

## **ROLES AND RESPONSIBILITIES OF KEY ORGANISATIONS**

A.1 The purpose of this Appendix is to clarify the roles and responsibilities of lead bodies and key support organisations during a marine pollution incident.

### **UK GOVERNMENT DEPARTMENTS**

#### **Department for Transport**

A.2 Major marine pollution incidents require work on a wide range of issues apart from those directly connected with salvage and clean up operations. DfT has policy responsibility for several of these issues.

#### Shipping Policy

A.3 Shipping Policy has policy responsibility for marine pollution from shipping. Shipping Policy does not contribute to operational decisions during an incident. However, as part of its policy sponsorship role, it assesses the effectiveness of MCA's approach to incidents within the framework of the Agency's objectives. It also provides advice on maritime liability and compensation issues.

#### Ports Division

A.4 Ports Division has policy responsibility for the ports industry. It is sponsor for the Port Marine Safety Code and the associated Guide to Good Practice on port marine operations. The division does not contribute to operational decisions during an incident. It provides general advice on the legal duties and powers of harbour authorities, although it is more appropriate to refer questions about a particular case to the authority concerned.

#### Marine Accident Investigation Branch

A.5 DfT's Marine Accident Investigation Branch (MAIB) is responsible for investigating accidents involving or occurring on board UK registered ships worldwide, any other ships in UK waters, or any other ships at the discretion of the Secretary of State. The fundamental purpose of these investigations is to determine the circumstances and the causes, with the aim of improving the safety of life at sea and the avoidance of accidents in the future. Their purpose is not to apportion liability; nor, except so far as is necessary to achieve the fundamental purpose of an investigation, does the MAIB seek to apportion blame.

#### Maritime and Coastguard Agency

A.6 MCA is an executive agency of DfT. The Agency is responsible for:

- Minimising loss of life amongst seafarers and coastal users;
- Responding to maritime emergencies 24 hours a day;

- Developing, promoting and enforcing high standards of maritime safety and pollution prevention for ships; and
- When pollution occurs, minimising the impact on UK interests.

A.7 During an incident, the role of the Chief Executive is to continue managing the Agency as a whole. The Director of Operations is responsible for ensuring that Ministers are kept informed of incident progress, liaising with the Chief Executive on matters of MCA policy. The SOSREP controls salvage operations and liaises closely with the MCA's Directorate of Operations. The SOSREP has the decisive voice in the decision making process in a marine salvage operation that involves the threat of significant pollution. The Director of Operations and the Deputy Director of Operations act as SOSREP's stand-in in the event of the SOSREP being unavailable. The Directorate of Operations is responsible for search and rescue, counter pollution, survey and inspection, enforcement action, clean up operations at sea. The Counter Pollution and Response Branch are responsible for maintaining the UK Government's stockpiles of equipment. MCA's marine surveyors, some of which are also trained as Marine Casualty Officers (MCOs), may need to board a casualty to carry out port state control inspections and to offer advice on the seaworthiness of a ship.

### **Department of Trade and Industry**

A.8 DTI's Energy and Resources Unit is responsible for licensing exploration and regulating development of the UK's oil and gas resources, including environmental regulation. The Energy Resources and Development Unit's Licensing, Exploration and Development Unit is responsible for oil and gas development and production, metering, transportation and pipeline authorisation. The Offshore Environment and Decommissioning section is responsible for prevention of oil pollution and offshore environmental issues including approving oil spill response plans for the offshore industry as required under the OPRC Convention and the Offshore Installations (Emergency Pollution Control) Regulations. DTI consults with the MCA prior to approving or rejecting operators oil spill contingency plans.

A.9 The Offshore Environment and Decommissioning Branch deal with environment policy and regulation, operations and enforcement and decommissioning.

### **Department for Constitutional Affairs**

A.10 The Department for Constitutional Affairs (DCA) has responsibilities for the Channel Islands and the Isle of Man. MCA informs the Devolution and Crown Dependencies Branch of DCA of any incident or proposed counter pollution action affecting these islands. However, operational communication between the Isle of Man is governed by the terms of the joint Operating Agreement.

## **Department for Environment, Food and Rural Affairs**

A.11 Defra works for the essentials of life - food, air, land, water, people, animals and plants. Its remit is the pursuit of sustainable development - weaving together economic, social and environmental concerns. Defra therefore:

- brings all aspects of the environment, rural matters, farming, fisheries and food production together;
- is a focal point for all rural policy, relating to people, the economy and the environment;
- has roles in both European Union and global policy making, so that its work has a strong international dimension.

Defra plays a major role in the protection of the marine environment and sea fisheries.

A.12 Defra tests and approves any oil treatment products manufactured for use in UK waters on behalf of all UK fisheries departments. For England, Marine Environment Division, Defra approves any use of dispersants in shallow and coastal waters and advises on use of dispersant in deeper water. For Wales, Marine Environment Division, Defra acts in this capacity on behalf of the National Assembly for Wales.

A.13 Defra representation at an Environment Group meeting close to the scene of an incident is most likely to be from the Marine Fisheries Agency (MFA) and possibly also the Centre for Environment Fisheries and Aquaculture Science (CEFAS).

### **Marine Fisheries Agency (MFA)**

A.14 MFA, an Executive Agency of Defra, operates 20 fisheries offices at fishing ports. MFA provides local input to oil spill contingency planning. Many of its staff have had seagoing experience in addition to their day-to-day role of supporting and regulating the fisheries industry.

### **Centre for Environment Fisheries and Aquaculture Science (CEFAS)**

A.15 CEFAS, an Executive Agency of Defra, is an internationally recognised centre for fisheries science, aquaculture and protection of the environment. It provides a wide range of research, consultancy and training services in environmental impact assessment; environmental research and monitoring; aquaculture health and hygiene; and fisheries science and management. It carries out toxicity testing of UK approved oil treatment products on behalf of Defra. It also provides advice to Defra during marine pollution incidents, including on the appropriate use of dispersants.

### **Marine and Fisheries Directorate (MFD) and Marine Consents and Environment Unit (MCEU)**

A.16 MFD seeks on behalf of the Government to ensure clean, healthy, safe, productive and biologically diverse oceans and seas by addressing issues such as the over-exploitation of commercial fish stocks, the release of

pollutants, the degradation of ecosystems through human activities, invasive species and climate change. It has a broad interest in counter pollution activities.

- A.17 In particular Marine Environment Division within MFD has responsibilities for the protection of the marine environment; responds to marine emergencies in support of the National Contingency Plan for Marine Pollution from Shipping and Offshore Installations; coordinates Defra response to oil and chemical spills at sea; and approves oil dispersants and their use.
- A.18. Marine Environment Division also contains the Marine Consents and Environment Unit (MCEU). MCEU is responsible, on behalf of the Secretary of State or Environment, Food and Rural Affairs, for the administration of a range of applications for statutory licences and consents to undertake works in tidal waters and at sea in UK waters and beyond; including marine developments, offshore energy, coast defences, dredging and waste disposal. The Unit also administers certain applications on behalf of the Welsh Assembly Government for which it is the licensing authority in Welsh waters.
- A.19 MCEU works in close partnership with the Licensing and Consents Unit of the DTi with regard to the consenting of offshore renewable energy generation schemes. It similarly maintains close links with the DfT Ports Division, particularly in respect of proposed works associated with ports and harbours.

### **Environment Agency**

- A.20 The EA is responsible for protecting and improving the environment (air, land and water) in England and Wales. The EA regulates:
- discharges to controlled waters (from land based sources) including territorial waters up to three miles seaward of the territorial baseline;
  - management and disposal of waste;
  - major industrial processes;
  - management of radioactive substances;
  - flood risk management and flood warning;
  - fisheries, including some sea fisheries;
  - navigation on certain waterways, estuaries and harbours.
- A.21 The EA has wide ranging powers of inspection, regulation and enforcement particularly in relation to pollution control. Although not an emergency service, the Agency is a Category 1 responder under the Civil Contingency Act 2004. It operates a 24 hour incident response service to incidents that have caused or have the potential to cause harm to human health, the natural environment (air, land and water) or property.

### **Food Standards Agency (FSA)**

August 2006

- A.22 The FSA is an independent non-Ministerial UK government department set up by an Act of Parliament in 2000 to protect the public's health and consumer interests in relation to food in the UK.
- A.23 During incidents and emergencies, the FSA is responsible for providing advice on all food safety and standard issues. Where there appears to be a risk to consumers the Agency is responsible for issuing Orders made under Part I of the Food and Environment Protection Act. These Orders will restrict the movement, sale or supply of certain foods (this may include all foods or specific foods) and agricultural products in a specified area(s). It is aimed at protecting consumers from food that may be or may become hazardous.
- A.24 Offices in London, Aberdeen, Cardiff and Belfast are responsible for leading the FSA response in respect of any food safety incidents occurring in England, Scotland, Wales and Northern Ireland.

## **Department for Communities and Local Government (DCLG)**

### **Government Offices for the Regions**

- A.25 The Government Offices (GOs) act as a link between local responders and Government, both for planning and responding to emergencies. A Regional Resilience Team has been established in each of the GOs to co-ordinate this response. The GOs take a multi agency and cross departmental view of an event and add value by sharing this wider view with local responders and Government Departments. A GO which wishes to be represented at a Shoreline Response Centre may apply to the Chair of the SRC's Management Team.

## **Foreign and Commonwealth Office (FCO)**

- A.26 The FCO is responsible for advising on, and dealing with, any international relationship matters that might arise from counter pollution operations. This includes the use of the intervention powers, prosecutions, and flag state referrals in respect of foreign ships. MCA keeps the FCO informed from an early stage where it anticipates that a marine pollution incident in UK waters could affect the UK's bilateral relations with another State. The FCO may wish to warn neighbouring States of pollution threats and other incidents that might affect them.

## **Health and Safety Executive (HSE)**

- A.27 The HSE is responsible for regulating health and safety offshore. There is a legal requirement for owners and operators of offshore installations to report accidents and emergencies to the HSE. The HSE provides advice, support, and information in the event of a major offshore emergency through its Offshore Safety Division's major incident response team. The HSE booklet Dealing with Offshore Emergencies sets out their roles and responsibilities.

## **Health Protection Agency (HPA)**

### **Centre for Radiation, Chemical and Environmental Hazards**

A.28 The HPA is an independent body charged with protecting the health and well being of everyone in England and Wales. The role of the Centre for Radiation, Chemical and Environmental Hazards during chemical incidents, which could either potentially or actually threaten public health is to provide authoritative advice to front line responders, public health specialists (including those based in the four regional Health and Social Services Boards in Northern Ireland), the Department of Health and devolved administrations and other agencies involved.

A.29 Advice provided will cover:

- environmental toxicology;
- clinical toxicology;
- environmental health/public health;
- environmental science;
- environmental risk management, and
- radiological advice.

## **Health Protection Scotland (HPS)**

A.30 HPS is a division of National Services Scotland within NHS Scotland. HPS acts on behalf of the Scottish Executive to provide a 24/7 service to the 15 NHS Boards and 32 Local Authorities in support of the local management of incidents involving public health hazards, and provides a co-ordinating role at national level within Scotland. HPS provides scientific, medical, statistical and epidemiological support to Health Protection professionals at all stages of incident response and follow-up, including risk assessment, risk management and risk communication.

## **Ministry of Defence (MOD)**

A.31 The MOD is responsible for dealing with pollution incidents from warships and other MOD ships operated for non-commercial purposes.

A.32 In the event of an incident at sea, where the MOD is not directly involved and subject to operational commitments, the MOD may provide assistance on a cost reimbursement basis to MCA. This could only consist of appropriate capabilities available at the time of the incident. Any request for MOD assistance of any kind should be addressed to the Chief of Defence Staff (CDS) Duty Officer.

A.33 Under normal arrangements for giving Military Aid to the Civil Authority (MACA), the MOD may, on a cost reimbursement basis, and subject to

availability, provide equipment and personnel to shoreline local authorities to assist in dealing with shoreline pollution.

### **UK Hydrographic Office (UKHO)**

- A.34 The UKHO supplies hydrographic, oceanographic and other such information to the Royal Navy. It offers unclassified charts and publications to the merchant navy and other users of the sea. The Hydrographic Office also issues notices to mariners warning them of hazards to navigation.
- A.35 The UKHO also advises on the definition of the extended pollution zone, as well as provides environmental and tidal information. The UKHO is the authority responsible for the issue of Radio Navigational Warnings for the UK Continental Shelf and the NE Atlantic. Where appropriate and if requested, the UKHO issues radio navigational warnings to vessels to keep clear of any anti pollution operations.

### **UK Meteorological Office**

- A.36 The Meteorological Office is responsible for the issue of Meteorological Maritime Safety Information for NW Europe and the NE Atlantic. They provide weather and oceanographic forecast information that enable the calculation of likely wind drift and direction of pollution, and also run 3-D hydrodynamic models of the NW European Shelf which can provide forecasts of ocean currents (and winds) for input into some spill models, together with atmospheric dispersion models for chemical releases. On request, they can provide a forecaster at the scene of a major incident to provide up-to-date and accurate weather forecasts to those in control.

### **NATURE CONSERVATION ORGANISATIONS**

- A.37 Four organisations deal with nature conservation issues in Great Britain; English Nature (EN), Countryside Council for Wales (CCW), Scottish Natural Heritage (SNH), and Joint Nature Conservation Committee (JNCC). The Environment and Heritage Service (EHS) is the equivalent organisation in Northern Ireland.
- A.38 As part of the response to a marine pollution incident, these organisations, through the Environment Group:
- provide advice on the environmental impacts of a spill to the SOSREP and any established response centres;
  - provide advice to the MCA's Counter Pollution Branch, local authorities, etc;
  - co-ordinate the collation and provision of the best available information on wildlife interests and threats to them (including seabird colony and individual bird counts and working with NGOs on beached bird surveys, collection of dead oiled birds, and reporting of live casualties);

- provide nature conservation advice and information to local authorities, MCA Counter Pollution Branch, Defra/SEERAD, EA/SEPA; and
- work with and assist in the co-ordination of shoreline response from Non-Government Organisations.

### **Joint Nature Conservation Committee**

- A.39 The JNCC is the forum through which the three country nature conservation agencies – CCW, EN, and SNH – deliver their statutory responsibilities for Great Britain as a whole and internationally. These responsibilities contribute to sustaining and enriching biological diversity, enhancing geological features, and sustaining natural systems.
- A.40 The JNCC's Marine Advice and Seabirds at Sea Team are able to provide specialist advice to the country agencies and assist in monitoring and surveillance operations during major incidents. JNCC also deals with marine pollution incidents occurring outside territorial waters.

### **English Nature**

- A.41 EN is the Government agency that champions the conservation of wildlife and geology throughout England. EN's work includes:

- advising Government and others on nature conservation issues, and
- targeting action for wildlife in England to meet UK biodiversity

Action Plan targets :

- establishing and ensuring effective management of over 200 National Nature Reserves across England;
  - selecting Sites of Special Scientific Interest (SSSIs) and working with land managers and owners to ensure that they are favourably managed;
  - providing advice when development proposals affect Nature Reserves and SSSI's;
  - commissioning and supporting research and development projects; and,
  - providing grants to nature conservation projects.
- A.42 Following publication of the draft Natural Environment and Rural Communities Bill in February 2005, English Nature, the Rural Development Service and the Countryside Agency's Landscape, Access and Recreation division are working towards integration as a single body; Natural England. It will work for people, places and nature with responsibility for enhancing biodiversity, landscapes and wildlife in rural, urban, coastal and marine areas; promoting access, recreation and public well-being, and contributing to the way natural resources are managed – so they can be enjoyed now and for future generations

August 2006

- A.43 EN advises on incidents in territorial waters around England (that is, south of 55°50'N on the east coast, all of the south coast, and the west coast south of 51°20'N and between the Dee Estuary and 54°30'N).

### **Countryside Council for Wales**

- A.44 The main statutory functions of the CCW are to advise the National Assembly for Wales on countryside and wildlife matters. It also has statutory responsibility for wildlife conservation on land and at sea; for certain landscape conservation matters; for promoting enjoyment of the countryside; and for encouraging public understanding of the environment of Wales. CCW advises Government on the conservation and wildlife implications of maritime incidents in Wales and in UK territorial waters adjacent to Wales. In addition the Council has statutory nature conservation responsibilities in respect of Great Britain and international obligations that it delivers with English Nature and Scottish Natural Heritage through the Joint Nature Conservation Committee.

### **Scottish Natural Heritage**

- A.45 SNH is a statutory non-departmental public body established by the Natural Heritage (Scotland) Act 1991. It is ultimately accountable to the Scottish Parliament. Its statutory aims are to secure the conservation and enhancement of Scotland's natural heritage and to foster understanding and facilitate enjoyment of it. SNH provides advice to Government on nature conservation in Scotland.
- A.46 SNH advises on incidents in the internal waters and territorial sea of UK waters adjacent to Scotland (that is the area defined by the Scottish Adjacent Waters Boundaries Order 1999 (SI 1999 No. 1126).

## **DEVOLVED ADMINISTRATIONS**

### **Northern Ireland - Department of the Environment (DOE)**

- A.47 DOE is responsible in Northern Ireland for the development of policy concerning the environment and natural heritage, including the marine environment and the living resources that it supports. In Northern Ireland the Fisheries Division of the Department of Agriculture and Rural Development (DARD) is the licensing authority for fisheries.

### **Environment and Heritage Service**

- A.48 EHS is an executive agency within the Department of Environment, and is the lead agency responsible for implementing environmental legislation and policy in Northern Ireland. EHS aims to protect and conserve Northern Ireland's natural heritage and built environment, to control and regulate

August 2006

pollution and to promote the wider appreciation of the environment and best environmental practices.

A.49 EHS operates under both NI and European Union legislation that covers:

- the air, land, inland waters, coastal waters and groundwater resources of Northern Ireland;
- wildlife, wildlife habitats, flora and fauna, and
- historic buildings, ancient monuments and archaeological artifacts

A.50 Three EHS technical Directorates – Environmental Protection, Natural Heritage and Built Heritage respectively – are directly involved in regulating and protecting each of the above facets of the environment of Northern Ireland.

A.51 EHS is the FEPA (Food and Environment Protection Act 1985) licensing authority for Northern Ireland and as such regulates the use of oil dispersants or any oil treatment products in water depths of less than 20 metres, or within one nautical mile, which requires the approval of the Department.

### **Scottish Executive Environment and Rural Affairs Department (SEERAD)**

A.52 SEERAD is responsible for advising Scottish Ministers on policy relating to:

- agriculture;
- rural development;
- the protection of the marine environment, fisheries and the other living resources that it supports;
- food, including fish and shellfish production;
- the water industry; and
- a range of matters concerning the environment and natural heritage; and for ensuring the implementation of those policies in Scotland.

A.53 SEERAD also sponsors the Scottish Environment Protection Agency (SEPA), Scottish Natural Heritage (SNH), Scottish Water (SW) and is assisted by three Executive agencies; Fisheries Research Services (FRS), Scottish Fisheries Protection Agency (SFPA) and the Scottish Agricultural Science Agency (SASA).

A.54 From April 2000 the Department's responsibilities for food safety and standards were transferred to the Food Standards Agency Scotland (FSAS) which advises the Executive on those matters formally through the Health Department. SEERAD retains close links with the FSAS on these matters.

