



# MGN 413 (F)

## Amendment 2

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## Voluntary Code of Practice for Employment of Non European Economic Area (EEA) Fishing Crew

### Notice to all Owners, Skippers and Crew of Fishing Vessels

*This notice should be read in conjunction with the International Labour Organisation (ILO 188), the Merchant Shipping (Work in Fishing Convention) Regulations 2018, the latest amendments to MSN 1871(F), MSN 1872(F), and MSN 1873(F) and MGN 425 (M+F) Amendment 1 and replaces MGN 413 (F).*

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#### Summary

This Marine Guidance Note (MGN) aims to raise awareness of the voluntary Code of Practice, originally produced by the Scottish Fishermen's Federation (SFF) in consultation with the Fishing Industry Safety Group (FISG) - Appendix A.

In Amendment 1, MCA updated the guidance to reflect current Regulations and in response to more recent incidents on board fishing vessels. The Annex "Dead ships can lead to dead fishermen" has been removed, and reference is now made to MGN 425 Amendment 1, on assessment of risks for those sleeping on 'dead ships'.

Amendment 2 corrects a drafting error in paragraph 3.2.5 and section 5.

### 1. Introduction

- 1.1 The International Labour Organisation (ILO) Regulations brought about changes in many areas and with the introduction of the Merchant Shipping (Work in Fishing Convention) Regulations 2018 (ILO 188). The Code of Practice for Employment of non-European Economic Area (non-EEA) fishing crew has been reviewed to take account of this and updated immigration policies.
- 1.2 Fatalities and incidents have occurred whilst fishermen have been living onboard fishing vessels, alongside in port.
- 1.3 Many of these vessels are not originally designed to provide living accommodation for long periods of time and have very basic cooking, washing, heating and sanitary facilities requiring those who have to live aboard to "make do" in conditions which may pose undue risks compromising their safety.

### 2. Recognising the issues to be addressed



- 2.1 It is acknowledged that the practice of living aboard these vessels is a reality. The Voluntary Code of Practice for Employment of Non-European Economic Area (EEA) Fishing Crew was produced for the fishing industry to refer to and follow in the hope that in doing so, any further fatalities might be prevented.
- 2.2 The Code of Practice at Appendix A to this MGN is based on that produced by SFF in 2010 and has been updated in consultation with MCA's Work in Fishing Convention Tripartite Group.

## More Information

Seafarer Safety and Health Branch  
Maritime and Coastguard Agency  
Bay 2/17  
Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG

Tel: +44 (0) 203 8172498  
e-mail: [workinfishingconvention@mcga.gov.uk](mailto:workinfishingconvention@mcga.gov.uk)

Website Address: [www.gov.uk/government/organisations/maritime-and-coastguard-agency](http://www.gov.uk/government/organisations/maritime-and-coastguard-agency)

General Enquiries: [infoline@mcga.gov.uk](mailto:infoline@mcga.gov.uk)

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***Safer Lives, Safer Ships, Cleaner Seas***



## SOCIAL AND PRACTICAL RESPONSIBILITY – A CODE OF PRACTICE FOR EMPLOYMENT OF NON-EEA FISHING CREW

### Background:

The aim of this Code of Practice is to ensure consistency across the fleet and to act as a “check list” to avoid omissions.

It is not intended to be exhaustive or to replace other standards and guidance available on safety and habitability. It is intended to be a live document and aims to reflect change and experience.

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## **SECTION 1 : Responsibility for Safety**

Responsibility for safety rests with the owners. Matters of day to day management and control, rest with the skipper (who may of course be the owner or co-owner). However, this does not remove the responsibility each crew member has to himself and his shipmates. See MGN 587 (F).

To meet this, each crew member must hold current MCA recognised certificates in :

- Basic sea survival
- Basic fire fighting
- Basic first aid and
- Basic health and safety
- Medical fitness certificate – see MGN 1883(F) and MGN 1887(M+F) and, in addition,
- Safety awareness and risk assessment, if employed on a UK vessel for two years

*In the event of an accident there will be the standard investigations by the legal authorities. If fault or shortcomings are found, legal responsibility will be upheld, and in the event of offences having taken place, legal action may be taken.*

In addition to the guidance below, the owner, skipper and crew must be familiar with the vessel layout and safety precautions including escape routes and safety systems.

