



MERCHANT NAVY WELFARE BOARD



Arrested and Detained Vessels and Abandoned Seafarers

A Guide to Who Does What

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A Guide to Who Does What

Introduction

This booklet has been prepared as a guide to the voluntary societies involved in port based welfare within the United Kingdom. It is intended to outline the responsibilities of the statutory authorities and other organisations who might become involved when problems are identified aboard a vessel in a UK port. This has been written in response to requests from our Port Welfare Committees, after a number of incidents of vessels being arrested, detained, and/or seafarers being abandoned. In preparing this publication the Merchant Navy Welfare Board (Board) has sought advice from various sources and is most grateful for their help. They are acknowledged at the end.

The Board does not pretend to be an expert on these complex matters and therefore does not accept liability for the accuracy of the contents of this booklet, or for the consequences of any actions taken on the basis of the information provided. As stated this booklet is for guidance purposes only and when necessary, legal and/or professional advice should be sought. There is a wide range of expertise within all MNWB's Port Welfare Committees and members are encouraged to use this network, in the first instance, when seeking advice.

Vessels normally only encounter problems leading to the involvement of statutory authorities when there is evidence of likely contraventions of health and safety regulations, non-payment of bills (which can include crew wages), or unacceptable working conditions and standards. It is most important that the distinction between an "arrested vessel" and a "detained vessel" is understood. It is not uncommon however, that if a ship is sub-standard it may be both detained and arrested, as the owner will be unable, or unwilling, to pay for any repairs.

A vessel and its crew can become "abandoned" if an owner becomes insolvent, or simply absconds. We are most fortunate in the UK to have well developed welfare provision and access to professional advice. Nonetheless, from the seafarers' perspective, cases can often be complex, stressful and prolonged.

The Board hopes that this booklet will provide some practical advice and also signposting to those organisations that might become involved.

David Parsons

**Captain David Parsons MNM MNI
Chief Executive
Merchant Navy Welfare Board**

Arrested Vessels, Detained Vessels, Abandoned Seafarers and the Human Element

1. Arrested Vessels

A ship is arrested when an action is taken against the ship itself, for example to enforce a maritime lien in respect of unpaid services or wages. Ships can only be arrested in England, Wales and Northern Ireland, following an order by the Admiralty Court (which has no connection to the royal Navy!) as part of the Queen's Bench Division of the High Court. In Scotland this is the responsibility of the Procurator Fiscal. The costs of arrest are only levied against the first arresting party.

Creditors use an arrest as leverage to recover their money. In former times the process was known as "slapping a writ on the mast". A lien is a right to retain possession of another party's property until the owner pays the debt. Under maritime law, this can be enforced by the arrest and sale of the property. In England, Wales and Northern Ireland, whilst a vessel is under arrest the arresting officer has a responsibility to ensure that it is maintained in a safe condition and the crew are adequately victualled (sadly in Scotland this is discretionary only, not mandatory). The cost of this will be reclaimed from the owner or offset against the eventual sale of the vessel.

Unfortunately nowhere (except with respect to the employer for non-payment of wages) is there a responsibility extended to paying crew wages. Nevertheless, in some instances, usually if the ship has a high resale value, the crew will be retained on pay to ensure that proper maintenance is continued.

In order for a ship to be released all debts must either have been secured with cash paid into and held by the Court, terms of security agreed between the arresting party and the owners, or discharged - including outstanding wages (if the Court has agreed that these are part of the debts). In the event the ship owner refuses to put up security then the proceedings continue against the ship. The claim is presented before the Court in the usual way and the Court will make a finding on that evidence. If it finds in favour of the arresting party, then to enforce that debt, the arresting party will present the Court with an application for the sale of the vessel. If the Court agrees, the ship will be sold by auction (under the control of the Court) and the proceeds paid into Court. Once received the proceeds must be distributed and it is at this stage that other creditors "come out of the wood-work" and present the Court with evidence of the sums they are owed. The primary claim tends to be from the banks, who will almost certainly have a registered charge against the vessel. (In the same way as when money is borrowed to buy a house, the lender will register that loan against the property to prevent it from being sold without their knowledge).

The Court will decide the priorities of outstanding debts from the net proceeds. Just because the arresting party managed to get the vessel arrested and sold, does not give them any preference over other debtors and thus they have to stand in line along with others. Although crew wages have a high priority, they are not the highest. Court costs and the arresting parties' costs of arrest take top priority, thereafter the remainder will be determined by the Court.

A vessel under arrest cannot sail without permission of the arresting officer. It can, however, be moved to an alternative berth for commercial, or safety reasons, as authorised by the Harbour Master and with the permission of the arresting officer.

