

Prosecution Report 2017

Skipper sent to prison by Plymouth Crown Court for fishing safety offences

Defendant: Shane Barton

Date of Hearing: Friday 17th February 2017

Offence: A number of offences under maritime safety laws/fisheries offences.

Details: On several occasions between 22nd May 2014 and 20th October 2016 in Christchurch (Dorset), Fowey (Cornwall) and Castlebridge (Devon) respectively, Barton was subject to enforcement action from various fisheries agencies and police. Information supplied about various incidents that happened between 22nd May 2014 and 13th February 2016 showed that Mr Barton was operating without navigation lights, safety equipment and properly trained skipper and crew. On the 16th October 2016, the safety certification for the Nicky Noo expired but the vessel was seen operating by a local Fisheries Officer four days later and the vessel was reported to the Maritime & Coastguard Agency. Mr Barton pleaded guilty to three charges of the unsafe operation of a fishing vessel and one charge of breaching a Prohibition Notice requiring him to have completed the required safety training.

Penalty: 12 months prison sentence.

Masters fined after collision in the Humber caused by 'catalogue of failures' in May 2016

Defendant: David Carlin and Thomas Neilsen

Date of Hearing: 3rd February 2017

Offence: Guilty of conduct endangering ships under section 28 of the Merchant Shipping Act 1995

Details: At around 4.30am on 19th May 2016 Peggotty, a 50 foot vessel, had left Grimsby Docks making its way to Hull. Although this was a private voyage, Mr Carlin as a professional master mariner and Humber pilot was very experienced. However, despite the thick fog he failed to comply with a number of regulations to keep his and other vessels safe. These included failing to make his vessel's radar operational, failing to make sound signals and failing to ensure all the navigation lights were working. He had also not taken the conditions into account or prepared an effective passage plan for the journey and was relying on an untested mobile phone app.

At the same time, the Petunia Seaway, a vehicle transport vessel, 200 metres long and 34,000 gross tonnage was making its way down the Humber towards Grimsby. Its master Thomas Neilsen, from Denmark, was on the bridge and in charge. He allowed the vessel to proceed at 14 knots in zero visibility, without making sound signals. Mr Neilsen also failed to properly monitor and assess the ship's radar to appreciate they were bearing down on the Peggotty. Mr Carlin on his part had not realised the Peggotty was in the main shipping channel and was effectively blind to the collision course his vessel was on with the Petunia Seaway. Just before 4.50am the two vessels collided almost head on. The Peggotty was able to pass down the port side of the much larger Petunia Seaways, scraping down the side as it went. However the impact was enough to damage the hull of the Peggotty and it began to take on water. Mr Carlin was able to broadcast a Mayday call and the two on board were picked up by a nearby pilot boat before the Peggotty sank and was lost.

Penalty: £3,000 fine each, Mr Neilsen to pay £9,318.20 in costs as well as a £170 surcharge. Mr Carlin to pay £6,568 costs plus the £170 surcharge.

Cornish fishing company fined for moving vessel

Defendant: Rowse Fishing Ltd of Newlyn

Date of Hearing: 15th March 2017

Offence: Moving a new build fishing vessel without the appropriate load-line certificate.

Details: Mr Rowse's company intended the new build to become a registered 15m fishing vessel. Mr Rowse requested the MCA undertake a load-line exemption survey of the vessel prior to it being moved but went on to arrange the tow of the vessel before it had been surveyed and an exemption certificate had been granted. The MCA then discovered that that the vessel had been shortened during its build, at the request of Mr Rowse, without new stability calculations being undertaken. The Seafish surveyor who visited the vessel on 8 September 2016 had not authorised this change and had stated the vessel was not to be moved until revised stability calculations had been undertaken and defects within the build rectified. Mr Rowse then proceeded to move the vessel from Polruan to Newlyn on 17 September 2016 without the appropriate load-line certificate and load-line markings on the hull.

Penalty: Fined £3,000 with a £170 victim surcharge and £5,000 towards the cost of the prosecution.