**A safety induction** must be carried out for each crew member on arrival and a list be maintained, signed by each crew member to verify that they have received both their induction and a full explanation of the vessel's risk assessment.

A carefully conducted **risk assessment** will highlight the dangers to the safety of you and your crew and allow preventative action. It makes every good sense to ensure that yours is done thoroughly and in date. It should be revised when any incident occurs, and in any case, annually. (See also **Safety Alongside – Section 3**).

## **SECTION 2 : Training**

Non-UK national crew will arrive from their home country with certification which may or may not have MCA recognition. This must be checked and, in the case of those from the Philippines, there is no satisfactory equivalent of the Basic Health and Safety or Safety Awareness and Risk Assessment Course. It will therefore be necessary to ensure that each person has completed the course before their first trip. The Approved Training Providers will assist in this matter (contact details can be obtained from SEAFISH).

*In any case, on the occasion of the first trip with new crew, a vigilant assessment of level of competence makes good sense.*

## **SECTION 3 : Safety Alongside**

This has been the most visible site of problems, with some very tragic consequences. The MCA has issued a guidance note under the title "Assessment of risks for those sleeping on dead ships", published as MGN 425(M), and the contents are covered within the relevant sections of this Code of Practice.

### **3.1 Health and Safety Policy :**

Where more than 5 workers are employed, a written statement of the employer's general policy with regard to health and safety is required, including the arrangements for



implementing the policy, which should be brought to the notice of the workers. Guidance on completing a health and safety policy can be found in MGN 596(F).

### 3.2 Risk Assessments:

All vessels of whatever size are required to conduct risk assessment.

Guidance on completing a documented risk assessment can be found in MGN 596(F). An example of a safety management system can be found in the on-line safety folder (<https://www.safetyfolder.co.uk/>). See also MGN 587(F).

Other useful information may be found in the Fishermen's Safety Guide (Ref: MCA/034) which can be obtained from the MCA through the following contact:

Contact the MCA Distributors for your free copy :  
EC GROUP – Tel 0845 6032431 or email [mca@ecgroup.co.uk](mailto:mca@ecgroup.co.uk)

The guide is written in such a way as to help with the preparation of a risk assessment. A carefully conducted risk assessment will highlight dangers to the safety of you and your crew and allow preventative action. It makes good sense to ensure that yours is completed thoroughly and in date. It should be revised when any incident occurs and in any case, annually. The safety folder can be used to guide the risk assessment process. In addition, the following issues should also be addressed:

#### 3.2.1 Shore Power:

Owners and skippers must ensure that the vessel complies with the requirements of MSN 1872 (F) Amendment 1 or MSN 1873 (F) Amendment 1 in relation to shore power. In addition, where crew live on board, the following factors should be considered.

If the boat is to rely on shore power, is it suitable and sufficient for both safety and domestic systems? It should be safely installed with an appropriate circuit breaker.

- Does it have sufficient reliable capacity to support the larger power using services, such as heating, lighting and ventilation all working together?
- Is the shore power supply sufficient to run a fire pump and to supply fire and gas detection systems?
- Can the live on board crew change over onto ship's power?
- If the shore power fails when the crew are asleep, will they know?

#### 3.2.2 Alarms:

Owners and skippers must ensure that the vessel complies with the requirements of MSN 1871 (F) Amendment 1, MSN 1872 (F) Amendment 1 or MSN 1873 (F) Amendment 1 in relation to alarms. In addition, where crew live on board, the following factors should be considered.

- Are the fire detection systems and other safety alarms working and do they continue to work if shore power is used?
- Do the alarms sound loud and clear in the accommodation and sleeping cabins? Consider fitting supplementary smoke detectors.
- Is a mobile phone available to them if they are alone onboard, and relevant contact numbers including emergency services?
- Are the crew fully aware of and familiar with emergency escape routes from the accommodation spaces?
- Any other alarms fitted such as: carbon monoxide, gas, high level bilge; are they operational?