### **Scottish Environment Protection Agency**

- A.55 SEPA is a non-departmental public body responsible for the protection of the environment in Scotland. It is ultimately accountable to the Scottish Parliament. In the marine context, SEPA is responsible for maintaining and improving the environmental quality of the inland, coastal and tidal areas of controlled waters<sup>12</sup> adjacent to Scotland. Its functions are similar to those of EA described above.

### **Fisheries Research Services**

- A.56 Fisheries Research Services (FRS) is the Scottish centre for research on fisheries, aquaculture and the aquatic environment. It is an executive agency of SEERAD and supports policy and stewardship of living aquatic resources. FRS comprises the Freshwater Fisheries Laboratory, Pitlochry and Marine Laboratory, Aberdeen. The Marine Laboratory provides expert scientific advice on fisheries, fish and shellfish cultivation and other marine environment matters, including the effects of pollution. It is also responsible on behalf of Scottish Ministers for licensing deposits in the sea under Part II of the Food and Environment Protection Act 1985 (FEPA). This latter responsibility includes authorising the use of chemical dispersants in shallow waters adjacent to Scotland.

### **Wales - National Assembly For Wales**

- A.57 Lead responsibility for the protection of the natural environment including marine pollution as a result of oil spillages from shipping in Wales and inside the UK territorial sea adjacent to Wales rests with the Environment Division of the Assembly Government. In addition the Department of Environment, Planning and Countryside is responsible for policy on fish, and the protection of fisheries, including liaison with the fishing industry up to 12 miles offshore.
- A.58 On behalf of the National Assembly for Wales, Defra approves any use of dispersants in shallow and coastal waters and advises on use of dispersant in deeper water adjacent to Wales.

## **OTHER ORGANISATIONS**

### **Local Authorities**

- A.59 Local authorities have no specific statutory duty to plan for, or carry out, shoreline clean up, but have the power to do so. Maritime local authorities and EHS fulfill their responsibilities by working in partnership with other agencies to reduce, control or mitigate the effects of coastal oil or chemical pollution. Where local authorities, and EHS, the emergency services, certain health bodies, the environmental regulator and the MCA have individually or collectively, assessed the risk and the effects of coastal oil or chemical

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<sup>12</sup> "Controlled waters" are waters within three nautical miles of the territorial sea baselines.

pollution and where it is considered necessary, they prepare, publish and maintain response plans.

- A.60 MCA supports local authorities by maintaining stockpiles of beach cleaning equipment; providing training courses on contingency planning and oil spill response; by providing hands-on demonstrations of beach-cleaning equipment and booming exercises; and by participating in local authority training exercises.

### **Harbour Authorities**

- A.61 Harbour authorities are responsible for maintaining the safe and efficient use of the harbour by all those who wish to do so. They must exercise their functions having regard to the environment. They have a specific duty to prepare for, and to respond, to marine oil pollution incidents within their jurisdiction. If they cannot contain the incident using their own resources, they may rely on additional resources available through mutual support agreements with other harbour authorities, oil companies and local authorities, or through formal agreements with oil spill contracting companies as set out in their oil spill response contingency plan. Many harbour authorities are also Category 2 responders under the Civil Contingencies Act 2004. Harbour authorities may also call upon MCA.

### **Sea Fisheries Committees (SFCs)**

- A.62 SFCs are responsible for the management of inshore fisheries in England and Wales out to six miles from baselines. They exercise control through the operation of bylaws. They can introduce these bylaws both to protect the fisheries concerned or (since the Enforcement Act 1995) to conserve the wider marine environment. SFCs are also responsible for the enforcement of certain EU and national legislation in furtherance of the common Fisheries Policy.

### **British Nuclear Group**

- A.63 British Nuclear Group, for and on behalf of the Government's Nuclear Commissioning Authority and Pacific Nuclear Transport Limited, operate vessels that may be used for the safe carriage of packaged irradiated nuclear fuel, plutonium and spent radioactive fuel. All transports are conducted in accordance with national and international regulations relating to the safe transport of INF Code material. Should an incident involving one of these vessels occur then British Nuclear Group would work with MCA and provide support and assistance.

### **British Wind Energy Association (BWEA)**

August 2006

A.64 The British Wind Energy Association is the trade and professional body for the UK wind and marine renewables industries. Formed in 1978 and with over 310 corporate members, BWEA expanded its mission in 2004 to champion wave and tidal energy.

### **National Park Authorities**

A.65 The statutory remit for National Park Authorities in England and Wales includes landscape, nature conservation and public enjoyment and understanding (of the National Parks). National Park Authorities also have a duty to foster the social and economic well being of communities within the National Parks. They may provide detailed local knowledge, and staff with ecological and other expertise relevant to pollution response.

A.66 The National Parks whose boundaries include coastline are:

- The Broads;
- Exmoor;
- Lake District;
- Loch Lomond and the Trossachs;
- New Forest;
- North York Moors;
- Pembrokeshire Coast; and
- Snowdonia.

### **Oil Industry**

A.67 The major oil companies have resources for oil recovery and other counter pollution operations. The companies may be able to provide tankers and other ships on charter and may be a source of technical information on tankers and tanker operations. They also have contingency plans for dealing with spills in oil terminals operated by them.

A.68 All operators are required to have an approved oil spill contingency plan in place for each of their installations operating on the UK Continental Shelf (UKCS). Within these plans their intended actions in the event of an incident involving their installation are detailed, including details of any service providers.

### **UK Offshore Operators Association (UKOOA)**

A.69 UKOOA is the representative organisation for the companies that operate offshore oil and gas production facilities on the UK Continental Shelf.

### **Marine Insurers**

- A.70 Shipowners generally have two types of insurance: “hull” insurance and “liability” insurance. A shipowner’s hull insurance covers damage to the ship’s hull or machinery and a proportion of traditional salvage awards. Liability insurance covers the shipowner’s liability to third parties, including the costs of reasonable measures taken to prevent or minimise pollution and special environmental awards to salvors.
- A.71 Most shipowners take out liability insurance by entering their ship with one of the members of the International Group of Protection and Indemnity (P&I) Clubs. P&I clubs are mutual, non-profit making associations that insure their members (shipowners, charterers, managers, and operators) against third party liabilities, including pollution liabilities. Each P&I Club has full time managers who look after the day-to-day business of the club, including dealing with claims for compensation.
- A.72 Cargo owners normally have cargo insurance to cover loss suffered by the cargo owner in the event of damage to, or loss of, the cargo during the course of a voyage and a proportion of traditional salvage awards.

### **The International Oil Pollution Compensation Fund (IOPC Fund)**

- A.73 The IOPC Fund provides compensation (up to a limit) for pollution damage caused by persistent oil carried by tankers if, and to the extent that, compensation available from the shipowner is inadequate.

### **International Tanker Owners Pollution Federation (ITOPF)**

- A.74 ITOPF has a staff of technical experts to respond to marine oil spills anywhere in the world. Its principal role is to give practical advice on clean up techniques and the mitigation of damage. It normally performs this service at the request of shipowners, P&I Clubs, and the IOPC Fund. ITOPF gives guidance on what counter pollution operations are likely to be considered reasonable and proportionate, bearing in mind the provisions of the relevant treaties and the IOPC Fund’s claims admissibility guidelines.

### **The Offshore Pollution Liability Association Ltd (OPOL)**

- A.75 OPOL is an oil industry body set up as a company limited by guarantee which administers a voluntary strict liability compensation scheme for all UK offshore operators. The OPOL Agreement requires each operator to accept strict liability, subject to a few exceptions, for pollution damage and the cost of remedial measures.

### **The UK Spill Association (UK Spill)**

August 2006

A.76 UK Spill is the trade association that represents the oil spill response industry in the United Kingdom. Its members include equipment manufacturing companies, service contractors, and consultants. They have expertise in oil pollution prevention, control, and clean up at sea, along coastlines and inland. UK Spill has a service contract with MCA, the terms of which include the maintenance of the national equipment database for use in spill incidents.

### **Chemical Industry Association (CIA)**

A.77 CIA or individual companies may be a source of information on the properties of hazardous substances and advice on pollution response.

### **National Chemical Emergency Centre (NCEC)**

A.78 The NCEC provides 24 hour advice on chemical hazards to the Maritime and Coastguard Agency and to the emergency services. The NCEC has developed extensive databases to aid the rapid identification of chemicals and their associated hazards. The NCEC also provides 24 hour chemical spill modeling capability to MCA.

### **Royal Society for the Prevention of Cruelty to Animals (RSPCA), Scottish Society for the Prevention of Cruelty to Animals (SSPCA) and Ulster Society for the Prevention of Cruelty to Animals (USPCA)**

A.79 When alerted by the relevant statutory nature conservation agency during a marine pollution incident, the RSPCA, SSPCA or USPCA:

- agree the procedures for the recovery of live birds and other wildlife casualties with the relevant nature conservation agency;
- where appropriate, supply equipment to help recovery of live casualties. The SRC technical and procurement teams may directly support this activity;
- co-ordinate the treatment and rehabilitation of casualties;
- provide the relevant nature conservation agency with details of the recovery, treatment and rehabilitation of live wildlife casualties; and
- agree a protocol with the nature conservation agency for the marking and release of cleaned wildlife.

### **National Trust and National Trust for Scotland**

A.80 The National Trusts are major coastal landowners in the UK and their staff can be a valuable source of local expertise and knowledge.

### **Royal Society for the Protection of Birds (RSPB)**

A.81 The RSPB:

- contributes to the monitoring of bird casualties through the organisation of Beached Bird Surveys;
- establishes and maintains a network of Beached Bird Surveyors to carry out these surveys in the event of a pollution incident (subject to availability of volunteers and access to the shoreline). In Wales, it is likely that CCW will maintain a network of volunteers;
- provides samples of Beached Bird Survey recording cards to Beached Bird Surveyors as required;
- maintains additional supplies of briefing information and recording cards for rapid dissemination in the event of a pollution incident;
- ensures that all Beached Bird Surveyors receive advice on safe working on the coast. (This role should take place in conjunction with the health and safety team (a sub-group of the SRC technical team);
- co-ordinates the deployment of Beached Bird Surveyors during an emergency and ensure that all surveyors follow agreed recording procedures. In Wales, it is likely that CCW will co-ordinate the surveyors;
- provides the relevant country nature conservation agency with the results of Beached Bird Surveys on a daily basis. This activity is probably best carried out using a database or spreadsheet;
- notifies the statutory nature conservation agency co-ordinator of the location of live, oiled birds (as reported by Beached Bird surveyors) and sends this information to RSPCA, USPCA or SSPCA; and
- assists in providing information on birds at risk from the pollution incident.

### **British Trust for Ornithology (BTO)**

#### A.82 The BTO:

- agrees a protocol with the statutory nature conservation agencies for ringing all rehabilitated birds prior to release by appropriately licensed personnel; and
- assesses the origins of affected birds from interpretation of ringing recovery information.

### **World Wide Fund for Nature UK (WWF)**

A.83 The WWF may contribute to the work of evaluation committees or inquiries that take place after a marine pollution incident.

## **INTERNATIONAL ASSISTANCE AND CO-OPERATION**

### **Introduction**

B.1 The UK is party to several international agreements which provide for co-operation in dealing with major marine pollution incidents. This appendix provides a summary of them.

### **OPRC Convention**

B.2 The OPRC Convention places obligations on States Parties concerning their preparedness for, and response to, oil pollution incidents. It also provides a framework for international co-operation for combating major oil pollution incidents.

B.3 The **OPRC–HNS Protocol** has been developed to expand the scope of OPRC 1990, to apply, in whole or in part, to pollution incidents by hazardous substances other than oil. Together with the OPRC Convention, the OPRC–HNS Protocol will provide a framework for international co-operation in establishing systems for preparedness and response at the national, regional and global levels. This Protocol is not yet in force in the UK.

### **The Bonn Agreement**

B.4 The parties to the Bonn Agreement for Co-operation in dealing with Pollution of the North Sea by Oil and Other Harmful Substances 1983 are the States bordering the North Sea and English Channel (that is, Belgium, France, Germany, the Netherlands, Norway, Sweden, Denmark and the UK), Ireland and the European Community.

B.5 The parties notify each other of any marine pollution or threat of marine pollution likely to pose a threat to the coast or related interests of another Party. They pledge to assist one another to the best of their ability, on request, and on a cost recovery basis.

### **Anglo-French Joint Maritime Contingency Plan (Mancheplan)**

B.6 Under the Bonn Agreement, the English Channel is a zone of joint responsibility between France and the UK. The Mancheplan covers counter pollution and search and rescue operations. It sets out the division of responsibility between the two parties. For incidents likely to affect both parties simultaneously, it outlines command and control procedures, channels of communication, and the resources available to each party.

August 2006

- B.7 Mancheplan designates the territorial waters of the Channel Islands as a special zone of responsibility. It contains procedures for the provision of assistance, as required, to the Channel Island Authorities.

### **The Norway-United Kingdom Joint Contingency Plan (Norbrit Agreement)**

- B.8 Norway and the UK have developed the Norbrit Agreement for joint counter pollution operations in the zone extending 50 miles either side of the median line separating the UK and Norwegian continental shelf.
- B.9 Like Mancheplan, the Norbrit Agreement sets out command and control procedures for pollution incidents likely to affect both parties, channels of communication and resources available. However, it does not cover search and rescue activities.

### **The UK/Ireland Agreement**

- B.10 Negotiations with the Government of the Republic of Ireland to produce a UK/Ireland joint contingency plan for counter pollution and search and rescue operations in the Irish Sea are nearly complete.
- B.11 The purpose of the plan is to ensure fast and effective co-operation in the event of an incident in the Irish sea which may affect the interests of both or either country. Work to establish a simple median line for operational purposes continues.

### **The Anglo/Isle of Man Operating Agreement**

- B.12 The UK/Isle of Man covers counter pollution and search and rescue operations and was agreed in May 2002.

### **The European Union**

- B.13 The Framework for Co-operation in the Field of Marine Pollution. The European Parliament and the Council established a Community framework for co-operation in the field of accidental or deliberate marine pollution through Decision No. 2850 of 20 December 2000. This framework is established for the period 1 January 2000 to 31 December 2006. The Commission, with the assistance of a Management Committee on Marine Pollution (MCMP) consisting of delegates from Member States, implements the programme. MCMP delegates are high level government experts with the role of exchanging views on response to oil pollution, expressing their opinion regarding actions to be taken and defining the current and future priorities. Implementing the programme includes the following activities:

- The co-financing of projects such as training, exchange of experts, exercises, pilot projects and post-incident environmental impact surveys; and
- a Community Information System (CIS) for the purpose of exchanging data on preparedness and response to marine pollution. The CIS contains, amongst other information, an inventory of clean-up resources available in Member States.

B.14 The Community Mechanism to Facilitate Reinforced Co-operation in Civil Protection Assistance Interventions The Council Decision of 23 October 2001 established a Community Mechanism to facilitate reinforced co-operation in civil protection assistance interventions. This mechanism covers both civil protection and marine pollution and provides for the following:

- the establishment and management of a Monitoring and Information Centre (MIC) which is operational on a continuous basis. The MIC is the channel through which a Member State can request additional resources from other Member States to respond to an incident;
- the identification of teams (a Task Force of experts which can provide advice to Member States affected by a marine pollution incident), assessment teams and/or co-ordination teams in the event of emergencies;
- the establishment and management of a common emergency communication and information system;
- the setting up and implementation of a training programme for intervention teams, assessment experts, and/or co-ordination teams; and
- workshops, seminars and pilot projects on major aspects of interventions.

### **European Maritime Safety Agency (EMSA)**

B.15 The European Maritime Safety Agency has been tasked with providing additional means to Member States to assist marine pollution response through Regulation 724/2004. Upon request by the affected Member State, these resources are available through the Monitoring and Information Centre (MIC) of the Community Mechanism to Facilitate Reinforced Co-operation in Civil Protection Assistance Interventions

### **Overseas Territories**

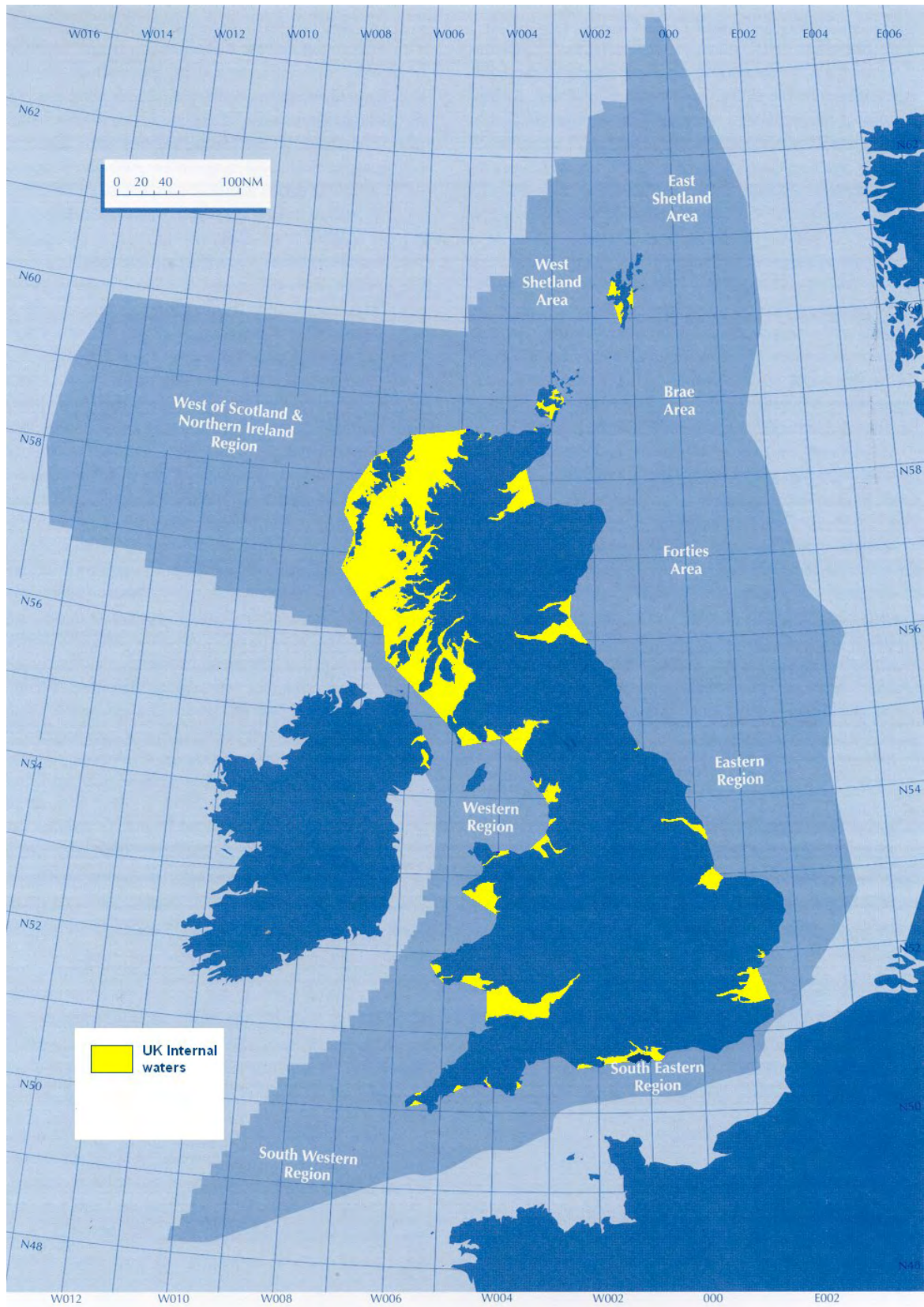
B.16 The Overseas Territories retain their connection with the UK because it is the express wish of their peoples that they do so. They have a substantial measure of responsibility for the conduct of their own affairs. Local self-

government is generally provided by an Executive Council and elected legislature. The Overseas Territories consist of the following territories:

- Anguilla
- Bermuda
- British Antarctic Territory
- British Indian Ocean Territory
- British Virgin Islands
- Cayman Islands
- Falkland Islands
- Gibraltar
- Montserrat
- Pitcairn
- St Helena and St Helena Dependencies (Ascension and Tristan da Cunha)
- South Georgia and South Sandwich Islands
- Turks and Caicos Islands
- Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus

B.17 At the request of an Overseas Territory, the MCA's CPR team may assist with advice on contingency planning and counter pollution activities.