Marine company fined over 130,000 for asbestos failures

Defendant: Tarmac Marine Ltd

Date of Hearing: 7th April 2017

Offence: Four offences contrary to the Merchant Shipping Act Health and Safety and Asbestos regulations.

Details: The vessel 'The City of Westminster' is a 96 metre dredger with 12 crew operating around the UK. In January 2014 a survey identified the presence of asbestos in pipework from its build in 2008 with a recommendation that this was dealt with immediately. However, Tarmac Marine failed to act on this report and the crew were not informed of the presence of the asbestos on the vessel.

The issue came to light in January 2016 when the vessel was required to produce an asbestos free certificate to the Port of Tyne in order for it to berth. This certificate was requested by the ship's master from the Tarmac Marine management based in Chichester. In response the crew were asked by managers to paint over the affected parts of the vessel with standard paint, in order to cover over the asbestos. The crew, having become suspicious, refused the request and Tarmac Marine management were forced to disclose to the crew that the pipework did in fact contain asbestos. A crew member subsequently informed the seaman's union Nautilus and the Maritime & Coastguard Agency were alerted under their whistle blowing policy. The company pleaded guilty to four offences contrary to the Merchant Shipping Act Health & Safety and Asbestos regulations including failing to carry out a risk assessment of exposure to asbestos by the crew, failing to have an asbestos management plan in place and failing to provide relevant information to workers.

Penalty: Fine of £120,000. Victim surcharge of £120 and £10,424.57 towards the cost of the prosecution.

Boat owner jailed for unsafe operation of fishing vessel

Defendant: Timothy Bowman Davies

Date of Hearing: 3rd August 2017

Offence: Two charges for the unsafe operation of a fishing vessel and failing to ensure that the gas cooker was properly maintained.

Details: Two crew members on board the fishing vessel, called the 'Eshcol', owned by Mr Bowman-Davies, died as a result of carbon monoxide poisoning in 2014. The 'Eshcol' had arrived in Whitby in the early morning of the 14 January 2014 to discharge her catch of scallops. On board were a crew of three (3) including the skipper Mark Arries and Edward (Eddie) Ide. Mr Bowman-Davies collected the catch that

evening and dropped off stores for the 'Eshcol' and two other boats owned by him. Once done, Mr Bowman-Davies headed home. The third crew man headed off to his girlfriend's house for the night with the permission of skipper Mr Arries. Mr Arries and Mr Ide spent the rest of the night on-board the 'Eshcol'.

The following morning no movement was seen on the 'Eshcol'. Crewmen on the other vessels nearby became concerned. Two of them broke into the wheelhouse/cabin of the 'Eshcol' and discovered the bodies of Mr Arries and Mr Ide. The Liquid Petroleum Gas (LPG) fired cooker was seen to be lit when they entered. The emergency services were called. Unfortunately Mr Arries and Mr Ide were pronounced deceased at the scene. A post-mortem showed they died as the result of carbon monoxide poisoning. The 'Eshcol' was not fitted with a carbon monoxide detector and the LPG Cooker was subsequently shown to be defective. It had not been serviced or examined by a GAS SAFE engineer.

The 'Eshcol' was inspected by the MCA and detained with thirty four (34) deficiencies.

Penalty: 15 months prison sentence.

Skipper fined in connection with fishing vessel collision

Defendant: Paul Thomas Wills

Date of Hearing: 7th August 2017

Offence: Failing to keep a proper lookout contrary to Rule 5 of the Collision Regulations; causing the loss of the silver Dee contrary to section 58(2)(a)(i) of the Merchant Shipping Act 1995 by failing to determine the risk of collision; causing serious damage to the 'Good Intent' contrary to Section 58(2)(a)(ii) of the Merchant Shipping Act 1995.