It is important to understand that an "arrest" only applies to the vessel and not its crew, who retain all their rights as seafarers. Furthermore an arrest does not imply that the ship is substandard.

2. Detained Vessels

A vessel can be detained by Port State Control (see below) for non-compliance with international Conventions such as MLC 2006, SOLAS and STCW. This can include matters affecting seaworthiness, life-saving equipment, fire appliances, safe navigation, insufficient crew, inadequate crew certificates and crew conditions (e.g. excessive working hours, or outstanding wages). Whilst a ship is detained, Customs will not grant clearance for her to sail and the master, personally, faces a heavy fine should he choose to ignore this. As per arrested vessels, detained ships can be moved to an alternative berth.

3. Arrested and Detained Vessels

It is not uncommon for a vessel that is arrested to also be detained. Quite simply if a ship owner is unable to pay his creditors, then he may well also have outstanding repair bills and cut back on maintenance. This may well lead to non-compliant safety standards and in consequence the vessel being detained.

If the vessel is under arrest and a detention order is placed on her pending repairs, the arresting party is likely to lift their arrest, until the repairs have been completed, and so save themselves money. Similarly, if the arresting party finds out that there are crew wages outstanding, that might demonstrate that the owner has financial problems and the vessel may be fully mortgaged. This means if she is sold, the mortgagee (banks) will take priority. In this case there will probably be nothing left to meet the arresting party's costs, let alone their claim. If crew are due wages, they have a priority over claims for cargo damage and the arresting party is again likely to lift the arrest, knowing that the crew would probably immediately seek an arrest order (probably supported by the ITF). In this case the arresting party can place a caveat against release in order that they maintain the arrest after the crew have released her, without incurring any additional arresting costs.

4. Abandonment of Seafarers

Seafarers are classed as abandoned when a vessel's owner withdraws all responsibility for the crew by failing to meet their obligations in regard to crew wages, victualing a vessel and repatriation. The best definition of abandoned seafarers is contained in the International Maritime Organisation (IMO)'s Resolution 930 Guidelines on Provision of Financial Security in case of Abandonment:

<http://www.imo.org/OurWork/Legal/JointIMOILOWorkingGroupsOnSeafarerIssues/>

The salient points of Resolution 930 Guidelines are as follows:

1. INTRODUCTION

1.1 The purpose of the Guidelines is to assist States, when establishing their national requirements, to identify the most crucial issues relating to financial security in case of abandonment of seafarers.

1.2 The Guidelines recommend measures to be implemented by ship owners to ensure the provision of an adequate financial security system for seafarers in case of abandonment. The Guidelines set out the main features and scope of coverage of the financial security system and also contain recommendations for certification of the financial security system.

1.3 These Guidelines also apply to fishing vessels engaged in international voyages.

2. DEFINITIONS

2.1 *For the purpose of these Guidelines, unless expressly provided otherwise:*

*.1 **Ship owner** means the owner of the ship or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for operation of the ship from the ship owner and who on assuming such responsibilities has agreed to take over all the attendant duties and responsibilities;*

*.2 **Seafarer** means any person who is employed or engaged in any capacity on board a seagoing ship; and*

*.3 **Abandonment** is characterised by the severance of ties between the ship owner and the seafarer. Abandonment occurs when the ship owner fails to fulfil certain fundamental obligations to the seafarer relating to timely repatriation and payment of outstanding remuneration and to provision of the basic necessities of life, inter alia, adequate food, accommodation and medical care. Abandonment will have occurred when the master of the ship has been left without any financial means in respect of ship operation;*

Note MLC 2006 is expected to be amended to make provision for compulsory security to cover the costs of repatriation, abandonment, food, medical care, wages, etc. It will also contain a definition of “abandonment”. See note 6.

5. The Human Element

It is important to recognise the very human and emotional side when seafarers are abandoned. They will begin to encounter a multitude of emotional and legal problems.

- They will almost certainly be a long way from home and family.
- Their wages will have ceased and few will have much, if any cash.
- They will be very worried because their allotments to their families will have ceased.
- They will be concerned about their legal rights, status with immigration and other authorities.
- There will be little for them to do other than maintain their living conditions. Over an extended period extreme boredom, compounded by worry and genuine fear, may create some very stressful situations, which might include conflict with other colleagues, or even the authorities. Rumours and counter rumours may begin to circulate.
- Living conditions may deteriorate if adequate resources are unavailable.
- They will be reluctant to leave the vessel to be repatriated for fear that they will lose any claim on back pay. This situation will be exacerbated as time goes on – the longer they are off pay, the more they are owed.

Repatriation Obligations by MCA

Under the MLC 2006 which the UK has ratified, the Flag State of the vessel (if it has ratified the Convention) is obliged to repatriate seafarers if the ship owner fails to do so. For example, if the owner abandons seafarers. The Flag State will endeavour to recover those costs from the owner.