Map of UK Pollution Control Zone



### Map of MCA Regions including resources



## INTERVENTION POWERS – SHIPPING

### Introduction

- D.1 This appendix provides guidance on the intervention powers conferred by UK merchant shipping legislation.
- D.2 It describes both the principal intervention powers derived from international conventions and other statutory powers that the Secretary of State can use to prevent or minimise safety and pollution risks posed by ships.

### Statutory basis, scope and derivation of the powers

#### Intervention powers deriving from international treaties

##### *Statutory basis*

- D.3 Schedule 3A to the Merchant Shipping Act 1995<sup>13</sup> confer powers on the Secretary of State.

##### *Scope*

- D.4 The powers enable the Secretary of State to give directions and to take such other actions as may be necessary in respect of the ship or its cargo. The Secretary of State may use the powers to prevent or minimise pollution, or the threat of pollution, or to remove or reduce safety risks.
- D.5 The powers under Schedule 3A do not apply to foreign ships outside UK pollution control zone<sup>14</sup>. The Merchant Shipping (Prevention of Pollution) (Intervention) (Foreign Ships) Order 1997 confers powers in respect of such ships.

##### *Derivation*

- D.6 The UK legislation derives from the 1969 Intervention Convention<sup>15</sup>, the 1973 Protocol<sup>16</sup> to that Convention, and Article 221 of the United Nations Convention on the Law of the Sea 1982 (“UNCLOS”)<sup>17</sup>.

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<sup>13</sup> Schedule 3A was introduced in the Marine Safety Act 2003 which also repealed sections 100C to 100E (movement of ship) and sections 137 to 141 (pollution directions) of the Merchant Shipping Act 1995 and sections 2,3 and 10 of the Merchant Shipping and Maritime Security Act 1997.

<sup>14</sup> The Merchant Shipping (Prevention of Pollution) (Limits) Regulations 1996 (SI 1996/2128, amended by SI 1997/506) set the limits of the pollution control zone.

<sup>15</sup> International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties 1969. The UK has been party to the Convention since 1975.

<sup>16</sup> Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil 1973. The UK has been party to the Protocol since 1983.

<sup>17</sup> The UK became a party to UNCLOS on 24 August 1997.

## Scope of application of the intervention powers

### Types of incident

#### *Intervention powers deriving from international treaties*

- D.7 The Secretary of State may generally exercise the intervention powers deriving from international treaties when an incident satisfies the three criteria listed in Schedule 3A 1(1) and repeated in 2(1).
- First, an accident must have occurred to, or in a ship.
  - Second, it must be the opinion of the Secretary of State that the accident has created a risk to safety or a risk of significant pollution by a hazardous substance in the UK, in the UK's territorial sea or in the UK's pollution control zone<sup>18</sup>.
  - Third, it must be the opinion of the Secretary of State that the direction is necessary to remove or reduce the risk.
- D.8 Schedule 3A 22(1) defines the term "accident". An accident is: a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to a ship or cargo. The definition follows the wording used in the 1969 Intervention Convention and in UNCLOS.
- D.9 The requirement for there to be a threat of significant pollution and an urgent need to use the powers derives from provisions of the Intervention Convention and UNCLOS. These treaties provide that the exercise of the intervention powers must have the aim of preventing pollution, or a threat of pollution, which the coastal State may reasonably expect to result in major harmful consequences.

### Types of pollution

- D.10 The intervention powers that derive from international treaties apply to pollution by oil or by another harmful substance.
- D.11 Schedule 3A 22(2)(a) confers intervention powers in respect of pollution by "oil". "Oil" means oil of any description, including spirit produced from oil of any description, and includes coal tar<sup>19</sup>.

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<sup>18</sup> Before the entry into force of section 2(2) of the Merchant Shipping and Maritime Security Act 1997, the more onerous test of pollution on a large scale in the UK or the UK's territorial sea applied. In the case of a foreign ship located beyond the pollution control zone, the Secretary of State must be satisfied that there is a need to protect the UK coast, the UK's territorial sea or the UK's pollution control zone against *grave and imminent* danger of pollution.

<sup>19</sup> Article II(3) of the 1969 Intervention Convention defines "oil" as crude oil, fuel oil, diesel oil and lubricating oil. However, the 1973 Protocol covers intervention in respect of all types of oil.

August 2006

- D.12 Schedule 3A 22(2)(c) provides that any reference to hazardous substance also includes a reference to any other substance that the Secretary of State has prescribed by order<sup>20</sup>. Schedule 3A 22(2)(b) further defines a hazardous substances to be other substances that are liable:
- to create hazards to human health,
  - to harm living resources and marine life,
  - to damage amenities, or
  - to interfere with other legitimate uses of the sea.

### Foreign ships

- D.13 The UK has a duty under the 1969 Intervention Convention and its 1973 Protocol to notify other interested States, particularly the flag State. This duty arises if we exercise the intervention powers in respect of a foreign ship located beyond the UK's territorial sea. Where time permits, the UK must also consult these States before taking any measures.
- D.14 Schedule 3A 20(1) provides that the Secretary of State may exercise the powers to make a direction in respect of a foreign ship that in his opinion is exercising neither the right of innocent passage through the UK's territorial sea nor the right of transit passage through straits used for international navigation.<sup>21</sup>

### **Who exercises the powers?**

#### MCA staff

- D.15 Senior staff within DfT's Maritime and Coastguard Agency (MCA) normally exercise the Secretary of State's powers, particularly:
- the Chief Executive (non operational)<sup>22</sup>
  - the Secretary of State's Representative (SOSREP)
  - the Director of Operations
  - the Deputy Director of Operations, Chief Coastguard
  - the Deputy Director of Operations, Survey and Inspections
  - the Deputy to the SOSREP, DTI
- D.16 Any of the above may authorise a Counter Pollution and Salvage Officer (CPSO) or the Head of Counter Pollution Branch or to use the powers in the response to a specific incident.

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<sup>20</sup> The Secretary of State has prescribed such substances in the Merchant Shipping (Prevention of Pollution: Substances Other than Oil) (Intervention) Order 1997 (SI 1997/1869). This order came into force on 1 September 1997.

<sup>21</sup> Section 313(2A) of the 1995 Act (added by the 1997 Act) provides that the phrases "right of innocent passage", "right of transit passage" and "straits used for international navigation" are to be construed in accordance with UNCLOS. There are three straits used for international navigation in the UK territorial sea: the English Channel, the Fair Isle Channel and the North Channel.

<sup>22</sup> The MCA Chief Executive would not normally have an operational role in managing maritime incidents. The Chief Executive's role is to continue to manage MCA as a whole.

D.17 During the salvage phase of the response to a marine pollution incident, the normal operational arrangement is for the SOSREP to exercise the powers or, in the SOSREP's absence, his stand-in as detailed in paragraph D.15 above. The Government has appointed the SOSREP to provide overall direction for all major marine pollution incidents involving the salvage of ships and offshore installations. Ultimate accountability for the SOSREP's decisions lies with MCA Chief Executive and Ministers.

#### Other persons

D.18 Schedule 3A 4 provides that the Secretary of State may authorise other persons to exercise the intervention powers. This would enable the Secretary of State or his representative, in a case of force majeure, to authorise a salvor to take a ship out to sea and sink it.

#### **How can we use the powers?**

##### Directions

##### *Powers deriving from international treaties*

D.19 When an incident satisfies the criteria contained in Schedule 3A 1(1), the Secretary of State may give directions as respects the ship or its cargo:

- to the owner of the ship;
- to the master of the ship;
- to any pilot of the ship;
- to any salvor in possession of the ship;
- to a person who is the servant or agent of a salvor in possession of the ship and who is in charge of the salvage operation; or
- where the ship is in, or has been directed to move into, waters which are regulated or managed by a harbour authority, to the harbour master or to the harbour authority<sup>23</sup>.

D.20 However, it is unlikely that all these options would be available in respect of a foreign ship located beyond the pollution control zone. In such a case, the Secretary of State may only give directions to persons or companies who owe allegiance to the UK.<sup>24</sup>

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<sup>23</sup> Amendments to section 137(2) of the 1995 Act made by section 2(3) of the 1997 Act (now superseded by the Marine Safety Act 2003) introduced the power to give directions to pilots, harbour masters and harbour authorities. The amendments came into force on 17 July 1997.

<sup>24</sup> Article 4(2) of the Merchant Shipping (Prevention of Pollution) (Intervention) (Foreign Ships) Order 1997 sets out the persons to whom the Secretary of State may issue directions in such circumstances. These persons are individuals who are citizens of the UK or one of its colonies and bodies corporate established under the laws of a part of the UK.

D.21 Directions may require a person to take, or refrain from taking, any action or omission of any kind whatsoever. These powers are very wide and can include a direction in relation to:

- the ship;
- anything which is or was in the ship;
- anything that forms or formed part of the ship;
- anything which is or was being towed by the ship;
- a person on the ship;
- move the ship or other thing, not to move it, to move it to a specified place, or to remove it from a specified area or locality over a specified route;
- unload or discharge any cargo, or not to do so;
- take specified salvage measures, or not to do so; or
- that a person is put ashore or on a ship.

D.22 When an incident satisfies the criteria specified in Schedule 3A 2(1), the Secretary of State may issue a direction (in writing or confirmed in writing as soon as reasonably practicable) to a person in charge of coastal land or premises. The direction may require the person to whom it is given to grant access or facilities to or in relation to the ship or any person or thing which is or was on the ship. In particular, a direction may require a person:

- to permit persons to land;
- to make facilities available for the undertaking of repairs or other works;
- to make facilities available for the landing, storage and disposal of cargo or other things.

#### *Powers under Schedule 3A 3*

D.23 Under Schedule 3A 3, the Secretary of State may give directions to the owner of the ship, any person in possession of it, or the master. Directions may require any of the following:

- that the ship is to be moved, or removed, from a specified area or locality in, or from anywhere in, the UK territorial sea<sup>25</sup>;
- that the ship is not to be moved to a specified area or place, or over a specified route, within the UK territorial sea;
- the ship is moved or not moved over a specified route in United Kingdom waters;
- the ship is removed from United Kingdom waters.

#### Other actions

D.24 If in the opinion of the Secretary of State, giving directions is inadequate, the Secretary of State may take, or authorise, direct action<sup>26</sup>, including sinking the ship<sup>27</sup>.

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<sup>25</sup> A direction requiring a ship to be removed from the UK territorial sea would need to be reasonable in view of the risk. Schedule 3A 20(2) provides that the Secretary of State may give no such direction to a UK ship.

## Guaranteeing compliance

D.25 Non-compliance with a direction is an offence<sup>28</sup>, punishable by a fine. So is the intentional obstruction of any person acting on the behalf of the Secretary of State or according to a direction.

### **What is the consequence of using the powers?**

D.26 Schedule 3A 1 provides power to direct salvors to remain on scene. Furthermore, the use of the intervention powers does not prejudice a salvor's ability to receive compensation from the ship's hull and cargo insurers and from the shipowner's liability insurer<sup>29</sup>.

D.27 Under Schedule 3A 14, the Secretary of State may be liable to pay compensation if any action taken were:

- not reasonably necessary for the purpose for which the direction was given, or
- caused loss or damage which could not be justified by reference to that purpose.<sup>30</sup>

D.28 Where the Secretary of State's Representative directs a vessel to enter a UK port and pollution results causing the port authority to respond under the terms of its responsibilities, the Port Authority shall be entitled to:

- in the first instance, recover the cost of compliance with the direction from the owner of the ship; or

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<sup>26</sup> Schedule 3A 4 provides that if, in the opinion of the Secretary of State, the power to give directions under Schedule 3A 1 and 2 is, or has proved to be, inadequate, the Secretary of State may take, as respects the ship or its cargo, any action of any kind whatsoever, including taking over control of the ship and sinking or destroying it. Schedule 3A 4 also provides that if, in the opinion of the Secretary of State, the power to give directions under Schedule 3A 3 is, or has proved to be, inadequate, the Secretary of State may take any such action as the Secretary of State has power to require to be taken by a direction.

<sup>27</sup> Before sinking a ship, however, the person exercising the intervention powers would need to arrange for the issue of a [licence](#) under [Part II of the Food and Environment Protection Act 1985](#) for the placement of the ship on the seabed. Defra issues [licences](#) for [UK territorial sea adjacent to England and Wales](#); the [Fisheries Research Services](#), Marine Laboratory in Aberdeen for [UK territorial sea adjacent to Scotland \(on behalf of the Secretary of State for Transport in accord with reserved powers under Schedule 5 of the Scotland Act 1998\)](#); and EHS for [waters adjacent to Northern Ireland](#).

<sup>28</sup> Schedule 3A 5

<sup>29</sup> Since 1 January 1995, salvage law in the UK derives from the 1989 Salvage Convention. If salvors are successful in saving a ship and her cargo, they will receive a proportion of the value of the salvaged property in reward (paid by the ship's hull and cargo insurers). However, the 1989 Convention also ensures that salvors get, and stay, involved in salvage operations where there is a threat of damage to the environment by introducing entitlement to "special compensation". Special compensation is equal to the salvor's expenses (the shipowner's liability insurer pays the difference between the amount of special compensation awarded and the value of the salvaged property). The Convention entitles salvors to a reward even if they are complying with a direction given using the intervention powers.

<sup>30</sup> Shipowners, salvors and harbour authorities are most likely to bring claims for compensation. The High Court (or, in Scotland, the Court of Session) would hear and determine such claims.

- where recovery from the ship owner is not possible, from the Secretary of State for Transport in accordance with the Marine Safety Act, Chapter 16, Section 15.

D.29 If the MCA use the intervention powers to take reasonable and proportionate measures, it would generally be entitled to recover compensation. This entitlement would cover costs incurred as a consequence of taking measures and any resulting loss or damage<sup>31</sup>.

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<sup>31</sup> It would generally be possible to recover compensation from the shipowner, the shipowner's liability insurer or an international compensation fund. Under section 153 and 154 of the 1995 Act, shipowners are strictly liable for any damage caused in the UK by measures reasonably taken to prevent or minimise pollution by persistent oil. If the ship were a tanker, additional compensation would be available, if necessary, from the International Oil Pollution Compensation (IOPC) Fund under section 175 of the Act. Once the International Convention on Liability and Compensation in connection with the Carriage by Sea of Hazardous and Noxious Substances 1996 (the "HNS Convention") is in force, compensation will similarly be available from the shipowner and the HNS Fund. Compensation would be available for reasonable measures taken to prevent or minimise other types of damage caused by dangerous and polluting cargoes carried on ships.

## INTERVENTION POWERS – OFFSHORE INSTALLATIONS

### Statutory basis

- E.1 Section 3 of the Pollution Prevention and Control Act 1999 provides for powers (corresponding to those contained in Schedule 3A to the Merchant Shipping Act 1995 as inserted by the Marine Safety Act 2003, in relation to ships) to prevent and reduce pollution and the risk of pollution following an accident involving an offshore installation<sup>32</sup>.
- E.2 The powers enable the Secretary of State for Trade and Industry to give directions and to take such other actions as may be necessary in respect of an offshore installation. The Secretary of State may use the powers to prevent or minimise pollution or the threat of pollution.

### Application of Statutory Powers

- E.3 The Offshore Installations (Emergency Pollution Control) Regulations 2002 (EPC Regs), made under Section 3 of the Pollution Prevention and Control Act 1999, implement the recommendations made in Lord Donaldson's "Review of Salvage and Intervention and their Command and Control" in relation to oil and gas activities carried out wholly or partly on the United Kingdom Continental Shelf.
- E.4 Under the EPC Regs the power to give directions and take other necessary action is exercisable in accordance with regulation 3 where;
- An accident<sup>33</sup> has occurred;
  - In the opinion of the Secretary of State the accident will or may cause significant pollution in the United Kingdom, United Kingdom waters or in any designated area within the meaning of the Continental Shelf Act 1964 and;
  - In the opinion of the Secretary of State the use of the powers is urgently needed.
- E.5 Directions given by the Secretary of State may require the person to whom they are given to take or refrain from taking any action and may require that person:
- To move or not to move the offshore installation, or any part of it, to or from a specified place or area, or over a specified route; or

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<sup>32</sup> An "offshore installation" means 'any structure or other thing (but not a ship) in or under: (a) United Kingdom territorial waters, or (b) any waters mentioned in section 7(9)(b) or (c) of the PPC Act 1999, which is used for the purposes of or in connection with, the exploration, development or production of petroleum.

<sup>33</sup> An "accident" means any occurrence causing material damage or threat of material damage to an offshore installation.

- To unload or discharge, or not to unload or discharge, any oil or other substance; or
- To take or not to take remedial measures.

E.6 In addition, regulation 3 of the EPC Regulations confers intervention powers in respect of pollution. Pollution includes pollution by oil or pollution by any other substance liable:

- To create hazards to human health,
- To harm living resources and marine life,
- To damage amenities, or
- To interfere with other legitimate uses of the sea,

or pollution by any other substances listed in the Schedule to the Merchant Shipping (Prevention of Pollution: Substances Other than Oil (Intervention) Order 1997.

### **Who exercises the powers?**

E.7 The Secretary of State's powers may be exercised by the following appointed personnel, namely;

- the Secretary of State's Representative (SOSREP)
- the Deputy to the SOSREP
- the Director of Operations (MCA), and
- either the Deputy Director of Operations, Chief Coastguard or the Deputy Director of Operations, Survey and Inspections (MCA)

E.8 During the response to an accident, the normal operational arrangement is for the SOSREP to exercise the powers or, in the SOSREP's absence, his Deputy. Ultimate accountability for the SOSREP's decisions rests with the Secretary of State for Trade and Industry.

### **How can we use the powers?**

#### Directions

##### *Powers conferred by EPC Regulations*

E.9 When the criteria mentioned in paragraph F.4 are satisfied the Secretary of State may give directions as respects any offshore installation to:

- the operator<sup>34</sup> of the offshore installation, or
- the manager of the offshore installation, or
- any servant or agent of the operator of the offshore installation.

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<sup>34</sup> An "operator" in relation to an offshore installation means any person who operates the offshore installation and includes any person who owns it at the time any powers conferred by these regulations are exercised in relation to the offshore installation.

