

MCA POLICY ON INVESTIGATION AND FOLLOW UP OF FVs INCIDENTS FOLLOWING FATALITIES/SERIOUS INJURY, SERIOUS DAMAGE OR MAJOR MECHANICAL BREAKDOWN

Issue:

MCA policy and procedure on the inspection/follow up of UK registered Fishing Vessels (FVs) where there has been a fatality, serious injury, serious damage major mechanical breakdown (resulting in the vessel being towed back to port), or sinking.

Policy:

Where there is a fatality or serious injury amongst the crew of a UK registered FV, serious damage to the vessel, major mechanical breakdown (which results in the vessel being towed into port) or sinking, the MCA will make every endeavour to either conduct an inspection of the vessel or follow up on the incident. The extent of the inspection /follow up will depend on the nature of the incident. Inspection will take priority over routine survey and inspection work. If an inspection is not immediately possible due to other priority work, then contact should be made with the owner//skipper and an inspection arranged for a later date. If the vessel has sunk then contact should be made with the owner/skipper/crew to establish the facts surrounding the incident.

The purpose of such an inspection is to ensure that the vessel complies with the relevant code, to ensure that the working practices relevant to the circumstances of the accident were adequate and were consistent with existing rules. An assessment shall be made whether the vessel can return to fishing, or allowed to sail to a suitable repair port as necessary.

Where the vessel has sunk then the purpose of the follow up inquiry is to establish as far as possible what happened, were there any significant breaches of regulation, who was onboard, and were they qualified. On occasion MCA surveyors will be working alongside Marine Accident Investigation Branch (MAIB) inspectors; in this instance MAIB takes the lead on accident investigation, MCA takes the lead on enforcement and vessel inspection.

Procedure:

This procedure covers;

- When inspections are required.
- Legislation that permits such an inspection to take place.
- Priority of such work.
- Inspection detail.
- Inspection records.

- Inter-agency cooperation and primacy issues.
- Sensitivity when dealing with owners/skippers/crew where there has been a fatality or serious injury.

When are post incident Inspections required?

An inspection should be carried out on a UK registered FV whenever there has been a fatality, serious injury (where a crewman has to be evacuated due to injury (not for medical reasons such as heart attack), or is unable to work for a significant period due to their injuries), serious damage (through collision, grounding or other incident) or major mechanical breakdown (resulting in a tow back to port) . If an inspection is not immediately possible due to other priority work, then contact should be made with the owner /skipper and an inspection arranged for a later date.

Where the vessel has sunk then the purpose of the follow up inquiry is to establish as far as possible what happened, were there any significant breaches of regulation, who was onboard, and were they qualified.

If the incident looks as though there has been a significant breach of Merchant Shipping Regulations then Enforcement branch should be informed, with a view to advice or even attendance by one of their specialist investigators.

The 'trigger' for a such an inspection could come from a variety of different sources but is most likely to be from HMCG. HMCG SAR operating procedures have been amended such that when there is a such a casualty report they will report (by telephone) directly to the relevant Technical Manager (during working hours) and to the Duty Surveyor (out of hours). In both cases, the phone call will be backed up by email with a copy of the SAR SITREP; the email distribution (regardless of time of day) will include the relevant Technical Manager and a separate email address (consultant.surveyorsfishing@mcga.gov.uk) which all Consultant Surveyors FVs can access.

Legislation that permits such an inspection to take place

Surveyors/Inspectors appointed under section 256 of the Merchant Shipping Act 1995 have the authority and power to inspect fishing vessels for the purpose of verifying that the provisions of the Fishing Vessel Codes and Regulations have been complied with. This authority and power is derived from sections 121(4), &258 of the Act;

- 121(4); A surveyor of ships may inspect any UK registered fishing vessel for the purpose of confirming (or otherwise) that it complies with the fishing vessel construction rules.
- 258(1); a surveyor of ships,.....may at all reasonable times go on board a ship in the United Kingdom or in United Kingdom waters and inspect the ship and its

equipment or any part thereof, any articles on board and any document carried in the ship in pursuance of this Act or in pursuance of regulations or rules under this Act.