MLC 2006 also places an obligation on Port States to use their discretion when seafarers on foreign flagged ships are abandoned in their ports. In these circumstances the Port State can recover their costs from the vessel's Flag State.

6. Proposed amendments to MLC 2006

In April 2014 the Special Tripartite Committee of the ILO met in Geneva and proposed some amendments to MLC 2006. Among other things these, if adopted, will strengthen the entitlements to repatriation and outstanding wages.

Details of these proposals can be found on: http://www.ilo.org/global/standards/maritime-labour-convention/special-tripartite-committee/WCMS_229695/lang--en/index.htm

7. Further Reading

Seafarers' Rights International have published, on line two guides:

- Ship Arrest for Seafarers' Wages
- Maritime Lien for Seafarers' Wages

These are available on:

https://www.seafarersrights.org/seafarers_subjects/ship_arrest_maritime_liens

Flag State, Port State and the role of the MCA

1. Flag Categories

Ships fly the flag of the country in which they are registered. That country exercises jurisdiction and control over its ships via its Flag State Control (FSC) authority and does this through regular surveys and ensuring that crew certificates are valid. Responsibilities of FSC are primarily around safety and include ship construction, equipment, seaworthiness, manning, labour conditions, training of personnel and the maintenance of signals and communications. Categories are:

- **National Flags** - ships that are registered in a State in which the ship owner has a substantial connection.
- **Open Registry Flags** (often referred to as “Flags of Convenience”) exist where it is deemed to be beneficial (by a ship owner) that ownership and control of a vessel does not lie in the country of the flag the vessel is flying. It is important to understand that FOC vessel does not imply that it sub-standard. The largest open registers are those of Liberia and Panama.
- **Second Register Flags** termed ‘offshore’ or international register flags, such as the, Kerguelen Islands for France, or Indian Second Register (where there are legal links to a state but this is not the main Register of that State).

It should be noted that many ship owners are not directly responsible for the employment of crew members. Notwithstanding the MLC 2006 places strict legal obligations on the ship owner. This includes responsibilities to the crew for repatriation costs. MLC 2006 does not differentiate between flags types. It applies to ships of ratifying states. It also applies where vessels from non-ratifying States are visiting a ratifying State – this is effectively to apply MLC 2006 standards to these ships and show them no favourable treatment.

2. Flag State Control (FSC)

Flag State Control is the responsibility of the government department or agency responsible for ships under their flag to ensure that they conform to that State’s own standards. In the UK this is the responsibility of the Maritime and Coastguard Agency (MCA).

3. Port State Control (PSC)

Port State Control is undertaken by the government department/agency and is a method of monitoring by inspection of foreign ships whilst in their ports. Their role is to verify that the condition of a ship and its equipment complies with the requirements of international regulations and that it is manned and operated in compliance with these rules. The primary responsibility for ships' standards rests with the Flag State - but Port State Control provides a "safety net", or control mechanism to stop substandard ships.

Again in the UK this is the responsibility of the MCA. PSC inspections are spot inspections, but will also attend if a complaint is received concerning the condition of the ship including working and living conditions. When a deficiency is identified, depending upon the seriousness, the ship can be detained until it is rectified, or a notice served giving a timescale for rectification. If allowed to sail for repairs, PSC will notify the destination port, where the vessel will be detained until all deficiencies have been rectified. There is a high level of co-operation between Port State Control authorities for these purposes.

4. Maritime and Coastguard Agency (MCA)

The MCA, as the responsible authority, in the UK, for Port and Flag State Control of shipping, operates through a network of local Marine Offices. It employs surveyors who are highly experienced personnel with backgrounds as master mariners, or senior deck and engineering officers and naval architects. Their surveyors have powers to detain sub-standard ships until they are satisfied that they are compliant.

The MCA is the government agency established to prevent the loss of life at sea and is responsible for all matters relating to maritime safety in the UK and its territorial waters, over which it exercises jurisdiction. The Agency is responsible for implementing and enforcing all UK and International maritime laws and safety policies. This involves ensuring that ships meet required standards, minimum manning requirements, issuing Certificates of Competency (licences) for ships' officers and crew under STCW requirements and matters relating to marine pollution.

In the event that there are concerns about any matter relating to ship safety, irrespective of flag, the MCA should be contacted. Even if the ship has left a port they will alert their colleagues in her next intended port/country of call.

Contact Details:

Maritime and Coastguard Agency

Spring Place, 105 Commercial Road, Southampton, SO15 1EG

Tel: + 44 (0) 23 8032 9100

Website: <http://www.dft.gov.uk/mca> (this includes a list of regional offices)

For questions about seafarer working and living conditions or to lodge a complaint about a particular ship then contact the MCA at mlc@mcga.gov.uk.

