

THE PILOT

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Editorial

The 120th UKMPA Conference was held in Harrogate in May and the excellent attendance by 49 delegates and pilots actually represents 10% of the total UKMPA membership. For those who didn't attend this issue contains a brief resume of the proceedings and the notes from day 1 reveal the vast maritime spectrum that your elected representatives are involved in. On day two we were honoured to have Michael Grey from Lloyd's List provide the opening speech and then to receive presentations from Stephen Meyer (Chief investigator MAIB) James Weeden (Head of Ports division DfT), Geoff Stokes (Port Liaison Policy Leader, MCA) and Kevin Austen (ex HPL pilot & Solicitor, Barlow Lyde & Gilbert). A special bravery award should be granted to Andy Kirkham of the International Group of P&I clubs who took considerable flack from the floor over the P&I Clubs' use of the term "pilot error". The very positive outcome from this session was that delegates came away with a greater understanding of the work of the P&I Clubs and Andy agreed that the aims of the UKMPA and the P&I clubs were the same by acknowledging that high standards in pilotage reduce incidents and therefore claims. By the time you read this the full minutes should be available on the UKMPA website and I would urge all members to take the time to read them because no pilot can afford to remain ignorant of what is going on outside his district, regardless of how far removed the national and international issues in which the UKMPA are involved may seem. With respect to this, Liverpool pilot and Section Committee member, Dave Williamson, has written an excellent article on page 8 which eloquently analyses some of the key issues to emerge during the conference. The fundamental message is clear; pilots cannot afford to be complacent and Joe Wilson summed it up neatly at the close of the conference with the words "watch what you are doing"!

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119th UKMPA Conference CROWN HOTEL, HARROGATE

In a departure from tradition in order to make attendance more attractive for delegates and their wives, it was decided at the 2006 Conference to move the date of the annual conference from November to May and to find a more central venue. UKMPA Section committee member and Tees pilot Peter Wylie is to be congratulated on finding the Crown Hotel at Harrogate and making all the necessary arrangements for what was a very well supported and successful conference. Having arrived at Harrogate on the eve of the conference the delegates naturally observed merchant navy tradition by merrily socialising and the Hotel catering staff also observed MN tradition by setting off the fire alarms at 0545 the following morning. Needless to say, your normally fine and dapper representatives were looking decidedly the worse for wear as they shuffled outside to the muster point in the car park!! Of course, as professional seafarers, once fortified by breakfast they were all fully alert and attentive for the conference proceedings. The following is a brief outline of the agenda items discussed. The full minutes are available for members on the UKMPA website.



Crown Hotel, Harrogate

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PILOTS' NATIONAL PENSION FUND (PNPF):

SECRETARIAT REPORT: Debbie Marten
Debbie's report is on page 13.

TRUSTEE REPORT: Richard Williamson:
(*Boston pilot & Chairman of the pilot Trustees*)

Richard provided delegates with an overview of the fund and provided detail on the following topics:

Trustees:

Secretariat:

Managers and Advisors:

Meetings:

Membership:

The contributions paid to the Fund

Investments and Strategy:

Triennial Valuation:

The fund is currently undergoing the triennial valuation and Richard explained in detail the new requirements that had replaced the previous Minimum Funding Requirement (MFR).

Legal Issues:

Regarding the responsibilities the existing non pilot members of the fund and their responsibility towards the fund the Trustees had reluctantly had to seek legal advice about who could potentially be made responsible for any deficit and the matter was now the subject of a court case.

During the subsequent Q&A session Richard answered questions regarding the fund and the pending court case.

Richard explained that the case being brought solely to establish whether or not a liability existed. If, as anticipated, such liabilities were found to exist the specific liabilities of each party would subsequently be analysed and set. In the case of Trust Ports the port's trustees were unable to commit to payments unless required to do so by a court order. It was even possible that the Government may be liable in that it was the 1987 Act which had caused the problems in the first place. Because this case was unique, any outcome was impossible to predict but the hope was that it would result in a clear allocation of liabilities and that the pensions regulator would then ensure that those liable would honour their commitments.

MAIN CONFERENCE SESSION

CHAIRMAN'S REPORT: Joe Wilson (*Tees*)

Following one minute's silence in remembrance of those pilots worldwide who had been killed in service since the last conference, Joe updated the delegates on the latest issues affecting the Association and the key points are in Joe's report on page 12.

FINANCIAL REPORT: John Pretswell (*Forth*)

John referred delegates to the financial statements included in the delegates' papers which are available to members. Membership now stood at 492 pilots from 46 districts.

RULE CHANGES: John Pretswell

John explained the reason behind the proposed rule changes to rules 4d, 10h, 14c, 15 & 18 which had been previously circulated to the delegates. All the changes were approved unanimously by the delegates.

ELECTION OF OFFICIALS:

John oversaw the election / re-election of the Section Committee members and their deputies. The list of SC members is on page 18.

MARITIME & COASTGUARD AGENCY (MCA):

Peter explained that he held the MCA brief for the Association and this involved being on 5 committees.

- UK Safety of Navigation (UKSON)
- VTS (with Jon Stafford (London)).
- National Occupational Standards (NOS) (With Brian Wilson, Belfast) is frustrating in that the process has been stalled for several years, mainly as a result of the Ports' concerns regarding costs. However, the DfT want it, the MCA want it and so the ports are reluctantly having to accept the concept.
- Port Marine Safety Code (PMSC) steering group: Involved in rewriting the Formal Risk Assessment (FRA) for the Guide to Good Practice (With John Harrison-Nayes, Medway) This is a new Working Group and the MCA had specifically invited UKMPA input. The MCA had drawn up a consultation document and the only two responses were from Peter & John! Such outcomes serve to enhance the reputation of the UKMPA within the MCA & DfT. The ports now have to have comprehensive FRA procedures in place. Another development to emerge from the PMSC steering group is that pilots can send MAIB reports back if they believe that the content is inaccurate.
- PECs: It had been agreed (reluctantly by some!) that PEC holders should have a level of competency equivalent to that of a pilot for the same ship especially when working with tugs etc. The result of the work of this sub committee had been M307. The DfT had agreed that PECs should only be issued following an assessment by a pilot.

During the subsequent Q&A session the issue of PEC abuse was raised and Peter stated that if the details were passed on to him he would raise the matter directly with the MCA/DfT.

TECHNICAL & TRAINING: Gareth Ress (*Southampton*)

Gareth announced that he would be

standing down in November after 4 years as chairman and that Brian Wilson (Belfast) would be taking over the chair. He then provided details of the Committee's work since the last conference. T&TC had been involved in:

E-navigation: The T&TC continued to monitor events and releases.

Pilot Boarding and Landing Code: After much delay this had now been ratified and published.

SOLAS: was currently looking at the securing of platforms on combination ladders to the ship's side but no recommendations were expected in the near future.

RNLI: John Nurser (Head of RNLI technical dept) was a regular attendee at the T&T meetings and his expertise on small craft and their fittings was of great value to the committee.

Deep Sea Pilots: Roger Francis had put in valuable hard work on UKSON, VTS, wind farms and the Vessel Monitoring Directive.

Azipilot Project: Gareth explained that this was an EU funded project being run by Newcastle University to train mariners in the use of marine Azimuthing Control Devices. Other partners in the project were several European shipping companies, nautical colleges and maritime research bodies. Gareth has been joined by Ian Simpson (Harwich) on the project but delegates were requested to notify Gareth or Ian of any others who may wish to participate in any way. Gareth's Working Group will be involved in establishing current usage, training, on-board operational procedures and the examination of incident reports.

Q&A

There followed a discussion from the floor on azimuth propulsion with several districts handling cruise liners considering it unsatisfactory that manoeuvring was entirely dependent on the Master. Harwich pilots had been on a simulator course which had provided some insight into the manoeuvring techniques involved. In Aberdeen they had been handling vessels fitted with azi-propulsion for nearly 30 years and had developed their own simulators which were frequently used by shipping companies. In their experience, the training given to Masters was not always good and sometimes non-existent. Another aspect of azi propulsion was that with the lifespan of bearings limited to a few years it was also essential for pilots to be able to handle failure situations.

NATIONAL OCCUPATIONAL STANDARDS: Brian Wilson (*Belfast*)

Brian expressed frustration at the fact that after 8 years nothing was progressing. The initiative had started with BPIT but following the agenda being handed to the

Ports the situation had totally stalled and it was evident that the ports' just weren't interested in adopting pilotage standards. Brian suggested that one way forward was for the UKMPA to take over responsibility for the training and authorisation of pilots by means of a form of pilotage commission based on the Dutch model but he urged members to engage in constructive thought as to the best way forward. During the subsequent discussion it was agreed that the principles behind the idea were sound and it was suggested that the UKMPA drafted a position paper to submit to the Government for consideration in the Marine Bill.

