

PROTOCOL

for the

MARINE ACCIDENT INVESTIGATION BRANCH (MAIB)

2009

CONTENTS

SECTION A: OVERVIEW

1.	INTRODUCTION	5
2.	AIMS OF THE PROTOCOL	5
3.	ROLES AND RESPONSIBILITIES	5

SECTION B: GOVERNING PRINCIPLES

4.	GOVERNANCE	7
4.1	Chief Inspector of Marine Accidents	7
4.2	Setting of, and reporting against, Department objectives and KPIs	7
4.3	Annual Report	7
4.4	Impact of new DfT initiatives	7
5.	REPORTING TO THE SECRETARY OF STATE	8
5.1	Reporting process	8
5.2	Briefing	8
6.	POLICY	8
6.1	Department for Transport	8
6.2	Marine Accident Investigation Branch	9
7.	FINANCE	9
7.1	Role and accountability of the Chief Inspector of Marine Accidents	9
7.2	Funding arrangements for the MAIB	9
7.3	Recovery of costs incurred in providing assistance to other States	10
7.4	Contingency funding	10
7.5	Efficiencies	10
7.6	Procurement	10

8.	LEGAL	10
8.1	Structural separation	10
8.2	Legal support	11
8.3	The Merchant Shipping (Accident Reporting and Investigation) Regulations	11
9.	MEDIA AND COMMUNICATIONS	11
9.1	Communications standards	11
9.2	Structural separation	11
9.3	Press handling	11
9.4	Marketing and publications	12
9.5	Websites	12
10.	HUMAN RESOURCES	12
10.1	Chief Inspector	12
10.2	Deputy Chief Inspector	12
10.3	Inspectors and Principal Inspectors	12
10.4	Administrative staff	13
11.	SHARED SERVICES	13
12.	ACCOMMODATION AND IT	13
12.1	Accommodation	13
12.2	IT	13

SECTION A: OVERVIEW

1. INTRODUCTION

- 1.1. The Marine Accident Investigation Branch (MAIB) is a stand-alone branch of the Department for Transport (DfT). While dependent on DfT for certain financial and administrative support, the MAIB is functionally independent from DfT in carrying out its purpose to investigate marine accidents to or on board UK ships worldwide, and other ships in UK territorial waters.
- 1.2. The UK has legal obligations, under an IMO Code¹ and EU Directive² regarding marine accident investigations, to have a permanent body to investigate marine accidents and incidents, and ensure that it has appropriate safeguards guaranteeing its independence and impartiality. In addition to the legal requirements for ensuring the independence of the MAIB, it is crucial that the MAIB is seen to be functionally independent from Government if it is to carry out its role effectively.

2. AIMS OF THE PROTOCOL

- 2.1. This protocol aims to provide the MAIB with the guarantees of independence necessary to meet the UK's legal obligations set out in EU and international conventions.
- 2.2. The protocol also aims to provide transparency in the relationship between DfT and the MAIB, and to publicly clarify the respective roles and responsibilities of the two organisations.

3. ROLES AND RESPONSIBILITIES

- 3.1. The Department for Transport, as part of its aim to strengthen the safety and security of transport, funds the MAIB out of funds voted by Parliament. The Department is responsible for ensuring that funding allocated to the MAIB is sufficient for the MAIB to effectively fulfil its purpose and meet the

¹ Resolution MSC.255(84) Code of the international standards and recommended practices for a safety investigation into a marine casualty or marine incident (Casualty Investigation Code). Effective date 1 January 2010.

² DIRECTIVE 2009/18/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Council Directive 1999/35/EC and Directive 2002/59/EC of the European Parliament and of the Council. Effective date 17 June 2011.

UK's legal obligations with regard to marine accident investigations, while delivering value for money. In order to ensure that the operations of the MAIB are as efficient and cost-effective as possible, DfT also provides some administrative and service support functions to the MAIB, but has no role in marine accident investigations, for which the MAIB is entirely independent.