Admiralty Court, Admiralty Marshal and Admiralty Actions in Scotland

1. Admiralty Court and Admiralty Marshal (England, Wales and Northern Ireland)

The Admiralty Court deals with shipping and maritime disputes including collision, salvage, carriage of cargo, limitation and mortgage disputes. In the event of an alleged debt, the Court, upon application by a claiming party, has power to place a vessel under arrest. Ultimately, when all other avenues have failed to secure a debt, then the Court (on application by the claimant) has the power to sell a vessel through public auction. The proceeds are distributed, by the court, upon proof of debt and in a set order of priority.

The Admiralty Marshal is appointed by the Admiralty Court and is responsible for the arrest and sale of ships which are the subject of proceedings in the Admiralty Court.

The Admiralty Marshal takes responsibility for ensuring that the crew have sufficient provisions, fresh water and fuel to operate main services. This does not extend to crew wages, but if their wages are stopped then in these circumstances seafarers become creditors.

2. Admiralty Actions in Scotland

There is no equivalent of the Admiralty Marshal who is responsible for the arrest of vessels in Scotland. The legal procedure for the way ships are arrested in Scotland is different to England, Wales and Northern Ireland. Whilst arrests take place for the same reasons as elsewhere, there is no mandatory provision to care for crew and an arresting creditor does not have legal responsibility for these matters. There are cases where both the crew and vessel are properly looked after because it is in the interests of the arresting creditor to secure the ship as an asset and therefore to ensure that the crew are properly looked after and the vessel maintained.

Problems tend to arise in respect of ships which are perhaps less well maintained and with owners who are less financially secure which is, of course, one of the reasons for an arrest in the first place. A claim by crew for unpaid wages is a maritime lien against the vessel which has a high priority.

3. Other UK Dependent Territories – e.g. Gibraltar, Isle of Man, Channel Islands

Each of these territories has in place similar arrangements for the arrest and detention of vessels.

Port Health Authorities (PHA)

In relation to crew matters Port Health Authorities are responsible for ensuring that:

- Crew and passengers do not spread infectious diseases. It is the master's responsibility to notify Port Health of any suspected notifiable disease on board. Ships arriving from overseas usually have to present a Maritime Declaration of Health if there have been any cases of illness, disease or death on board. The PHA will have access to the locally appointed Port Medical Officer, who is a qualified medical doctor. A PHA has the powers to place a ship in quarantine and restrict access.
- All crew and passenger accommodation, storerooms and cargo compartments used for foodstuffs are properly maintained to ensure proper hygiene arrangements.
- Fresh water is potable.
- Sanitary arrangements are adequate, clean and well maintained. Every ship should have a Ship Sanitation Control Certificate (valid for six months and issued by the Port Health Authority) to show that they are, for example, free of vermin or insect infestations.

In addition:

- The Port Health Officer may require a list of any crew leaving the ship together with addresses they are going to.
- Passenger ships usually have to submit a list of passengers leaving the ship together with addresses they are going to.
- The Master must report the presence of any animal, or bird on board and any illness or mortality amongst such animals.
- There are controls on the landing of pets from ships that may require the quarantining of an animal for periods of about six months.
- Controlling UK food and feed imports, checking and inspecting high-risk food at UK borders, fees and documentation for importers.

PHAs are normally a department of the local Council and have wide powers. They also work closely with the MCA and will act together to ensure that the relevant regulations are enforced.

In the event that PHAs identify problems aboard a vessel they would serve a Sanitation Control Certificate and request works be undertaken. If necessary they will notify the ships next port so that the PHA there can make a follow up inspection.

PHAs cannot stop a vessel from sailing, but in the proper circumstances they will notify the MCA. In reality, if there are major sanitation issues there would probably also be non-compliance with Port State Control requirements. Collectively these could be used by the MCA to detain the vessel.

In summary Port Health officers may look at the following items during a ship inspection:

1. Crew Quarters

- Construction and facilities – are they in good repair and do crew have access to WCs, wash hand basins and showers?
- Cleaning and maintenance – are they kept in good condition and clean and tidy?
- Lighting and ventilation

2. Galley, Pantry and Service Areas

- Documents and management practices – temperature logs and cleaning schedules
- Are equipment, utensils, materials, hand-wash stations, durable and work surfaces easy to clean?
- Facilities – non-potable water usage in galley, general construction, drainage, ventilation and lighting
- Food Processing – hygiene, cross-contamination, temperature control
- Hygiene control – expired food, poor personal hygiene, symptoms of communicable disease
- Cleaning and maintenance