- Can someone outside the vessel raise the alarm, if the crew are sleeping below deck?

### 3.2.3 Means of Escape

Owners and skippers must ensure that the vessel complies with the requirements of MSN 1872 (F) Amendment 1 or MSN 1873 (F) Amendment 1 in relation to means of escape. In addition, where crew live on board, the following factors should be considered.

- Are the escape routes clearly marked and well lit?
- Are they regularly inspected by the skipper or a designated crew member to ensure they are kept clear?
- Do all sleeping cabins have at least two separate means of escape to open deck?
- Is there a safe means of escape to shore?
- If a fire in one location could block the escape, is an alternative available?
- Are all doors and hatches in good working order and can they be easily opened, at least from the inside?
- Are fire doors self-closing or kept closed? (Note: unapproved holdbacks must be removed – only electromagnetic holdbacks linked to the fire detection system will be acceptable.)

### 3.2.4 Fire Precautions:

Owners and skippers must ensure that the vessel complies with the requirements of MSN 1871 (F) Amendment 1, MSN 1872 (F) Amendment 1 or MSN 1873 (F) Amendment 1 in relation to fire precautions. In addition, where crew live on board, the following factors should be considered.

- Have heaters and cooking appliances been regularly serviced and checked that they are safe to use in the accommodation?
- Are any unapproved cooking or heating appliances being used? Free-standing heaters should be avoided.
- If LPG heating is used, is it in date for maintenance and test, and in compliance with MGN 312 (storage of gas and necessary ventilation).
- Are gas and carbon monoxide detectors provided in accommodation areas?
- Is ventilation working (a check should be made that the crew have not tried to block vents).
- Are other heaters clearly away from combustible materials?
- Are fire dampers including external ventilation flaps in working order?
- Are all electric appliances safe, with correct wiring, fuses (e.g. radios, TVs, toasters, kettles, phone chargers etc)?
- Have the crew been familiarised with these basic safety precautions, including their escape routes and safety systems?
- Have the crew been instructed in how to start a fire pump?
- Are the crew aware of the risks of rerouting power supplies?
- Are the fire extinguishers and other fire-fighting equipment and devices in date for maintenance and test and ready for immediate use?
- Do all crew members know their whereabouts and how to work them?

### 3.2.5 Alcohol and drugs:

- A source of problems has been the occasional excessive use of alcohol. Owners and skippers should consider adopting an alcohol and drugs policy for their vessels. Realistically, there is little place for alcohol or recreational drugs onboard. The standard contract referred to in Section 10 headed 'Discipline', notes drunkenness as a standard offence, listing 'drunk while on duty';



- *“creating trouble on board due to intoxication; and failure to perform assigned duties due to ‘intoxification’ constitutes misconduct which attracts penalties ranging from warning and reprimand up to dismissal. You should also be aware of the Customs regulations in respect of goods liable to duty.”*
- It is recognised that some crew will wish to consume alcohol when ashore for recreation, but tragic accidents have occurred when crew whose balance or risk perception may be impaired due to alcohol have tried to re-join the vessel. Consideration should be given to recommending that crew remain ashore temporarily on such occasions so that they can safely re-join the vessel when the effects of alcohol have worn off. This would not be contrary to immigration controls for non-EEA crew as they are entitled to shore leave.

### 3.2.6 Smoking:

- Smoking in the accommodation is statistically the most common cause of fires; owners and skippers should consider enforcing a smoking policy to lessen the risk. Smoking in the cabin is not recommended.

## **SECTION 4 : Domestic Facilities**

Owners and skippers must ensure that the vessel complies with the requirements of MSN 1871 (F) Amendment 1, MSN 1872 (F) Amendment 1 or MSN 1873 (F) Amendment 1 in relation to domestic facilities. In addition, where crew live on board, the following factors should be considered.

### 4.1 Accommodation :

Accommodation should be maintained in a clean and habitable condition. Individual sleeping berths with suitable bedding should be provided for each fisherman: berths should be dry, with reasonable comfort and privacy.

### 4.2 Ventilation, Lighting and Heating:

- Does the boat’s ventilation, lighting and heating work properly when on shore power, if used?
- Are the vents from the sleeping cabin open and fully operational? Air vents must not be blocked up.