- 3.2.** The Marine Accident Investigation Branch examines and investigates all types of marine accidents to or on board UK ships worldwide, and other ships in UK territorial waters. The sole purpose of an MAIB accident investigation is the prevention of future accidents through the ascertainment of the causes and circumstances of accidents and incidents. It is not the purpose of an accident investigation to determine liability nor, except so far as is necessary to achieve the fundamental purpose, to apportion blame. The MAIB does not enforce laws or carry out prosecutions, and is quite separate from the Maritime and Coastguard Agency (MCA). The powers of MAIB inspectors, and the framework for reporting and investigating accidents, are set out in the Merchant Shipping Act 1995. The Merchant Shipping Act (Accident Reporting and Investigation) Regulations 2005 put the framework into effect, and are the foundation of the MAIB's work.
- 3.3.** The Chief Inspector of Marine Accidents is the head of the MAIB appointed by the Secretary of State for Transport. The Chief Inspector has legal responsibility for, and has functional independence in relation to, the ordering and conduct of marine accident investigations, and for producing reports and making recommendations as a result of investigations carried out. It is also the responsibility of the Chief Inspector to ensure the independence of the MAIB to conduct its investigations free from interference or influence.

SECTION B: GOVERNING PRINCIPLES

4. GOVERNANCE

4.1. Chief Inspector of Marine Accidents

The independence of the MAIB is achieved through the ability of the Chief Inspector to exercise his/her role free from interference. To this end, it is essential that the Chief Inspector is not beholden to the Department, nor open to any influences or pressures, actual or perceived. As with a number of others in similar positions, this is achieved through particular terms and conditions being in place for the Chief Inspector (see 10.1).

4.2. Setting of, and reporting against, objectives and performance measures

The Department for Transport will, when appropriate, set objectives and key performance indicators (KPIs) for the administration of the MAIB to monitor administrative performance against Departmental objectives. Any objectives and performance indicators set by DfT for the MAIB will be discussed and agreed with the Chief Inspector to ensure that they are specific, measurable, achievable and realistic, and reflect the realities of the operation of the MAIB. The MAIB will provide reports as required to DfT on performance against such Departmental objectives and KPIs. The Chief Inspector, supported by the Management Board of the MAIB, will set any operational objectives for the Branch, which will be included in the MAIB's Business Plan.

4.3. Annual Reports

The MAIB publishes its own Annual Report each year. This is produced independently by the MAIB, and is exclusively the responsibility of the Chief Inspector. It provides the Chief Inspector's overview of the year, information about MAIB investigations, and reports on recommendations, statistics and finance over the course of the year. The MAIB Annual Report does not routinely cover MAIB performance against administrative objectives and performance indicators set by the Department for Transport.

4.4. Impact of new DfT initiatives

The MAIB is a frontline delivery body with operational needs that may differ from those of DfT and its Agencies. The particular needs of the MAIB will be realistically considered as part of decisions about how, when and where to

implement new initiatives. Where DfT initiatives are developed which may affect the MAIB, DfT will ensure that the MAIB is fully consulted, and that any concerns raised by the Chief Inspector are addressed.

5. REPORTING TO THE SECRETARY OF STATE

5.1. Reporting process

The Chief Inspector of Marine Accidents reports directly to the Secretary of State for Transport on the conduct and outcome of MAIB investigations. The Chief Inspector will, when sending reports to the Secretary of State, copy reports to staff in DfT as he/she deems appropriate.

5.2. Briefing

The Chief Inspector is responsible for deciding when it is necessary or appropriate to brief the Secretary of State, and other Ministers, on all matters relating to marine accident investigations. The content and timing of briefing is determined by the Chief Inspector in consultation with the Secretary of State's office. If the Chief Inspector considers that the Secretary of State may require urgent policy advice, he will ensure that appropriate officials are informed. Other briefings of DfT personnel will be determined by the Chief Inspector in the same way as briefings for all other interested parties in an investigation.

6. POLICY

6.1. Department for Transport

The Director of Maritime and Dangerous Goods has general responsibility for, and takes the lead on, all national and international maritime policy matters. The Chief Inspector may seek information or advice from DfT policy officials on any matters of national or international maritime policy that may be relevant to an investigation or the development of recommendations flowing from an investigation. In providing any such advice, DfT officials will endeavour to ensure that the Chief Inspector or his staff are aware of all the factors relevant to their investigation, but will not seek to influence the conduct of that investigation or the nature of the recommendations that the Chief Inspector might make. (The Chief Inspector will however consult with DfT officials on any recommendation that might be made directly to the Department in the same way as he/she consults with other parties to whom recommendations might be made.) DfT will seek advice from and, where appropriate, liaise with the MAIB with regard to the formulation of government policy on national and international issues where the MAIB can

offer valuable expertise, particularly where such issues may have implications for MAIB operations. DfT will keep the Chief Inspector informed of any issues that may affect the general operation or reputation of the MAIB.