MARNIS: Nigel Allen (*Southampton*)

Nigel provided delegates with a brief introduction to the MARNIS project, which is a €20million EU project started in 2004 and now nearing completion

The key area for pilots is the Port Operations and Decision Support System (POADSS) portable pilotage unit. The *Cosco Busan* allision in the USA had led to calls for such units to be made mandatory and this was likely to accelerate the agenda in Europe.

Nigel provided details of the different units offered by the various manufacturers and informed delegates that the latest units contained more advanced features than a few years ago. The cost, size and weight of units had come down.

With respect to the actual MARNIS project Nigel explained the work packages that he was involved in and in his opinion the technology was now reaching the point where a pilot with a laptop could download all the information currently provided by shore VTS directly to a pilot's laptop and the port's VTS system would become a data processing centre (silent VTS).

POADSS had already made amazing advances and the latest version incorporated the following new features:

- Dynamic Under Keel Clearance (DUKC)
- Web Mapping Services (WMS).
- Dynamic Path Prediction. (DPP)

The official "live" demonstration of POADSS will take place in Lisbon on 16th October. Other MARNIS elements will also be demonstrated around that time.

Nigel concluded the presentation by explaining that the key function of MARNIS was to explore concepts that would integrate the on-board needs with those of shore authorities of the member states.

EMPA: Dave Williamson (*Liverpool*)

Dave had attended the EMPA conference and delegates had been concerned by one speaker from the European Community Ship owners Association (ECSA) who stated that.

ECSA doesn't accept the validity of the

rejection of Ports Packages 1 & 2

ECSA doesn't agree that pilotage represents a safety service

ECSA considers pilotage to be a monopoly abuse of competition

ECSA considers Pilotage should only be compulsory after an open risk assessment

ECSA favours an increased use of PECs

Safety Campaign - This had been a joint IMPA, EMPA & UKMPA survey and had received a good response. The replies indicate that around 19% of vessels are non compliant and this can be considered a conservative assessment of the true situation. The concern is that this figure has not improved since the first survey undertaken in 1994. This figure will be brought to the attention of the Commissioners and the European Maritime Safety Agency (EMSA) and other relevant stakeholders.

Competition - This is still a major problem in Denmark, Finland and the Baltic Sea

Technical & Training - Dave provided details of the following areas which the EMPA T&T had been involved with:

- **Unmanned Port Traffic Communication System (UnPorTraCS).** The unmanned isn't ashore in the VTS but on board the ship! Basically a new term for shore based pilotage. So far this project hasn't been supported by EU funding but again EMPA are monitoring the proposals.
- **The Azipilot project.**
- **High minimum speed of vessels.** Reports have been received of a new containership with a Dead Slow Ahead speed of 12 kts.
- **Mooring of large vessels.**
- **Safe manning and equipment of pilot cutters.**
- **Motorways of the Sea (MOSES).** This is a cross sector transport initiative looking at streamlining transport and removing bottlenecks in the system. For shipping the most serious bottleneck is considered to be the need to slow down to pick up a pilot!

Representation

EMPA is a very effective and respected body with representation on a wide range of maritime related bodies and working groups (including ECSA). Following on from the NOS and ECTS, EMPA are currently producing protocols based on the International Standard for pilotage Organisations (ISPO). These are basically ISO standards for pilots and pilotage and although Dave expressed some concerns they are generally positive for pilots, especially the self employed districts. Full details are available on the EMPA website.

IMPA: Don Cockrill (*London*)

Don had attended the IMPA conference in Cuba with John Pearn. He had stood for

election as a Vice President but his application had been defeated. He would be standing again in Bangkok this year and hoped to be elected this time round.

The UK bid to host the 2012 IMPA conference had been successful and plans were already underway. The venue will be the Gorman hotel adjacent to Tower Bridge and although the organisation will be handled by a professional company delegates were invited to participate in the planning and organisation of what promised to be a very prestigious event.

Permanent International Association of Navigation Congresses (PIANC). - Don sat on this body as pilot representative and provided the practical mariner's input.

E-Navigation - Although the initial flurry of activity regarding e-navigation had calmed down, IALA were deeply involved in promoting the e-nav agenda through IMO and IMPA had a pilot representative on the e-nav committee.

In addition to his IMPA role, Don participated in other UKMPA activities and one new area was assisting Joe Wilson in participating in MAIB investigations. This involvement was not as a UKMPA member but more as an expert providing a pilot's eye view of an incident but it is an additional and important element in enhancing the professional reputation of the UKMPA. In a similar manner, Don also assists Joe in participating in CHIRP investigations.

INSURANCE: Simon Campbell (*Forth*)

Simon is working with Drew Smith and Circle Insurance to enable pilots to renew policies on line and download their relevant receipts and documentation. The policies had been successful in achieving payouts to pilots in several cases. One case is of particular interest to those who have previously questioned the need for independent insurance since it involved a payout for loss of earnings to an employed pilot who had been de-authorised by his CHA. (see Insurance article on page 17)

SURVEY OF DISTRICTS: John Pearn (*Milford Haven*)

John explained that because all UK ports operated independently the UKMPA needed to collate an overview for each district. 37 replies had been received from 46 districts and this had provided a valuable National overview. Full details of the survey are available for members on the UKMPA website.

HUMBER: Barrie Youde (*Barrister, ex Liverpool pilot*)

Barrie Youde's article appears on page 17. The HPL members had requested that Barrie pass on their gratitude to all those from the UKMPA who had generously

contributed towards the case and Chairman Joe Wilson, paid tribute to Barrie for his tireless dedication in supporting the HPL members which had resulted in such a positive outcome. This was acknowledged by warm applause from the delegates.

WEBSITE

Due to the difficulties involved in maintaining communications through the UNITE office in London Joe was keen to make the website the communication focal point of the Association. He acknowledged that there were problems with the existing site and requests feedback from the districts as to ideas and layout.

FUTURE CONFERENCES

Joe Wilson expressed satisfaction at the number of delegates attending which tended to confirm that the decision to hold the conference at Harrogate had been correct. He proposed that rather than have an Interim Delegates Meeting in 6 months time that there should be a one day conference on the HQS Wellington in May 2009 (Date to be confirmed) with a possible return to Harrogate for a full 2 day conference in 2010.

DAY 2: GUEST SPEAKERS

Following introducing the guest speakers for the day, Joe invited Michael Grey to open the conference.

OPENING SPEECH: Michael Grey (Lloyd's List)

Michael Grey provided the delegates with a very lively and interesting speech which revealed a full depth of knowledge regarding pilotage issues. Michael expressed particular concern regarding the "blame culture" whereby the zero tolerance of any maritime incident was leaving pilots increasingly exposed as an individual upon



Michael Grey

which all the blame could be piled, even though the incident may have resulted from events outside his control. He concluded by advising pilots that they should use the maritime press to challenge uninformed opinions and that they should also be proactive in promoting their work by inviting representatives from the various maritime sectors to join them on a trip. "Awareness is a powerful antidote to ignorance".

The speech was acknowledged by warm applause from the delegates.

(A subsequent article by Michael, based on this presentation. Was published in Lloyd's List and is available on the pilotmag website)

MAIB: Stephen Meyer (Chief Executive MAIB)



Stephen Meyer

Stephen opened his presentation by explaining the role of the MAIB and how it functions.

The sole remit of the MAIB representative is "future safety". The MAIB have greater powers than the police but this power has only been granted on the understanding that none of the information obtained can be released to any other party or used in any form of court case.

The MAIB is totally opposed to prosecutions of anyone involved in a maritime incident because the "blame culture" results in everybody covering up the causes and remaining silent on legal advice. It should be acknowledged that accidents do happen but there should be sufficient checks and balances to ensure that one mistake doesn't become a disaster.

Addressing the concern raised in the editorial of the January issue of The Pilot regarding the use of MAIB reports in court proceedings, Stephen explained that whilst the reports inevitably would provide investigators with an indication of where to focus their enquiries, it was up to those bodies to gather the necessary evidence to apportion blame or prosecute. Generally,

what is revealed by the MAIB in their report is readily available to others and great care is taken to protect individual anonymity.

There had been a case where a company had commenced disciplinary action on the basis of information contained within a report and the MAIB took immediate action to stop the proceedings which were subsequently dropped.