### 4.3 Showering, Laundry and Sanitary Facilities:

- The crew should have provisions for showering and washing clothes whilst alongside. If it is impossible to provide these to a realistically adequate standard for living onboard while alongside, the location of local facilities and suitable access to them should be provided.
- Adequate sanitary facilities are clearly essential, and provision must be made onboard.
- Care should be taken to ensure that use of onboard facilities do not breach harbour regulations.

Harbour Masters, local Associations and the Fishermen’s Mission have all engaged to a greater or lesser degree to assist with provision of these facilities at most ports. A list of contacts is provided at Annexes 1 and 2.

### 4.4 Cooking and Food provision:

- Cooking facilities. If galley equipment is electrical, it must be able to operate on shore power if this is to be used. If LPG, is it in date for maintenance and test?



- Food provision – must be suitable and sufficient, and provided without charge to the crew.
- Cold fresh drinking water and hot water must be available.
- Food storage and cooking facilities should be suitable and sufficient.

### **SECTION 5 : Recreation Facilities and Liaison with Local Authorities and Organisations**

Shore leave and access to recreational and communication facilities in port should be facilitated. This would not be contrary to immigration controls for non-EEA crew.

There have been some very good examples of welcome and kindness to non-EEA crew members by the local communities where their boats are based. This is to be much encouraged, enhancing as it does the lives of foreign crew and also the communities who welcome them.

The Fishermen’s Mission (Royal National Mission to Deep Sea Fishermen) has been particularly active in this matter and the industry’s thanks go to the organisation.

### **SECTION 6: Medical and Dental Facilities**

- All crew should have access to medical care both on board and ashore. Medical care should be provided without charge to the crew. See MGN 586(F).

### **SECTION 7: Conditions of Employment**

- All crew should be paid in full at least monthly in accordance with their fisherman’s work agreement. See MGN 585(F).
- Repatriation must be paid for by the employer. See MGN 584(F).
- All crew must have adequate rest. See MSN 1884(F).
- Appropriate working clothes and personal protective equipment must be provided, without charge to individual fishermen.

### **SECTION 8: Adequate Foul Weather Gear and Warm Clothing**

Given the climate in the countries of origin of some non-EEA crew, it will come as no surprise that most will turn up badly (or not at all) provided for without oilskins and suitable warm clothing. Consideration should be given to provision of this.

### **SECTION 9: Discipline**

Each non-EEA crewman will arrive under the conditions of a contract. The “Standard Terms and Conditions Governing the Employment of Filipino Seafarers onboard Ocean-Going Vessels” is an example of such a contract and provides protection for both the employer and employee. This must comply with UK requirements, as explained in MGN 583(F). These terms must be adhered to.

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It goes without saying that the terms and conditions of the contract should be fully understood by both parties. One matter worthy of specific emphasis is the avoidance of the possibility of desertion; this is potentially most harmful.

The standard contract also notes drunkenness as a standard offence, sub-dividing into ‘drunk while on duty’; ‘creating trouble on board due to intoxication’; and ‘failure to perform assigned duties due to intoxication’ as misconduct attracting penalties ranging from warning and reprimand up to dismissal.