6.2. Marine Accident Investigation Branch

Within the overall policy set by DfT, the MAIB is responsible for, and takes the lead on, any specific matters that concern marine accident investigation and directly related issues. MAIB will routinely represent the UK at meetings on marine accident investigation, although it will liaise closely with DfT and, where appropriate, the MCA on wider policy aspects. As part of its role to improve the safety of life at sea and prevent future accidents, the MAIB will, where appropriate, meet with or give presentations to any organisations interested in marine accident investigation or maritime safety issues. Where such meetings or presentations involve political concerns or sensitivities, and where meetings or presentations touch on policy development, the MAIB will consult DfT.

7. FINANCE

7.1. Role and accountability of the Chief Inspector of Marine Accidents

The Chief Inspector, as budget holder for the MAIB, is accountable to the appropriate Director General in DfT for ensuring that the MAIB maintains a high standard of corporate governance, exercises effective controls over the management of the resources allocated to the MAIB, and maintains accounting records.

7.2. Funding arrangements for the MAIB

The MAIB is a stand-alone unit within the Department for Transport and is fully funded by DfT out of funds voted by Parliament. The MAIB submits an annual financial plan through the same financial planning processes as other units in the Department. DfT is responsible for ensuring that sufficient funding is allocated to the MAIB to enable it to fulfil its purpose and meet the UK's legal obligations with regard to marine accident investigation. The Chief Inspector has delegated freedom to re-allocate financial resources as priorities change provided total expenditure remains within the agreed budget for the year for resource and capital funding, and expenditure is consistent with the purposes set out in the MAIB business plan agreed with DfT.

7.3. Recovery of costs incurred in providing assistance to other States

When the MAIB conducts marine accident investigations on behalf of another State (or States), or provides assistance to other States for investigations in which the UK does not have a substantial interest, the Chief Inspector will agree with the State (or States) involved on the reimbursement of costs incurred by the MAIB.

7.4. Contingency funding

The MAIB is funded on an annual basis to meet anticipated levels of accident investigation. On occasion, the MAIB may need to investigate accidents of unusual scale or complexity, which are particularly costly to investigate effectively. The Department for Transport expects the MAIB to absorb as much as possible of these costs in the first instance, but will consider requests for additional contingency funding. The Department will not attempt to influence the activities of the MAIB, in meeting its responsibilities, by unreasonably refusing such requests for additional funding. The MAIB for its part will seek to meet its obligations cost effectively taking account of the circumstances of each investigation.

7.5. Efficiencies

The Chief Inspector will seek to operate efficiently whilst discharging his responsibilities. The demand-led, reactive nature of the MAIB's work and the extent of the Chief Inspector's responsibilities are taken into account when agreeing the MAIB's annual budget.

7.6. Procurement

The MAIB carries out its own procurement activity within the procurement policies set by DfT, which are compliant with legal obligations. The MAIB will, where necessary, seek advice and support from DfT Procurement with regard to contracts and any other procurement issues.

8. LEGAL

8.1. Structural separation

DfT provides legal support to the MAIB. In order to maintain the functional independence of the MAIB, those providing legal advice to the MAIB will not be in a position where they also have to advise those in DfT responsible for marine policy. Given the UK's obligations to ensure the functional independence of the MAIB, it is important to ensure that this separation is maintained.

8.2. Legal support

The legal support provided by DfT to the MAIB includes advice and support to the MAIB on accident investigations and on relevant legal issues. For litigation issues the Legal Services Directorate, on behalf of the MAIB, will instruct Treasury Solicitors or barristers as appropriate. The relevant team in the Directorate also advises DfT's other accident investigation branches and should alert the MAIB to any other legal issues that have implications for the MAIB and/or its operations.

8.3. The Merchant Shipping Act (Accident Reporting and Investigation) Regulations

The MAIB is responsible for maintaining and updating, as necessary, the Merchant Shipping Act (Accident Reporting and Investigation) Regulations 2005, which are the foundation of the MAIB's work. The MAIB's legal advisors will provide advice and support to the MAIB as appropriate for the MAIB to fulfil this responsibility.