3. Stores

- Construction
- Cleaning and maintenance
- Food sources – source of foods and country of origin
- Storage – prevention of cross-contamination
- Hazardous Materials – chemicals stored in food areas
- Training and knowledge

4. Child Care Facilities

- Where appropriate

5. Medical Facilities

- Construction, maintenance and certificate within date
- Designated first aider, or doctor

6. Swimming Pools and Spas

- Management, design, construction, cleaning and maintenance
- Legionella controls

7. Solid and Medical Waste

- Garbage record book - compliance
- Management
- Storage – watertight, pest proofed

8. Engine Room

- Construction, maintenance and ventilation

9. Potable Water

- Documents – water quality analysis report
- Management and construction

- Bunkering procedure
- Water production on board
- Water treatment and disinfection

10. Sewage

- International Sewage Pollution Prevention Certificate for Sewage treatment plant

11. Ballast Water

- Management – record book
- Invasive species control

12. Cargo Holds

- Construction, design and layout
- Cleaning and maintenance
- Drainage and ventilation

13. Other systems and areas

- Rat guards on mooring ropes
- Standing water
- Landry area
- General housekeeping

NB This list is not comprehensive and depending on the type of vessel, PHAs may not get access to all areas, for example the holds of gas or oil tankers.

The information above is taken from the WHO Handbook for Inspection of Ships and Issuance of Ship Sanitation Certificates. Ships are inspected using this handbook where some items are a requirement and others are recommendations

Border Force

Border Force is responsible for immigration control and crew members may be subject to this. Comprehensive guidance is available via the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/328141/Seamen_v1.0_EXT.pdf

The following is only a brief guide and it is recommended that readers refer to the link above or to their local Border Force Office as appropriate.

Crew Lists

On arrival at its first UK port the Master must supply to the Border Force, within 12 hours of arrival, a crew list (IMCO FAL FORM 5) detailing all persons on board, including crew, passengers, supernumeraries and any other persons. The link above defines crew and seafarers for the purposes of immigration control.

Persons Arriving to Join a Ship in the UK

Under paragraph 128 of the Immigration Rules, there is no requirement for contract seafarers to get a work permit in respect of their employment if the vessel is due to leave UK territorial waters within a reasonable period of time and if it will not operate wholly, or largely, in UK territorial waters thereafter.

To qualify for entry into the UK, as a seafarer under contract to join a ship, he or she must provide, as a minimum, the following evidence:

- A valid passport, seaman's book, or other acceptable travel document (A seaman's book must confirm the person's identity, nationality and returnability)
- Entry clearance (if the passenger is a visa national) (Foreign nationals, with a visa, who hold a valid seaman's book, issued in line with ILO Conventions 108 (or ILO Convention 185 where the country, as a result of ratifying ILO 185, has now denounced ILO 108) do not need entry clearance to join a ship as a contract seafarer)
- A valid contract of employment establishing that the person is, 'actually employed in the working or service of a ship'
- Confirmation that the vessel to be joined is at a port within the UK and due to leave UK territorial waters (UK territorial waters are defined as those within a 12 mile limit)
- Sufficient funds and onward ticketing

Crew Arriving with a Ship Seeking Temporary Shore Leave

The Maritime Labour Convention (2006) places an obligation on the ship owner to facilitate shore leave where practical. The International Labour Organisation has confirmed that MLC 2006 does not place an obligation on the member state in respect of immigration regulations relating to leave to enter.

Section 8(1) (a), (b) and (c) of the Immigration Act 1971 details the immigration provisions and conditions for entry without leave in the UK:

"Where a person arrives at a place in the United Kingdom as a member of the crew of a ship or aircraft under an engagement requiring him to leave on that ship as a member of the crew, or to leave within seven days on that or another aircraft as a member of its crew, then unless either:

- (a) *there is in force a deportation order made against him/her; or*
(b) *he/she has at any time been refused leave to enter the United Kingdom and has not since then been given leave to enter or remain in the United Kingdom; or*
(c) *an Immigration Officer requires him/her to submit to examination in accordance with Schedule 2 to this Act.*

He/she may without leave enter the United Kingdom at that place and remain until the departure of the ship or aircraft on which he/she is required by his/her engagement to leave.”

Where the Immigration Officer examines a member of crew in accordance with paragraph 8(1) (c) the following minimal requirements may apply to a person who:

- Has satisfactory documentary evidence of identity, nationality and status.
- Has a contract, as a crew member, to a ship that is in UK waters, which is due to leave within a reasonable period of time and is not intending to operate wholly, or largely, in UK territorial waters.
- Does not intend to take on employment in any capacity other than as a seafarer.
- Intends to leave the UK on the next sailing and does not intend to base themselves in the UK.
- Any of the general grounds for refusal in the Immigration Rules can be applied.