## Harbour Master Offices

Aberdeen Harbour Board Tel: +44 (01224) 597000	Newquay Tel: +44 (01637) 872809
Arbroath Tel: +44 (01241) 872166	Orkney Harbour Authority Tel: +44 (01856) 873636
Ardglass Tel: +44 (02844) 841291	Padstow Tel: +44 (01841) 532239
Buckie Harbour Masters Office Tel: +44 (01542) 831700	Penzance Tel: +44 (01736) 66173
Christchurch Tel: +44 (01202) 590059	Peterhead Port Authority Tel: +44 (01779) 483600
Eyemouth Harbour Office Tel: +44 (018907) 50223	Poole Telephone no: +44 (01202) 440210
Falmouth Tel: +44 (01326) 312285/314379	Portavogie Tel: + 44 (02842) 771470
Fowey Tel :+44 (01726) 832471/2	Portland Tel: +44 (01305) 824044
Fraserburgh Harbour Office Tel: +44 (01346) 515858	St Ives Tel : +44 (01736) 795018
Isles of Scilly Tel: +44 (1720 422768	St Mawes Tel : +44 (01326) 270553
Kirkcudbright Harbour Office Tel: +44 (01557) 331135	Swanage Tel: +44 (01929) 426830
Kirkwall Harbour Office Tel: +44 (01856) 872292	Torpoint Tel: +44 (01752) 813658
Lerwick Port Authority Tel: +44 (01595) 692991	Truro Tel: +44 (01872) 78131
Looe Tel : +44 (01503) 262839	Warrenpoint, Tel: (02841) 773381
Lossiemouth Harbour Office Tel: +44 (01343) 813066	West Bay Tel: +44 (01308) 423222
Lyme Regis Tel: +44 (01297) 442137	Weymouth Tel: +44 (01305) 838423
Macduff Harbour Office Tel: +44 (01261) 832236	Wick Harbour Office Tel: +44 (01955) 602030
Mevagissey Tel +44 (01726) 843305	
<b>Watchtowers:-</b>	
Fraserburgh Harbour: 01346 515926	
Peterhead Harbour: 01779 483600	
Aberdeen Harbour: 01224 597000	
Macduff Harbour: 01261 832236	



<b>FISHERMEN'S MISSION CONTACTS – APRIL 2020</b>	
<p><b>Head Office</b></p> <p>The Fishermen's Mission,  Mather House  4400 Parkway  Solent Business Park  Whiteley, Hants  PO15 7FJ  Tel: 01489 566910  <a href="mailto:enquiries@fishermensmission.org.uk">enquiries@fishermensmission.org.uk</a>  <a href="http://www.fishermensmission.org.uk">www.fishermensmission.org.uk</a>  Registered Charity: 232822  Patron: HM The Queen</p>	
<b>MISSION AREA OFFICERS</b>	
196, Market St., <b>ABERDEEN</b> . AB11 5PQ T&F:01224 584651 M: 07917 754531 (e): <a href="mailto:AberdeenCentre@fishermensmission.org.uk">AberdeenCentre@fishermensmission.org.uk</a> <a href="mailto:AdminAberdeen@fishermensmission.org.uk">AdminAberdeen@fishermensmission.org.uk</a>	c/o Age UK, Healthy Living Centre, Bradbury House, Porter St, <b>HULL</b> HU1 2RH (T&F): 01482 323440 (M) 07917 754527 (e) <a href="mailto:HullCentre@fishermensmission.org.uk">HullCentre@fishermensmission.org.uk</a> <a href="mailto:AdminHull@fishermensmission.org.uk">AdminHull@fishermensmission.org.uk</a>