Another key issue is creating internationally agreed standards for investigations and Stephen has been active in tabling a resolution through IMO to introduce a "Code" on accident investigations that will make it mandatory for all flag states to undertake a thorough investigation, independent of any of those being undertaken by those with vested interests. Stephen has also been active in Europe and a new directive is being drafted for member states to undertake investigations based on the MAIB model.

The MAIB investigate all accidents to UK flagged vessels and any accident occurring in UK waters. In contrast to traditional investigations which assume that the "system" is right and that the "man on the spot" is at fault, the MAIB take a detached view and although the final cause may result from the man on the spot, the fault may lie in the system which may leave the individual unsupported. Pilots are particularly prone to being in this category.

Current areas of concern involve the trend by cruise companies to voyage to remote parts of the world such as the Antarctic and the on-going issues of fatigue, manning and competence, especially on the short sea trade sector. The fishing industry continues to have an unacceptably high casualty rate and the unregulated leisure industry also gives cause for concern.

As for pilotage it is obvious that pilots work in the highest risk element of a vessel's voyage but as an outsider it is very difficult for a pilot to integrate into a vessel's "bridge team" however simple or comprehensive that team may be. Regrettably some pilots are reluctant to integrate, display complacency and don't communicate their intentions, especially with regard to potential risks. Every MAIB investigation into pilotage incidents reveals some element of complacency on behalf of the pilot and Stephen provided some graphic examples from recent incidents to illustrate this point.

The most important aspect of pilotage was a comprehensive master/pilot exchange being undertaken.

In conclusion, Stephen emphasised that pilots must operate to high standards, they should be demanding similar high standards from the bridge team and Stephen considered it the role of the MAIB to ensure that CHAs recognised their own responsibilities towards ensuring high pilot standards and that they also fully supported the pilots in their difficult role.

Q&A

PEC monitoring?

The MAIB considered it essential that a PEC holder should be assessed for his ship handling expertise and also that the PEC should be ship specific and that the practice of permitting a PEC to be used on multiple ships should be discontinued.

Commercial pressures placed on pilots by CHAs to handle ships in marginal conditions?

Pilots were rightly involved in undertaking "dynamic" risk assessments which, unlike the air industry, were not easily quantified. There was evidence to indicate that pilots were boarding ships and under pressure to accept riskier situations than they would normally consider acceptable and the MAIB were working towards creating an understanding within the Industry that poor standards are unacceptable. Stephen acknowledged that it would be a slow process.

What powers does the MAIB have to follow up recommendations and ensure enforcement?

The MAIB has no powers of enforcement of recommendations but a recent amendment to the regulations mean that the MAIB can now contact those affected by a recommendation and request information as to how they intend to address them. These contacts and the response are sent to the Secretary of State once per year and are publically available. This has proven to be very successful in ensuring that recommendations are acted upon.

The respondents also have a legal obligation to inform the MAIB if there are subsequently any changes to the written responses but the MAIB doesn't have the resources to physically check that the recommendations have been acted upon.

In the Prospero (pod propulsion failure) incident in a compulsory pilotage district why did the MAIB consider that the Master rather than the pilot should have been manoeuvring the vessel?

In the opinion of the MAIB it was considered impossible for pilots to be fully conversant with the manoeuvring characteristics of every vessel and therefore in some instances there should be teamwork with the pilot directing the manoeuvre and the Master using the controls to achieve the desired result.

Concern was expressed that the "sharing" of the manoeuvre could result in the pilot not being fully in control at a critical time and the PMSC stated that a CHA should ensure that pilots were trained to be qualified to conduct the vessels to which they may be allocated?

Stephen felt that in the case of specialist

vessels, in view of the wide variety of different equipment in use, the term "conduct" needed a realistic interpretation and in his opinion, if the bridge team was experienced and competent in manoeuvring the specialist ships then the pilot needn't necessarily (and probably couldn't) be trained to handle them. The pilot should be supported by professional standards on board the ship and the MAIB considered it their role to ensure that onboard standards were raised to ensure such support.

DfT: James Weeden (Ports Division) & Geoff Stokes (Port Liaison Policy Leader: MCA)



James Weeden



Geoff Stokes

James provided an overview of general ports policy and explained that the role of the Government was set the regulatory framework with particular emphasis on the environment and safety and how this had led to the draft Marine Bill to introduce supportive legislation for the PMSC on the following port safety measures:

- General directions to be available to every HA

- Power for the Secretary of State (SoS) to issue directions to a HA to underpin the PMSC.

- Power to remove CHA status from a port that no longer operates commercially should the port request it.

- PEC management to underpin the PMSC and M307 guidelines.

- Power to remove a PEC

- Make it an offence to fraudulently use a PEC.

- Extend the officer grading from Master and 1st mate to enable other officers to obtain PEC.

- National Occupational Standards to become mandatory .

- Closure of Harbours.

James concluded his presentation by detailing the consultation process and encouraged delegates to submit responses as key stakeholders.

Q&A

Deep concern was expressed that the PEC proposal to reduce the qualifications from the "bona fide" Master and First Mate was effectively opening the PEC system to abuse whereby a company could obtain PEC's for its officers who could then move from ship to ship and effectively provide a competitive pilotage service.

James reassured delegates that there was certainly no intention within the Bill to alter the existing pilotage and PEC regime and that the advantage of producing a "draft" Bill with a 12 week statutory consultation period was that potential anomalies such as the wording of the clause identified by the UKMPA could be addressed and he offered an invitation to the UKMPA to explain their concerns in detail to the DfT team drafting the Bill.

What would happen to the consultation submissions if the Bill was not introduced?

They would be examined in detail and any important factors would be incorporated into the PMSC as an interim measure.

In response to specific concern from delegates over the planned removal of the term "bona fide" in the draft Bill, Geoff Stokes agreed that his personal opinion was that it was not just important that the officer was a bona fide member of the ship's crew but it was also essential that he should be competent in handling the vessel and that the PEC should therefore be ship specific.

Would the National Occupational Standards be implemented by 2010 as agreed?

James replied that had the Bill been given parliamentary time in the current programme then NOS would have been incorporated by the 2010 deadline but if the Bill was delayed then it was unlikely.

However, Geoff emphasised that both the DfT and the MCA were both wanting to progress the NOS implementation.

Joe Wilson concluded this session by thanking James and Geoff for providing the delegates with the clarifications on the important topics and welcomed and accepted the invitation to meet with the DfT to discuss the issues in detail with the relevant officials.

MCA: Geoff Stokes (*Port Liaison Policy Leader*)

Geoff explained the different roles of the MCA and DfT. The DfT devise the policy and the MCA deal with the operational aspect.

As an ex pilot (Dover) Geoff regretted that it takes a serious incident to trigger any change in the maritime world and acknowledged that despite 12 years having passed since the event that triggered the creation of the PMSC it had still not been implemented by all ports. However, despite being voluntary it was now being followed by the majority of ports. The PMSG steering group, which consisted of representatives from the Department, MCA, ports, ship owners and pilots, met twice per year to discuss progress and with respect to the PEC issue this group had produced MN 307 which establishes the procedures and guidelines for PECs. In Geoff's opinion, within a compulsory pilotage district the conduct of the vessel with a PEC should be indistinguishable from one with an authorised pilot on board.

Currently the outstanding items within the PMSC are NOS and the Formal Risk Assessments.

Geoff provided details of other work undertaken by the MCA in support of the PMSC such as verification visits and compliance exercises. Geoff emphasised the importance of the Duty Holder who, if any person is concerned over any matter regarding PMSC compliance, is the person who must be notified if all other avenues have failed prior to contacting the MCA.

With respect to NOS, the MCA fully understood the pilots' frustration with the lack of progress and were keen to see a pilot qualification introduced as soon as possible.

In response to further concerns over the lack of progress on NOS, James Weeden agreed to raise these issues at a forthcoming meeting with the ports.

Geoff Stokes believed that progress would have to be made because NOS was included in the Bill, the SoS had accepted that standards were essential and most importantly, the MAIB had referred to the Standards in recent reports. The pressure on the ports was therefore at a point where they could no longer afford to delay.

Joe Wilson closed this session by again thanking Geoff & James for their

comprehensive responses but requested that Geoff and James advised their department heads that the pilots wanted the standards and that it was the Government's responsibility to put an end to the 8 years of delay.