- E.10 If in the opinion of the Secretary of State directions are, or have proved to be, inadequate for the purpose the Secretary of State may, for the purpose of preventing or reducing pollution, or the risk of pollution, take, as respects the offshore installation or its contents, any action of any kind whatsoever, and this may include;
- such action as the Secretary of State has power to require to be taken by a direction;
  - operations for the sinking<sup>35</sup> or destruction of the installation, or any part of it, of a kind which is not within the means of any person to whom the Secretary of State can give directions; or
  - operations which involve the taking over of control of the offshore installation (whether by boarding the offshore installation or entering and using any premises which appear to her to be premises from which the operations of the offshore installation may be controlled).

#### Service of Directions

- E.11 For the purposes of giving a direction to or serving a direction on a person, a person acting on behalf of the Secretary of State shall have the right to go onboard the offshore installation.

#### Non-compliance

- E.12 Any person who fails to comply with or contravenes any requirement of a direction commits an offence under Regulation 5 of the EPC Regs, punishable by a fine. Likewise, it is also an offence to intentionally obstruct any person acting on behalf of the Secretary of State or who is acting in compliance with a direction.

#### Compensation for Unreasonable Loss or Damage

- E.13 With the introduction of Government powers of intervention, it is necessary to ensure that any person(s) should have the right to claim compensation from the Secretary of State for Trade and Industry where it can be established there was unreasonable loss or damage caused by a direction given by the SOSREP. Any award of compensation will be a matter for the relevant court to decide.

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<sup>35</sup> Before sinking an installation, however, the person exercising the intervention powers would need to arrange for the issue of a licence under Part II of the Food and Environment Protection Act 1985 for the placement of the installation on the seabed. Defra issues licences for UK territorial sea adjacent to England and Wales; the Fisheries Research Services, Marine Laboratory in Aberdeen for waters adjacent to Scotland (for waters beyond three miles of the coast this would be done on behalf of the Secretary of State for Trade and Industry as per Schedule 5 of the Scotland Act 1998); and EHS for waters adjacent to Northern Ireland. It is the Secretary of State for Trade and Industry that is the licensing authority from the area outwith controlled waters (3 miles from the coastal baseline) out to the limit of the UK pollution control zone. As such, Defra, FRS and EHS undertake respectively, the issue of these authorisations on behalf of the Secretary of State.

## TEMPORARY EXCLUSION ZONES AND TEMPORARY DANGER AREAS

### Introduction

F.1 This appendix contains information on the establishment and effect of temporary exclusion zones and temporary danger areas.

### Temporary exclusion zones

#### Legal basis

F.2 Section 100A of the 1995 Act provides powers to establish TEZs<sup>36</sup>.

#### Purpose

F.3 Section 100A enables the Secretary of State to declare a Temporary Exclusion Zone (TEZ) to promote maritime safety or protecting the marine environment.

### When can we designate a TEZ?

#### A relevant casualty must be wrecked, damaged or in distress

F.4 Section 100A(1) provides power for the Secretary of State to designate a TEZ around a “ship, structure or other thing”. It refers to this as the “relevant casualty”. (However, the use of the term “casualty” does not add to the meaning or connotation of the powers). The phrase “ship, structure or other thing” is very wide and could include, for example, offshore oil and gas installations.

F.5 The powers to designate a TEZ can only be exercised if the relevant casualty is “wrecked, damaged or in distress”. The 1995 Act contains no definition of the term “distress”. Legal advice suggests that we could consider a casualty to be “in distress” if there were an imminent risk of it being wrecked or damaged. However, the casualty must actually be in distress. There is no power to anticipate.

F.6 Whether or not a casualty is in danger is an objective matter. The decision is for the Secretary of State to make. It is not sufficient for the master or owner of the casualty to declare that the casualty is in danger.

#### The TEZ must prevent or reduce a threat of significant harm

F.7 Section 100A(2) provides that the Secretary of State must also be satisfied that the incident meets two further criteria.

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<sup>36</sup> Section 1 of the 1997 Act inserted sections 100A and 100B.

F.8 First, it must appear that “significant harm” will or may occur as a (direct or indirect) result of the relevant casualty being wrecked, damaged or in distress. Significant<sup>37</sup> harm means either:

- significant pollution in the UK, the UK’s territorial sea or in the UK pollution control zone; or
- significant damage to persons or property.

F.9 Second, it must appear that restricting access to the area around the casualty by way of a TEZ would prevent or reduce significant harm or the risk of such harm.

#### Size, location and duration of TEZ

F.10 The Act does not specify the size, location or duration of the TEZ. However: we can only exercise the powers to designate a TEZ if the relevant casualty is within the UK’s territorial sea or pollution control zone;

- a TEZ cannot include waters beyond the pollution control zone;
- a TEZ must not be larger than is necessary to prevent or reduce significant harm or the risk of such harm. The Secretary of State must vary the zone accordingly if it appears that this is the case; and
- the Secretary of State must revoke a TEZ should it appear that there is no longer a need for it to prevent significant harm or the risk of significant harm.

#### Establishment of a TEZ

F.11 The Secretary of State establishes a TEZ by giving a direction. As soon as practicable, the Secretary of State should promulgate the direction via a RCC or in such a manner as to bring it to the attention of persons it is likely to affect. Within 24 hours of giving the direction, the Secretary of State must send a copy to the International Maritime Organization.

#### Which ships may we exclude from a TEZ?

F.12 Section 100B(4) provides that a ship may enter or remain within a TEZ if:

- the direction establishing the zone permits it to do so;
- the Secretary of State gives his consent; or
- this is in accordance with regulations made by the Secretary of State.

F.13 Apart from these ships, section 100B(1) provides that no ship may enter or remain in a TEZ if the direction establishing the zone contains a particular statement. This is a statement to the effect that the purpose of the direction is to prevent or reduce significant pollution or the risk of such pollution within the UK’s territorial sea or pollution control zone.

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<sup>37</sup> Sections 100A and 100B do not define the term “significant”. The question whether the harm is significant should be a subjective decision based on the circumstances of the incident.

- F.14 Section 100B(3) provides that, if the direction does not contain such a statement, no ship may enter or remain in any parts of a TEZ that are within the UK's territorial sea. UK ships may not enter or remain in any part of the zone<sup>38</sup>.
- F.15 However, foreign ships may enter part of a TEZ within the UK's territorial sea if they are exercising the right of transit passage through straits used for international navigation.<sup>39</sup>

### **Temporary danger area (TDA)**

- F.16 A marine incident may generate considerable aircraft movement in a limited area. The RCC as an Emergency Controlling Authority (ECA) may seek to inhibit flight in the vicinity of an emergency incident if it is considered essential for the safety of life or property and particularly for the protection of those engaged in the response action. The RCC contacts the MOD Aeronautical Co-ordination Centre (ARCC) and requests an Emergency Restriction of Flying Regulations. The ARCC refers the request to the National Air Traffic Services, who have the authority to establish the restriction.
- F.17 Depending on the nature of the incident the initial action is normally the establishment of a Temporary Danger Area (TDA) notified by Notice to Airmen (NOTAM). However, if a TDA fails to meet the objective or is deemed to be inappropriate for a particular incident, Emergency Restrictions of Flying Regulations may be introduced. The Regulations make it an offence to fly within the designated Temporary Restricted Area without permission of the appropriate ECA. Notification of the coming into force of the Emergency restriction of Flying Regulations and details of the Temporary Restricted Area are made by NOTAM and at the same time any previously established TDA is withdrawn.
- F.18 The ECA is the only authority which may grant permission for aircraft to be flown within the notified airspace. Subject to overriding considerations of safety, flights by aircraft directly associated with the emergency are invariably given priority over those seeking to overfly for any other reason.

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<sup>38</sup> Section 100B(3) takes account of the fact that, in accordance with the law of the sea, if a TEZ is not established to prevent or reduce pollution, foreign ships may not be excluded from any part of the zone that lies outside territorial waters.

<sup>39</sup> Again, this a requirement of the international law of the sea (as reflected in Article 38(1) of UNCLOS).

## SALVAGE: DETAILS OF OPERATIONS

### Introduction

- G.1 Following almost all serious incidents, and all prevention tactics having failed, the shipowner engages commercial salvors to deal with the casualty and secure the cargo, and bunkers and any other pollutants. At an early stage, the RCC instructs the salvor or as appropriate, the master or owner of the vessel, or a harbour master requiring them to give detailed information on their intentions. The SOSREP needs to assess whether the salvor has the capability in terms of experience, personnel and equipment to carry out the salvage operation. If the SOSREP is satisfied that the appointed salvor is capable, the salvor is regarded as being in command of the salvage operations. If the SOSREP is not satisfied that the salvor is capable then the SOSREP persuades, or directs, the owner or master of the casualty to engage alternative or additional salvors. The initial salvage options may include firefighting, counter-flooding, internal transfers, other actions to stabilise the ship, and perhaps emergency towing to bring the casualty to calmer waters or a place of refuge.
- G.2 Subsequent salvage actions may involve cargo and bunker transfer operations, diving operations, beaching the casualty or grounding it in shallow water and patching or filling holes. If a ship has grounded salvors may attempt to refloat it, using tugs and perhaps by pressurising flooded tanks or compartments with air to increase buoyancy. In exceptional cases when the salvage of the ship is not practicable, an appropriate course of action – which minimises the risk of harm to persons or property and the risk of pollution – is taken.

### Emergency towing arrangements

- G.3 Where there is a serious risk of harm to persons or property, or a significant risk of pollution, it may be necessary to initiate emergency towing arrangements. Such arrangements should be unambiguous, agreed by all parties where possible, and activated as swiftly as practicable. Standard operational procedures should apply irrespective of whether an Emergency Towing Vessel (ETV) is under charter to MCA, tasked from appropriate local harbour resources, is a salvage tug of opportunity or is a vessel chartered under the CAST Agreement (see G.6 below).

#### Emergency towing requirement – considerations

- G.4 It is difficult to establish strict or prescriptive criteria for when to use an ETV. Individual circumstances must dictate the appropriate response.

#### Present emergency towing arrangements

- G.5 Each RCC holds comprehensive databases of harbour tugs available locally and contact details. Equally, procedures are in place with Brokers and

Lloyd's Ship Informer Service to quickly obtain information on towing vessels that may be able to respond. Coastguard Instructions<sup>40</sup> contain operational instructions for RCCs to activate a response from such vessels.

#### CAST agreement (Coastguard Agreement on Salvage and Towage)

G.6 MCA has a framework agreement with the British Tugowners Association (BTA) for emergency chartering arrangements for harbour tugs. The agreement covers activation, contractual arrangements, liabilities and operational procedures, should MCA request assistance from any local harbour tug as part of the response to an incident. Modern harbour tugs are often capable of providing an effective emergency service in all but the worst weather conditions, and to the largest vessels. The UK towage industry has invested heavily over recent years in powerful omni-directional tugs typically of over 50 tonnes bollard pull and with fire-fighting capability. Where weather conditions or size of casualty restrict their use, such tugs can also perform a useful role in providing "first aid" prior to the arrival of an ETV or other more suitable vessel.

#### ETVs under contract to MCA

G.7 MCA charters four ETVs to provide emergency towing cover all year round in the four areas adjudged to pose the highest risk of a marine accident: the Dover Strait (under an Anglo French agreement), the Minches, the Western Approaches and the Fair Isle Channel. All four charters require the immediate availability of adequate salvage resources and back-up should an incident deteriorate. MCA delegates the operational tasking of ETVs to RCC areas.

#### Financial policy for ETVs

G.8 MCA funds the contract ETVs. However, as part of the charter agreement, and at the discretion of MCA, any ETV may undertake such commercial towage as a shipowner and the ETV operator may agree. Any such 'hire' agreement benefits both the ETV operator and MCA. Any award or contractual charges made (agreed on a percentage basis in the charterparty) offset the capital expenditure of the charterparty. Equally, any local harbour tug tasked initially by an RCC is de facto under contract. MCA must therefore fund it. Where necessary and appropriate, MCA will seek to recoup its costs.

G.9 The CAST agreement provides for any subsequent commercial agreement made between a shipowner and a tug operator to offset any potential cost to MCA for the initial charter of the tug.

### **Places of Refuge**

G.10 Except in the most severe incident, a ship is likely to retain some of its cargo, bunkers and other pollutants. It may be desirable to carry out a cargo and bunker transfer operation from the stricken ship to prevent or minimise further spills. It may help to move the ship to a more sheltered area, such as a port or oil terminal.

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<sup>40</sup> CG3, Volume VII Section 4.5.3

- G.11 A place of refuge means a place where a ship in need of assistance can take action to enable it to stabilise its condition and reduce the hazards to navigation, and to protect human life and the environment. IMO Resolution A.949(23) Guidelines on Places of Refuge for Ships in Need of Assistance provides further information and guidance.
- G.12 There are some 800 ports and harbours in the UK Pollution Control Zone. All of these may be suitable to provide a place of refuge. This is in addition to bays and anchorages. It is unwise pre-emptively to rule anywhere in, or out, as a potential place of refuge. The choice of a location as a place of refuge is driven by the circumstances of the incident, including such event-specific data as the weather, the geographical whereabouts of the incident and the type of threat posed by the vessel and its cargo.
- G.13 The UK has compiled a partial inventory of possible places of refuge using different criteria for both anchorages and ports/harbours. The inventory is not, and does not set out to be, exhaustive, but provides a clear reference point for Counter Pollution and Salvage Officers tasked with providing a place of refuge for a ship in danger. The inventory is used in conjunction with parameters determined on the day. A case by case assessment is made as to the suitability of the location for a place of refuge to accommodate a ship in need of assistance.
- G.14 It is safer to carry out cargo and bunker transfer operations in sheltered areas. However, the decision to use an area moves the risk of pollution to an area that the incident might otherwise not have affected. The SOSREP considers carefully whether to use a sheltered area as a place of refuge and, if so, which to select. The SOSREP has in mind that time may be short and the damaged ship may not be in a condition to travel very far.

### **Firefighting at sea**

- G.15 From 1 April 2006<sup>41</sup>, most of the identified 15 local authority fire and rescue services in the United Kingdom provide a Maritime Incident Response Group (MIRG). These teams are trained and equipped to assist vessels in UK waters, boarding them via boats or helicopters. They provide a rapid, emergency response to fires and other incidents, including those involving hazardous and noxious substances. The MIRG is co-ordinated by a RCC.
- G.16 In addition, firefighting may be available afloat, whether from ETVs or from firefighting harbour tugs whose details are included in databases maintained by the RCCs.

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<sup>41</sup> The last two Services are scheduled to be ready by 1 October 2006

### **Emergency cargo and bunker transfer operations (STS operations)**

- G.17 MCA has a substantial holding of emergency transfer equipment for use in off-loading oil or hazardous substances from a damaged or disabled ship. This ensures that there is suitable equipment available in the UK for emergency cargo and bunker transfer operations. These resources are used in conjunction with commercial STS cargo transfer operators. In the future there will be controlling legislation for routine STS transfer operations in UK waters.
- G.18 The equipment includes pumps, power packs, hoses, fenders, communications equipment, protective clothing, breathing apparatus, and inert gas generators.
- G.19 Contractors maintain the equipment in a state of readiness. They stow first reaction packages for transfer operations and dispatch them by road within two hours of call out.
- G.20 Only MCA Counter Pollution and Response Branch staff have the authority to call out the equipment. Before making any call out, they check that the salvors cannot readily obtain suitable and sufficient equipment from commercial sources.
- G.21 MCA may need to lift equipment by air to the deck of a damaged ship, using either commercial companies or an MOD search and rescue helicopter on repayment terms (operational commitments permitting). When MCA uses military assets, it consults the Ministry of Defence (MOD), through the Chief of Defence Staff Duty Officer, about the most suitable airfield from which to lift equipment by air. MCA provides details of the equipment to lift: weights and dimensions of the equipment, especially of the heaviest item; the position of the casualty; and the estimated time of arrival of the equipment by road.

## **COUNTER POLLUTION OPERATIONS AT SEA**

### **Introduction**

- H.1 All ships carry oil as fuel. Some carry oil as cargo. So all shipping accidents create a risk of oil pollution. Offshore oil and gas operations also create a risk of oil pollution.
- H.2 Many ships carry hazardous substances other than oil as cargo. Some carry just one hazardous substance. Others carry many hazardous substances in separate tanks or containers. A single incident may therefore require a response to more than one form of pollution.
- H.3 The MCA CPR Branch forms a Marine Response Centre (MRC) at the scene of the incident to manage at-sea and aerial activities, as outlined in Section 6 of this Plan. This response Centre has three operational cells; aerial, at sea and logistics/finance. The MRC is headed by the MCA Deputy Director of Operations or the Head of CPR Branch. If activities are centred around a port area, it is likely that the MRC will merge with the harbour authority Tier 2 contracted responder.
- H.4 This appendix summarises the response options for different forms of marine pollution.

### **Oil**

#### Minor oil spills

- H.5 MCA receives many reports of sightings of pollution at sea. Often the sightings are of oil pollution with no identified source. The oil may have entered the sea during an operational discharge or because a storm disturbed a wreck. When a small amount of oil is involved, counter pollution operations are neither practical nor necessary. Instead, MCA allows the oil to disperse naturally.

#### Major oil spills

- H.6 MCA responds to a major oil spill at sea in several different ways. However, the aim of any response is always to minimise the damage that the oil could cause. MCA tailors its response to each incident, consulting others as set out elsewhere in this plan.
- H.7 MCA's response to a major oil spill may be:
- to assess and to monitor, allowing the oil to evaporate and degrade naturally;
  - to initiate dispersant spraying operations; and/or
  - to initiate mechanical oil recovery operations.

- H.8 All techniques for cleaning up oil pollution at sea have limitations. The distance of the casualty from shore, the type of oil, weather conditions, currents, and the time taken for resources to reach the scene can significantly affect the effectiveness of different techniques. MCA therefore carefully evaluates the circumstances of each incident before mobilising equipment or other resources.
- H.9 The most desirable option is to recover the oil from the surface of the sea. This prevents it from reaching the shoreline, reduces the possibility of damage to biological and other resources at sea and in the coastal zone, and avoids the high cost of removing oily material from the shore. In practice, however, oil recovery at sea is never fully effective.
- H.10 Fluid oils spilt at sea spread rapidly to cover large areas. Evaporation causes a reduction in total volume, accompanied by an increase in viscosity. Some oils may form water-in-oil emulsions. These increase the viscosity and volume of the oily material, preventing effective treatment with dispersants and increasing the difficulty of mechanical recovery. With other oils, natural dispersion reduces the amount of oil on the sea surface. The rate at which these processes occur depends on oil type and weather conditions.

#### Monitoring oil movement

- H.11 Wind and currents cause any oil remaining on the surface of the sea to drift. Computer models can predict its movement. MCA, operating from the MRC, uses these models, advice from the Environment Group, and environmental sensitivity maps to assess the risk to resources threatened by an oil spill.
- H.12 If the oil is drifting, away from sensitive resources, there may be no need to initiate active response measures. However, MCA continues to monitor the movement of the spill, because the wind direction can change rapidly. It initiates active response measures if the oil starts to move towards a sensitive resource.
- H.13 During incidents, surveillance aircraft monitor the movement of oil and use remote sensing equipment to estimate the location of the greatest concentration of surface oil. Fixed-wing aircraft or helicopters survey the shoreline to assess the degree of oiling. Where possible, their crews take photographs and make recordings.

