



Maritime &
Coastguard
Agency

Consultation on six draft Marine Guidance Notes (MGNs) entitled Yacht and Powerboat Safety at Sea

Consultation Outcome Report

Summary of consultee comments and government responses to them

August 2019

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Section 1: Introduction

1. The Maritime and Coastguard Agency (MCA), an executive Agency of the Department for Transport (DfT), carried out a public consultation on 6 draft Marine Guidance Notes (MGNs) with the intention to advise owners, managing agents and skippers on areas of consideration when looking at safety at sea.
2. Another purpose of the notes is to ensure that guidance on safety is delivered to vessels operating commercially as well as providing generic safety advice to pleasure vessels. This is advice provided by the MCA as the government body responsible for maritime safety so these messages are appropriate to be delivered to both sectors.
3. The consultation set out to test the proposals for effectiveness, practicality, reasonableness and cost effectiveness, inviting consultees to give their views. Three questions were posed but respondents were not limited to answering the questions. The MCA were particularly interested to hear from consultees that were vessel owners as well as other parties with an interest in the leisure sector. In particular, views were sought on:
 - a) Whether the draft notes contain guidance that is realistic to carry out in practice.
 - b) If there is the right level of content within each MGN.
 - c) How businesses would be affected by issuing the guidance.

4. This Report gives a high-level outline of the comments received from respondents. It does not seek to cover every individual comment received, but all comments received have been taken into consideration. Where appropriate, individual respondents will receive individual, private, replies.

Section 2: Consultation

5. The consultation was carried out between 20 June 2019 and 18 July 2019. Further details can be found at: <https://www.gov.uk/government/consultations/consultation-on-yacht-and-powerboat-safety-at-sea>
6. While the consultation was promulgated on GOV.UK for any member of the public who wished to read it and/or respond to it, a number of stakeholders were specifically e-mailed by the Maritime and Coastguard Agency (MCA) to notify them of the consultation. These comprised stakeholders who had previously expressed interest in policy matters and stakeholders who had been contacted through Working Groups.
7. A total of 101 responses were received from across the UK. Of these, nine were representative bodies, representing groups of several vessel owners or end users.
8. The government have considered the comments received during this consultation and made amendments as necessary. The final version of the MGNs will be published in August 2019.

Section 3: Consultation outcome

Questions posed

9. The government's proposals were described in the consultation document, which then posed three questions, which are shown in Annex A to this Report. These questions cut across the 6 MGNs. Most responses were received in narrative form, so extracting views from the responses to provide quantitative statistics has in some cases been subjective, and numbers derived are not statistically significant.
10. Proposals contained in the consultation fell into six categories of safety measures as follows:

a) Yacht and powerboat safety at sea - maintenance, modifications, damage and repairs - good practice

This MGN offers guidance on what a modification to a vessel is as well as guidance on the different types of damage that may occur and how best to deal with them.

This proposal elicited the strongest response. A high proportion of the respondents expressed concern at use of the phrase 'experienced marine professionals'. Many saw it as discouraging owners from carrying out their own maintenance which could result in them having less adequate knowledge to repair their vessel in an emergency whilst out at sea. More clarity was also sought on what qualifications would be necessary for someone to be regarded as a marine professional.

Many respondents also flagged that it isn't always practical to seek advice from their manufacturer when damage has occurred. This is particularly the case for older vessels where the manufacturer might cease to still be in business.

b) Yacht and powerboat safety at sea – grounding of fixed fin keel GRP yachts – good practice

This MGN focuses on guidance for owners of fin keeled yachts with regards to inspection, how to identify structural failures and mitigating actions to take in the case of a grounding/damage.

There were few responses regarding this particular MGN but of those given, it was suggested that there needed to be more clarity on what counts as a grounding. In particular with regards to the type of seabed. It was also suggested that one of the main challenges was asymmetry of information with Yacht and Powerboat manufacturers. It was highlighted that if the keel frame structural integrity had been breached that the information to repair it isn't always made accessible by the manufacturer.

Another criticism was that the advice wasn't always seen as practical. One respondent gave the example that some bilge keel yachts will require substantial disassembly of tanks and furniture to gain access to the keel bolts to be examined which wasn't seen as reasonably practical to do with the frequency of checks recommended.

One of the mitigating actions suggested was that managers of racing courses ensured that vessels avoided shallow areas at all costs.

c) Yacht and powerboat safety at sea - stowage of life-saving appliances - good practice

This MGN focuses on the stowage of life saving appliances.