P&I CLUBS: Andy Kirkham (*International Group of P&I Clubs*)



Andy Kirkham

Andy opened his presentation by explaining that the International Group was a growing consortium of P&I Clubs and that he worked for the North of England Club. The 13 Clubs which formed the IG now covered nearly 10% of the World's tonnage.

In detailing the P&I Club structuring Andy referred delegates to the website www.igpandi.org. The group shares information and where there is a particular field of interest to ship owners they set up sub committees. One such group is the Pilotage Sub Committee which looks at "pilot error" claims and with respect to this the IMO resolution A960 and the MPEX document were very important.

In providing an example that had been classed as "pilot error" where damage had been caused by the engine being put the wrong way during a manoeuvre, delegates intervened to express their opinion that the example chosen was in fact a ship's error since the pilot had given the correct engine order.

Andy responded that in the opinion of the P&I Clubs, when a pilot arrived on the bridge he became a temporary member of the bridge team and therefore if there was an error made by the bridge team, because the pilot had the conduct of the vessel the P&I Clubs preferred to class the incident as "pilot error" in preference to some long winded grouping such as "pilot as part of the bridge team error". This remark generated some dissent from the delegates.

Andy then provided some statistics which

revealed that the number of claims was falling but the concern was that the costs of each claim were escalating.

The P&I Clubs had welcomed the IMO resolution A960 and IMPA had been very helpful in providing the Clubs with feedback from around the World from pilotage organisations regarding compliance with A960. Andy also emphasised the importance of a formal Master / Pilot exchange and passage planning. P&I Clubs accept that the ship cannot produce a comprehensive berth to berth plan but there should be a basic appreciation of the intended passage by the ship's bridge team as per the A960 definition.

In the subsequent discussion, the P&I club's use of the term "pilot error" caused considerable debate. Andy acknowledged that there was a problem with the term and that they were now working with EMPA & IMPA when examining certain cases. Joe Wilson offered the service of the UKMPA Section Committee to provide pilotage input into the claims process and Andy agreed to progress this within the IG.

Other issues discussed were manning and competence and Andy stated that there was a growing pressure to ensure "safe" manning rather than the "minimum" manning parameters which currently provided a commercial advantage to the sub standard end of the industry and penalised the high quality operators.

In conclusion all were agreed that this had been a most constructive session and that closer, regular contact between the P&I Clubs and pilots would be beneficial to both bodies. Joe emphasised his appreciation of Andy attending the conference and being prepared to "put his head above the parapet".

LEGAL LIABILITIES: Kevin Austen (*Barlow, Clyde & Gilbert*)



Kevin Austen

Kevin opened his presentation by displaying some of the negative and sensational press coverage that accompanied any maritime incident.

There was a general but incorrect viewpoint in the Industry that pilots couldn't be held liable for anything. However, what the ship owner was really interested in was minimising losses and generally their concern was over the fact that CHAs could limit or absolve themselves from any liability.

Pilots could be held personally liable under civil and criminal law and the real risk to a UK pilot was to be involved in a civil case where he may be subjected to a disciplinary hearing by his CHA and in this case his authorisation may be at risk and this would probably be more punitive than any penalty imposed through a court!

A very important fact regarding liability is that a pilot is only legally a pilot if he actually has the conduct of the vessel. If a Captain takes over to manoeuvre the ship then the pilot wouldn't be liable in the case of an incident.

Kevin clarified aspects of Limitation of Liability and the difference between

“command” and “conduct”..

Turning to criminal law, a pilot could be prosecuted for such offences as manslaughter and pollution. Pilots could also be found criminally liable under the Merchant Shipping Act and an example of this might be criminal proceedings resulting from excessive speed.

Kevin then clarified a few general legal aspects of pilotage such as the decision whether or not to proceed. In fog, case law had ruled that the decision was solely down to the pilot.

Another important aspect was the observance of the collision regulations. Courts always considered these and took a dim view of actions that contravened the COLREGS or bye-laws. Sound signals and keeping a look out became important and arrangements such as “green to green” passing were frowned upon even though they may be common, accepted practice.

If a serious incident occurred then public opinion required an individual to be identified as responsible and self employed pilots could be affected by the new Corporate Manslaughter Act however, Kevin mentioned that no pilot had been

successfully prosecuted for a criminal act since the early 19th century but the “Cosco Busan” case in the USA did look as if it may set a precedent and pilots should be aware that important legal events in the USA inevitably became incorporated into English Law.

Q&A

Should a pilot report to the VTS if the Master has taken over the handling of the ship?

YES! Such a record could be vital should something go wrong.

Would Kevin consider that for employed pilots the CHA's own cover was adequate and that the separate insurance taken out through the UKMPA was unnecessary?

Kevin was unaware of the cover provided by the UKMPA insurance but was of the opinion that such cover was advisable. Chairman Joe Wilson, made the point that in a case currently being made against a pilot on the Clyde, the UKMPA insurance was essential because the CHA was making a case against the pilot.

THE HUMBER CASE

REPORT TO UNITED KINGDOM PILOTS' ASSOCIATION

1. The case of Pilot Colin Brammer (on behalf of 88 members of Humber Pilots Ltd) versus Associated British Ports has been settled on terms acceptable to all parties. The terms of the settlement are confidential.

2. The claim was in the matter of misfeasance in public office, following the de-authorisation of the Claimants en-masse at 2359hrs on 26th January 2002. The facts of the case are otherwise well-known. Instructions from HPL were received at Hill Dickinson & Co in February 2004. The matter was drawn to the attention of UKMPA at the Annual Conference in November 2004 and the claim was eventually issued at the High Court in May 2006. HPL's instructions were transferred to RA Wilkinson & Co in September 2006. The case was in due course listed to be heard at trial in the Admiralty Court in June 2008.

3. From March 2004, advice was taken throughout from Nigel Jacobs (who became Queen's Counsel in October 2006) and from Andrew Edis QC from the summer of 2005. Nigel Jacobs is a specialist in shipping law and Andrew Edis is a leader in the field of public misfeasance. Both QCs advised that there was a strong prima-facie case to be

answered. Both advised as to the risks attached to any civil litigation, a fundamental principle of which is that the losing party in any dispute is normally required to pay the winning party's costs. The parties in the Humber case were at opposite ends of the relevant spectrum in terms of financial resource for the conduct of the litigation. The members of Humber Pilots Ltd had lost their professional authorisations and in consequence had severely limited funds. No financial support was given by either UKMPA or the Transport & General Workers' Union. Associated British Ports by comparison enjoys abundant funding.

4. The political nature of the case was such that ultimately it could (and with some degree of probability would) have been referred to the House of Lords. In the event that HPL had fought the case to the House of Lords and had lost, the personal financial liabilities of Colin Brammer and the other Claimants in costs to ABP and others would have been measurable in several millions of pounds. As each Claimant bore an equal responsibility in costs, there was a stark risk that many of the Claimants would have lost house and home in the event of an unsuccessful action. “After The Event” insurance (a form of funding sometimes available)

proved to be difficult to find, notwithstanding the joint-advice of Counsel that the case had a 60% chance of success and that the prima-facie case was strong. In insurance terms it would appear that the issue was difficult to handle on an After The Event basis. Without insurance and without any other source of funding, the risks for the Claimants (which always were substantial) increased dramatically. An adverse ultimate judgment would in general terms have been catastrophic for the Claimants and their families. It remains a sound principle that no man should go to law unless he can afford to lose. The members of HPL were obliged to observe that principle and they did so.

5. The Court Order is final in any event.

6. Colin Brammer and all other claimants wish to thank all of those individual members of UKMPA who have provided financial support in bringing matters to their present position. All of the claimants are extremely grateful. They have achieved as much as could possibly have been achieved with the limited resources which remained available to them.

Barrie Youde
RA Wilkinson & Co

Pilots Under Siege?

Dave Williamson: UKMPA Section Committee

Never before has the profession of the Maritime Pilot been subject to such trials and tribulations. Following on from the 'criminalisation of seafarers' we are now faced with the 'criminalisation of Pilots'. In the USA a Pilot has suffered such incursions on his personal life, that the 'Vultures' who lay in wait, to pounce at an opportune moment, have all but removed his dignity. In Australia a Pilot who narrowly averted a collision with a yacht in a restricted channel has been stripped of his worldly wealth, trying to defend a case brought again him for causing stress and trauma to the crew of the yacht.

The emerging culture is one of 'blame'. Whom can we 'turn over'? Where does the 'accountability' lay? More importantly, who can be considered 'liable'?

