

DECLARATIONS

The inspectors may take a declaration from the witness. This is a confidential document and will not be released outside the MAIB unless a Court orders it or with the witness' written consent. Once the declaration is complete, the witness will be given the choice of reading it or having it read to them by an inspector, before signing it. They will then be given a copy.

Being present during an interview does not entitle you to a copy of this document.

RECORDED INTERVIEWS

Whenever possible, the witness will be given the option of having the interview recorded, in addition to, or instead of, making a declaration.

The use of recordings allows the inspectors to progress the interview faster because fewer notes need to be taken. Recordings of interviews are not normally transcribed but, subsequently, are referred to by the inspector in the same way as notes taken during interviews. No other recordings of interviews are permitted.

Any recordings are confidential and not released outside the MAIB to anyone, unless a Court orders it.



For further information about the MAIB or for information about specific accidents, contact the MAIB at the address below:

Marine Accident Investigation Branch
Mountbatten House, Grosvenor Square
Southampton SO15 2JU

Telephone: 023 8039 5500
Fax: 023 8023 2459
E-mail: maib@dft.gsi.gov.uk

Information is also available by visiting the MAIB website home page at:
www.maib.gov.uk



Information for persons nominated to accompany witnesses during interview

Any accident at sea or in a harbour may be investigated or examined by the Marine Accident Investigation Branch.

Whenever a marine accident occurs it can seem as if many official bodies converge simultaneously on the scene to find out what happened. The police, government officials, lawyers, insurance assessors and marine surveyors will all be asking similar questions, albeit from different perspectives. This often appears confusing to those involved.

This leaflet explains how and when marine accidents are investigated in the United Kingdom and on UK registered vessels by the Marine Accident Investigation Branch. It also outlines the obligations and rights which a person nominated by a witness to accompany them during interview have during and after an interview with MAIB inspectors.

THE MARINE ACCIDENT INVESTIGATION BRANCH

The Marine Accident Investigation Branch (MAIB) is based in Southampton and is an independent part of the Department for Transport. The MAIB investigates all types of marine accidents, both to ships and to people on board them. The sole objective of any MAIB investigation is the prevention of future accidents through the ascertainment of the causes and circumstances of the accident.

The MAIB does not apportion blame or liability except so far as is necessary to achieve its objective, and it is **not** a regulatory or prosecuting authority.

The MAIB fulfils its purpose by examining incidents, investigating those with wider implications for safety at sea, and publishing reports of its investigations. Both examinations and investigations may lead to the MAIB making safety recommendations to relevant persons or organisations. In the past these have included the Maritime and Coastguard Agency (MCA), the classification societies, owner/operators and others. Before publication, the reports are sent out to anyone whose reputation may be adversely affected to give them an opportunity to correct any factual inaccuracies in the draft report.

MAIB inspectors have legal powers under the Merchant Shipping Act 1995 (the "Act") and subordinate legislation which include the right to interview and require answers from anyone they consider able to give information relevant to the examination or investigation.

This information is kept in confidence within the MAIB and can only be released if a Court orders it; declarations may be released with the witness's written permission.

INTERVIEWS

Under the Act, the MAIB may require any person whom it has reasonable cause to believe has information relevant to an investigation to attend an interview. A witness is required to answer the questions posed. Refusal to do so is an offence under the Act.

The interview is solely between the witness and the inspector. However, the witness may nominate another person to be present during interview. This person can be anyone known to the witness. As nominated person, you may advise the witness on any point but you may not prevent the witness from giving a direct answer to any question posed by the inspectors.

Witnesses are encouraged to carefully consider their own interests when nominating someone to be present during the interview. The purpose of allowing a nominee to be present is to provide support to the witness and to take notes for them if they wish. It is not a function of the nominee to represent the interests of a third party during a witness interview. Witnesses may, and are encouraged to, ask the inspectors to exclude or excuse anyone they wish from the interview. They need not give any reason for this request and no inference may be taken from it.

The interests of the vessels' owner/operator or insurer may be very different to those of the witness and it is possible that anyone attempting to represent both may find that a conflict of interest arises during the interview causing the professional advisor to have to cease acting for both parties. Representatives of the company/operator or insurer should also be aware that such a conflict of interest may occur at a later stage during the resolution of the accident or incident, and that having sat in on an MAIB interview, they may have to declare a conflict in later proceedings.

If you agree to act as a nominated person for a witness, it is essential that you explain to the witness, in writing, whether you also represent the interests of any other concerned parties. In the event of any obvious conflict of interest, you should refuse to be present during the interview. Should any conflict of interest become apparent during the interview, you should interrupt the interview and ask the inspector to make alternative arrangements to ensure that the witness is accompanied if he wishes.

All information disclosed by a witness during an interview is confidential information and **MAY NOT BE DISCLOSED** to any third party by a nominee without the consent of the witness. Witnesses will often be questioned on their experiences in working for a company and will be required to answer candidly. If you feel that your presence is likely to inhibit the witness in any way you must refuse to be present during the interview.

The inspector, with the agreement of the Chief Inspector, has the power to exclude a nominated representative if there is good reason to believe that that person's presence is hindering the progress of an investigation. In this situation, the witness will have the option to nominate a different representative, to whom the same rules will apply. Unless asked by the witness, an inspector will not exclude a professional legal adviser acting solely on behalf of the witness. The MAIB will also report any apparent professional misconduct of a nominee to their relevant supervising body where such conduct undermines or prejudices an investigation.