#### Satellite Surveillance

- H.14 The United Kingdom is committed to augment its aerial surveillance programmes to provide a deterrent against discharges of marine pollution into the UK Pollution Control Zone by using synthetic aperture radar satellites. Using a combination of European Space Agency and Canadian satellites working in partnership with other EU member states enhances and complements more traditional aerial surveillance activities. For a major marine pollution incident where satellite imagery may be required this can be activated via the 24 hour Marine Information Centre, Civil Protection Mechanism, DG Environment, Brussels.

### Dispersant spraying operations

- H.15 While many oil recovery systems are available, all suffer limitations in the sea conditions often prevalent around the UK shoreline. It may take days to move them to the scene of an incident. The use of dispersants is often a more effective response to oil pollution in the turbulent seas around the UK.
- H.16 It is a statutory requirement to obtain specific approval from the licensing authority for any use of oil treatment products in water depths of less than 20 metres, or within one nautical mile of any such area. If the use of such products is to take place in deeper waters, the licensing authorities wish to be consulted beforehand except under force majeure conditions (for example, if human life is at risk). MCA normally initiates dispersant spraying only if this statutory requirement is satisfied, dispersant spraying is likely to be effective, and either:
- the Environment Group advises that there is a significant threat of damage to birds, marine life, ecologically sensitive areas, or amenity beaches; or
  - an offshore operator considers it necessary for safety reasons.
- H.17 Should the MRC decide not to follow the advice of the Environment Group, it must record the reasons for this, and circulate the record to all other response centres as soon as possible.
- H.18 MCA balances the likelihood of dispersant spraying being effective against its environmental consequences and cost. While dispersant spraying removes the problem of disposing of waste oil recovered on shore, dispersed oil may remain in the marine environment for a considerable time.
- H.19 Dispersant spraying is most effective if carried out as soon as possible after an oil spill. Research findings provide important guidance on the likely effectiveness of dispersants. They show that the time available for spraying oils that are amenable to dispersants is limited and depends on the type of oil and the weather conditions. Aerial spraying resources should therefore be alerted quickly when spraying missions are anticipated and an early decision should be made on whether and where to spray.
- H.20 MCA uses information gained from aerial surveys to assess the effectiveness of the response operation, including aerial spraying, and to inform future operational decisions. Monitoring sub-surface oil concentrations from a suitably equipped ship is a more definitive indicator of dispersant performance than visual observation. MCA CPR branch mobilises such equipment wherever possible.

### Aerial spraying operations

- H.21 MCA has a contract for dedicated dispersant spraying aircraft with spray-monitoring systems. They deliver dispersant under the direct control of surveillance aircraft to ensure the strict observation of geographical or other limits on spraying.

August 2006

H.22 MCA stores stocks of dispersant at selected sites at or near airfields. It may charter other aircraft and helicopters in the UK capable of carrying out aerial spraying of dispersants.

#### Shipborne spraying operations

H.23 Ships can provide support for operations in harbour or coastal waters or in waters at the limit of the operating range of aerial spraying aircraft. Such ships are particularly useful in maintaining a permanent response if there is an imminent threat of a spill or a continuous release of oil.

H.24 MCA also has stocks of portable sets of spray equipment for deployment on ships of opportunity.

H.25 Wherever possible, MCA's remote sensing aircraft direct and control shipborne spraying operations to ensure maximum effectiveness.

#### Oil recovery operations

H.26 The recovery of spilled oil from the surface of the sea causes the least damage to the environment. There is a wide range of systems available. These generally consist of a boom to collect or contain the spilled oil and a skimmer to pick up the oil.

H.27 MCA has several types of mechanical recovery equipment available to fit to ships of opportunity.

H.28 When deploying oil recovery equipment MCA considers the following issues:

- As the equipment is shipborne, it takes time to arrive at the spill. Therefore, when the weather and other circumstances of a spill indicate that recovery of oil at sea will be effective, MCA mobilises and deploys equipment as quickly as possible. This minimises the weathering and spread of the oil.
- Wind strength, wave height and currents greatly affect the effectiveness of booms. Most systems are unable to operate effectively if the sea is more than moderately rough. The nature of the oil and the extent to which it has weathered or formed a mousse can also impede oil recovery. MCA selects the booming system to suit the prevailing conditions. It selects the recovery equipment that is most effective on the type and condition of oil encountered. It also identifies suitably trained and experienced operators familiar with the various recovery techniques and the safe handling and disposal of recovered oil.
- Locating the skimmer in the thickest part of the slick maximises the rate of oil recovery. In a continuous spill, therefore, the skimming device should be close to the release point, as this is where the oil is thickest.
- The appropriate environmental regulator, i.e. EA, SEPA, EHS etc, need to plan carefully for the final transfer and shore disposal of recovered oil.

H.29 Taking these factors into account, MCA uses mechanical recovery equipment from:

- MCA stockpiles;
- the commercial sector; and / or
- neighbouring States, under standing international agreements.

#### Cleaning of oil recovery equipment

H.30 It may be appropriate to establish a centralised cleaning station to deal with equipment used in oil recovery operations at sea and on the shoreline. MCA discusses the design, location, and operation of such a cleaning station with the EA, SEPA or EHS, as appropriate, and the Technical Team in the SRC and the Environment Group. These discussions include consideration of location, capacity, health and safety, waste disposal and support facilities.

#### In situ burning

H.31 The purpose of in situ burning is to remove oil from the surface of the sea through combustion. If successful, only a small fraction of the original volume of oil remains as a residue. The rest of the oil enters the air column in the form of particulates and gases contained within a discharge plume.

H.32 In situ burning is not a viable option in the turbulent waters around the UK. It is not government policy. This appendix mentions it for reference purposes only. Any change in policy would require in depth consultation, particularly on the threat to human health and to fishing, shellfish, agriculture and the environment as a whole.

### **Other hazardous substances**

#### Responsibilities

H.33 The table below contains a list of organisations that are likely to become involved in responding to incidents involving hazardous substances other than oil, and sets out their responsibilities.

<b>Organisation</b>	<b>Responsibilities</b>
Fire and rescue services	To inspect, contain and make safe suspect containers. To provide hazchem data to responders. To notify the Environment Agency, SEPA or EHS (depending on location) and relevant local authorities if they consider that there is a threat to human health or to the environment.
Local authorities	To remove containers that have come ashore in consultation with fire and rescue services. To store and dispose of hazardous substances in the appropriate manner. To inform the MCA RCC and the Receiver of Wreck.

Organisation	Responsibilities
Environment Agency SEPA EHS	To provide advice to local authorities on environmental issues associated with hazardous substances. To provide advice on the handling, storage and disposal of hazardous substances.
MCA, RCCs	To receive reports of hazardous substances and containers lost at sea and found on the shoreline. To receive reports on hazardous substances and containers washed up on the shoreline. To inform the duty counter pollution and salvage officer. To activate the MIRG. To co-ordinate communications with a casualty.
MCA, Dover RCC	To provide information on ships' cargoes by accessing the database of notifications from the operators of ships carrying dangerous and polluting goods.
MCA, Counter Pollution and Response Branch	To assimilate information on incidents and take initial steps such as alerting the Hazardous and Noxious Substance Response Team (HNSRT). To disseminate information received to local authorities that MCA consider to be under threat. To inform the appropriate fisheries department. To inform HPA if there is a potential risk to public health.

H.34 Scientific, Technical and Operational (STOp) Notice 5/98 "A national framework for dealing with hazardous containers washed up on the UK shoreline" provides further information.

#### Container ships

H.35 The twenty-foot equivalent unit (TEU) fitted with doors and a hard top is the most common type of container. However, there are other types, including half-heights, open tops, flats, tanks, and out of gauge units. If an open top or half height container breaks free, there is an immediate risk of pollution. The seriousness of the risk depends upon the type of cargo carried.

H.36 A conventional hard-topped TEU fitted with doors is less likely to break open and spill its contents. If the container remains intact, nobody should open it before identifying its contents identified from the cargo manifest. If the cargo is hazardous, responders should take appropriate safety precautions before opening it.

H.37 International Standards Organisation (ISO) tank containers present a unique problem. Responders cannot know the integrity of the unit and its valves. If there is a risk that tanks contain hazardous materials, air and water monitoring must take place before attempting to approach or remove the tank.

#### **MCA Response to Lost Packaged Goods (including containers)**

H.38 Such goods can be at sea, within a port area or stranded on the shoreline. The initial risk assessment is carried out by the Watch Manager at the RCC. An assessment is made to determine whether the goods are a danger to navigation and/or a threat of pollution. The duty CPSO is contacted as required and appropriate remedial action taken. The MCA Receiver of Wreck is also contacted.

### **Other types of pollution**

H.39 Other hazardous substances include any substance liable to create a hazard to human health, the environment, the economy or the security of any place in the UK. The response to such hazards is similar to that outlined in paragraph H.36 above.

### **Identifying the Substances Involved**

H.40 The rapid identification of the hazardous substances involved is vital. The response required, including the treatment of casualties, is different depending on the different hazardous substances identified. De-contamination procedures and choice of protective clothing may also vary.

### **Radioactive materials**

H.41 MCA's response to an incident involving a ship carrying radioactive materials generally follows the same principles as its response to any other pollution incident. However, if a ship operated by British Nuclear Fuels plc or by one of its subsidiaries, such as, Pacific Nuclear Transport Limited, is involved in an incident, the special arrangements agreed between the MCA and those companies apply.

H.42 Radioactive Material Transport, Dangerous Goods Division (DGD) in DfT is the UK's Competent Authority responsible for approving package designs for the transport of radioactive materials. Packages containing radioactive material are designed to demanding international standards. DGD maintains expertise in package design and development and should be informed in the event of any incident involving the transport of radioactive materials.

### **Resources and sources of advice available to MCA**

H.43 MCA uses the following resources and sources of advice to assess and contain the risks arising from an incident involving hazardous substances:

- its own counter pollution staff;
- computer-based risk assessment and response models;
- MCA surveyors with relevant expertise;
- a contracted Hazardous and Noxious Substance Response Team of suitably qualified people who can confidently board any ship and whose skills allow them

to stabilise and then rectify any marine incident that involves non radioactive hazardous and noxious substances carried by ships. This team operates the specialist chemical response equipment owned by the MCA;

- the MIRG
- the National Chemical Emergency Centre
- the Environment Group
- the Laboratory of the Government Chemist
- the Health Protection Agency
- the Health and Safety Executive
- the Chemical Industries Association
- the National Poisons Information Service
- the Chamber of Shipping
- the Government Decontamination Service (GDS)
- the environmental regulators; EA, SEPA and DOENI
- fire and rescue services, including MIRG;
- local health authority for environmental health advice on potential risks to human health; and
- Radioactive Material Transport Division, Dangerous Goods Division (DGD) in DfT and organisations listed in the directory of UK people concerned with the transport of radioactive materials (“the pink book”)<sup>42</sup>.

### Response on shore

H.44 In 1974, local authority associations agreed that shoreline county councils would extend their oil spill contingency plans, in consultation with district councils, to cover emergencies arising from hazardous substances washed ashore. EHS deals with hazardous substances washed ashore in Northern Ireland.

H.45 Once alerted, the emergency services need to consider the control and co-ordination requirements of the incident. Where hazardous substances have been released, the senior fire and rescue service officer is responsible for managing the hazard area. The senior police officer present is responsible for co-ordination of the incident.

H.46 When a significant land-based incident occurs the police appoint a Tactical<sup>43</sup> level incident manager, known as the Police Incident Commander. This officer is located at or close to the scene of the incident and has responsibility for co-ordinating the incident response and arranging, and chairing, regular inter-agency ‘tactical’ meetings.

H.47 In order to achieve an integrated response to the incident each agency represented at the scene, including local authorities, appoints their own

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<sup>42</sup> The Pink Book is a free publication sponsored by the Transport Container Standardisation Committee (TCSC) which lists the names and contact details of people in the UK concerned with the transport of radioactive materials. Copies are available from Mr Neil Carr, Technical Secretary TCSC Tel: 01235 825429, email: [neil.carr@tcsc.org.uk](mailto:neil.carr@tcsc.org.uk)

<sup>43</sup> In some organisations, strategic, tactical and operational may be referred to as gold, silver and bronze

'Tactical' representative. Each of the Tactical representatives is responsible for tailoring their own response plans to the incident, and any resources they have attached to it, to interface with the plans of the others. Co-ordination of the response to these plans occurs at the Tactical inter-agency meetings. Tactical representatives also maintain communication links with their own agency/authority.

- H.48 Each agency appoints its own operational (bronze) managers who are responsible for a specific part of the operational response to the incident. These operational managers report to the Tactical manager.
- H.49 In exceptional circumstances one or more agencies may find it necessary to implement a Strategic level of management. Where the incident is of such a scale or significance that a strategic overview is required then the Police normally establish and chair a Strategic Coordinating Group attended by the appropriate representatives from all necessary bodies. This Strategic group will formulate a policy framework within which Tactical managers will work.
- H.50 The bodies who may be represented at both Tactical and Strategic level include:
- Police;
  - Fire and Rescue Services;
  - Ambulance Trusts;
  - Maritime and Coastguard Agency;
  - Environment Agency or Scottish Environment Protection Agency or EHS
  - Health authorities;
  - Health & Safety Executive;
  - Local authority;
  - Military liaison; and
  - Other services as appropriate.
- H.51 Where such management structures are put in place for a maritime incident, then effective liaison with the SRC is essential. Plans should include arrangements to provide liaison officers in each location. Consideration should also be given to co-location where appropriate.
- H.52 Local major incident plans contain details of the control structure for the response on land.

## PROCEDURE FOR APPROVAL AND TESTING OF OIL TREATMENT PRODUCTS

### Product approval and testing

- I.1 Part II of FEPA and secondary legislation<sup>44</sup> prohibit the use in UK waters of oil treatment substances unless approved by the licensing authority (Defra, SEERAD or EHS as appropriate).
- I.2 Defra acts on behalf of the other licensing authorities for the testing and approval of dispersants and other oil treatment products intended for use in UK waters. Products must pass tests for toxic effects on marine species using standard protocols developed by the Centre for Environment, Fisheries and Aquaculture Science, an executive agency of Defra.
- I.3 These tests ensure that approved products are safe for use at sea and on the shoreline. A product will pass the "Sea Test" if the relative toxicity of a mix of oil and dispersant product is no greater than the toxicity of the oil alone. A product will pass the "Rocky Shore" test if the toxicity of the sample oil is greater than the toxicity of the dispersant.
- I.4 Dispersant products must also pass the LR448 tests<sup>45</sup> for efficacy at the time of manufacture to standards set by the National Chemical Emergency Centre of AEA Technology plc.
- I.5 Periodic re-testing of stocks must take place. If stocks remain sealed in the original packaging, this must take place after ten years to ensure that they remain effective. For all other stocks, such as those poured into ships' tanks, a re-test must take place after five years. Further efficacy tests must take place at five-year intervals. A list of currently approved products is available via website :  
<http://defra.gov.uk/environment/water/marine/uk/oilspill/index.htm>

### Approval for Use

- I.6 It is also a statutory requirement to obtain specific approval from the licensing authority for any use of oil treatment products in water depths of less than 20 metres, or within one nautical mile of any such area. If the use of such products is to take place in deeper waters, the licensing authorities wish to be consulted beforehand except under force majeure conditions (for example, if human life is at risk).
- I.7 The licensing authorities will approve any appropriate use in shallow waters on a case by case basis after seeking advice from the statutory nature conservation agencies, fisheries scientists and, marine fisheries agency

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<sup>44</sup> The relevant legislation is the Deposits in the Sea (Exemptions) Order 1985, and the Deposits in the Sea (Exemptions) (Northern Ireland) Order 1995

<sup>45</sup> LR448 – see [www.defra.gov.uk/environment/water/marine/uk/oilspill/report-lr448.pdf](http://www.defra.gov.uk/environment/water/marine/uk/oilspill/report-lr448.pdf)

inspectors. Advice from these organisations will also inform any response to consultations over dispersant use in deep water.

- I.8 Some ports and oil companies have been issued with a “standing approval” to enable them to immediately use a limited amount of dispersant according to terms specified in the approval and the procedures described in their approved OPRC oil pollution contingency plan. Any use not prescribed by the Standing Approval (such as using more dispersant than approved, using dispersants on types of oil specifically excluded from the standing approval, or using dispersants in a sea area not specified) requires approval by the licensing authority on a case by case basis.
- I.9 FEPA covers the entirety of the sea, up to the tidal limits of mean high water spring tides, including estuaries and other tidal waters, tidal docks and structures covered by the tide, as well as beaches and rocky shores.

### **Further information**

- I.10 Further information is available in the following publications available on the Internet via web page:

[www.defra.gov.uk/environment/water/marine/uk/oilspill.index.htm](http://www.defra.gov.uk/environment/water/marine/uk/oilspill.index.htm):

- The Approval and Use of Oil Dispersants in the UK;
- Defra advice on dispersant use following oil spills at offshore installations;
- UK Approved Dispersants, and
- Contingency Planning for Marine Pollution Preparedness and Response – Guidelines for Ports (see MCA web)

- I.11 Enquiries can be sent to :

Marine & Waterways Division  
Department for Environment, Food and Rural Affairs  
Area 2D  
3-8 Whitehall Place  
London  
SW1A 2HH

Telephone: 0207 270 8642

E-mail: [dispersants@defra.gsi.gov.uk](mailto:dispersants@defra.gsi.gov.uk)

## **SHORELINE RESPONSE CENTRE**

### **Introduction**

J.1 This appendix contains recommendations to local authorities on the establishment of an SRC.

### **General**

J.2 The purpose of an SRC is to provide an organisation through which local authorities can discharge their responsibilities for preventing and mitigating pollution of the shoreline. The SRC should bear in mind that under international conventions, response measures and their associated costs need to be reasonable. The responsibilities of an SRC are likely to include:

- determining the extent of the problem;
- devising a strategy for dealing with it;
- co-ordinating actions within that strategy (including the recovery and reuse or final disposal of waste arising from any operation);
- monitoring progress and effectiveness; and
- liaising with the other response units involved in the same incident and briefing the media, local councillors and the public.

J.3 The coastal pollution response plan of each local authority should therefore contain provision for setting up an SRC. Local authorities may agree that another local authority will provide the SRC for their area, in which case their plan need only refer to this arrangement. The plans for the establishment of an SRC should contain arrangements:

- to enable them to act, where necessary, on behalf of more than one local authority; and
- to enable the SRC to benefit from co-operation with the MCA, statutory conservation agencies, environmental regulators, public health bodies, non-governmental organisations and any other relevant organisations.

J.4 The first local authority to receive the pollution normally establishes an SRC. It may subsequently be preferable to re-locate the SRC to another local authority as the extent or emphasis of the pollution moves to that other authority's area.

J.5 The SRC needs clear arrangements for adopting a strategy, deciding on the specific actions, establishing priorities between actions, and authorising the contracts and expenditure needed to give effect to those decisions. Each local authority's plan should therefore include:

- provisions for appointing the officer or officers authorised to take decisions on behalf of the authority, and laying down the framework within which they are to operate;

- provisions for enabling the relevant officers of another authority which is taking the lead on behalf of a group of authorities to act on behalf of it; and
  - arrangements for determining how to divide the costs of joint local authority action among the relevant authorities.
- J.6 Experience shows that it is helpful to organise an SRC on the basis of five functional teams.
- a management team;
  - a technical team;
  - a procurement team;
  - a media and public relations team; and
  - an information and administration team.
- J.7 The local authority normally chairs and provides administrative support to each functional team.
- J.8 The SRC seeks advice from the Environment Group established for the incident.