Following on from the Master of the vessel the next target in the 'chicken coup' is the Pilot (if aboard). If aboard then, any mishap is likely to be determined 'Pilot error'. Many of the industry stakeholders show naivety in their definition of incidents that they attribute to 'Pilot error'. They use terminology such as 'Pilot assisted collisions'. In the dictionary assisted means to help and support, one assumes with a willingness! Stand up please the pilot who has willingly assisted in any collision or incident. The latest training aid video produced by the American Club P&I Insurance group, has the unfortunate title 'Stranger on the Bridge', hardly an endearing choice of words. One incident report published by an investigatory body contained the phrase 'the Master had an unhealthy trust in the Pilot'. A leading voice of the International Group of P&I Insurers told the UKMPA conference that if a Pilot is aboard during an incident then it falls into the category of 'Pilot error' and is recorded as such. His defining comments stated that, as a member of the 'Bridge Team' and as the vessel is under Pilotage, the Pilot is therefore responsible. An example offered demonstrated a vessel nearing its position on a berth moving astern at 0.4kts. The Pilot orders half ahead to bring the vessel to a stop; the order is conveyed by the Master to the Officer on the telegraph, the action is relayed back to the Master, who confirms the order with the Pilot. Unknowing to the Master and the Pilot the Officer has put the engines to half-astern. Before the engines of this large vessel could be stopped and put to ahead, the vessel grounded aft and damaged the main pipeline to the jetties. PILOT ERROR. Yes, we were equally horrified at this generalisation by a major stakeholder, who has since agreed to engage with the

UKMPA and to the offer of a Pilot on the IG Pilotage Committee, which at the moment seems lacking in Pilotage knowledge.

Now I am no legal expert but let me give a personal opinion from the 'coalface' of how I view the liability matter. I for one am very glad that the UKMPA had the foresight to source and recommend to its members (in fact it is a condition of membership) an insurance for 'Legal Protection Policy and the Authorisation and Professional Legal Protection Policy'. Our sincere thanks have to go to Simon Campbell (SecCom) for his doggedness in scrutinising the detail and securing the policies on our behalf. Many have scoffed at the need for this and consider that we are adequately covered under the contents of the Pilotage act or as an employee of the ports. This has since been both legally qualified and sadly for some of our colleagues qualified in the practical sense too. You had better believe that the employers will do all in their power to limit their own liability when the attorneys turn up in reception. Are they likely to be there standing alongside you voicing support and offering protection – dream on, that myth, has already been dispelled. Insurance cover now forms part of my passage planning, along with will my family be put at risk, do I risk my authorisation; now lets consider tides and tugs. Whilst the IG of Insurers and the ship owners it represents, seek to lay blame and apportion liability in the lap of Pilots, they will have to consider that in assuming the liability, Pilotage service companies will have a need to increase the Pilotage tariffs, to cover the added expense of insurance premiums, that Pilotage service companies will be forced to take out. Pardon me if I am being cynical but it would appear to me that the only winners in this case, are the insurance companies, who are in a 'win win' situation, earning from both the owners and now from the Pilotage service companies, whilst at the same time reducing their own risk.

Now let us put the 'risk' that any pilot may be prepared to take, into context. Here we are professional, properly qualified, trained and faced with a job that we know is 'do-able' with two tugs. With the 'weighting' of authorisation and livelihood, is it prudent to consider the third tug assistance. The owner will berate us for any damage caused and will seek to lay blame and apportion liability whilst at the same time will be aghast at your decision to call upon another tug for assistance. The point I am trying to make is that the current trend will inevitably lead to an increase in costs

the ship-owner / charter incurs, as the Pilotage service provider raises tariffs to augment insurance cover and the amount of personal risk a Pilot may put into a job is reduced by extra provision.

At UKMPA conference in Harrogate, we received an address from the head of MAIB, Stephen Meyer. One of Mr Meyer's contributions in the press in recent months covers the topic of complacency. You know what I mean – we have always done it that way, if it works why change? Mr Meyer has this to say about complacency:

Complacency must be addressed at every level:

Professional pride and standards have an important part to play – professional bodies need to tackle this;

The UKMPA have been calling for professional standards for Pilots for quite some time, as you will have read in this journal on many an occasion. The results from EU ,Education, Training, Certification & Standards (ETCS) project and the National Occupational Standards (NOS) have been lodged with the Dft / MCA for a number of years but sit on the shelf. Recently there has been talk of Certificates of Competency (CoC) for Maritime Pilots and in my view, not before time. Ship Masters / Owners / Charterers have the right to expect the highest possible standards from Pilots and Pilots should aspire to those standards. (At least we agree on something with the IG P&I Ins) Don't start shooting the messenger yet guys. I'm not saying that what we do is not good, in fact if you read the IG of P&I Insurers report by their 'Pilotage Committee', you will see that in the UK we rank exceptionally well compared to many countries of the world and some closer to home. The point is, whilst we sit back considering ourselves to be 'good' compared to the rest, in the back of my mind is Mr Meyers reference to 'complacency'. Now you may have to start reading between the lines. Who is being complacent here? The Pilots? No, we have been calling for NOS for what seems like time in memorial and CoC would be a valuable addition. Could it be that some of the stakeholders consider it not in their interests to see the status of Pilots officially recognised by statutory qualification and certification. The same stakeholders, after our lead, compiled their own NOS and are now forging ahead towards implementation after maybe wakening up to the same complacency, whilst NOS for Pilots continues to be ignored. The same stakeholders would have to make a firm

commitment towards training and the Continual Professional Development (CPD) of Pilots. Money, that is, what it is going to cost and whilst some stakeholders invest admirably, many invest little and some nothing at all of the Pilotage income. I am not sure what has changed principally since 1988 but the direction of the money paid by the ship owner in Pilotage dues seems to have been channelled away from investment in training and resources. The ship owner has a right to expect that a portion of his 'dues' are invested in the training of Pilots in whom he entrusts his very valuable asset.

Here's my cynicism again, if the (what the hell) ports denounce or continue to ignore NOS for pilots and everything else that goes with it they can keep our 'status' as Pilots just where they want us. It is my personal opinion that the Dft / MCA and the meeting, of the Transport Select Committee should not permit this to happen. We read on an almost daily basis of the falling crew standards, the same crew, ie the Bridge Team, which we are supposed to integrate with! From the demise of the European Seafarer in the 1980's, we have seen the fall from grace of the Indian and Polish Officers. Not happy with the crew contract rates, the owners moved to the South China Seas and the Philippine National. None of these can be described as traditional seafaring nations but although many are trained to relatively high standards in the third world context, with the never-ending hunger to cut costs, what easier way than through crew wages.

So now the crux. If the holding back of standards in Pilotage continues, we will not recruit the calibre of seafarer needed to fill the growing void. It is already happening in mainland Europe. Germany for example needs 400 pilots NOW. Keep the standards as low as possible and the ports will be able to 'employ monkeys and pay them peanuts'. It opens the doors for a substandard Pilotage service in the United Kingdom, which will be destined to integrate with an already substandard Bridge Team. The standards in the shipping industry are dire.

Consider the latest study and admissions from the US Maritime Administration:

"It used to be that there were too few jobs and too many people looking. This study shows that the tide has turned, and the situation is reversed."

The US Maritime Administration would *"continue to find new and innovative ways to recruit, train and retain qualified US mariners."*

89% tried to recruit mariners last year, but 71% had trouble

88% indicating retention issues affected their business operations.

- several shipping companies have been unable to sail their full fleets or have been sailing with sub-standard crews because of the workforce crisis. He gave this as one reason behind the major uptick in marine

casualties in recent years.

This state of affairs is worldwide. It is ever more important that the UK government does not permit the standards in Pilotage to be dampened down by operators who see more in the development of viable quay space as apartments than supporting national assets and the technical nautical services that ensure the safety of navigation and the protection of the environment of our rivers and estuaries.

The qualities of Pilots need to be enhanced to guarantee that they are able to meet the 'modern day' (I use that term loosely) needs of the vessels which visit our shores.

So what can pilots do? Embrace NOS and ETCS for Pilots, impress on your CHA's that you consider these to be the minimum standards for Pilots. Raise the issue too at your next Port stakeholder meeting. You should be a part of the stakeholder meeting which are supposed to be convened under the PMSC criteria. Ask why your Port is not embracing NOS and ETCS. If you are a self-employed provider for Pilotage services, ask yourself why it is not part of your operating procedures. Further, for self-employed ports look towards adopting the International Standards for Pilotage Organisations (ISPO). ISPO is a safety management system, the criteria of which identifies, many of the safety management procedures contained in the provision of Pilotage Services. ISPO, like NOS and ETCS, was produced by the sub-committees of the European Maritime Pilots Association. This self-effacing 'Trilogy' of documents should be seen as the stepping-stones for the modern day needs of Pilotage. The power in these documents should not be underestimated and that is what I consider that the UK Major Ports Group (UKMPG) and the British Ports Association (BPA) are afraid of. The UK Harbour Masters' Association (UKHMA) are putting NOS in place for their Harbour Masters and quite rightly. So why do they not compliment the status of one qualification with the other? I leave you to form your own judgement on that.