Room C003, Brixham Laboratory, Freshwater Quarry, North Furzeham Road, <b>BRIXHAM</b> , Devon. TQ5 8BA (T&F): 01803 859123 (M) 07919 917659 / 07917 754293 (e): <a href="mailto:BrixhamCentre@fishermensmission.org.uk">BrixhamCentre@fishermensmission.org.uk</a>	The Fishermen's Mission, 33 The Harbour, <b>KILKEEL</b> , Co.Down. BT34 4AX (T) 02841 769000 (M) 07761 718071 07710 389298 (e) <a href="mailto:KilkeelCentre@fishermensmission.org.uk">KilkeelCentre@fishermensmission.org.uk</a>
<b>EYEMOUTH</b> , (M) 07917 754528 (e): <a href="mailto:EyemouthCentre@fishermensmission.org.uk">EyemouthCentre@fishermensmission.org.uk</a>	Waveney Docks, Battery Green Rd., <b>LOWESTOFT</b> , Suffolk. NR32 1DQ (T & F) 01502 565269 (M) 07963 478895 (e) <a href="mailto:LowestoftCentre@fishermensmission.org.uk">LowestoftCentre@fishermensmission.org.uk</a> <a href="mailto:AdminLowestoft@fishermensmission.org.uk">AdminLowestoft@fishermensmission.org.uk</a>
Welfare Office, Trinity Baptist Church, 206, Poulton Rd, <b>FLEETWOOD</b> Lancs. FY7 7LB (T&F) (01253) 772372 (M): 07919 917640 (e): <a href="mailto:FleetwoodCentre@fishermensmission.org.uk">FleetwoodCentre@fishermensmission.org.uk</a>	Unit 1, The Morrison Building, Station Road <b>MALLAIG</b> , Inverness shire. PH41 4PY (T) 01687 462086 (F) 01687 462016 (M) 07917 754407 (e) <a href="mailto:MallaigCentre@fishermensmission.org.uk">MallaigCentre@fishermensmission.org.uk</a>
Heritage House, Shore St., <b>FRASERBURGH</b> . Aberdeenshire AB43 9BP (T) 01346 518388 (M) 07833 461145 (e): <a href="mailto:FraserburghCentre@fishermensmission.org.uk">FraserburghCentre@fishermensmission.org.uk</a>	Ship Institute, North Pier, <b>NEWLYN</b> , Penzance, Cornwall, TR18 5JB (T) 01736 363499 (F) 01736 350094 (M) 07884 188616; 07342 999102 (e) <a href="mailto:NewlynCentre@fishermensmission.org.uk">NewlynCentre@fishermensmission.org.uk</a> <a href="mailto:Adminnewlyn@fishermensmission.org.uk">Adminnewlyn@fishermensmission.org.uk</a>
Freeman Street Resource & Community Centre, Room 37, 41-43 Kent Street, <b>GRIMSBY</b> , N E Lincs. DN32 7DH (T): 01472 354384 (F): 01472 340489 (M):07803 745610 (e): <a href="mailto:GrimsbyCentre@fishermensmission.org.uk">GrimsbyCentre@fishermensmission.org.uk</a> <a href="mailto:AdminGrimsby@fishermensmission.org.uk">AdminGrimsby@fishermensmission.org.uk</a>	42-47 Fish Quay, <b>NORTH SHIELDS</b> , Tyne & Wear, NE30 1JA (T) 01912 571316 (M) 07917 754259 (e) <a href="mailto:NorthshieldsCentre@fishermensmission.org.uk">NorthshieldsCentre@fishermensmission.org.uk</a> <a href="mailto:Adminnorthshields@fishermensmission.org.uk">Adminnorthshields@fishermensmission.org.uk</a>