### **Management Team**

- J.9 The role of the Management Team is:
- to quickly determine priorities for action in protecting sensitive areas and dealing with pollution at the various polluted sites. These decisions should be disseminated as soon as possible to those inside and outside the SRC;
  - to exercise strategic management of financial expenditure;
  - to maintain a log of the policy decisions taken and ensure that all other teams keep records of policy and financial decisions.
  - to prepare regular situation reports on the conduct of operations for circulation to all interested parties (based on briefings supplied by the Technical Team);
  - to interact with elected representatives, central government, the public and the media; and
  - To make appropriate arrangements to keep affected landowners informed and, where practical, consult significant landowners. Consideration should be given to the inclusion of significant landowners in the Management Team.
- J.10 The recommended composition of the Management Team is as follows:

<b>ENGLAND</b>	<b>NORTHERN IRELAND</b>	<b>SCOTLAND</b>	<b>WALES</b>
Chair: Local authority Chief Executive or representative	Chair: EHS Director of Environmental Protection	Chair: Local authority Chief Executive or representative	Chair: Local authority Chief Executive or representative
Emergency Planning Officer	Principal Scientific Officer (Water Management Unit)	Emergency Planning Officer	Emergency Planning Officer
Oil Pollution Officer	Emergency Pollution Officer	Oil Pollution Officer	Oil Pollution Officer
Environment Group Liaison Officer	Environment Group Liaison Officer	Environment Group Liaison Officer	Environment Group Liaison Officer
MCA Scientist	MCA Scientist	MCA Scientist	MCA Scientist
Representatives of other organisations which can help with strategic issues:			
Environment Agency	Department of Agriculture and Rural Development	Scottish Environment Protection Agency	Environment Agency
Significant landowners, public and private, affected by the incident.			
The chair or the vice-chair of the various functional teams will be part of the Management Team.			
Where more than one local authority is affected, arrangements should be made to ensure that they are all adequately represented on the Management Team.			
A member of the relevant Regional Government Officer if invited by the Chair			

J.11 There should be one sub group of the Management Team – the strategy sub-group. The objective of this sub group is to provide the Management Team with an overview of short, medium and long term issues to be addressed as the response evolves. The group identifies the short , medium and longer term issues for each of the functional teams to consider. They draw up a matrix identifying significant and potentially significant issues for the SRC response strategy as a whole, but especially for the Management Team to consider. Time frames for the issues could be: next one to three days; three to day days and beyond ten days.

### Technical Team

J.12 Reporting to the Management Team, the Technical Team is responsible for dealing with the conduct of operations by:

- determining a reasonable strategy for dealing with pollution at the various locations (to achieve this, close liaison with the Environment Group is essential);
- allocating resources on a priority basis determined by the Management Team;

- informing the Management Team of any resource shortfalls;
- allocating contractors to specific tasks as determined by the Management Team;
- transmitting decisions to local forward control centres;
- monitoring the progress of operations; and
- to inform or consult affected landowners in accordance with the Management Team's policy.

J.13 The Technical Team comprises representatives of:

- MCA (scientific/technical officer);
- local authority (or EHS Deputy Emergency Pollution Officer for Northern Ireland) having expertise in:
  - technical and engineering services (or EHS, Scientific Staff),
  - waste management (or EHS Waste Management and Contaminated Land Unit),
  - health and safety (and local Environmental Health (rivers) Officer in Northern Ireland), and
  - administrative support, particularly minute taking;
- local authority liaison officers;
- Environment Group (Environment Liaison Officer (ELO)) (most likely the same individual as the ELO on Management Team);
- EA (for England and Wales) or SEPA (for Scotland);
- police (to assist in route planning, traffic control, possible road closure, etc);
- Coastguard to provide local knowledge (for example, access to beaches, knowledge of local tides); and
- representatives of other (statutory) organisations as appropriate

J.14 To enable the Technical Team to manage its many tasks, there should be three sub-groups:

August 2006

- a waste management sub-group: to prepare a plan for temporary storage of collected waste and manage the final disposal options<sup>46</sup>;
- a health and safety sub-group: to ensure that proper health and safety procedures are in place and that Beach Masters are properly briefed in these matters; and
- a booming / equipment sub group

J.15 The Technical Team must obtain a daily progress report from all Beach Masters. They should then review their plan and submit any revisions to the Management Team.

### **Procurement Team**

J.16 Reporting to the Technical Team, and working to them on allocated tasks, this team is responsible for:

- procuring, marshalling and routing equipment to designated areas. However, where MCA is to pay for resources, its prior agreement is necessary;
- monitoring expenditure made on behalf of county, unitary, and district councils during the incident;
- collating invoices with expenditure;
- supporting claims for compensation;
- providing the Management Team with a summary of expenditure on request;
- monitoring the levels of deployed resources at the various locations;
- recovering or re-deploying resources as they become surplus to requirements at the various sites; and
- informing the Technical Team of any resource shortfalls.

### **Media and Public Relations Team**

J.17 The team should consist of local authority press officers together with an MCA information/public relations officer.

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<sup>46</sup> In England and Wales, EA and, in Scotland, SEPA will have a role to play in regulating sites for temporary storage and treatment and where appropriate, ensuring speedy licensing or registration of exemptions of appropriate waste recycling or disposal facilities.

- J.18 The Media and Public Relations Team (MAPRT) are responsible for:
- preparing media briefings in consultation with the Management Team;
  - arranging media interviews in consultation with the members of the Management Team;
  - managing the media briefing room, established outside the confines of the SRC; and
  - ensuring that the briefing room supplies regular media briefing notices.
- J.19 A public help-line may be established, depending on the circumstances and scale of the incident, to handle calls from the public. The decision to set up a help-line will be taken by the Management Team and responsibility for putting it in place will rest with the MAPRT. It is unlikely that the MAPRT will have the resources to staff such a help-line and it is recommended that appropriately trained call-handlers be provided from a separate source. Consideration should be given as to whether local members of the voluntary sector could be utilised for this task.
- J.20 Call-handlers operating the help-line should refer offers of assistance, including equipment and products, to the MCA's Marine Emergency Information Room in Southampton – telephone number +44 (0)23 8032 9445. Offers will then be forwarded to the appropriate response centre and copied to the MEIR in Southampton.

### **Information and Administration Team**

- J.21 The information and administration team consists of local authority staff that are responsible for the general day to day running of the SRC and the provision of administrative support to all functional teams.
- J.22 The team is responsible for:
- the dissemination of message traffic and information into, within and out of the SRC;
  - log keeping of message traffic and information into, within and out of the SRC;
  - providing and maintaining communication links within the SRC;
  - arranging appropriate IT support and resources for all functional teams;
  - detailed minute taking during the Management and Technical Team discussions;

- filing messages, minutes and records for future reference and compensation claims;
- logging and updating of information boards and operational maps; and
- providing catering and security to the SRC.

### **The involvement of other local authorities**

J.23 Where pollution affects more than one local authority, each should be represented in the SRC by an identified liaison officer. They should participate in meetings of the Management Team as necessary.

J.24 The specific tasks of the liaison officers should be:

- to maintain links with their local authorities;
- to provide information to the Technical Team concerning individual locations within their authorities (in particular, information which would affect the formulation of strategy);
- to collaborate with the Technical Team, to agree the strategy for dealing with pollution at the affected sites and the level of resources to be allocated to the various locations;
- to collaborate with the Procurement Team in procuring, marshalling and dispatching resources to the affected sites;
- to inform authorities of the agreed strategy and the resources allocated to the various affected sites;
- to arrange reception of these resources at the point of use in collaboration with the Procurement Team; and
- to monitor progress of operations within their individual authorities.

J.25 Affected ports and harbours should also provide liaison officers. The specific tasks of the liaison officers should be:

- to maintain links with their harbour authority;
- to provide information to the Technical Team concerning individual locations within their harbours (in particular, information relevant to the strategy);
- to collaborate with the Technical Team, to agree the strategy at the affected sites and the level of resources to be allocated to the various locations;

August 2006

- to collaborate with the Procurement Team in procuring, marshalling and dispatching resources to the affected sites;
- to inform their harbours of the agreed strategy and the resources allocated to the various affected sites;
- to arrange reception of these resources at the point of use in the collaboration within the Procurement Team; and
- to monitor progress of operations within their individual harbours.

## ENVIRONMENT GROUP

### Introduction

K.1 The aim of this appendix is to provide outline operational guidance to section 9 of the NCP on how to address the environmental and public health aspects of the response to a maritime incident. It describes the likely composition of the Environment Group, the procedures for establishing such a Group, and the key tasks that the Group would carry out during and after an incident.

### Terms of reference

K.2 The Environment Group has a vital role in the response to any maritime incident, particularly where there might be a threat of land, air or sea pollution involving oil and/or hazardous and noxious substances. The purpose of advice from the Group is to minimise the impact of the incident on the environment and public health in the widest sense. This type of event falls under the scope of an “emergency” under the Civil Contingencies Act Part 1 (Local Arrangements for Civil Protection) and is therefore subject to the Regulations of the Act. The Act defines “emergency” in the following manner:

“an event or situation that threatens damage to the environment only if it involves, causes or may cause:

- a. contamination of land, water or air with:
  - (i) harmful biological, chemical or radio-active matter, or
  - (ii) oil,
- b. flooding, or
- c. disruption or destruction of plant life or animal life.

K.3 Public health issues are addressed initially by the Environment Group. However, should a threat to public health be deemed significant and specialist knowledge and advice be needed then a public health officer shall be available to determine the appropriate level of response. Other agencies such as HPA may need to be involved to provide specialist public health advice.

K.4 The main function of the Group is to **provide advice** and guidance to the SOSREP, the Salvage Control Unit (SCU), the Marine Response Centre (MRC), the Shoreline Response Centre (SRC), and the command and control centre for response in a harbour (when established) and to the Operations Control Unit (OCU) (if and when established by the SOSREP) for incidents involving the offshore oil and gas industry, on all environmental and public health aspects of a pollution incident. This includes the assessment of environmental risks and potential impacts arising from an incident, as well as the implications of any clean up or salvage operations. It achieves this through:

- the appointment of an Environment Liaison Officer (ELO) for each of the response units established to deal with the incident ;
- providing advice and guidance to minimise the impact of the incident and clean up response on the environment and public health, informed by local knowledge and specific information collected;
- using all relevant environmental information and local knowledge available;
- monitoring the environment and assessing the impact of the incident and clean up response in both the short and long terms (that is, by fulfilling the role of an impact assessment group unless the extent or complexity of an incident results in a separate group being formed specifically with this task); and
- facilitating the welfare, rehabilitation or humane disposal of impacted wildlife by the RSPCA, SSPCA and the USPCA, or other agreed recognised animal welfare organisations. In the case of significant wildlife casualties there is a requirement to set up a dedicated wildlife treatment centre staffed by suitably qualified personnel. All aspects of wildlife welfare and rehabilitation from search and collection to release should follow established guidelines and procedures under the management of the recognised animal welfare body.

### **The mechanism for advice provision by the Environment Group**

K.5 Due to the need for prompt provision of environmental advice, it is recognised that much or most of the advice stemming from the Environment Group is given to the response centres verbally or by telephone. The Group provides its advice to response units through ELOs. The Group should provide its advice in a timely manner, record its advice and the rationale for it in writing. Where the response units do not accept the advice given by the Environment Group they should similarly record the reasons in writing and pass this to the Group and the heads of all other response units formed.

### **Key tasks**

K.6 The Environment Group:

- provides operational advice, including:
  - advising on potential and real impacts on public health;
  - advising on the relative importance of environmental features and wildlife at risk and their sensitivity/vulnerability to oil or other hazardous substances and related clean-up activities;
  - agreeing and prioritising environmentally sensitive sites and wildlife in need of protection;
  - ensuring that priorities of clean-up adequately reflect environmental concerns;
  - advising on the environmental implications of operational response measures and their effectiveness when implemented;
  - taking account of and seeking to resolve conflicting environmental issues and priorities within the group's remit; and

- contributing EG-appointed members to the SRC-controlled Shoreline Clean-up Assessment Teams (SCAT).
- requires a range of data, information and operational advice including:
  - human population at risk;
  - information on the distribution and seasonal status of all wildlife;
  - information on fishing grounds, spawning and nursery areas, shellfish beds and mariculture generally;
  - information on abstractions from, discharges to and uses of all waters likely to be affected;
  - real time information on wildlife, fishing activity and ecosystems in affected areas;
  - collated records of all wildlife affected by pollution (including wildlife welfare co-ordination); and
  - details of the progress and success of clean-up operations.
- advises on monitoring, including:
  - risks and acute effects to public health;
  - preparation or identification of environmental baselines against which later environmental evaluations can be compared;
  - monitoring the environmental effects of clean up operations in sensitive areas, ensuring that such activities match the strategy of the Environment Group as agreed in the relevant response centre; and
  - baseline monitoring of impact on wildlife, fisheries and sensitive sites/habitats threatened by pollution.
- initiates long-term impact assessment, including:
  - impact on human health;
  - impact on fisheries (including shell fish beds and salmon farms etc.); and
  - impact on all aspects of the natural environment.

K.7 If a situation develops where there is potential for conflict for resources between members of the SRC and the Environment Group, then efforts should be made to co-ordinate requirements thereby avoiding duplication. The Environment Group should bear in mind that under international conventions, response measures and their associated costs need to be reasonable.

### **Establishing the Environment Group**

K.8 Establishing an effective Environment Group for an incident will be best facilitated by sound contingency planning. For most of the UK coastline, Standing Environment Groups have been established in order to undertake these preparations. As a minimum, the Chair and the potential pool of ELOs should be nominated in advance, and suitable accommodation and support facilities identified. These standing groups should have links to the Local Resilience Fora (LRF) to ensure an integrated approach to the planning and response phases of such incidents.

## **Environmental Liaison Officers**

K.9 The chair nominates an Environment Liaison Officer for each of the established response centres. The chair establishes lines of communication to allow the provision of timely advice to these units. It is important that the individual ELOs appointed are fit for the task in hand. The expertise required varies with each incident and a pool of suitable nominees with a range of relevant experience, knowledge and specialism should be identified. In all incidents, the common requirement for ELOs is broad familiarity and understanding of the responsibilities and issues relating to the response centre to which they may be appointed. To ensure clarity for communication between response units and the Group, only one ELO is appointed to each response unit, though the ELOs may require relief or support by one or more deputies.

## **Membership of the Environment Group**

### Core membership

K.10 The composition of the Environment Group depends on the nature (magnitude and complexity) and location of the incident. The core membership may include representatives of the following:

- the relevant statutory nature conservation bodies: (EN, SNH, CCW or EHS, plus JNCC);
- the relevant government department with respect to fisheries and other wider maritime environmental interests (SEERAD or FRS, Defra, DARD);
- the relevant environmental regulator (EA, SEPA, or EHS);
- the local public or port health body (public health interests are represented by specialists from either the Health Protection Agency in England, the National Public Health Service in Wales, Health Protection Scotland and the Health and Social Services Boards in Northern Ireland);
- the Food Standards Agency may contribute to the process either directly or in partnership with other agencies as appropriate;
- the affected, or threatened, local authorities; and
- MCA may join the core group if deemed necessary by the Chair. The MCA, in any case, maintains close liaison with the Group in the context of overall incident management and continuity.

K.11 In addition, the core membership of the EG may include Sea Fisheries Committees, and National Park Authorities with coastlines as appropriate.

K.12 The Chair and core members decide whether to expand the Group's membership to include representatives of other organisations. The Chair and core members also decide when it is necessary to convene the Environment Group close to the scene of the incident.

### Animal welfare bodies

K.13 The Environment Group may draw members from the RSPCA, the SSPCA, or the USPCA. They take the lead in wildlife welfare and rehabilitation and co-

ordinate that work thereby avoiding any possible duplication of effort and unreasonable actions. The statutory nature conservation body alerts these bodies when live wildlife casualties are involved.

#### Other bodies

K.14 Depending on how the incident develops, the members may recommend that further environmental organisations become involved. Representatives of Non-Governmental Organisations (NGOs) may also have relevant expertise to offer the group.

#### **Assessment of Long Term Environmental Impact**

K.15 If a marine pollution incident is expected to have a significant environmental or public health impact, arrangements should be made to begin to monitor and assess the long-term impact, as well as the short to medium-term environmental impact. Therefore, in addition to providing operational advice to the response centres, the Group needs to initiate and encourage provision for the collection and evaluation of data on the environmental effects of the incident. One of the roles of the Standing Environment Groups is to record data on the pre-existing baseline conditions within their area, for use as reference points during an incident. The Environment Group needs to include a public health risk assessment.

K.16 It is recognised that some incidents result in extensive pollution of the sea and coastlines. Other incidents may result in the loss of a chemical into the sea that may not have an immediate impact but might be significantly bioaccumulated over the years, or maybe in an irrecoverable package which has the potential for bursting open. Either type of incident may require a significant monitoring and assessment programme or a long term monitoring commitment. The EG membership plays an important part in monitoring and assessment work but the process overall may be managed by an independent body set up specifically for that task at that time.

K.17 In such major or long-term incidents impact assessment projects may need to be commissioned. The appropriate Government Department or Devolved Administration responsible for environmental issues for the waters where the incident occurs take the lead in coordinating the commissioning of such work. It is necessary to link such new work with the monitoring and assessment activities, particularly so that any monitoring data required for the impact assessment projects is collected as early as possible rather than waiting for two or three months for contractors to be appointed. This data collected in the early phases of an incident, and the manner in which it was collected, is crucial to any subsequent medium and long term evaluation reports.

K.18 Therefore it may be necessary to transfer the responsibility for coordinating, monitoring and assessment work from the EG to a new separate group concentrating on coordinating Environmental Impact Assessment at an early stage.

K.19 The Environmental Impact Assessment group is charged with obtaining funding for the impact assessment, including public health, and long-term monitoring programmes. They also consider whether any existing research and development projects or monitoring work should be delayed to release scientific expertise to the impact assessment project. In a major oil cargo spill incident there is a need to involve the IOPC Fund at an early stage if any costs for this work are to be reimbursed.

### **The Environment Group links with the MRC, SCU, OCU and the SRC**

K.20 The relative length of time that individual response centres are operational varies according to the nature and scale of the incident. A major incident could involve the establishment of response centres for several months.

K.21 The Environment Group and ELOs expertise requirements vary with each incident and a pool of suitable nominees with a range of relevant experience, knowledge and specialism are identified. **Appendix G** describes the role of the SOSREP and the SCU for shipping casualties and offshore installations. **Appendix H** describes the at-sea response and the MRC.

K.22 **Appendix J** describes the establishment and operation of an SRC. It is important to co-locate the Environment Group and the SRC, where established. This enables the Environment Group to provide timely, appropriate advice to the SRC in consideration of the complexity of the situation and length of operation. To facilitate effective liaison between the Environment Group and teams within the SRC, the ELO appointed to the SRC is a member of the SRC Management Team.