Crew Paying Off

The Master must inform the Border Force before any member of the crew, who was engaged outside the UK, or was engaged in the UK but is subject to immigration control, is discharged from the ship. This may include crew for repatriation, transfer to another ship, or hospitalisation. The immigration officer must see all such persons and those who are subject to immigration control will need leave to enter the UK.

Deserters and Stowaways

The Master must report, at once, to the Border Force any member of crew subject to immigration control who deserts the ship, or any stowaways.

International Transport Workers' Federation (ITF) and UK Maritime Trade Unions

1. The ITF

The ITF is an international trade union federation of transport workers' unions. Any independent trade union with members in the transport industry is eligible for membership of the ITF. With almost 800 members representing around 4,600,000 transport workers in 155 countries the range of activities is very wide, and can be best summed up under three key headings: representation; information; practical solidarity. It represents the interests of transport workers' unions in bodies which take decisions affecting jobs, employment conditions or safety in the transport industry, such as the International Labour Organisation (ILO), and International Maritime Organisation (IMO).

Within the maritime sector, the ITF's Flag of Convenience (FOC) Campaign has been established for more than 60 years. ITF affiliated unions sign ITF Approved Agreements with ship owners. The agreements seek to provide minimum standards in respect of terms and conditions for seafarers. There are more than 11,500 ships with ITF Agreements covering more than 257,000 seafarers.

The ITF's UK maritime affiliates are Nautilus International (officers' union) and the RMT (ratings union). It has a global network of ITF Inspectors, who are usually drawn from the local affiliates. The main role of the ITF Inspectors is to police the ITF Agreements, enforce minimum standards and to encourage ship owners to sign ITF Approved Agreements.

An ITF Inspector can:

- Inspect a ship for problems relating to employment and living conditions
- Meet with crew members on board or, where necessary, ashore
- Provide advice and assistance to seafarers
- Liaise with Port State Control on safety matters and matters related to the MLC 2006
- Provide advice and support to seafarers on strike
- Advise what the legal possibilities are for resolving a particular problem in that port/country
- Act as a representative for the crew in contractual disputes.
- Take power of attorney and recommend a lawyer, in cases where the crew wish to take legal action
- Put a seafarer in touch with an ITF affiliated union in their home country
- Raise shipboard problems with the ship owner
- Put pressure on a ship owner to resolve shipboard problems
- Legally board a vessel with an ITF agreement to carry out an inspection
- Contact ITF Inspectors, unions and contacts in other countries
- Calculate owed wages and handle back pay claims
- Put a seafarer in touch with someone who speaks their native language
- Put a seafarer in touch with a minister of their own faith
- Deal with matters confidentially, as far as possible
- Provide copies of ITF publications
- Be contacted by phone, mobile, text, email, fax or mail
- Facilitate the signing of ITF approved collective bargaining agreements
- Liaises with third parties, such as embassies, Flat State authorities or welfare agencies, in handling seafarers' disputes
- Provide emotional and contractual support to seafarers who find themselves hospitalised
- More easily solve problems with the co-operation of the crew

An ITF Inspector cannot:

- Do more than their national legislation allows
- Always access a ship or terminal
- Get a seafarer a job on a ship
- Change ITF policy
- Act outside of the policy of the ITF or national ITF affiliated unions
- Act against the interests of the national union that employs them
- Act unlawfully

Contact Details:

ITF

ITF House, 49-60 Borough Road, London, SE1 1DR

Tel: +44 (0) 20 7403 2733

Fax: +44 (0) 20 7357 7871

Email: mail@itf.org.uk

Website: <http://www.itfglobal.org>

2. UK Maritime Trade Unions

There are two principal trade unions for UK seafarers, **Nautilus International** and **RMT** (Rail and Maritime Transport Workers Union). A few UK seafarers may be members of other unions covering their particular disciplines but these will be in the minority.

Nautilus International draws the majority of its members from ship officers of all disciplines. It is an amalgam of a number of unions dating back many years (e.g. MNAOA, MMSA and NEOU). More recently it has merged with its counterparts in the Netherlands and Switzerland.

RMT draws its members from the ratings and took over the role of its predecessor, the National Union of Seamen, in 1990 when the NUS merged with the National Union of Railwaymen.

These unions should be contacted when there are problems identified aboard vessels with their members on board. In any event both are affiliates of the ITF and work closely with them.