Details: The 'Good Intent' had sailed on the 27 July 2015 and was fishing about 12 miles off Ardglass in Northern Ireland for prawns. In the late evening of 29 July she had taken onboard a large haul of prawns and at around 11pm had stopped and was drifting so the crew could clear the decks. The skipper took the opportunity to go to bed leaving one of the crew to keep watch. The 'Silver Dee' sailed in the early hours of the morning on the 29 July and proceeded to the same area as the 'Good Intent'. Shortly before 5am the skipper Paul Wills noticed lights ahead which coincided with a target on the radar. He assumed he was overtaking and made no further checks. Ten minutes later the 'Silver Dee' collided with the drifting 'Good Intent'. The 'Silver Dee' immediately started taking on water. It was quickly apparent that she was going to sink and the 'Good Intent' started her engines and manoeuvred to the stern of the 'Silver Dee' so the crew could climb over onto it. A short time later the 'Silver Dee' sank. The 'Good Intent' returned to Ardglass

where the crew were put ashore. Post incident inquiries carried out by the MCA showed that the watch keeper on board the 'Good Intent' did not hold an appropriate work permit and he was deported.

Penalty: Fined £2,250

Suspended sentence for Suffolk man following serious vessel collision in August 2016

Defendant: Nicholas Barrett

Date of Hearing: 1st September 2017

Offence: operating an unsafe vessel, contrary to section 100 of the Merchant Shipping Act 1995

Details: On the night of 25 August 2016, Mr Barrett's RIB crashed into a wooden motor cruiser on Oulton Broad. Mr Barrett, together with his partner and their two young daughters aged 10 and 8, were travelling at high speed across the Broad without lights when it struck the other vessel. The impact was of such force that a hole was punched into the wooden motor cruiser, which propelled the owner out of his bunk. Barrett's partner and one of the daughters were thrown into the water. One of the RIB's tubes was punctured and it was only sheer luck that neither vessel sank. The owner of the moored cruiser immediately came on deck with a torch and saw Mr Barrett's partner submerged under water. His quick actions, locating Mr Barrett's partner, allowed Mr Barrett to pull her from the water into the RIB. Mr Barrett's partner suffered multiple fractures to the skull and body and as a result was detained in hospital for several days alongside one of their daughters who had sustained a severe cut to her forehead and leg. Mr Barrett and his other daughter also sustained injuries. Suffolk Police, Suffolk Fire & Rescue Service East of England Ambulance Service and Lowestoft and Southwold Coastguard Rescue Teams attended the scene to meet the injured parties, who had been brought ashore by a brave local resident, who had rowed to the scene in darkness in his rowing boat after witnessing the collision. It was clear to emergency services that some of the injuries were extremely serious and required immediate hospital treatment. Mr Barrett, who was breathalysed on scene at 53mgs, was aggressive to emergency staff, questioning the need for their involvement and the need for his family to attend hospital. He continued this behaviour at hospital and was required to leave.

Penalty: 9 months of imprisonment – suspended for 12 months, 15 days rehabilitation activity, 120 hours unpaid work. He was also ordered to pay costs of £15,000 and £140 victim surcharge.

Ship's captain fined after vessel grounds at Rathlin Island

Defendant: Captain Aleksandr Lakovtsov

Date of Hearing: 18th October 2017

Offence: Breach of Section 58 of the Merchant Shipping Act 1995. Failing to safely navigate his ship and causing serious damage to the ship.

Details: On 10 October 2017 at 10.30pm BST the Dutch Cargo Ship 'Ruyter' was carrying a cargo of timber from Lemosov, Russia to Warrenpoint, Northern Ireland, when it grounded on the north coast of Rathlin Island, Northern Ireland. The ship called HM Coastguard Belfast and reported the grounding. A lifeboat and Coastguard Rescue Team was launched and was present when the ship refloated under its own power. The ship reported no damage at the time and continued her voyage to Warren point, reporting to the Coastguard every hour. There was no change of status. When the ship arrived at about 1.30pm on 11 October 2017 at Warrenpoint, the pilot noticed the ship was .75 meters by the head and had a list. The timber deck cargo had also shifted a little. The harbour master at Warrenpoint found there was flooding to the bow thrust compartment and to the fore peak tank. She requested the ship to have an immediate underwater inspection. An inspection was carried out on 12 October which revealed extensive damage over the forward third of the vessel's length. The number 1 double bottom tank was breached and flooded in addition to the fore peak and bow thrust compartment. Due to the strong winds associated with hurricane Ophelia now rapidly approaching Ireland, the ship was allowed to berth in Warrenpoint on 15 October 2017. The cargo was discharged to facilitate further inspection and a port state control inspection by the MCA resulted in the Ruyter being detained.

