised crime 	<ul style="list-style-type: none"> Education processes Strategic communication High visibility patrols Land patrols At sea inspections Covert operations Use of intelligence products Compliance trend and analysis
Entitlement/Catch Limits	<ul style="list-style-type: none"> Ecological and economic sustainability Equity in resource allocation and access Reduced opportunities for organised crime Confidence in the management of aquatic resources 	<ul style="list-style-type: none"> Education processes Strategic communication High visibility patrols Land patrols At sea inspections Mandatory reporting Fish dealer inspections Covert operations Vessel Monitoring Technology Aerial surveillance Use of intelligence products Compliance trend and analysis

Management Control	Management Purpose	Key Compliance Tools
Spatial closures	<ul style="list-style-type: none"> • Ecological and economic sustainability • Equity in resource allocation and access 	<ul style="list-style-type: none"> • Education processes • Strategic communication • High visibility patrols • Land patrols • At sea inspections • Aerial surveillance • Covert operations • Vessel Monitoring Technology • Use of intelligence products • Use of volunteers
Temporal closures	<ul style="list-style-type: none"> • Ecological and economic sustainability • Equity in resource allocation and access 	<ul style="list-style-type: none"> • Education processes • Strategic communication • High visibility patrols • Land patrols • At sea inspections • Aerial surveillance • Covert operations • Vessel Monitoring Technology • Use of intelligence products • Compliance trend and analysis • Use of volunteers
Protected fish	<ul style="list-style-type: none"> • Ecological and economic sustainability • Equity in resource allocation and access 	<ul style="list-style-type: none"> • Education processes • Strategic Communication • High visibility patrols • Land patrols • At sea inspections • Covert operations • Fish dealer inspections • Mandatory reporting • Use of intelligence products • Compliance trend and analysis
Reporting requirements	<ul style="list-style-type: none"> • Ecological and economic sustainability 	<ul style="list-style-type: none"> • Education processes • Strategic communication • Mandatory reporting • Covert operations • Vessel Monitoring/E-Reporting Technology • Land patrols • At sea inspections • Fish dealer inspections • Aerial surveillance • Use of intelligence products • Compliance trend and analysis

Management Control	Management Purpose	Key Compliance Tools
Gear restrictions	<ul style="list-style-type: none"> • Ecological and economic sustainability • Equity in resource allocation and access • Reduced opportunities for organised crime 	<ul style="list-style-type: none"> • Education processes • Strategic communication • High visibility patrols • Land patrols • At sea inspections • Covert operations • Use of intelligence products • Compliance trend and analysis
Illegal sale and dealing of fish	<ul style="list-style-type: none"> • Ecological and economic sustainability • Equity in resource allocation and access • Reduced opportunities for organised crime • Confidence in the management of aquatic resources 	<ul style="list-style-type: none"> • Education processes • Mandatory reporting • Fish dealer inspections • Covert operations • Vessel Monitoring/E-Reporting Technology • Land patrols • At sea inspections • Use of intelligence products • Use of volunteers
Biosecurity controls	<ul style="list-style-type: none"> • Ecological and economic sustainability • Confidence in the management of aquatic resources 	<ul style="list-style-type: none"> • Education processes • Strategic communication • Land patrols • At sea inspections • Fish dealer inspections • Use of intelligence products • Compliance trend and analysis • Use of volunteers
Interference with gear or catch	<ul style="list-style-type: none"> • Equity in resource allocation and access • Reduced opportunities for organised crime • Confidence in the management of aquatic resources 	<ul style="list-style-type: none"> • Education processes • High visibility patrols • Land patrols • At sea inspections • Covert operations • Use of intelligence products • Compliance trend and analysis • Use of volunteers

Distribution of compliance resources

The Department has adopted a regionalised compliance model to support the State's widely distributed fish resources.

The State is divided into four compliance regions:

- Northern;
- Gascoyne Mid-West;
- Metropolitan; and
- Southern.

Regional compliance staff operate from four regional and 13 district offices.

Fisheries Officers and Community Education Officers are generally located in coastal towns across Western Australia to align with regionally-based population centres and aquatic resource activity. Regional Fisheries Officers are supported by regionally-based Compliance Managers.

Further support is provided by Perth-based specialist compliance units which provide intelligence, prosecution, surveillance and investigation, training, quality control and governance services.

Functions and roles

The compliance program is staffed with 120 Fisheries Officers and overseen by eight regional Compliance Managers and four Regional Managers.

The key role of Fisheries Officers is to:

Community awareness and advice –

- liaise with the fishing and marine industry, community groups, volunteer organisations, clubs, the public and other government agencies and advise on fisheries matters;
- provide advice and assist with the effective delivery of volunteer programs if required; and
- promote fisheries initiatives and messages through liaison, presentations and provision of advice.

