

## Investigation reports

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All full MAIB investigations result in a publicly available report. Before a report is published, a draft of the report is sent to anyone who provided significant evidence or whose reputation could be adversely affected by the report's publication. That person then has 30 days – the consultation period – in which to review the draft and respond to the MAIB with their comments about the factual accuracy or analysis it contains. The consultation period will usually occur about 4 months after the date of the accident.

### Data Protection

The MAIB carries out its work under the provisions of the Merchant Shipping (Accident Reporting and Investigation) Regulations 2012. These Regulations, and Sections 259, 260 and 267 of the Merchant Shipping Act 1995 under which the Regulations were made, allow the MAIB to obtain any information that is necessary to carry out its investigation.

The MAIB's power to process personal data is compliant with the provisions of Article 6 1. (e) of the General Data Protection Regulation (GDPR) whereby *"processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller"*. This is explained in more detail in Section 8 of the Data Protection Act 2018.

The MAIB uses the personal information described above for the purposes of the efficient conduct of its investigations. This information is protected from release by section 259(12) of the Merchant Shipping Act 1995 and the provisions of the Merchant Shipping (Accident Reporting and Investigation) Regulations 2012 Regulation 13.

**To read more on how GDPR affects the way we use and store your data go to:**

<https://www.gov.uk/government/organisations/marine-accident-investigation-branch/about/personal-information-charter>

### Help and advice

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For further information about the MAIB or for information about specific accidents, contact us:

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## INFORMATION FOR WITNESSES

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### FOLLOWING A MARINE ACCIDENT

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Any marine accident within UK territorial waters, or to UK vessels anywhere in the world, may be investigated by the Marine Accident Investigation Branch (MAIB).

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

This leaflet outlines the role of the MAIB and the obligations and rights which witnesses have during and after an interview with MAIB inspectors.

### Marine Accident Investigation Branch

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The MAIB is based in Southampton and is an independent part of the Department for Transport. The MAIB investigates all types of marine accidents, both to ships and to people on board them. The sole objective of any MAIB investigation is to determine the causes and circumstances of an accident in order that a recurrence can be prevented.

The MAIB **does not** apportion blame or liability, and it is not a regulatory or prosecuting authority.

The MAIB fulfils its purpose by assessing accidents and incidents, investigating those with wider implications for safety at sea, and publishing the reports of its investigations. Both assessments and investigations may lead to the MAIB making safety recommendations to relevant people or organisations. In the past these have included the Maritime and Coastguard Agency (MCA), classification societies, owners/operators, harbour authorities and others.

The MAIB conducts interviews in order to better understand what happened, how it happened, and why it happened, as part of its investigation into an accident. This can mean interviewing people with only indirect links to an accident, as well as those actually involved or who saw what occurred. However, for the sake of simplicity, all interviewees are known as 'witnesses'.

All MAIB interviews are conducted using the powers provided in The Merchant Shipping Act 1995, s.259 and subordinate legislation. This legislation gives inspectors the powers to require an individual to attend an interview, and requires the person being interviewed to answer the inspectors' questions truthfully. Refusal to do so is an offence under The Merchant Shipping Act.

In order to protect MAIB's witnesses:

- ▶ No truthful information provided to the MAIB during an interview can be used to incriminate the witness (or his or her spouse) in a court of law;
- ▶ All information obtained during an interview is kept in confidence within the MAIB and can be released only if a court<sup>1</sup> orders it; and
- ▶ The MAIB is required not to divulge the names of the witnesses it has interviewed.

<sup>1</sup> 'Court' means the High Court in England, Wales and Northern Ireland, and the Court of Session in Scotland.

## Being interviewed

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This interview is solely between you and the inspectors. However, you may nominate one other person to accompany you during the interview. This can be anyone known to you, and he or she may advise you on any point but they must not prevent you from giving a direct answer to the inspectors.

It is important that you think about your own interests when deciding who, if anyone, you would like to accompany you during the interview. Sometimes, representatives of the vessel's owner or insurer might have very different interests to yours. During an interview, witnesses are often questioned about their experiences of working for a company and will be required to answer candidly. If you feel that the presence of your employer's or any other organisation's representative might inhibit you from answering such questions truthfully, you should tell the inspector, so that he or she can consider excluding them from the interview.

If the inspector has good reason to believe that someone's presence at an interview is hindering the progress of the investigation, he/she may exclude that person from the interview. The MAIB inspectors can exclude your nominated representative if necessary, but may not exclude a lawyer acting solely on your behalf. If the person accompanying you is excluded, you will be given the opportunity to nominate a different representative.

If, during the course of an interview, you have any hesitation in answering the inspector's questions because of others present, you are likewise encouraged to bring this to the attention of the inspector, who will ask the other person to leave during that part of the interview.

## Records of interviews and declarations

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When interviewing within UK jurisdiction, MAIB inspectors will record interviews. It is MAIB policy that these are the only audio/video recordings allowed in order to protect the integrity of the investigation. Outside of UK jurisdiction, MAIB inspectors will request the witness's approval to record the interview.

All recordings of interviews are protected under UK law, and will not be released to anyone outside of the MAIB, unless so ordered by a UK court. Copies are not provided to witnesses, but a witness can request the opportunity to review the recording of their interview during the consultation period (see below).

In addition to the audio/video recording, an inspector might require a witness to sign a written declaration that summarises the information given during the interview. The declaration may include a description of your qualifications and background, and your recollection and personal opinion of the incident being assessed or investigated. Once your declaration has been taken, you will be given the choice of either reading it over yourself or having it read to you by an inspector before you sign it.

As with recordings of interviews, declarations are protected from release. The MAIB will not reveal that you have made a declaration, and declarations will not be released outside the MAIB unless a court orders it. You, or if you wish your legal representative, will be provided with a copy of your declaration to retain. You may pass a copy of your declaration on to a third party as you see fit, but the MAIB cannot do this for you.