K.23 The specific tasks for the Environment Group in a protracted SRC are likely to include:

- an evaluation of the relative importance of nature conservation and other environmental features at risk during an incident. This includes their sensitivity/vulnerability to oil or hazardous substances and clean up;
- establishment of agreed priorities for protection and clean up;
- provision of advice and appointment of Environment Group-appointed members to the SRC controlled multi-disciplinary Shoreline Clean up Assessment Teams (SCAT), as required;
- provision of advice on the suitability of pre-identified locations for the natural degradation of oil;
- provision of advice on whether proposed clean-up techniques are likely to cause more damage than leaving the pollution to degrade naturally. This may involve the preparation of advice for use or non-use of dispersants in specific scenarios to pass on to MCA or other responders before they formally request approval from Defra or others for the required statutory approval. The formal dispersant approval process is outside the Group's remit, those decisions are made centrally by Defra/FRS/EHS after consultation with the appropriate statutory nature conservation body;
- monitoring clean up operations in sensitive areas to ensure that clean-up operations match the strategy agreed in the SRC, and

August 2006

- ensuring the thorough documentation of all decisions and actions taken by, or on behalf of, the Environment Group.

## WORKING WITH THE MEDIA

### Introduction

- L.1 Good public communication is vital to the successful handling of any incident and should be incorporated in all contingency planning. When an incident occurs the key communications objective is to deliver accurate, clear, timely information and advice to the public.
- L.2 The news media (broadcasting, print and text services) remain the primary means of communication with the public in these circumstances although websites are increasingly used to provide a further source of more detailed information and advice for the public. Advances in technology mean that live interviews and reports can be sent directly from the scene of an incident via a mobile telephone as the event unfolds. These developments mean there is a constant requirement from the media for accurate, up to date information.
- L.3 It is essential that the media team:
- identifies the agencies who are responsible for handling various aspects of the situation;
  - ensures that media activity does not interfere with the operational activity of the emergency services; and
  - ensures that the media do not harass human casualties.
- L.4 A mechanism needs to be established early for responding to media enquiries (by telephone, e-mail and fax) and the logistics of arranging the daily press conferences, individual briefings. Media officers, from all responding bodies and organisations, have to take responsibility for these tasks, while others concentrate on the management of the information given to the media which can then be monitored or updated as the situation develops.

### Initial phase

- L.5 In the first few minutes of the incident, possibly within an hour, MCA needs to establish a local spokesperson (normally a uniformed Coastguard) to give the briefest confirmation of the incident.
- L.6 If it is clear that the situation is a very serious one and is likely to continue for some time, but MCA has not had sufficient time to assess the situation, any statements should be brief and factual. They should deal only within the areas of responsibility of the person making them. It is the responsibility of the Director/Deputy Director of Operations, or the SOSREP in a salvage incident, to agree the release of further information.
- L.7 In order to minimise the risk of issuing conflicting or misleading information to the media, and bearing in mind the necessity for fast but accurate information

and that press officers are likely to be based at the same location, all agencies should adopt the following approach:

- to inform the agreed initial lead agency press officer before giving verbal statements to the media and to restrict comments to matters concerning the agency that they represent;
- before issuing news releases, to consult with the lead agency press officer. If it proves impossible to contact the lead agency in advance (for example, due to communications difficulties) inform the lead agency as soon as possible afterwards;
- to contact those persons within their own organisation whom the media may contact, or who may wish to make statements, and to brief them on the requirement for co-ordination with the lead agency press officer;
- if and when the incident develops to a different phase (for example, coastline clean up operations) to consider making the lead agency the relevant local authority; and
- when arriving on scene, to liaise urgently with other press officers and to make contact with the lead press officer to ensure that their contact details are quickly available.

### **Crisis media team**

L.8 The crisis media team shall consist of MCA, local authority, police, port authority, and any other relevant organisations. The MCA may also consider alerting and using several Government News Network Press Officers (GNN) from the local area to supplement the MCA press office response.

L.9 MCA can put such an arrangement into place at short notice and this facility is free of charge for the first 24 hours.

### **Managing the crisis**

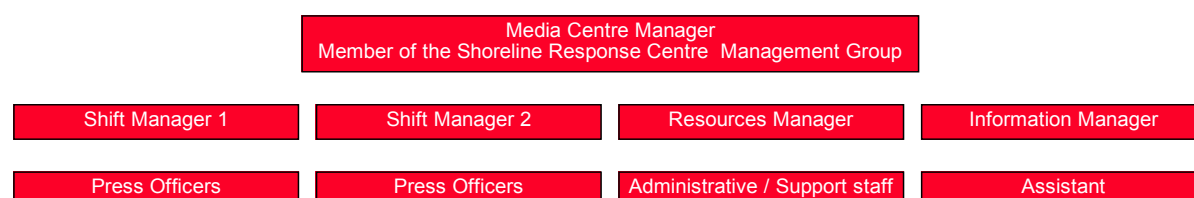
L.10 Once the lead agency has been agreed it is necessary to establish certain procedures:

- the initial focus of attention for the media will be the area of operations, and journalists will be searching immediately for information and briefings. During this initial period, when the build up of emergency services resources is taking place, the exercise of control is imperative, as a means of assisting the media;
- all interested parties need to agree joint statements. Press officers from each agency need to consult closely to ensure a coordinated approach to the media;

- it is essential that the lead press officer attends and participates in the senior management arrangements for the incident. By attending such meetings, the press officer can be fully in the picture and plan the media response. The lead press officer oversees all aspects of the media response, including:
  - activities at the media liaison point or centre;
  - arrangements for the media to visit the site, possibly including transport;
  - accreditation of bona fide journalists; and
  - arrangements for overall monitoring of media output.
  
- initially the media may need a reminder that, in the period immediately following a major incident, nobody can know precisely what has happened. Initial statements should focus on what is happening, what the limitations of knowledge are at the time, and what is being done to arrive at a fuller appreciation of the situation. If such statements include a commitment to provide accurate information as soon as it is available, media personnel are more likely to attend briefings and thus accept a measure of control, particularly if the briefings take place at regular intervals.

### Establishing a media liaison point and centre

L.11 The figure below is a stylised ‘ideal’ set up to cope with shift changes - and media pressure. This pre-supposes a long-running event that requires substantial resources.



Media Centre  
Response Centre Management Group

L.12 The suggested personnel for these positions are the Heads of Public Relations from all the agencies involved. While the emergency remains mainly at sea, MCA is the lead agency. When the emergency becomes mainly shore side, the lead switches to the relevant local authority. All managers should meet regularly and approve plans for the next, say, 12 hour basis.

L.13 Each of these Managers would have a specific area of responsibility within the Media Office.

- Media Centre Manager  
The Media Centre Manager controls and co-ordinates the media centre. The lead agency provides the Media Centre Manager.

- Shift Managers  
On the assumption that the event would be long running, it would be necessary to appoint two shift managers to run the office 24 hours a day. Responsibilities to include the preparation, approval, and distribution of press releases; management of press conferences; and briefing participants.
- Resources Manager  
It is not essential that this person is a Press Officer. The Resources Manager should be someone with knowledge and understanding of communications and systems and with the ability to deliver the support services required by a major operation of the type envisaged. The Resources Manager's responsibilities would include the logistics of press conferences.
- Information Manager  
This role is crucial for managing the flow of information between the MRC, SCU, SRC and the Media Office. The Media Centre Manager may fulfill this role, but it requires the services of reliable assistants to cover shift working and periods when the Manager is involved in other meetings.

### **Separating delivery from content**

- L.14 Monitoring and analysis of media reporting needs to take place. This should take place elsewhere; for example, by the Government media monitoring unit, or a specifically contracted commercial company.
- L.15 Monitoring and analysis enables the identification of any trends reported that begin to appear misleading or overly biased. Examples include unbalanced reporting that gives too much emphasis to special interest groups or environmental concerns; undue criticism of local or national government policy; an inaccurate assessment of the situation; exaggeration. The media team can then take corrective action and disseminate transcripts to specialists.

### **VIP visits**

- L.16 Visits by VIPs, coordinated by the police, can lift the morale of those affected, as well as those who are involved with the response. A government minister may make an early visit to the scene or areas affected, not only to mark public concern but also to be able to report to Parliament on the response. A government minister visiting the scene may also be accompanied by local MPs. This would be arranged through the Minister's Private Office. It is possible that the scale of the incident may, in addition, prompt visits by a member of the Royal Family and/or the Prime Minister. Local VIP visitors may include the Lord Lieutenant the High Sheriff, religious leaders, local MPs, mayors, chairmen and other elected representatives. If foreign nationals have been involved, their country's Ambassador, High Commissioner or other dignitaries may also want to visit key locations.

August 2006

- L.17 Visits to the scene of an emergency need to take account of the local situation and the immediate affects on the local community. It may be inappropriate for VIP visitors to go to a disaster site itself whilst rescue operations are still in progress.
- L.18 VIP visits should not interrupt rescue and life saving work, and the police must be consulted regarding the timing of visits.

## LIABILITY & COMPENSATION FOR POLLUTION DAMAGE

### Introduction

- M.1 Dealing with marine pollution, whether at sea or on the shore, can be a protracted and expensive business. Initially, the costs of clean up operations fall on the bodies incurring them.
- M.2 This appendix gives a brief description of the ways that those involved in clean up operations can later recover their costs. However, its purpose is not to provide definitive legal advice.
- M.3 The ease with which responders can obtain compensation depends upon the type and source of pollutant involved. Currently, there are five distinct cases:
- where persistent oil<sup>47</sup> carried by a tanker<sup>48</sup> causes pollution, compensation is available under an international compensation regime;
  - where persistent oil carried by any other type of ship causes pollution, there are special rules in UK legislation designed to make it easier for claimants to obtain compensation;
  - where a substance carried by a ship other than persistent oil causes pollution, claims are subject to the normal rules of civil common law;
  - where pollution is caused by an offshore installation, claims are subject to special rules imposed by the OPOL Agreement effective 1 May 1975 which satisfies the licence obligations of the operator and also provides a guarantee of payment of claims up to the amount in the Agreement (currently US\$120 million); and
  - where there is no identified source for the pollution, claimants can obtain no compensation unless they can prove that the source of the pollution was a tanker or offshore installation or pipeline.
- M.4 This appendix describes each case in more detail below.
- M.5 DfT's Shipping Policy (telephone 0207 944 5452 or 5444) can provide additional information on liability and compensation for pollution from ships. The Offshore Pollution Liability Association Limited (telephone 0208 786 3640) can provide additional information regarding offshore installations. If

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<sup>47</sup> The definition of persistent oil is highly technical. Crude oil and the heavy fuel oil used by ships are both persistent oils. Aviation fuel and petrol are non-persistent oils.

<sup>48</sup> The conventions use the term "ship". They define a "ship" as "any sea-going vessel and seaborne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo, provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard".

they are uncertain about the rules on liability and compensation that apply in a specific case, claimants should seek their own legal advice.

### **Pollution caused by persistent oil carried in tankers**

- M.6 Three international conventions establish the international compensation regime for oil pollution damage from tankers:
- the International Convention on Civil Liability for Oil Pollution Damage 1992 (the “1992 Civil Liability Convention”);
  - and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992 (the “1992 Fund Convention”); and
  - The Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (the Supplementary Fund Protocol) .
- M.7 The former convention deals with the liability of tanker owners. The second convention establishes the IOPC Fund and the protocol establishes the Supplementary Fund. The Merchant Shipping Act 1995 implements the Civil Liability and IOPC Fund Conventions in the UK<sup>49</sup>. The UK acceded to the Supplementary Protocol on 8 June 2006; it will enter into force in the UK on 8 September 2006 (see M.23).
- M.8 Under the regime, the tanker owner is strictly liable for the costs of reasonable clean up operations. Strict liability means that the claimant need not prove fault to obtain compensation. The tanker owner may escape liability only if they can prove that one of a limited number of exceptional circumstances (for example, an act of war) caused the damage.

#### Amount of compensation currently available

- M.9 Tanker owners generally have the right to limit liability to an amount determined by the gross tonnage of the tanker. This amount varies from about £3.7 million for a small tanker (gross tonnage less than 5,000) to about £72.5 million for a very large tanker (gross tonnage over 140,000). Owners must maintain insurance cover for any tanker carrying more than 2,000 tons of oil as cargo to cover their potential liabilities. Tankers must carry a State-issued certificate on board to confirm that such insurance is in place. Most tanker owners obtain this insurance through a P&I Club. The Civil Liability Convention enables claimants to make their claims directly against the insurer.
- M.10 The IOPC Fund is an intergovernmental organisation. It generally pays compensation to supplement that available from the tanker owner. In some rare cases, however, the Fund may meet all claims (for example, if the claimant cannot identify the tanker owner, or if the tanker owner has no insurance cover and is insolvent). The maximum amount of compensation

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<sup>49</sup> The relevant provisions are in Chapters III and IV in Part VI of the Merchant Shipping Act 1995.

available from the tanker owner and the IOPC Fund together is about £164 million.

- M.11 Oil pollution incidents do not only result in claims for clean up costs. There are also claims for economic losses (for example, those sustained by the fishing industry). If the total of all valid claims exceeds the total amount of compensation available, all claimants receive an equal percentage of their claims. Concerns in the early stages of an incident that this situation might arise can result in the IOPC Fund making initial payments at less than 100% of eligible claims. The Fund makes top up adjustments as the claims position becomes clearer. However, this situation is only likely to arise following major oil spills.

Types of clean up and emergency response claims covered

- M.12 Following an oil spill, the tanker owner and the IOPC Fund generally pay compensation for the cost of reasonable response measures. These might include measures taken to clean up the oil at sea, to defend sensitive resources, to clean shorelines and coastal installations and to dispose of any recovered oily debris. Claims for any consequential loss or damage caused by such measures should also be eligible for compensation. For example, if clean up measures result in damage to a road, pier or embankment, the cost of any work carried out to repair the damage should be an admissible claim.
- M.13 Admissible claims for clean up operations include the cost of personnel and the hire or purchase of equipment and materials. The cost of cleaning and repairing clean up equipment and of replacing materials consumed during the operation is also admissible. However, if the responders bought the equipment used for a particular spill, insurers and the IOPC Fund make deductions for the residual value.
- M.14 Special rules apply where public authorities clean up an oil spill using permanently employed personnel, or ships, vehicles and equipment that they own. In these circumstances, only the additional costs incurred by those authorities would normally be an admissible claim. Additional costs means expenses that arise solely because of the response to the incident and that the responders would not have incurred had the incident and related operations not taken place.
- M.15 An area of potential dispute is the extent to which authorities may also claim for fixed costs (that is, costs which would have arisen even if the incident had not occurred). These may include normal salaries for permanently employed personnel, capital costs of ships and other equipment, and the costs of maintaining specialised clean up resources on permanent standby under contract. Insurers and the IOPC Fund normally pay compensation for a reasonable proportion of such fixed costs. However, the costs must correspond closely to the clean up period in question and not include remote overhead charges.
- M.16 Compensation may be available for the costs of environmental advice. If the aim of the advice is to assist the clean up operation (for example, by helping

to identify the most appropriate response techniques in given circumstances), its costs in general qualify for compensation. However, the costs of general environmental monitoring or longer-term studies to determine the impact of a spill do not normally qualify for compensation. The only exception is when such studies concern damage that clearly falls within the definition of "pollution damage" used in the Civil Liability and Fund Conventions. Because of this distinction, it is important that those involved in the environmental aspects of a spill keep careful records that distinguish between operational activities and scientific studies. Anybody contemplating undertaking a scientific study should seek advice on the admissibility of a claim for its costs at an early stage.

- M.17 Compensation is also available in cases where there is no oil spill, if there is a grave and imminent threat that pollution damage might occur. For example, the costs of mobilising clean up resources to the site of a tanker aground on a rocky coastline in bad weather would normally be admissible, even if a successful salvage operation subsequently prevents any oil spilling.

#### Operation of the international oil pollution compensation fund (IOPC Fund)

- M.18 Any person in a State Party to the Fund Convention who receives an annual quantity of more than 150,000 tonnes of crude oil and heavy fuel oil following carriage by sea is liable to contribute to the IOPC Fund. These contributions finance compensation payments and administrative expenses. The Fund's Director issues invoices to contributors. The size of each contribution is proportional to the annual quantity of oil received. The Fund's Assembly sets a levy per tonne for each incident, based on estimates of the total amount of claims. The Assembly consists of all States Parties to the Fund Convention.

- M.19 States Parties meeting within the Assembly or Executive Committee approve the settlements of claims against the IOPC Fund. Where claims do not give rise to new points of principle and relatively small amounts are involved, however, the Director can settle claims entirely without prior approval. The secretariat of the IOPC Fund co-operates closely with the P&I club involved in an incident in handling claims and, for example, in appointing joint experts.

- M.20 The IOPC Fund has developed a series of criteria for establishing whether claims are eligible for compensation. In relation to clean up operations, the fact that a government or other public body decides to take certain measures does not automatically mean that the Fund will reimburse the cost of those measures. The essential criterion is the reasonableness of the measures, based on an assessment of the facts available at the time of the decision to take them. The Fund does not accept claims if the claimant could have foreseen that the measures taken would be ineffective in the particular circumstances of the incident. On the other hand, the fact that the measures prove to be ineffective is not in itself a reason to reject a claim for the costs incurred.

- M.21 More generally, the following criteria would apply:

- the cost of the measures should be reasonable;

August 2006

- the cost of the measures should not be disproportionate to the results achieved or the results which one could reasonably; and
- the measures should be appropriate and offer a reasonable prospect of success.

M.22 The IOPC Fund's claims manual summarises its criteria in more detail. This manual, and a general information booklet, are available from:

International Oil Pollution Compensation Fund  
Portland House  
Stag Place  
London SE1 7SR  
Tel: 020 7592 7100  
Tax: 020 7592 7111  
E-mail: [info@iopcfund.org](mailto:info@iopcfund.org)  
Web site: [www.iopcfund.org](http://www.iopcfund.org)

### **Supplementary Fund Protocol**

M.23 The Supplementary Fund Protocol was adopted at the IMO in May 2003 and establishes the Supplementary Fund. The Supplementary Fund provides an optional third tier of compensation on top of that available through the shipowner and the IOPC Fund. The Supplementary Fund provides further compensation, bringing the total amount available under the international regime to 750 million SDR, (about £611 million). The Supplementary Fund Protocol provides compensation when the total damage arising from an incident in a State Party exceeds or is expected to exceed the limit of compensation available under the 1992 Conventions.

M.24 The UK acceded to the Supplementary Fund Protocol on 8 June 2006 and it will enter into force in the UK three months from that date. The Protocol will therefore apply to persistent oil spills from tankers occurring on or after 8 September 2006.

### **Small Tanker Owners Indemnification Agreement**

M.25 Small Tanker Owners Indemnification Agreement (STOPIA) and Tanker Oil Pollution Indemnification Agreement (TOPIA) are special arrangements between certain tanker owners and the IOPC Fund and the Supplementary Fund to provide for a greater contribution to compensation by the ship owner. These agreements do not affect claimants or alter the amount of compensation payable.

### **Pollution caused by persistent oil carried in ships other than tankers**

M.26 In 2001 a diplomatic conference convened by the International Maritime Organization adopted the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (the Bunkers Convention). Under this instrument,

shipowners are strictly liable for damage arising from ships' bunker fuel<sup>50</sup> and must maintain insurance to meet their liability which is calculated in accordance with the Convention on Limitation of Liability for Maritime Claims 1976 as amended by its Protocol of 1996<sup>51</sup>. The Bunkers Convention is not yet in force. The UK ratified the instrument on 29 June 2006. The Bunkers Convention will only enter into force after it has been ratified by 18 States. Currently 11 States have done so.