Compliance services –

- undertake inspections, investigations and enforce legislation;
- plan and lead patrols, issue notices and infringements; and
- apprehend and prosecute offenders, seize illegal equipment and evidence as authorised.

The following units also provide specialist compliance services:

- Biosecurity Unit – coordinates and supports biosecurity incident response, and develops standards and policies and provides training at a State-wide level.
- Compliance Statistics Unit – manages the collection and analysis of compliance outputs and outcomes, and undertakes compliance research projects.
- Community Education Officers – responsible for developing, evaluating and conducting information, interpretation and education programs.
- Entitlement Monitoring Unit (quota) – responsible for the monitoring and management of entitlement taken and maintaining entitlement management systems, policies and standards.
- Intelligence Unit – collects and analyses multi-source data to support the compliance program, proactively identifying compliance trends and issues, and assists in the effective targeting and use of compliance resources.
- Patrol Boat Business Unit – manages the capital and maintenance program for the fleet of compliance vessels and provides the State-wide offshore and remote access compliance service.
- Prosecution Unit – oversees and coordinates prosecution, warning and infringement functions and systems.

- Vessel Monitoring Unit – manages satellite vessel monitoring system to assist in the enforcement of spatial and temporal closures and monitoring time/effort control in certain fisheries.
- Serious Offence Unit – provides high level technical, investigation and operational support for intelligence gathering, major investigations and covert monitoring at a strategic level to determine compliance rates in fisheries.

Allocation of compliance resources

The Department does not have the resources to monitor all aquatic activity falling under its jurisdiction or to respond to all suspected or reported illegal activity. As such, it is important the limited compliance resources are efficiently and effectively deployed.

Resources are allocated in accordance with the Regional Services Division's *Compliance Framework and Risk Assessment Policy* which jointly set out the Department's intelligence-driven and risk-based compliance model and compliance planning process.

Compliance planning and targeting is managed by Compliance Managers at the regional level using Operational Compliance Plans with a focus on high risk activity which may impact on any of the following management objectives:

- ecological and economic sustainability of aquatic resources;
- confidence and equity in resource allocation and access;
- reduced opportunities for recidivist offenders and serious organised crime to exploit aquatic resources; and
- confidence in the management of aquatic resources.

The Department also uses the State-wide Tasking Coordination Group (STCG) as an oversight body for state-wide high priority investigations and operations. STCG has a role in allocating high priority intelligence for investigation, allocating resources, monitoring and reviewing outcomes and operational assessments, managing risks and recommending process improvements.

Governance

The nature of the fisheries compliance role and the operating environment present a diverse range of physical, ethical and reputational risks for compliance officers and the Department.

To ensure the safety and welfare of compliance officers and clients who are subject to compliance operations, the Department has range of processes and policies in place, which include:

- Dive Procedure Manual
- Emergency Management Procedures
- Field Duties Communications Procedures
- Hazard and Risk Management Procedures
- Marine Operations safety Manual
- Personal Protective Equipment Procedures
- Safe Driving Procedures
- Safe Work Method Statements

To meet compliance objectives, it is essential that compliance officers maintain an exemplary reputation with the community and stakeholders. The Department has, and promotes, a range of policies and standards in respect to the required level of accountability, ethical behaviour and integrity expected of staff.

These include –

- Conduct and Behaviour
- Conflict of Interest
- Grievance Management
- Promoting Integrity
- Public Interest Disclosure
- Secondary Employment
- Finance and Procurement
- Fleet and Asset Management
- Contract Management
- Premier and Public Service Commission Circulars
- Internal staff briefs and instructions
- Acceptable use of Information and Communication Technology
- Criminal Record Checks

Additional governance measures are also in place to ensure compliance services and the exercise of powers and sanctions are applied in accordance with legislation and the underlying policy intention, and in a consistent and fair manner.

These include –

- Standard Operating Procedure for Investigations and Prosecutions
- Standard Operating Procedure for the Prosecution Advisory Panel
- Fisheries Officer Instructions
- Prosecutors Manual
- Prosecution Instructions

Officers employed in the Serious Offences Unit who exercise additional powers under the *Surveillance Devices Act 1994* and the *Criminal Investigation (Covert Powers) Act 2012* are subject to further external scrutiny by the Corruption and Crime Commission and the Western Australia Police. This includes the tabling of reports in the Parliament.

Bibliography

1. Australian Fisheries Management Authority. adopted from AFMA National Compliance Model and Enforcement Policy. 2013.