Contact Details:

Nautilus International

1 & 2 The Shrubberies, George Lane, South Woodford, London E18 1BD

Tel: +44 (0) 20 8989 6677

Fax: +44 (0) 20 8530 1015

Email: enquiries@nautilusint.org

Website: <https://www.nautilusint.org>

RMT

Unity House, 39 Chalton Street, London NW1 1JD

Tel: +44 (0) 20 7387 4771

Email: info@rmt.org.uk

Website: <http://www.rmt.org.uk/home/>

Voluntary Societies (Maritime Charities)

1. Voluntary Societies and the ICMA Code

Voluntary Societies are traditionally well established and represented, in almost every major and middle size port around the UK coastline, by chaplains and volunteers. These men and women are highly regarded, trusted and respected by seafarers of all faiths. Their role is to provide pastoral and practical care for seafarers not available from the other organisations listed. Each society has access to sources of proper advice when confronted by real or perceived problems among seafarers. They are all members of ICMA – the International Christian Maritime Association – and as a condition must agree to adhere to its Code of Conduct which states that:

Chaplains and staff of all ICMA Member Societies at local, national and international level will:

- a) Show an unconditional love to the seafarer as a human being, created in the image of God, and a sincere respect for her/his personal values and beliefs;
- b) Serve seafarers and their dependants of all nationalities, religions, cultures, language, sex or race;
- c) Fight prejudice, intolerance and injustice of any kind;
- d) Respect the diversity of ICMA Members and Churches and to develop that which unites them;
- e) Respect the loyalty of those engaged in maritime ministry to their particular ecclesiastical discipline and tradition and refrain from proselytising seafarers;
- f) Co-operate with persons, organisations and institutions, Christian or non-Christian, which work for the welfare of seafarers.

2. Practical Support

In some of the more difficult situations there may be a need to provide long term practical support – particularly when seafarers appear to have been abandoned. The level of help needed will often be down to individual seafarers needs. There may, however, be a need to find practical support for the entire crew. For example if a ship is under arrest in a Scottish port and the Procurator Fiscal has not been instructed, by the creditor, to look after the ship and its crew, then it is likely to be necessary to set up a welfare fund to provide for their everyday basic needs. This humanitarian response will usually fall on those societies to organise.

Voluntary society representatives need to exercise care to ensure nothing is done to inflame the situation. For example UKBA Immigration department may legitimately have refused to allow a crew member shore leave. Any person aiding and abetting him or her to come ashore may find themselves liable of an offence. Equally when asked for advice, they should always refer on any questions which are outside their expertise. In giving wrong advice they, or their organisation, could be liable.

All those charities providing port based welfare are members of ICMA and their local and national contact details can be obtained from **ISWAN** – see below – on a 24/7 basis.

There are a number of such voluntary societies working in the UK. The largest are:

Apostleship of the Sea (Great Britain – England, Scotland and Wales)

Herald House, 15 Lambs Passage, Bunhill Row, London EC1Y 8LE

Tel +44 (0) 20 7588 8285

Fax +44 (0) 20 7588 8280

Email: info@apostleshipofthesea.org.uk

Website: <http://www.apostleshipofthesea.org.uk>

Mission to Seafarers

St Michael Paternoster Royal, College Hill, London EC4R 2RL

Tel: +44(0) 20 7248 5202

Website: <http://www.missiontoseafarers.org/>

Sailors' Society

350 Shirley Road, Southampton SO15 3HY

Tel +44 (0) 23 8051 5950

Fax: +44 (0) 23 8051 5951

Email: enquiries@sailors-society.org

Website: <http://www.sailors-society.org>

Fishermen's Mission

Mather House, 4400 Parkway, Solent Business Park, Whiteley, Hants PO15 7FJ

Tel: +44 (0) 1489 566 910 and **0800 634 1020**

Email: enquiries@fishermensmission.org.uk

Website: <http://www.fishermensmission.org.uk>

3. International Seafarers Welfare and Assistance Network (ISWAN)

ISWAN provides **SeafarerHelp**. This is a multi-lingual 24/7 help-desk and call-centre based in London designed to provide a free and confidential service to seafarers who require support or assistance. The call-centre is manned with trained personnel who speak the 27-dominant languages of the shipping industry. The International Seafarers' Welfare and Assistance Network (ISWAN) is based on the model of the Citizens' Advice Bureau (CAB) and works with maritime agencies to resolve the challenges or difficulties facing the seafarer. These can range from "dealing with bullying, un-paid wages, poor working/living conditions or just someone to talk to. SeafarerHelp is completely free and confidential for all seafarers and their families around the world." SeafarerHelp will provide help in linking families to seafarers, listening to seafarers and helping resolve issues from bullying or a lost wallet in a port to sickness and serious cases such as post-piracy, abandonment and personal injury.