It is my personal view that ISPO is a necessity for independent Pilotage Service providers and self-employed Pilots. You have a duty to compliment the onboard ISM Code for ships and the voluntary Port Marine Safety Code (PMSC) for Ports. Demonstration of safe operating procedures and the management of those procedures is essential. This shouldn't be confused with an ISO standard (although not a lot is needed to upgrade) it simply requires providers to document the procedures that they are already practically involved with.

The final question; are the Pilots of the UK living in that world of complacency described by Stephen Meyer? Or, are they prepared to form the an allegiance with the

IG of P&I Insurers and the Owners / Charterers to ensure that the modern day demands of Pilotage are met head on in the UK? Such allegiance must persuade the Ports and the government agencies that they have a "duty of care" to the national public interest.

The MAIB repeatedly, following shipping accident investigations, provides recommendations that to the greater extent appear to go unheeded. In 1996, they made bold statements regarding the expectations for training of Marine Pilots and the PMSC places 'obligations' on ports for the training of their pilots. The PMSC sadly, remains voluntary and it will be a missed opportunity if the Marine Navigation Bill isn't amended during the consultation process for the PMSC to be made a statutory obligation. I fear the Dft will, in the future, regret such an omission if the code remains voluntary. And what of the MCA, god bless 'em. Underpaid, under staffed and quickly losing the leadership, drive and will. MIN307 still awaits the proof in the pudding. Paragraph 2.3 provides best practice for the issue of Pilot Exemption Certificates (PEC). Paragraph 2.2 again provides sound advice with A960 thrown in for good measure. Are these recommendations being adhered to? I fear not. Could cruising up and down a river on a pilot launch and an afternoon on a dredger qualify for the revalidation of a PEC? Could five days training qualify a candidate as a Pilot who is then restricted to daylight operations? Why does such wilful disregard of standards go unchallenged? The recently published accident report on the *Ursine / Pride of Bruges* collision tells its own story with respect to PEC abuse.

I find it unfathomable as to why these three government representative bodies do not have the political will to listen to the practitioners who see the obvious benefits in ECTS and NOS. Please don't get me wrong, I have the greatest respect for our government agencies whose workload and resources probably don't match. However, they must have a vision that looks to the long term and they must ensure that other stakeholders listen to recommendations and are compelled to face up to their obligations.

There is an obligation on the government agencies too and they all have to respond to the public interest and not just the economic interest of stakeholders. IMO Resolutions on Marpol, STCW, SOLAS, have all been ratified by the UK government, why not Resolution A960? They are the ones who will have to stand up and be counted after the next major disaster on our shores because if they fail to take heed of their own recommendations made in 1996 following the *Sea Empress* disaster they will be held, in part, culpable.

Maritime Memories Cruise



The Discovery in the Azores photo: David Ingham

Regular readers of *The Pilot* will recall that I have written several reviews of the Maritime Memories DVD titles produced by Des Cox of Snowbow productions. In addition to the DVDs, a few years ago Des also started to organize Maritime Memories cruises specifically designed to appeal to Merchant Navy seafarers who remember the post war golden days of the British Merchant Navy. These have proven to be a much looked forward to annual event by many and have become so popular that I understand that this year's voyage was oversubscribed. However, retired Haven Ports, ex Trinity House pilot and Captain of the Felixstowe Master mariner's Club, David Ingham and his wife Joan were successful in booking and joined the MV *Discovery* for the 28 days cruise from

Manaus to Harwich and David has sent me an account of the voyage. Following departure from Manaus, the *Discovery* called at two more ports in the Amazon and Devils Island. The cruise then took them to French Guiana after which the *Discovery* stopped off at six ports in the West Indies. David celebrated his 75th birthday in Barbados after which the vessel sailed to the Azores and home to Harwich. The *Discovery* is the ex *Island Princess* built in 1972 but now fully refurbished in traditional style and the cruise agenda is described by Maritime Memories as "*days when we can once again enjoy ourselves as we sail through the rich blue ocean aboard a real ship with wide-open wooden decks and gleaming brass*". The itinerary was enlivened by Maritime speakers and every

day videos of the heyday of the great liners, general cargo and tanker companies were played on the ships internal TV.

In addition to professional seafarers and the normal passengers, many others were present from various branches of shipping. Sonia Benke-Hall and Susan Hegi, for example, survived being torpedoed in the British India's troopship SS *Erimpura*, in the Mediterranean and former radio operator, Roger Davies, was torpedoed in an armed merchant cruiser. John Bushell had a peacetime escape from the *Newfoundland*, wrecked in Agentia Bay in 1961 and Rosalinda Zazzera survived the *Achille Lauro's* sinking after a fire in the Indian Ocean in 1994.

David recounts, "*I was reunited with a gentleman who was my second mate in the*



*Arrival in Harwich
L-R: Captain Kemp, David Ingham and Haven pilot Steve Chapman*



David Ingham with Des Cox's daughter, Anna, at the Gala Evening



Maritime Memories

60's and also another with whom I was in the Sea Scouts the late 40's! Throughout the voyage there was a wonderful atmosphere and international interest. Two ex Trinity House colleagues were also on board, Martin Dick (Haven Ports ret'd.) and Alan Osgood (Great Yarmouth ret'd.). Menus during the voyage had been taken from the big liner companies of the past and the restaurant was decorated with National and shipping company House flags for themed dinners. Wives were also well catered for since the Maritime Memories activities are in addition to the vessel's normal cruise entertainments. However, the icing on the cake for me was to be invited to the bridge by Captain Kemp for the pilotage into Harwich and it was just like old times watching Haven Ports pilot, Steve Chapman, at work after my 13 years in retirement!"

Des Cox has had an interesting career which has ranged from being cabin boy to purser with the New Zealand Shipping Company and from pop singer to actor in the film "Those Magnificent Men in their Flying Machines". David states that he is an excellent host, entertainer and raconteur but on the serious side, his work as an archivist of valuable film and other records from this golden era has preserved much material that would probably otherwise have been lost.

For details of the "great Liner" series of DVDs / videos and Maritime Memories, Voyage 9 departing UK April 26th 2009 for the Mediterranean please visit the Snowbow website: www.snowbow.co.uk

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CHAIRMAN'S REPORT

As I write this I am about to depart for London to speak to the Transport Select Committee regarding the Draft Marine Navigation Bill. Recently I spoke to some Scottish MSPs in Holyrood, this regarding the situation with Clyde Pilots. Perhaps it is an indication that matters regarding pilotage and ports are "hotting up".

The situation with Clyde Pilots has continued to deteriorate, and the majority of the existing pilots received notice to terminate their contract as of July 18th. ClydePorts have taken pre-emptive action by seeking to employ "new" pilots. One such was a pilot (and UKMPA member) in another district – he was trained to conduct [limited] pilotage in 5 days. There is "Honour amongst thieves", where they do not steal from each other; so why not honour amongst pilots? Following consultation with section committee it was my pleasure to terminate his membership of the UKMPA. We have asked for Clyde Ports to meet with ACAS in order to resolve the dispute, but they have refused.

The 2008 Conference in May was a great success, and it was a pleasure to see so many



The UKMPA representatives addressed SMPs at Holyrood House. L-R: T.Purse (Clyde), D. Stirling (Clyde), S. McMillan (MSP), Joe Wilson, John Pretswell, P. Wibberley (Forth), B. Youde (RA Wilkinson & Co).

pilots and partners there. Thanks should go to Peter Wylie and his partner, Louise, for all their time and effort in the organisation. We were so impressed with Harrogate that we have made a provisional booking for 2010. It was agreed by delegates to maintain an annual Conference, and we shall therefore stop the IDM in favour of a

1 day biennial Conference. For your diaries, the next will be onboard HQS Wellington on May 13th 2009 – details later. A raffle raised £676 and this has been sent to the Marine Society – many thanks to those that donated the excellent prizes.