The priority of such work;

Post incident inspection should be considered by all as an 'overriding priority'. The expected response will be to visit all FVs where there has been a fatality, serious injury amongst the crew, or serious damage or major breakdown to the vessel. If an inspection is not immediately possible due to other priority work, then contact should be made with the owner /skipper and an inspection arranged for a later date.

Inspection detail

In order to ensure that as much information is available for an inspection, prior to going on board, surveyors should look at previous Reports of Inspection (MSF 1602/3); in addition, the relevant Marine Office should consult the vessel's CM construction and stability files.

The inspection should cover;

- A complete general inspection of the vessel.
- A check on relevant vessel certification including ILO 188; MARPOL as well as FV Certification
- A check on the crew qualifications.
- A check that the vessel's documentation is in order and that where exemptions have been allowed that they are relevant.
- An examination of the factors that are relevant to the circumstances of the accident; including a check that the working practices were adequate and consistent with the rules, For example, if the vessel is Scalloping, that crew are not required to stand high up or stand on dredge beams to remove debris from the dredges without additional safety measures/ PPE.
- Analysis of the effectiveness of the crews' response to the accident/ emergency, including effective preparation and use of equipment e.g. if there has been a man overboard; did the crew conduct an efficient man overboard recovery, had they regularly practiced this drill, was the LSA readily available?
- A check on the vessel's Risk Assessments relevant to the circumstances of the accident. In particular, the quantification of the hazard and risk, and the effective implementation of the specified control measures, including the use of personal

protective equipment; e.g. where someone has gone over the side, what was the control measure, did it specify PFDs should be worn, if so were they being worn?

- Consideration of whether a set of operational safety drills is required before the vessel returns to sea. The presumption should be that drills are required, and witnessed by the MCA.

Following an inspection, a number of different courses of action may result; from no action (other than completing a Report of Inspection) through to enforcement action (improvement, prohibition, detention, or gathering evidence for possible prosecution MSF XXXX Investigations Form).

Where the vessel has sunk then inquiry should establish as far as possible what happened, were there any significant breaches of regulation, who was onboard, and were they qualified. It would also be useful to record if there are any plans to recover the vessel.

Inspection Records

Every inspection following a fatality/serious accident or serious damage/major breakdown should result in the issue of a Report of Inspection. In addition a report on the incident should be raised; this will vary in nature depending on the severity of the incident. The report should be sent to the relevant Technical Manager and Consultant Surveyor, HQ at fishing@mcga.gov.uk. All documentation shall be kept in the vessel CM file on SharePoint. Where a vessel has sunk and is not being recovered then clearly only a report is required. The report should cover (but not be limited to);

- Background (Date/time/area/fishing method/crew/weather).
- Incident (what happened).
- Injuries/Damage.
- Share fisherman status of the skipper and crew (share fisherman or not).
- Effect of incident on vessel (Seaworthiness/operational capability/manning/certification).
- Remedial action (MAIB/Enforcement/Repair/Drills/ Re inspect).

Inter-agency cooperation and primacy issues;

In some cases MAIB may become involved, where they do; they lead on accident investigation, MCA on enforcement and vessel inspection. MAIB's role is to investigate accidents establishing causes and circumstances; it does not apportion liability or blame, and is not an enforcement or prosecuting body.

Other authorities may be involved; police, HSE etc. The delineation of investigating powers is clearly laid out in an MOU between MCA/MAIB and HSE and between MAIB and ACPO. Notwithstanding these MOUs when other agencies are on board at the same time what is most important is that each party understands each other's role and that this is made clear to the owner/skipper/crew.

Sensitivity when dealing with owners/skippers/crew where there has been a fatality or serious injury;

The skipper/crew of a FV where there has been a fatality, serious accident or even serious damage may be in shock. Modern communications methods also mean that very often as soon as a vessel returns alongside; families and press will be there immediately.

Surveyors need to act sensitively to ensure that their inspection is conducted promptly and discreetly if necessary. What should be avoided is duplication of effort between the MCA, MAIB, and any other interested parties; much can be achieved by having a pre meeting/discussion with interested agencies, and planning who does what.

It may be that operational tests and drills can be delayed providing it is clearly agreed that the vessel remains alongside. Where a surveyor is in any doubt about the agreement to remain alongside, or there are serious deficiencies with the vessel/ manning of the vessel, then suitable enforcement action should be taken (Prohibition/ Detention).