There were four responses that specifically mentioned this MGN. Two respondents both highlighted that the functionality of particular life rafts are a key exception to the rule as their functionality may be compromised when stowed in exposed locations. Being more vulnerable to seawater intrusion, UV degradation, abrasion and impact than canister rafts, valise rafts should be stowed in protected locations such as dry lockers.

One respondent specified that the carriage of different lifesaving appliances will depend on the size and use of a pleasure vessel and criticised that there wasn't this differentiation in the note.

It was also highlighted that it is confusing to present the two launching scenarios ie manual and automatic as 'the primary considerations when determining the most effective stowage position of a life raft and the means of securing the life raft to the vessel'.

d) Yacht and powerboat safety at sea - preparedness for non-coastal passages - good practice

This MGN focuses on actions that should be taken prior to undertaking a voyage.

Only a couple of respondents distinguished this MGN in their response with the criticism being that they do not take into account the owners/skippers experience to

undertake a planned voyage. It was also mentioned that the number of checks suggested to be carried out before a voyage would be unrealistic for many owners.

e) Yacht and powerboat safety at sea - rigs and rigging - good practice for inspection

This MGN focuses on ensuring that a rig and its rigging is regularly inspected by an experienced marine professional.

Every respondent who expressed a view on this thought that the proposal was too prescriptive as the frequency of checks was seen as unrealistic for private owners. One in particular highlighted that this was especially the case when doing short voyages and in good weather. It was suggested that it needed to be made clearer that it is the owner's decision as to whether or not they get a professional involved on a regular basis and that they shouldn't be penalised if they choose not to.

However, in some areas there was a mixed response. One respondent explained that competent owners would be able to judge when rigging needs replacing, yet another respondent suggested that some elements of yacht maintenance that included rig replacement are beyond the abilities of an owner/skipper.

f) Yacht and powerboat safety at sea - emergency procedures, equipment and actions - good practice

This MGN focuses on actions that should be taken during a voyage.

There were a few responses that detailed what other equipment and practices should be included in the MGNs to ensure best practice. Of those that responded, one in particular highlighted that the requirement for emergency steering arrangements should only apply to wheel remote steering mechanisms and not to tiller steered vessels.

A criticism from one respondent was that there is no mention anywhere of a crew member (where applicable) keeping visual contact and pointing at a person that has gone overboard.

Summary

Most respondents were supportive of the government's efforts to improve safety and broadly supported the purpose of the MGNs. However, some respondents felt that the guidance was unnecessary as it could already be found from a number of different sources. There was also a concern that it could become mandatory for pleasure vessel owners and operators in the future.

The maintenance, modifications, damage and repairs MGN was the most emotive area. Alternatives suggested included more courses being provided on safety repairs and direction to the sources that contain the same information. It was also suggested that the MGNs could include real life examples of incidents to encourage more individuals to read the MGN's and to give the background behind them.

11. Approximately half of respondents felt that in some areas the proposed measures were disproportionate to the improvements in safety which would be realised from them. Others challenged the need for additional safety measures on the basis of the pleasure boat sector's safety record. From the government's point of view, the main driver for the improvements is the fact that there are gaps between the safety standards of small commercial vessels and pleasure vessels. A further driver was that it was felt that in

some areas large improvements in safety could be achieved without disproportionate outlay.

Section 4: Next steps

12. The questions that were posed in the consultation, together with a summary of the consultee comments on them and the government responses to the consultee comments, are set out at Annex A.
13. Not all respondents answered all the questions posed. All the comments received have been fully considered, and government has reviewed the original proposals in the light of these comments.
14. The government has finalised the Marine Guidance Notes with a view to publishing them during August 2019.

Consultation questions and answers

Annex A

CONSULTATION QUESTIONS AND SUMMARY OF CONSULTEE COMMENTS ON THE SIX DRAFT MARINE GUIDANCE NOTES (MGNs) ENTITLED YACHT AND POWERBOAT SAFETY