You will now have heard about action being taken by the PNPf trustees in relation to the deficit. The trustees have appointed litigators to act in this matter. I expect that a communication to all members will be sent in the near future, explaining what is happening. The workload is massive – we have received reams of documents going back to the early 1970's, and with trustee elections looming all I would say is that now would not be a good time to be changing trustees – we had considered not having the elections, but "rules are rules"! I doubt that anyone would volunteer to become a trustee now, and I can see that there will only be "professional trustees" in the future – paid presumably by the pension funds they represent.

It looks as though the year ahead will be a busy one, and I must thank all those who give up a lot of their own time on behalf of everyone.

Joe Wilson, Chairman

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Retirements

*February 2008 to
April 2008*

PC Haysom	Yarmouth	Feb
JD Marshall	Tyne	Mar
AY Purvis	Tyne	Mar
RJ Swift	Liverpool	Dec

PENSION NEWS

This is a summary of my presentation given to the UKMPA at their annual conference held in Harrogate in May 2008.

PNPF 2008

Richard Williamson, as Chairman of the PNPF, told the members what had been happening to the fund since last we all met in November 2006. I, therefore, dealt with the more turgid topics of current affairs in the Pensions World.:

PENSIONS BILL

Since November 2006 there have been several new pension bills, one of which is currently working its way through Parliament. Each bill has been a little bit different from the last. The 2004 bill concentrating on protection of scheme benefits and the 2008 Bill concerned with Personal Accounts, the central thrust of the Bill being auto-enrolment.

The new requirement of the 2008 Bill will be that nearly all U.K. employees will be put into a pension scheme by their employer, the default scheme will be Personal Accounts if the employer does not have a suitable scheme of its own.

Under the Bill employers must automatically enrol all employees between age 22 and state pension age into a "suitable" pension scheme. Suitable being:

- The company's own occupational pension scheme
- Personal Accounts, which will be a centralised scheme.
- A personal pension arrangement

Enrolment should take place as soon as a member is employed, but where the scheme provides benefits above the minimum required by Personal Accounts then a waiting period of up to three months will be allowed. For a defined benefit scheme it must provide benefits broadly equivalent to or better than a pension payable from age 65 with a 1/120th accrual rate.

Employees will be allowed to opt-out should they so desire.

The Pensions Regulator will be responsible for monitoring and enforcing the new legislation. The Bill also covers amendments to existing occupation pensions legislation, including a new power for The Pensions Regulator to impose its own calculation of technical provisions if it does not think the trustees have been prudent enough.

BUDGET 2008

Alastair Darling was always going to find Gordon Brown a hard act to follow as Chancellor, therefore to set his own stamp on the budget he decided to adopt a "go green" approach. Many of the environmental measures in his first budget do not directly target pension schemes, but show the increasing effect that this area of policy is likely to have on every aspect of the economy.

The measures in the budget that do impact on pensions include.

- Changes to authorised payments
- Changes to the Lifetime and Annual allowance, which have been raised to £1,650,000 and £235,000 respectively
- Easement in the trivial commutation rules

Easements to the rules concerning taxable property and 25% lump sum rules

Confirmation that in calculating deductions for corporation tax purposes in respect of pensions costs a company can only use the pensions contributions actually paid.

AN AGENDA FOR TRUSTEES

There are vast arrays of important issues facing trustees and it is essential they tackle these matters, some of the key topics are:

(1) Governance

The trustees need to demonstrate 'good governance' in the performance of their duties. A good governance structure will help the trustees in minimising risk, identifying and maximising efficiencies and identifying interest of scheme members. The attributes of good governance include:

- Proper and timely execution
- Good decision making
- Clear accountability
- Regulator review and assessment

(2) Investment Strategy

An expanding range of investment choices has added to the complexity of this area and increased demand on trustees. The trustees' primary concern lies with the interest of the members of the scheme, but matching the expectations of members has never been easy in respect of investment returns. The time required of trustees to make informed decision on investment strategy is increasing dramatically now that choice and complexity is so high.

(3) Employer's Covenant

A key aspect of the new requirements for scheme funding is the need for trustees to assess the covenant of the employer. One

of the greatest risks facing defined benefit pension schemes is the financial position of the employer and its ability to service the pension scheme.

(4) Scheme Funding and Recovery Plans

When going through the funding process the trustees must bear in mind The Pension Regulator's (TPR) policy on "triggers", most notably the funding target for technical provisions (aka scheme liabilities) and the shortfall recovery period. For the technical provision TPR's primary focus will be on ensuring they are prudent given the scheme's circumstances.

For the recovery plan(s) TPR has retained a ten year trigger point, but has emphasised that this should not be considered the industry "standard". Recently TPR has issued a consultation document on longevity assumptions, which may in themselves become "triggers" as TPR has stated that 96% of all valuations are using longevity assumptions that are not prudent enough to take into account that people are living longer.

(5) Internal Controls

The Trustees are responsible for assessing the risks to the scheme, and not just the financial ones, and documenting the controls in place. Where a control framework is in place a review and update should be undertaken on an annual basis.

(6) Trustee Assessment

A key element to good governance is assessment of skill and knowledge. Trustees should be making formal assessments of their own procedures and decisions, which include their skills and knowledge following assessments of strengths and weaknesses action plans for improvements can be developed.

SURVEY

I thought we could end on a recent survey carried out by Axa which has discovered that most people in the UK fear public pension reforms will mean they will retire on less state benefits and have to work longer. 91% think it will mean an increase in the number of years they will have to work. Whereas 57% of the UK workers think they will have enough to live on, 64% of retirees say their retirement income was sufficient. Over 80% thought they would have a better retirement than their parents, but only 40% thought their children would have a better retirement.

Harrogate was lovely and I would like to thank the UKMPA for inviting me.

*Debbie Marten
Debbie@pnpf.co.uk*

Blame and shame is really just a wasted opportunity

By pure coincidence, at the same time as Dave Williamson's thought provoking article (page 8) a letter appeared in Lloyd's List (27th May) written by IMPA Vice President and head of standards and training at the Australian Marine Pilots Association (AMPA), Steve Pelecanos which serves to underline the issues currently being debated by the UKMPA.

THE United States of America is looked up to by many nations of the world as the epitome of democratic maturity — a nation that embodies the zenith of human evolution. A nation founded on the great ideals of Liberty, Equality and Fraternity and the pursuit of happiness is, after all, where any human being should expect to live and thrive in an environment where fairness permeates all facets of life. This is the stuff of leadership; an aspiration for many.

In the maritime context also, the US has had a great and proud history and has provided the world with leaders such as Nathaniel Bowditch, Thomas Sumner, Matthew Maury and writers of the calibre of Herman Melville and Henry Dana. More recently, Dominic Calicchio won international renown for his investigative work following the sinking of the *Marine Electric*.

However, on the morning of November 7, 2007, the reputation and image of a great maritime nation collapsed when the world witnessed the knee-jerk response of a bureaucracy to the collision between the *MV Cosco Busan* and San Francisco's Bay Bridge.

The process initiated on that morning seemed focused on finding, not the root cause of the accident, but rather, a scapegoat — an individual upon whom to pin the blame; a process that seemed more guided by the philosophy, "if we remove the individual, we remove the problem", rather than a philosophy of "what lessons can we learn to prevent this type of accident reoccurring?".

The substantial body of evidence derived from research into accident causation reveals, quite clearly, that individuals are seldom the cause of accidents.

Most organisational accidents occur because proper defences are not put in place to prevent them.

In this, the role of management and the regulator cannot be overlooked and when they fail in their duty, it is normally the hapless individual at the coalface who they'll pursue to blame and hang out to dry. They will rarely point the finger at their own failure.

And so it was for the pilot on the bridge of the *Cosco Busan*. Compare what happened to him with what happened to the pilot on the *Zim Mexico*.

Both accidents occurred in the same country, but the responses could not have been more different. In the former case, the crew of the *Cosco Busan* were granted total immunity from prosecution to help build the case against the pilot; in the case of the *Zim Mexico* the pilot carried on working and the ship's master was arrested. Whatever happened to the presumption of innocence?

In the case of the *Cosco Busan*, the press has made a meal of the pilot's medical and pilotage history but has left those who need to be questioned off the hook. Is the press informing the public or protecting the bureaucracy?

Pilotage is a very old profession and the law of pilotage is well established. The pilot is engaged as an adviser to the master. When a pilot arrives on the bridge of the ship, the words "vessel to master's orders on pilot's advice" are entered into the ship's log book. In other words, the master is still responsible for his ship and the presence of the pilot does not relieve him of that responsibility. In San Francisco, the Harbours and Navigation Code expressly reinforces this principle of pilotage law. So why then, was the ship's crew granted immunity?