Contact Details:

ISWAN

Cygnets House, 12-14 Sydenham Road, Croydon CR0 2EE

International Toll Free: 00 800 7323 2737

Direct dial: +44 (0) 20 7323 2737

Send text to: +44 (0) 7624 818 405

Website: <http://www.seafarerhelp.org/>

Responsibilities of Other Parties and Whistleblowers

1. Ship Owners are persons, or companies, that are named on the ship's registration documents. Some ship owners run vessels on their own services, for example passenger and container ships, tankers owned by the energy companies and specialist vessels. Others charter their ships to third parties.

2. Ship Managers are companies contracted by the ships' owners, or sometimes bare boat (see below) charterers, to take responsibility for all day to day aspects of operating a vessel. This can be limited to crewing but may extend to maintenance and repair, or even extend to a full management contract, which includes marketing and trading a ship.

3. Manning/Crewing Agents - A high percentage of seafarers are now engaged through manning agents. These are simply employment agencies with a pool of seafarers that can be appointed to vessels as and when vacancies arise. Some manning agents pay a retainer to their seafarers; others simply employ them for the duration of a voyage. On some vessels the owner, or ship manager, might employ some key staff e.g. master and senior officers and use a manning agent for the others.

4. Charters – A charter is a contract that allows a vessel to be hired by another party. There are a variety of types of charters. Some vessels are simply chartered for one voyage only to carry a cargo from one port to another. At the other end of the scale there are “bare boat charters” when the vessel is “hired”, sometimes for many years, with the charterer taking responsibility for all aspects of management, including the crew.

5. Possible Complexities - In the most complex of situations a vessel's owner can be based in country “A”; the place of registry is in country “B”; management is undertaken in country “C”; the charterer is in country “D”; and a manning agent is based in country “E”, but appoints a multi-national crew. This scenario is not uncommon and can blur the lines of responsibility!

6. Ship's Masters are servants of the employer/ship owner and are their representatives on board. The master has numerous responsibilities including:

- The safety of the crew, passengers and ship
- Observing all aspects of maritime law
- All aspects of on-board security
- Safeguarding the marine environment
- Acting in the best interest of the ship-owners to protect the ship and its cargo at all times
- Undertaking voyages with the minimum of delay and expense
- Always acting in the best interest of the ship-owners
- Obeying the ship owner's or manager's legal instructions

In common law the master is the supreme authority aboard a vessel and in all matters of safety and legislation; they can override the ship's owner or charterer.

A master can place under restraint anyone that they feel is endangering the ship or the preservation of good order on board. They can also seek to have such persons landed to the responsible shoreside authority.

With exception of the statutory authorities, a master has absolute discretion as to who is allowed aboard a ship. A person who goes aboard a ship without the consent of the master (or other authorised person, e.g. the duty officer), or remains aboard after being asked to leave, is liable to be convicted and fined. Equally the master has the power to refuse shore leave to crew members.

7. Crews/Seafarers are now clearly defined in ILO's MLC (2006). The definition of a seafarer extends to any person who is employed, or engaged or works in any capacity (including the master) on board a ship. For example this includes regular entertainment staff on cruise ships.

8. Ship's Agents are responsible to and act on behalf of the ship owner, or charterer, looking after the needs of the ship, crew and any passengers during the vessel's stay in port. The agent will have up to date knowledge of the ship's business including schedule, status (regarding customs, immigration etc.), arrangements for medical/dental needs and a range of contacts in the port area.

9. Harbour Masters are responsible for all aspects of safety management within the port boundary. They can prohibit entry of any vessel into, or require its removal from, a harbour if it presents a danger, or risk, to the port and local environment. There are fines for failing to obey a Harbour Master.

10. Whistleblowers Sometimes port based welfare workers maybe the first people to be alerted to a perceived problem by a crew member. Whistleblowing is always a difficult situation for both the seafarer and person first hearing the complaint. Whilst every such report needs to be treated seriously, a degree of caution needs to be exercised as not all reports of perceived problems, by seafarers, will have substance. For example a seafarer may:

- Have a grudge against the owner, manning agent, master or a senior officer.
- Perceive a problem exists whereas, in reality he, or she, does not have the qualifications, experience, and/or understanding about the matter being reported.
- Be attempting to delay sailing for personal reasons.

Equally there might be occasions when nothing is reported because the crew feels intimidated. Again care needs to be exercised.

An experienced ship visitor will have a certain amount of knowledge (particularly if they are from a seafaring background) and often a "sixth sense". Some health and safety issues might be blatantly obvious, even to the untrained eye – a hole in a lifeboat, or an open deck area, for example. In any event, without the seafarers' permission, matters should not be raised with the master or a senior officer, as this is likely to result in conflict. The societies responsible for ship visitors will all have someone to call on who has experience as to how to deal with issues and which authority should be contacted. Equally the International Transport Workers' Federation (ITF) have a number of inspectors who can be called on (see Chapter 6).

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