Question 1	Does the proposed guidance meet your needs in terms of content?
Summary of consultee views	<p>Respondents offered information about how their vessels and organisation (if applicable) would be affected by the various proposals. Many said that in several areas they were already compliant with the new proposals. However, most responses highlighted that it would be useful for there to be more clarity with certain definitions used throughout the notes. These included: marine professional; safety critical and damage.</p> <p>There was also a lot of criticism on suggestion that owners obtain advice from their manufacturers where possible. It was thought that this would be unrealistic and particularly with old vessels so shouldn't be included in the notes.</p> <p>One of the biggest areas of concern that nearly all respondents highlighted was the emphasis of employing a marine professional. It was seen that boat owners/operators would miss out on the experience of learning the vital skills necessary to carry out emergency repairs themselves. This was coupled with the fact that a marine professional isn't always accessible when out at sea and so it is essential that an owner/operator knows how to carry out emergency repairs.</p> <p>It was also argued that a lot of marine professionals wouldn't take the same level of care as the boat owners themselves due to them being mainly commercially driven. It was seen that just the minimum level of work would be completed for inspections and repairs as a result.</p>

Government response	<p>In terms of an ‘experienced marine professional’, this would be someone who is experienced and is working in a particular profession whose services are paid for – it does not necessarily mean a qualification is required by the marine professional. Safety critical has not been defined as it will differ dependant on the vessel type and the area of operation – this is common to other areas of industry where the term “safety critical” is used.</p> <p>Damage has not been defined by a minimum level as it is purposely to include all minor and major damage. The reason for doing so is because several or more incidents of minor damage can turn into a major damage and therefore it is important to recognise and report it where necessary.</p> <p>With regards to consulting the manufacturer of a vessel for advice, we have taken into account the comments to include the phrase ‘where possible’.</p> <p>The text is written with the wide number of pleasure vessel owners in mind who have a diverse range of experiences and competencies. We have not tried to differentiate between the two ends of this spectrum of knowledge but instead have given generic guidance. This applies across all of the proposed MGNs where the skills of pleasure vessel owner are widely varied. It is at the owner’s discretion if they feel that they are competent to repair their vessel without employing the services of a marine professional. The purpose of these MGNs is to help clarify which areas employing a marine professional would be most appropriate. We have taken the comments into account to make clearer that a qualified, trained or experienced owner is able to carry out repairs on their own boat.</p>
Question 2	Do you agree with the way the MCA has applied each of the MGN requirements?
Summary of consultee views	<p>The majority of respondents who commented on the consultation period felt that it was too short and done at the wrong time of year because of it being peak boating season.</p> <p>About a third of respondents also expressed their concern of combining the guidance for safety for both pleasure and small commercial vessel owners. It was seen as a one size fits all approach and thus making it difficult for all classes of users to find the advice that is specific to their type of craft and their personal role.</p>

Government response	
	<p>With regards to the timescales for consultation, we carried out a significant stakeholder engagement exercise in the lead up to the MGNs where representative bodies such as the RYA and the Cruising Association were consulted upon in the drafting stages. At no point did any stakeholder raise any objection to the text or the MGNs and therefore we went to a reduced consultation period which is normal in these circumstances and is appropriate given the non-regulatory nature of the MGNs.</p> <p>As noted above, we do not discriminate between pleasure and commercial when it comes to HM Coastguard services provided, and therefore should not be limited in the safety advice that we offer to both sectors. It has been specified which parts of the guidance are just appropriate for small commercial vessels and which ones for pleasure vessels.</p>
Question 3	Do you have any additional comments to add to the response?
Summary of consultee views	
	<p>Several respondents expressed their concern that insurers would see the guidance as the minimum level that pleasure vessels now need to adhere to despite not being technically legislation. There was a concern that this would result in higher insurance premiums for private craft.</p> <p>It was also noted that there are a number of areas where there is confusing and conflicting advice and that the vagueness of the MGNs would appear to provide additional scope for insurers to avoid liability in the event of a claim.</p> <p>Several respondents also asked for access to the accidents/accident rates used to support the guidance notes and assumed that they were in response to the Cheeki Rafiki investigation.</p>
Government response	

	<p>With respect to insurance companies, that is a sector which is significantly regulated with regards to statistical justification of costs and risks. The guidance published by the MCA replicates in most parts guidance that is already offered to the leisure sector.</p> <p>The scope of the MGNs has purposely been made broad in order to provide guidance for all the different types of vessels and activities that they are used for. It has been specified in the text at the top of each MGN which notes or sections are more targeted at small commercial vessels and which ones are targeted at pleasure vessels when not at both.</p> <p>The MGNs stem from MAIB recommendations on the MCA. They are not in response to the court case with regards to Cheeki Rafiki, which is a very separate piece of work that is ongoing. The MCA through these MGNs, as do the MAIB, recognise that whilst there is a high level of knowledge within the maritime industry, it is not consistent throughout. Therefore, these messages need to be provided to ensure that everyone has received the same information with regards to safety from the Government agency that is responsible for maritime safety.</p>