9. MEDIA AND COMMUNICATIONS

9.1. Communications standards

The MAIB will conduct its communications activities in accordance with the Cabinet Office's Propriety Guidance, and conform, as appropriate, to relevant Government standards and guidelines on quality, clarity, accessibility, legality and sustainability, as advised by the DfT's Director of Communications.

9.2. Structural separation

The DfT Communication Directorate is responsible for providing support to the MAIB with regard to media handling and communications. As an independent investigative body, the MAIB requires its communications to be separate from those of the Department for Transport. The DfT Communication Directorate, in supporting and facilitating MAIB communications, is responsible to the Chief Inspector of Marine Accidents, and is required to act and speak on behalf of MAIB, rather than DfT.

9.3. Press handling

The DfT Press Office provides support to the MAIB in issuing press releases, directly briefing the media and, exceptionally, deploying to the site of investigations to provide communications support to MAIB inspectors on site. In providing this support, DfT Press Office will be responsible to, and act on behalf of, the Chief Inspector of Marine Accidents.

9.4. Marketing and publications

The MAIB is responsible for producing its own publications, which are largely produced independently from DfT. The Department for Transport has no influence over, nor responsibility for, the content or timing of independent MAIB publications, including, but not limited to, reports of marine accident investigations.

9.5. Website

The MAIB runs its own independent website, separate from that of the Department for Transport. This ensures that the MAIB maintains its own online mechanism to provide reports and other safety-related information direct to seafarers and industry as effectively as possible. DfT has no influence over, nor responsibility for, the content of the MAIB website.

10. HUMAN RESOURCES

10.1. Chief Inspector

The Chief Inspector is an SCS level post. According to circumstances, appointments may be made on standard SCS terms or by individual contract. In either case, performance and any performance related pay will be judged in relation to the MAIB's published Aims and Objectives and the Chief Inspector's internal management of the organisation, people and the resources delegated to him/her.

10.2. Deputy Chief Inspector

The Deputy Chief Inspector is an SCS level post. According to circumstances, appointments may be made on standard SCS terms or by individual contract. There are also particular specialist requirements with regard to recruitment from industry, as the Deputy Chief Inspector post requires an extensive knowledge of, and high credibility within, the maritime industry. The Deputy Chief Inspector is therefore likely to have held senior management positions within the shipping industry in addition to the specialist credentials required for MAIB principal inspectors.

10.3. MAIB Inspectors and Principal Inspectors

The Inspectors and Principal Inspectors at the MAIB are specialist staff, with particular requirements that are consistent with their specialist status and expertise. These include specialist recruitment needs, separate performance management and reporting processes and a specialist pay band. In addition, the specialist training and development requirements of the MAIB investigators are determined according to the MAIB's inspector

accreditation system. Within the broad Civil Service and Departmental framework, the Chief Inspector, who acts as the head of profession for marine accident investigators, is responsible for making decisions about the applicability and relevance for the MAIB's specialist staff of DfT and Civil Service HR initiatives.

10.4. Administrative staff

The administrative (i.e. non-specialist) staff at the MAIB are subject to the standard Department for Transport and Civil Service processes and procedures with regard to recruitment, performance management, training, pay and reward, and all other human resource matters

11. SHARED SERVICES

11.1. The MAIB, as with other units in the Department for Transport, uses the DfT's Shared Services system to carry out all relevant human resource and finance functions, in accordance with DfT guidance. The Shared Services system will, where appropriate, recognise and take account of the special circumstances in which the MAIB operates.

12. ACCOMMODATION AND IT

12.1. Accommodation

The MAIB operates from accommodation that is quite separate from all other areas of the Department for Transport and its Agencies, including the Maritime and Coastguard Agency.

12.2. IT

DfT is responsible for providing the MAIB with the necessary ETHOS equipment and service support, in accordance with the ETHOS Service Catalogue and any accompanying Service Level Agreements. DfT will also provide advice and guidance to the MAIB with regard to IT security, and encryption for all relevant non-ETHOS equipment used by the MAIB, in accordance with DfT guidance. The MAIB remains responsible for ensuring that it complies with DfT guidance on IT security and data handling, as well as the requirements of the Data Protection Act. The costs of any non-ETHOS IT equipment and related IT infrastructure required by the MAIB will be met by the MAIB from its existing budget. The MAIB is responsible for ensuring that appropriate service support is in place for all non-ETHOS equipment, and will keep DfT informed (on request) about any such equipment being used by the MAIB.