- M.27 The UK has national legislation to make owners of ships other than those to which the Civil Liability Convention applies strictly liable for pollution damage caused by persistent oil<sup>52</sup>. Claimants do not have to prove that the shipowner was at fault.
- M.28 Unlike tanker owners, other shipowners may limit their liability to amounts determined in accordance with the Convention on Limitation of Liability for Maritime Claims 1976<sup>53</sup> as amended by its Protocol of 1996. They are not currently obliged to maintain liability insurance but the compulsory insurance requirements of the Bunkers Convention will apply to ship owners of vessels with a gross tonnage greater than 1,000 when that instrument enters into force.

### **Pollution caused by pollutants other than persistent oil**

- M.29 There is currently no statute dealing with liability and compensation for pollution damage caused by substances other than persistent oil. In May 1996, however, a diplomatic conference convened by the International Maritime Organization adopted the Convention on Liability and Compensation for Damage in Connection with the Carriage by Sea of Hazardous and Noxious Substances.
- M.30 When in force this Convention will mirror the oil pollution compensation regime with strict liability for shipowners backed up by compulsory insurance to a given limit depending on the tonnage of the vessels in question. The Convention also establishes the HNS Fund which will provide additional compensation, paid for by receivers of hazardous and noxious substances in States Parties, when the total costs exceed the shipowner's limit of liability. The total amount of compensation available through the HNS Convention will be around £203 million (SDR 250 million).
- M.31 The UK has signed the HNS Convention and the implementing powers are contained in the 1997 Merchant Shipping and Maritime Security Act. The UK is working towards ratification of the HNS Convention but it is not expected to

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<sup>50</sup> Defined under the Bunkers Convention as any "hydrocarbon mineral oil, including lubrication oil, used or intending to be used for the operation or propulsion of the ship, and any residues of such oil".

<sup>51</sup> Schedule 7 to the Merchant Shipping Act 1995 contains the text of the convention as it has the force of law in the UK. The UK has ratified the 1996 Protocol to amend the 1976 Convention. This Protocol entered into force in May 2004 with significantly increased limits of liability.

<sup>52</sup> The main provision is section 154 of the Merchant Shipping Act 1995

<sup>53</sup> Schedule 7 to the Merchant Shipping Act 1995 contains the text of the convention as it has the force of law in the UK. The UK ratified the 1996 Protocol to amend the 1976 Convention. This Protocol entered into force in May 2004 with significantly increased limits of liability.

enter into force in the near future. In the meantime, the ordinary rules of civil common law continue to apply to liability and compensation for pollution damage caused by substances other than persistent oil carried on ships.

### **Pollution caused by offshore installations**

- M.32 DTI imposes requirements on operators of offshore oil and gas installations/ pipelines as part of its licence approval procedures, and consequently all operators must become members of the Offshore Pollution Liability Association Limited (OPOL) or have liability coverage of the same value as that offered by OPOL in order to fulfill their obligations under the current Regulations.
- M.33 OPOL administers the provisions of the “Offshore Pollution Liability Agreement”, under which participating oil companies who are operators accept strict liability for pollution damage<sup>54</sup> and remedial measures<sup>55</sup> up to a maximum amount per incident. There is a periodical review of the amount of compensation available to take account of changes in risk and inflation. The amount is currently US \$120 million per incident, and US \$240 million in the aggregate.
- M.34 Operators under the OPOL Agreement must provide evidence of financial responsibility for the US\$120 million per incident and US\$240 million in the aggregate in order to meet their obligations to claimants, but the Agreement does not preclude claimants from seeking redress in the Courts for losses incurred. If an operator fails to meet his obligations to claimants under the Agreement, then the remaining operators have agreed to guarantee payment of claims up to the maximum amount of US\$120 million.
- M.35 The OPOL Agreement covers not only fixed installations and pipelines but also production facilities such as Floating Production Storage and Offloading vessels (FPSOs) and Floating Storage Units (FSUs) while being used in the production process, as well as when temporarily removed from their normal station for any reason whatsoever.
- M.36 For an information booklet on OPOL, you should contact:

Offshore Pollution Liability Association Limited  
Bank Chambers  
29 High Street  
Ewell  
Surrey KT17 1SB  
Tel: 020 8786 3640  
Fax: 020 8786 3641

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<sup>54</sup> “Pollution damage” means direct loss or damage (other than loss of or damage to any designated offshore facility involved) by contamination which results from a discharge of oil.

<sup>55</sup> “Remedial measures” means reasonable measures taken by any party from any of whose designated offshore facilities a discharge of oil occurs and by any public authority to prevent, mitigate or eliminate pollution damage following such discharge of oil or to neutralise the oil involved in such discharge.

August 2006

Email: [opol@compuserve.com](mailto:opol@compuserve.com)  
Web site: [www.opol.org.uk](http://www.opol.org.uk)

### **Pollution from an unidentified source**

M.37 Generally, claimants can only obtain compensation if they know its precise source. However, there is one exception to this. The IOPC Fund pays compensation for pollution damage if the claimant can prove (for example, by sophisticated chemical analysis) that the pollution resulted from a spill of persistent oil from a tanker.

## **COST RECOVERY AND RECORD KEEPING**

### **Introduction**

- N.1 This appendix contains information on how those who respond to, or are affected by, marine pollution incidents should best go about recovering the costs that they incur.
- N.2 It is essential that during any counter pollution or salvage operation all those involved keep records of what they did, when and why they did it and what resources they used. There is pressure, frequently severe, to deal with new issues and problems and to relegate record keeping to a lesser priority. However, the importance of contemporary records cannot be over emphasised. It is simply not realistic to rely on memory to reconstruct events in a fast moving and possibly lengthy incident. Responders must therefore arrange to keep adequate contemporary records. These records extend from minutes of decision-making fora to beachmaster records of the number of personnel, plant and materials used on a particular beach on a particular day and who provided them. The compilation of a photographic library, with all photographs date and time stamped would be of great assistance as proof of activities. It is also important to log all messages which might serve to change the pre-arranged response.
- N.3 The MCA's experience in dealing with shipowners' solicitors and/or the IOPC Fund suggests the following items of best practice:
- any expense must actually have been incurred and third party invoices provided;
  - response measures must be deemed reasonable, proportionate and justifiable;
  - there needs to be a summary of events – a description and justification of the work carried out at sea, in coastal waters and on shore – together with an explanation of why the various working methods were selected;
  - the MCA has decided not to attempt recovery of costs for Press Office staff and their activities as they do not directly respond to the incident, but will deflect press attention from the decision making teams;
  - for chartered vessels, investigate the rates quoted and look at the SCOPIC tariff rates;
  - apply the industry standard of 100% of hire rate for in-use and 50% rate for stand-by;

- ensure MCA's contractors, or local authorities acting on behalf of the Agency, apply the MCA policy for equipment hire charges when acting on behalf of MCA in response to an incident;
- keep a record of the dates on which work was carried out at each site; in this context, date and time stamped photographs are extremely useful;
- keep a record of the number and categories of response personnel, regular or overtime rates of pay and who is paying them;
- keep a record of the travel, accommodation and living costs for response personnel;
- keep a record of the equipment costs for each site: types of equipment used, rate of hire or costs of purchase (bearing in mind residual values to be deducted), quantity used, period of use (in use or standby);
- ensure that any damaged equipment is photographed and assessed by an independent body prior to repair or replacement;
- during cleaning or restoration of equipment or vessels, they should not be brought to a state better than at the commencement of the hire/charter;
- keep a record of the consumable materials; and
- keep a record of the cost of temporary storage.

## **Record keeping**

- N.4 For the purpose of financial record keeping, it is essential to appoint a financial controller at a very early stage in the incident to keep adequate records and control expenditure. Responders should not discard any paper document (including status boards and maps used by the SCU, MRC and SRC). They should back up and catalogue information held on computer.
- N.5 It is not possible to specify the precise form of records, this varies with the circumstances. However, there are two principal points to keep in mind:
- the records serve a variety of purposes and are the source material for much information drawn; and
  - since responders cannot know the particular purpose that records will serve in advance, record keeping should err on the side of too much rather than too little detail.
- N.6 The record should clearly show information received, decisions taken, orders given, and action taken. For example, responders may use aircraft for reconnaissance. In this case, there should be a record not only of when they called the aircraft out but of take-off times, landing times, details of any oil found, the area searched, who was on board the aircraft, who received the

information and when. Records should distinguish between activities undertaken to assist the clean up operation and any general environmental monitoring or longer-term impact studies. For dispersant spraying operations, records should specify the area of operations and indicate the duration of spraying, the amount, type, age, and efficacy of dispersant used, and the results obtained.

N.7 As a further indication of the level of records required for the hiring-in of an item of equipment, the MCA would seek to clarify the following items:

- member of MCA staff that authorised and placed the order;
- date and time item actually hired;
- organisation hired from;
- proof that costs have been researched and that the price is not unrealistic for that item;
- quantity of each item actually hired;
- for larger pieces of equipment (particularly chartered in vessels) it would be useful to take photographs of the condition of the item prior to using for response activities;
- if more than one item of any type, devise a system for unique identification;
- how it was delivered / transported;
- where it was actually delivered to;
- who took delivery;
- a daily activity record of what the item was used for;
- if item is damaged – photograph damage;
- brief description of how the damage occurred;
- do not repair until approval or advice has been reached with an insurance representative on site (i.e. the SCR, a surveyor appointed by the insurers or ITOPF);
- dates actually used for the response;
- dates item on standby at the scene of the incident;
- date off-hired;
- was the item returned in the same condition it was hired in? and
- no betterment of equipment on return to owners.

- N.8 Local authorities inevitably find that this level of record keeping requires a heavy commitment in terms of minute clerks, message takers, procurement clerks and financial record keepers. There are specialist firms that offer tracking and recording services for clean up operations. The appointment of such a firm may be justifiable following a major spill from an oil tanker. In such a case it might be possible to recover the cost of using such firms, or temporary agency staff, from the P&I Club and the IOPC Fund. However, this depends on the particular circumstances, and it is prudent to check before employing the services of such a firm.
- N.9 Where the decisions involve or affect others, it is important to record their reaction at the time. It is important to record every party's reaction and the conversation covered by all parties in addition to what was agreed or points of disagreement. This applies equally to ITOPF. They report to ship owners, P&I Clubs and the IOPC Fund and are likely to offer advice to all parties involved in the response on counter pollution operations likely to be considered reasonable. It applies also to others such as cargo owners, local authorities and the Environment Group. The records should show whether they agree or express no opinion. If they disagree, the records should identify the reasons, if possible. Records should distinguish criticism made at the time of an incident from criticism made with the benefit of hindsight.
- N.10 Like any operation involving the expenditure of large sums of money, the usual rules of proprietary, accountability and the need for an audit trail apply.

#### **Time limits for claims arising from pollution from tankers**

- N.11 Claimants should be aware that there are time limits for claims under the 1992 Civil Liability Convention and the Fund Convention. The conventions provide that claimants must secure their claims by taking legal action against the shipowners within three years of the date on which loss or damage occurred and in any case within six years of the date of the incident.
- N.12 Wherever possible, claimants should seek to have their claims settled by negotiation within these periods. If this is not possible, claimants may protect their claims by taking legal action against the tanker owner, the owner's insurer and the IOPC Fund. Should this be necessary, claimants should seek legal advice.
- N.13 Formal legal action to enforce a claim is usually the last resort. In most cases, informal negotiations result in a settlement. Given the time limits for legal enforcement of claims, it is in everybody's interest for claimants to submit claims as soon as possible after the incident. Often, considerable time is required to compile a claim and all the substantiating evidence. If claimants anticipate delays, they should notify the tanker owner's insurers and the IOPC Fund at an early date of the intention to submit a claim at a later stage.

## **Claims arising from pollution from tankers**

### **Submitting a claim to a P&I Club**

- N.14 Claimants should initially submit claims for clean up costs under the Civil Liability Convention to the tanker owner and/or to the relevant P&I club. The tanker owner's local agent should inform claimants of the identity of the P&I club and contact details. If claimants have any difficulty obtaining this information, they should seek advice from MCA's CPR Branch (telephone 023 8032 9482 or DfT's Shipping Policy (telephone: 0207 944 5452).
- N.15 The P&I Clubs do not publish formal guidance on their requirements for submitting claims, but the guidance in this appendix and the IOPC Fund's claims manual should generally be appropriate.

### **Submitting a claim to the IOPC Fund**

- N.16 To obtain compensation under the terms of the Fund Convention, claimants should submit their claims directly to the IOPC Fund.
- N.17 The IOPC Fund co-operates closely with the relevant P&I Club in investigating incidents, and in assessing and settling claims. Claimants should submit full supporting documentation to the tanker owner, the P&I Club or the IOPC Fund. Claimants who do not submit their claims to the Fund should notify it of any claim submitted to the tanker owner or P&I Club.
- N.18 In some cases, claimants should submit claims through the office of a designated local surveyor, for forwarding to the P&I Club and the IOPC Fund for decision. Occasionally, when an incident gives rise to a large number of claims, the P&I Club and the IOPC Fund may jointly set up a local claims office to process claims more easily. Claimants should then submit their claims to that office. The local press should carry details of how to submit claims. In all cases, the designated surveyor and the joint claims office refer claims to the P&I Club and to the IOPC Fund for decisions on their admissibility.
- N.19 Claims should be in writing and must contain the following particulars:
- the name and address of the claimant, and of any representative;
  - the identity of the tanker involved in the incident;
  - the date, place and specific details of the incident if known, unless the P&I club or IOPC Fund already know this information;
  - the type of pollution damage sustained
  - the nature of the clean up operations, or response measures, for which the claimant is seeking compensation; and
  - the amount of compensation sought.
- N.20 Supporting documentation must link the expenses for clean up operations (including disposal) to the actions taken at specific sites. The IOPC Fund produces a claims manual that provides helpful guidance on how such claims

should be itemised. This guidance is just as relevant for claims submitted to a P&I Club under the 1992 Civil Liability Convention.

- N.21 The following extract comes from the edition of the claims manual dated April 2005. Claimants should check whether a later edition is available.

#### Presentation of Claims

It is essential that claims for the cost of clean up are submitted with supporting documentation showing how the expenses for the operations are linked with the actions taken. The key to the successful recovery of costs is good record keeping. A claim should clearly set out what was done and why, where and when it was done, by whom, with what resources and for how much. Invoices, receipts, worksheets and wage records, whilst providing useful confirmation of expenditure, are insufficient by themselves. A brief report describing the response activities and linking these with expenses will greatly facilitate the assessment of claims.

Spreadsheets offer a particularly useful way of summarising some of the key information required in support of a claim. Each response organisation or contractor should maintain a daily log of activities, including details of the number of personnel involved, the type and quantity of equipment and materials used and the type and length of shoreline cleaned. If response vessels are used to combat oil at sea, extracts from their deck logs covering their period of deployment provide a useful source of information.

Specific information should be itemised as follows:

- Delineation of the area affected, describing the extent of the pollution and identifying those areas most heavily contaminated (for example using maps or nautical charts, supported by photographs, video tapes or other recording media);
- Analytical and/or other evidence linking the oil pollution with the ship involved in the incident (such as chemical analysis of oil samples, relevant wind, tide and current data, observation and plotting of floating oil movements);
- Summary of events, including a description and justification of the work carried out at sea, in coastal waters and on shore, together with an explanation of why the various working methods were selected;
- Dates on which work was carried out at each site;
- Labour costs at each site (number and categories of response personnel, the name of their employer, hours or days worked, regular or overtime rates of pay, method of calculation or basis of rates of pay and other costs);
- Travel, accommodation and living costs for response personnel;
- Equipment costs at each site (types of equipment used, by whom supplied, rate of hire or cost of purchase, method of calculation of hire rates, quantity used, period of use);
- Cost of replacing equipment damaged beyond reasonable repair (type and age of equipment, by whom supplied, original purchase cost and

- circumstances of damage supported by photographs, video or other recording material);
- Consumable materials (description, by whom supplied, quantity, unit cost and where used);
  - Any remaining value at the end of the operations of equipment and materials purchased specifically for use in the incident in question;
  - Age of equipment not purchased specifically for use in the incident in question, but used in the incident;
  - Transport costs (number and types of vehicles, vessels or aircraft used, number of hours or days operated, rate of hire or operating cost, method of calculating rates claimed); and
  - Cost of temporary storage (if applicable) and of final disposal of recovered oil and oily material” including quantities, unit cost and method of calculating the claimed rate.

Claims for the costs of treatment of oiled wildlife should essentially follow a similar pattern to that set out above for clean up costs. Details of the number of animals treated and the number successfully released back into the wild should be provided. If the specialist groups undertaking the work mounted campaigns to raise public funds for the purpose of maintaining field operations for a specific incident, details should be provided, including the costs of the campaigns, the amounts raised and how the money was used.

### **Procedure in other cases – non tankers**

N.22 Much of the above guidance is relevant to claims for compensation arising from types of marine pollution other than persistent oil carried in a tanker. However, as the liability and compensation arrangements in such cases are different, time limits, requirements for evidence and claims procedures are likely to vary. Claimants should therefore seek early guidance from the polluter or the relevant insurer, as well as from their own legal advisers.

### **Financial Security**

N.23 When an incident occurs, notice of the accident, reporting all details available, is given promptly to the insurers and owners of the casualty. From experience, this is generally achieved verbally by telephone from the scene of an incident. The MCA Logistics and Finance Manager informs the insurer at this early stage that the MCA’s intention is to make a claim and requests financial security for the money that the MCA is committing.

N.24 This financial security can take several forms but in most cases is a Protection and Indemnity (P&I) insurer’s Letter of Undertaking (LOU). The wording of this Letter needs to be amended according to the type of charter / ownership of the vessel and legal advice should be sought if necessary. This document makes the MCA’s position clear to the insurers and shipowner. If the MCA are not provided with financial security during the incident further

legal action is taken to underwrite the financial exposure by arrest of the casualty or freezing of the hull assets, but these actions are a last resort.

- N.25 Both a Letter of Undertaking and a Bank Draft require an amount of money to be included in the document. The MCA Financial Controller estimates a figure based on experience gained in previous incidents, estimated length of response and a figure for refurbishment and return of the equipment to the appropriate storage site. Generally, at this stage an uplift is included in the level of financial security requested from the P&I for unforeseen costs. Most P&I representatives are experienced personnel and are well aware that the estimation of costs at this stage is not an exact science but it helps later negotiations on the claim if the figure given here is as close as possible to the quantum of the final claim.
- N.26 This procedure is followed as a matter of routine for MCA personnel for incidents not involving oil tankers as they are adequately covered by International Conventions (see **Appendix M**). The MCA are only prepared to accept this type of security from P&I insurers that are members of the International Group. For smaller, not so well known organisations, the preferred form of security would be a bank draft.
- N.27 The LOU also clarifies the legal jurisdiction for any subsequent legal action to recover costs, and the MCA's preference for any such action would be the UK.
- N.28 When the Logistics and Finance Team return to MCA headquarters it is necessary, to back up the financial security provided, by forwarding a letter to the owners of the casualty, with a copy to the P&I, informing them that a claim under the Merchant Shipping Act will follow in due course.

### **Claims arising from Oil Pollution from Offshore Installations and Pipelines**

- N.29 All claims are subject to the OPOL Agreement and in particular to the OPOL guidelines for Claimants brochure which can be found on the OPOL website [www.opol.org.uk](http://www.opol.org.uk).