<b>ORKNEY</b> (M) 07736 133424 (e) <a href="mailto:Orkney@fishermensmission.org.uk">Orkney@fishermensmission.org.uk</a>	<b>KINTYRE AND OBAN</b> (M) 07788 674376 (e) <a href="mailto:Kintyre@fishermensmission.org.uk">Kintyre@fishermensmission.org.uk</a>
8 Union St, <b>PETERHEAD</b> , Aberdeenshire. AB42 1JN (T) 01779 472940 (M) 07917 754386, 07464 486386 (e) <a href="mailto:PeterheadCentre@fishermensmission.org.uk">PeterheadCentre@fishermensmission.org.uk</a> <a href="mailto:PeterheadMPO@fishermensmission.org.uk">PeterheadMPO@fishermensmission.org.uk</a>	The Fishermen's Mission, Waveney Docks, Battery Green Rd., <b>LOWESTOFT</b> , Suffolk. NR32 1DH (T & F) 01502 565269 (M) 07909 112596 (e) <a href="mailto:LowestoftMPO@fishermensmission.org.uk">LowestoftMPO@fishermensmission.org.uk</a>
Upper Floor, Stewart Building, Esplanade, Lerwick, <b>SHETLAND ISLANDS</b> , ZE1 0LL (T&F) 01595 692703 (M) 07787 115118 (e) <a href="mailto:LerwickCentre@fishermensmission.org.uk">LerwickCentre@fishermensmission.org.uk</a> <a href="mailto:AdminLerwick@fishermensmission.org.uk">AdminLerwick@fishermensmission.org.uk</a>	<b>MORAY</b> (M) 07736 133581 <a href="mailto:Moray@Fishermensmission.org.uk">Moray@Fishermensmission.org.uk</a>
Mission Area Officer <b>SOUTH OF ENGLAND</b> (M) 07827 965243 (e) <a href="mailto:Southcoast@fishermensmission.org.uk">Southcoast@fishermensmission.org.uk</a>	<b>PETERHEAD</b> (M) 07464 486386 <a href="mailto:PeterheadMPO@fishermensmission.org.uk">PeterheadMPO@fishermensmission.org.uk</a>
The Fishermen's Mission, Ground Floor Office, Custom House, 1 Quay Street, <b>STORNOWAY</b> HS1 2XX (T) 01851 704424 (M) 07774 814034 (e) <a href="mailto:Stornorway@fishermensmission.org.uk">Stornorway@fishermensmission.org.uk</a>	<b>SHOREHAM</b> (M) 07787 518308 (E) <a href="mailto:Shoreham@fishermensmission.org.uk">Shoreham@fishermensmission.org.uk</a>
The Fishermen's Mission The Fish Market, Troon Harbour, <b>TROON</b> , Ayrshire, KA10 6DH (T) 01292 316500 (M) 07827 966023 (e) <a href="mailto:troon@fishermensmission.org.uk">troon@fishermensmission.org.uk</a>	<b>SOUTHEAST CORNWALL</b> (M) 07917 754342 (E) <a href="mailto:secornwall@fishermensmission.org.uk">secornwall@fishermensmission.org.uk</a>
<b>MISSION PORT OFFICERS</b>	<b>NORTH WALES</b> (M) 07825 688730 (E) <a href="mailto:NWales@fishermensmission.org.uk">NWales@fishermensmission.org.uk</a>
<b>BOSTON AND GRIMSBY</b> (M) 07710 389717 (E) <a href="mailto:Boston@fishermensmission.org.uk">Boston@fishermensmission.org.uk</a>	<b>SOLWAY</b> (M) 07774 115412 (E) <a href="mailto:SolwayFirthMPO@fishermensmission.org.uk">SolwayFirthMPO@fishermensmission.org.uk</a>
Unit F, Scrabster Business Centre, Scrabster, Thurso, <b>CAITHNESS</b> , KW14 7UJ (T) 01847 892402 (M) 07774 116386 (E) <a href="mailto:CaithnessMPO@fishermensmission.org.uk">CaithnessMPO@fishermensmission.org.uk</a>	<b>SOUTH WALES</b> (M) 07827 965241 (E) <a href="mailto:Swales@fishermensmission.org.uk">Swales@fishermensmission.org.uk</a>
<b>CLYDE</b> The Fishermen's Mission, The Fish Market, Troon Harbour, Troon, Ayrshire, KA10 6DH (T) 01292 316500 (M) 07899 894587 (e) <a href="mailto:troon@fishermensmission.org.uk">troon@fishermensmission.org.uk</a>	<b>WEYMOUTH</b> (M) 07710 389387 (E) <a href="mailto:Weymouth@fishermensmission.org.uk">Weymouth@fishermensmission.org.uk</a>
<b>FIFE</b> (M) 07341 566271 <a href="mailto:Fife@fishermensmission.org.uk">Fife@fishermensmission.org.uk</a>	<b>YORKSHIRE COAST</b> (M) 07803 453434 (E) <a href="mailto:NYorksMPO@fishermensmission.org.uk">NYorksMPO@fishermensmission.org.uk</a>
<b>HULL</b> (M) 07736 133209 <a href="mailto:HullMPO@fishermensmission.org.uk">HullMPO@fishermensmission.org.uk</a>	<b>SKYE</b> (M) 07469 118637 <a href="mailto:skyempo@fishermensmission.org.uk">skyempo@fishermensmission.org.uk</a>



**Home Office customer contact centre :**

The customer contact centre can answer enquiries about working in the UK and transit visas such as joining a ship.

Please be aware that the customer contact centre is currently experiencing very high call demand and therefore you may experience difficulties in contacting them.

Full information on all of our schemes and programmes is available at <https://www.gov.uk/browse/visas-immigration/work-visas>

Phone: 0300 123 2241  
Opening Hours: Monday to Thursday 09:00 to 16:45  
Friday 09:00 to 16:30.

