

THE USFA CODE OF DISCIPLINE

2009

BRINGING THE SPORT INTO DISREPUTE

GUIDELINES FOR DEALING WITH INDIVIDUALS WHO HAVE PUT AT RISK THE IMAGE OF SPEARFISHING

1 Background

While spearfishing is a healthy sustainable sport that has minimal impact on fish stocks and negligible by-catch, the sport has traditionally polarized public opinion. A diver emerges from the water with a large catch tends to be either admired or frowned upon by bystanders. While many people admire the self sufficiency of the spearfisher in obtaining fresh seafood, many others have much more negative views, thinking that the activity is cruel, harmful to fish stocks and/or dangerous to swimmers etc.

These negative perceptions tend to piggy back on a far broader 'green' view held by much of the population, especially in suburban areas. A lot of people in Sydney (for example) have little connection with catching or collecting their own food, and are easily won over by ideas for Marine Parks, restrictions on spearfishing etc. on the often mistaken view that these actions are likely to improve the natural environment.

Spearfishing as a sport has in recent years been increasingly challenged by the green agenda, particularly in terms of Marine Parks and other forms of restriction. Part of our response must be to ensure that our public image is improved and protected wherever possible, and that behavior contrary to this goal is dealt with firmly but fairly.

2 Behaviors covered by these guidelines

These guidelines are concerned only with actions that harm or are likely to harm the image of spearfishing.

To come under these guidelines, such actions must be:

- deliberate, or at least reckless;
- liable to come to the attention of fellow spearfishers (particularly those new to the sport), the general public, government agencies, politicians or the media;
- be easily linked with the sport of spearfishing; and
- damaging, distasteful, immoral and/or illegal in some way.

The link to the sport as a whole is fundamental. An action could be linked to the sport through the perpetrator:

- actually spearfishing at the time;
- being out of the water but carrying spearfishing gear;
- being depicted in a photo or on electronic media with spearfishing gear
- being on record (e.g. according to a government agency or the media) as spearfishing at the time.

Actions covered by these guidelines include (but are not limited to):

- breaking fisheries; Marine Parks or boating laws;
- acting in a dangerous, intimidating or inconsiderate manner towards or around other waterway users such as swimmers, surfers, boaters, anglers etc.;
- damaging other person's property whilst spearfishing or through the use of spearfishing equipment;
- poaching lobsters, crabs, fish etc. from traps, nets or other similar enclosures;

- publishing material in written or electronic form (including on the internet) that is likely to cast spearfishing in a bad light;
- cheating in spearfishing competitions.

While cheating in competitions might appear to be an ‘internal matter’ it can put newcomers to competition off the sport and lead to damaging comments being passed to friends, family etc. Cheating is clearly more serious than ordinary ‘rule breaking’, which is not covered by these guidelines. Cheating involves a competitor deliberately and covertly attempting to gain direct competitive advantage (i.e. more and/or bigger fish). It does not include ‘technical’ breaches of the rules such as not having the correct equipment or openly being back late.

3 Dealing with actions covered by these guidelines

Whatever the circumstances of any alleged action being dealt with under these guidelines, the alleged perpetrator must be given a fair opportunity to present their side of the story. Any sanction must take into account the seriousness of the action, the amount of damage likely to have been caused, any legal or personal penalties that the alleged perpetrator might already have paid (e.g. fine, forfeitures and/or loss of reputation), and the degree to which the alleged perpetrator demonstrates remorse and the willingness to attempt amends.

All complaints of behaviors alleged to have harmed the image of spearfishing shall be put to a 3 member panel (drawn from the Executive of the USFA) for consideration. This panel shall consider the available facts, and provide the alleged perpetrator an opportunity (normally 2 weeks) to provide their side of the story in writing. A majority view of the panel shall determine what (if any) sanctions are warranted. Depending on the circumstances, one or more of the following sanctions could be used:

- a written apology to the USFA;
- a written apology to external stakeholder(s) affected (e.g. a member of the public who complained, a local council or a government agency);
- an in-person explanation/ apology to the Executive of the USFA;
- a written warning from the USFA;
- banning from zone/ state and national competition for a specified time;
- suspension of USFA membership for a specified time;
- in extreme cases, a lifetime ban from competitions and USFA membership.

The recommendation(s) of the panel would then be put to the Chairperson of the USFA for approval. In cases where no ban or suspension is recommended, this can be done ‘out of session’ without the need for a meeting of the entire executive. If, however, a ban or suspension is recommended, the approval of the USFA executive (by majority vote) is required.

Where any sanction has been given, the relevant individual’s club (if any) would be informed in writing of the sanction and the circumstances leading to it.

It is not possible for these guidelines to stipulate the appropriate sanction for every circumstance. However, a few examples of possible sanctions are listed in the following table:

Specific action	Possible sanction(s)	Relevant considerations
Small number of undersized fish (first offence)	Written warning or apology	Any sanction already given by NSW DPI
Small number of undersized fish (subsequent offence)	Explanation/ apology; 1 month suspension/ competition ban	Any sanction already given by NSW DPI
Large number of undersized fish	Explanation/ apology; 3 to 6 months suspension/ competition ban	Any sanction already given by NSW DPI; whether offence attracted or is likely to attract media attention
Transgression of fishing closure/ Marine Park Sanctuary through genuine ignorance	Written warning or apology	Any sanction already given by MPA
Blatant/ systematic transgression of fishing closure/ Marine Park Sanctuary	Explanation/ apology; 1 month suspension/ competition ban	Any sanction already given by MPA

Inappropriate disposal of fish remains after competition	Written warning or apology and/or disqualification from the competition	The degree of public hazard/ nuisance likely to have resulted
Cheating in competition	Competition ban from subsequent equivalent competition (normally 1 month later, but can be a year later) – in addition to disqualification from present competition	Any previous cheating
Interference with other waterway user resulting in complaint	Written apology to aggrieved party and/or 1 month suspension/ competition ban	Nature of the complaint, whether it attracted or is likely to attract media attention
Publishing on internet of material that implies illegal or offensive behaviour	Written warning or apology in most cases; 1 to 3 months suspension/ competition ban in serious cases	How quickly the material was removed or modified once perpetrator notified
Shooting a protected shark or similar large animal	Explanation/ apology; 6 to 12 months suspension/ competition ban	Any sanction already given by NSW DPI; whether offence attracted or is likely to attract media attention; whether self defence can be argued; actions in dealing with carcass and informing authorities
Physical violence towards member of the public (first offence)	Explanation/ apology; 1 year suspension/ competition ban	Any sanction already given by police/ courts; whether offence attracted or is likely to attract media attention
Physical violence towards member of the public (subsequent offence)	Lifetime ban	As above, plus any steps taken by perpetrator to address their behaviour

4 Standards of proof

Sanctions under these guidelines are not to be given out lightly. There needs to be substantial proof that the accused person has in fact put the image of spearfishing at risk. This proof has two essential parts (a) that the person actually did what they are being accused of, and did so deliberately or recklessly; and (b) the action harmed or is likely to harm the image of spearfishing (as per Section 2 above).

Evidence of (a) could be in the form of a court conviction (e.g. for a fisheries offence), one or more witness statements and/or incriminating images or video. Evidence of (b) may be more subjective, and should be based on the overall view of those investigating the action – taking into account any known media attention, agency responses (such as new restrictions) or public complaints.