Memorandum of Understanding

Between the Health and Safety Executive, the Maritime and Coastguard Agency and the Marine Accident Investigation Branch for health and safety enforcement activities and accident investigation at the water margin and offshore

1. INTRODUCTION

1.1 This Memorandum of Understanding is made between the Health and Safety Executive (HSE), the Maritime and Coastguard Agency (MCA) and the Marine Accident Investigation Branch (MAIB). Its purpose is to ensure effective collaborative working between these organisations where their duties for health and safety enforcement and accident investigation overlap at the water margin, offshore and on inland waterways in and around the United Kingdom.

1.2 The HSE is a non-departmental statutory body corporate sponsored by the Department for Work and Pensions (DWP), whose main function is to make arrangements to secure the health, safety and welfare of people at work and to protect the public from dangers arising from work activities. It is responsible for the inspection and regulation of occupational health and safety, and major accident hazards, associated with work activities. This includes offshore oil and gas exploration, production and storage and offshore renewable energy structures. For offshore oil and gas exploration and production, HSE works in partnership with the Department for Business, Energy and Industrial Strategy (BEIS) as part of the Offshore Safety Directive Regulator (OSDR).

1.3 The MCA is an Executive Agency of the Department for Transport (DfT). Its main functions are to develop, promote and enforce high standards of marine safety, to minimise loss of life amongst seafarers and coastal users, and to minimise pollution from ships to the sea and coastline. MCA is responsible for enforcing all merchant shipping regulations in respect of occupational health and safety, the safety of vessels, safe navigation and operation (including manning levels and crew competency). Merchant shipping health and safety regulations extend to all those working on the ship, and any work activities undertaken on board.

1.4 The MAIB is responsible for investigating accidents related to ships and crew in the territorial sea and to UK registered vessels worldwide, to determine their circumstances and causes with the sole objective of preventing similar accidents in the future (i.e. a safety investigation). It is not the purpose of an MAIB investigation to determine liability nor, except so far as is necessary to achieve its objective, to apportion blame.

2. POWERS AND LEGISLATION

2.1 Details of HSE's, MCA's and MAIB's powers and legislation, inspection, investigation and enforcement policies and contact details are outlined on their respective websites.

HSE:- http://www.hse.gov.uk/offshore/law.htm

MCA:- www.gov.uk/government/organisations/maritime-and-coastguard-agency

MAIB:- www.gov.uk/government/organisations/marine-accident-investigation-branch

2.2 In general, HSE, MCA and MAIB have jurisdiction over the following areas:

SCOPE OF JURISDICTION

HSE	MCA	MAIB
Work activities covered by the Health and Safety at Work etc. Act 1974 and its relevant statutory provisions (e.g. docks, jetties, loading / cargo operations, ship repair, offshore installations, energy structures, wells, pipelines and fish farms).	UK ships and those working on them anywhere in the world. Foreign flag ships and those working on them in UK waters (including inland areas such as ports). Search and rescue co-ordination in UK SAR area.	All marine incidents / accidents in the territorial sea and on inland waterways. Incidents / accidents involving UK ships anywhere in the world. Investigate a foreign vessel outside the territorial sea when no UK flagged vessel is involved if directed to do so by the Secretary of State.

2.3 Sometimes the jurisdiction of HSE, MCA and MAIB can overlap. Information on the agreed principles used to identify which organisation will take the lead for enforcement and/or accident investigation when jurisdiction overlaps is provided in an Operational Working Agreement (OWA). This includes a decision making process for day-to-day enforcement demarcation issues.

2.4 The underlying principles of this MOU are that, insofar as the relevant legislation permits:

- the MAIB and HSE/MCA investigations will be independent and can proceed in parallel; and,

the public interest requires that safety considerations are of paramount importance, which may mean that the interests of an MAIB accident investigation take precedence over a criminal investigation. Any need to agree precedence or to de-conflict investigations will be agreed using the principles in the MoU.

3. PRINCIPLES OF COLLABORATIVE WORKING

3.1 This MOU outlines the principles of co-operation to be adopted between HSE, MCA and the MAIB (including when HSE is working as part of the OSDR partnership). The MOU seeks to promote effective collaborative working (e.g. co-ordination of regulatory activity and knowledge sharing), while recognising and respecting the different regulatory and other legal frameworks within which each organisation operates. As such this MOU is a statement of intent; nothing in it shall create any legally binding or enforceable obligations on the HSE, MCA or MAIB.

3.2 The principal purpose of collaborative working is to enhance the effectiveness of HSE's, MCA's and MAIB's delivery of their operational and policy objectives. This will be achieved through:

- a common understanding of each other's roles and responsibilities (e.g. who will be the lead regulator for the range of complex offshore activities) and good regulatory practice;

- regular sharing of knowledge in areas of mutual interest;

- agreeing consistent standards and interpretation of regulatory requirements as far as practicable; and

- close co-operation on activities and projects of strategic or commercial relevance.

3.3 HSE, MCA and MAIB will undertake to use their best endeavours to co-operate effectively to enable and assist each other to carry out their responsibilities and functions, and to maintain effective working arrangements for that purpose. Such co-operation should avoid difficulties which might arise from uncoordinated approaches by the organisations (e.g. inconsistent standards, policies, and regulations, uncertainty over jurisdiction and duplication of inspection, accident investigation and enforcement activity).

4. INTENDED ACTIVITIES AND ASSOCIATED BENEFITS

4.1 It is anticipated that the activities to be undertaken pursuant to this MOU, and the associated benefits of such collaborative working, will include:

- creating a common understanding of HSE's, MCA's and MAIB's roles and responsibilities, regulatory priorities and approaches, including roles in relation to the health and safety of crews on ships and those on board undertaking work, in particular connected to the offshore energy sectors;

- ensuring that the health and safety enforcement activities of the MCA and HSE in relation to work activities at the water margin and offshore are consistent, co-ordinated and, wherever possible, comprehensive;

- avoiding so far as is possible conflicting requirements being put on dock operators, ships' masters, offshore duty-holders, other employers or people in control of or at work, thus minimising the burden on industry, particularly where there is overlapping legislation;

- avoiding the duplication of activity where legislation empowering HSE, MCA and MAIB overlaps, by facilitating co-operation in all aspects of policy development (e.g. agreeing the principles of who will lead for enforcement and/or safety investigation activities under different scenarios, including domestic and international representation at meetings) and operational implementation (e.g. ensuring effective and efficient prosecution of offences by adopting a co-ordinated approach);
- collective planning and co-operation to ensure that proportionate and effective regimes are in place to support emerging energy technologies (e.g. offshore renewable energy structures and floating storage and regasification units);
- sharing statistical data and analysis relating to trends and performance, and initiating research if appropriate; and
- establishing clear lines of communication for HSE, MCA and MAIB staff, thus providing mutual assistance and support for all parties concerned to carry out their respective responsibilities.

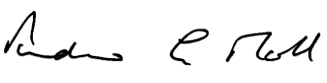
5. FUNDING AND COST RECOVERY

5.1 Organisations will generally bear their own costs when contributing to activities directly connected with this MOU, unless alternative arrangements for specific areas / projects are agreed on in advance. When there are specific requests for additional work (e.g. for research, technical assessments or secondments), appropriate cost recovery or funding arrangements will be put in place.

6. REVIEW OF THIS MOU

6.1 The MOU will be reviewed every three years, unless terminated sooner or extended by collective written agreement.

SIGNED



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