Penalty: Fined £1,000

Pilot and captain of car transporter ship prosecuted for collision with ferry on the River Humber

Defendant: Gehan Sirimanne and Ruslan Uromov

Date of Hearing: 8th November 2017

Offence: Ruslan Uromov was charged with conduct endangering ships, structures or individuals, contrary to section 58(2) and (5) of the Merchant Shipping Act 1995. Gehan Sirimanne was charged with misconduct by pilot endangering ship, contrary to section 21 of the Pilotage Act 1987.

Details: At 7pm on the 3 December 2015, Mr Sirimanne, who was then working as a marine pilot for Associated British Ports boarded the car carrier City of Rotterdam at Immingham Dock. He was due to navigate the Panama-registered car carrier along the River Humber to the mouth of the river where full control was then to be handed over to the captain Ruslan Uromov to take the vessel to sea. 'Storm Desmond' had been forecast earlier in the day and strong winds were likely to affect that area bringing its own hazards to navigation that evening. Humber Vessel Tracking Service (VTS) monitored the City of Rotterdam track which showed that she was straying into the north side of the shipping channel and into the Hawke Anchorage. Her passage was also into the track of vessels travelling west along the Humber. The Primula Seaways was one of those vessels travelling inward along the channel. Despite alerts from VTS and the captain of the Primula Seaways, the City of Rotterdam continued its passage along the wrong side of the shipping lane. This resulted in a head-on collision. Although no injuries were reported, both vessels sustained major damage.

Penalty: Both pleaded guilty to these offences and sentenced to four months, suspended for 18 months. Mr Sirimanne was ordered to pay £45,000 in costs and Mr Uromov was £750 in costs.

Fishing boat skipper gets suspended sentence for running his vessel aground off Plymouth

Defendant: Michael Kinnaird

Date of Hearing: 6th December 2017

Offence: Offences under the Merchant Shipping Act.

Details: It was shortly after 8.45pm on 7 October 2017, that Mr Kinnaird's vessel, a 21metre trawler FV Algrie left its moorings at Sutton Harbour. It then continued out of the harbour entrance but did not alter course into the shipping channel. Instead, the FV Algrie kept a steady course at seven knots before running aground at Mountbatten Breakwater. None of the five crew on board was injured and there was no reported pollution as a result. Minor damage was caused to the vessel and it was recovered back to its moorings on the next high tide. When interviewed by MCA Enforcement Officers, Mr Kinnaird said he had navigated into and out of the harbour hundreds of times, but on this occasion, became confused when he saw lights from anglers who were fishing from the breakwater. He was asked why he didn't reduce his speed or reverse, use his navigation aids or even his spot light but he could give no answer.

Penalty: Four months imprisonment which has been suspended for two years. He was also ordered to pay costs of £5000 and £115 victim surcharge.

Fishing vessel owner fined for putting crew lives at risk

Defendant: Austen Campbell

Date of Hearing: 1st December 2017

Offence: Breach of Section 100 of the Merchant Shipping Act 1995

Details: On 12 March 2015, Stornoway Coastguard received a call from the girlfriend of the Skipper of Ocean Spirit (SY2) after he asked her to call them and report that the vessel was taking water and that the radio was not working. The lifeboat was alerted and escorted the Ocean Spirit SY2 back to Stornoway safely. A surveyor from the MCA's Glasgow Marine Office inspected the vessel and found a number of serious deficiencies, including an unreported change of main engine, no fixed CO² system for the engine room, no firefighting equipment, no operational lifesaving equipment and non-programmable radios. Due to the condition of the vessel it was detained and prevented from going to sea.

Penalty: Fined £4000