In very general terms, the relationship between the ship's master and the pilot is based on a sharing of knowledge — the pilot has local knowledge of his port's geography and regulations and the master has knowledge of his ship and its equipment.

From what we read, the event that immediately preceded the accident was a misinterpretation of the information given by the



Cosco Busan: Pilot error or pilot support system failure?
Photo: KCBS website

ship's electronic charts. The pilot relied on the master's knowledge of the ship's equipment. Prima facie, it appears that the master provided the pilot with the wrong information and it was this information upon which the pilot made a decision.

But this leads to even more questions. If the master could not provide the pilot with accurate information about the ship's equipment, had the shipowner ensured, as required by international convention, that the master was properly trained in the use of the equipment?

These questions have not been asked. Nor has anyone asked why, if the pilot's medical history was of concern, did he still hold a licence? And what standard operating procedures did the Pilot Association have in place regarding pilotage of vessels in fog? Were these procedures robust enough to deal with the circumstances? What measures of oversight did the regulator employ to ensure the Pilot Association had an effective safety management system in place? What measures of oversight did the Pilot Association employ to ensure its pilots adhered to its safety management system?

The old profession of pilotage has been undergoing significant change in recent years. As in all highly operational environments, safety in pilotage is systems based and all of those involved in the regulation, management and execution of pilotage safety sharing a responsibility to ensure the systems are robust and have the rigour to withstand the highest scrutiny.

It is so easy, and so wrong, to blame an individual for an accident of this kind. A proper accident investigation needs to delve deeply to find the root cause. It is only when we understand the root cause of accidents and take measures to address them that we move forward in creating a safer society for the human race. This is something that should be clearly understood and practiced by great democracies.

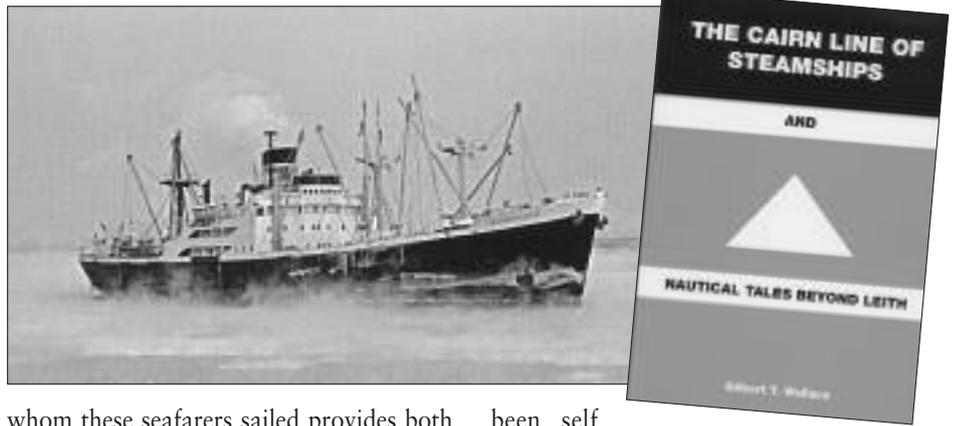
The way the case of the *Cosco Busan* is being prosecuted is a throwback to yesteryear where all the benefits that could flow from a modern investigation have been sacrificed in a spirit of vengeance. Blame and shame might provide momentary satisfaction for those with a warped sense of justice but, at the end of the day, it is simply a wasted opportunity.

Captain S. Pelecanos

BOOK REVIEW: THE CAIRN LINE OF STEAMSHIPS & NAUTICAL TALES BEYOND LEITH

by Gilbert Wallace

Following publication of his original book on the Cairn Line (reviewed in the July 2005 issue of The Pilot), Gilbert Wallace received a lot of additional information from ex Cairn Line seafarers and their families and as a result has now published a complimentary volume to the original book. The first half of the book begins with an interesting history of the port of Leith and details the author's own seagoing career with the Cairn Line and is lavishly illustrated with photographs, maps and many of Gilbert Wallace's own drawings and sketches of the ships, trades and cargoes carried. The second part of the book consists of biographies of many of the Captains, officers and crew who served with the Cairn Line and the wealth of photographs, illustrations and other ephemera of not just the Cairn Line but also of the other shipping companies with



whom these seafarers sailed provides both a fascinating and valuable record of the British Merchant Navy in the 20th Century. The last chapters include the latest information on the ex Cairn Line ships still trading along with a comprehensive ship list and amendment and updates to the first book.

With a foreword by Captain Paul Wright of the Queen Victoria, this book contains such a wealth of fascinating shipping and trade information that its appeal extends well beyond the Cairn Line to anyone with an interest in the history of the British Merchant Navy.

As with the first book this edition has

been self published by Gilbert Wallace.

Price £24.95 (UK £4.45, EU £5.95, Airmail Worldwide £10.86)

Some copies of the original book are still available Price: £15.00 (excluding postage) and both books can be ordered together whilst stocks last for £34 (excluding postage)

Payment in sterling by UK cheque, postal order or bank draft only to:

Gilbert T. Wallace,
3 Milton Gardens,
South Edinburgh,
Scotland. EH15 3PG
Tel/Fax: 0131 669 5878

44th European Football Tournament in Emden 08

A team of UK pilots took part in the European Pilots Football Tournament for the first time in many years. Congratulations to the Ems Pilots for both winning and hosting a superbly well organised and thoroughly enjoyable event in Emden Germany.

Things got underway on the Friday night with a welcome party where all the teams got to meet each other over a few drinks and the draw took place for the following days matches. 12 teams of pilots took part: Weser/Ems, Amsterdam, Vlissingen, Livorno, Rotterdam, Brunsbuttel, Ostend,

Hamburg, Antwerp, LeHavre, Kiel Canal and The UK.

After breakfast on Saturday our coach transferred us to the sports ground which consisted of 3 full size pitches with: changing rooms, refreshment areas, massage room, lunch tent and bar. In the meantime pilot WAGS enjoyed a local sight seeing excursion.

During the day each team played 4 games – 15mins each way and the 2 teams accruing most points played in the final.

We won our first game against Vlissingen 2-0 – a really good start. We drew our

second game against Amsterdam 1-1. The third game against Weser/Ems was the crunch one we needed to win to keep our route open to the final but but it was a hard fought 1-1 draw against a good team who eventually won the tournament. We needed a win in our last game against a weaker Brunsbuttel side to reach the 3rd and 4th play-off but despite a lot of late pressure we only managed a 1-1 draw.

The final was between Weser/Ems and Livorno. – Efficiency against dramatics. – Its was tied to the last - 0-0 after extra time with some heroics from the Italian keeper.

It went to penalties and the Germans were victorious. The UK team achieved a respectable 6th.

After the final all teams celebrated with a happy hour at the bar.

Adequately rehydrated buses transferred us to our hotels and then on to the dinner dance and presentations which went on to the early hours.

After brunch on the Sunday it was time to make our way home and nurse the sore limbs.

A special thank you to the Liverpool pilots who made all the arrangements for the team UK.

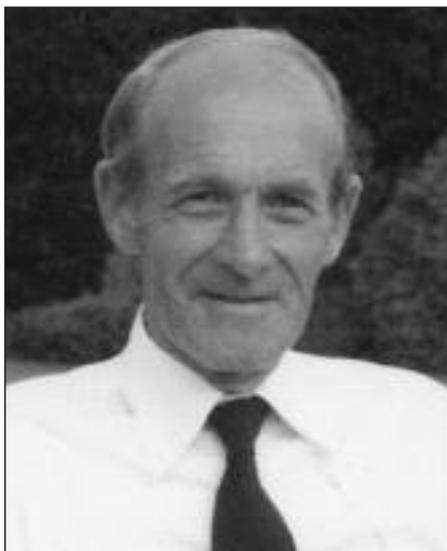
Next year the event is taking place on the weekend of 7th May and is being hosted by Ostend Pilots. Any persons wishing to get involved please contact Stefan Looij (Liverpool) Stefan.looij@btinternet.com



(L to R) Back: Iain Baird (Liverpool) Simon Jones (London) Willie Terry (Forth)
Derek McAuley (Forth) Stefan Looij (Liverpool) Wayne Roberts (Bristol)
Andy Bissaker (Liverpool) Tony Crew (Manchester)
Front: Simon Wood (Liverpool) Kenneth Macinnes (Forth)
Dave Roberts (Liverpool) Tony Crew (Liverpool) Kevin Walsh (Liverpool)
Peter Flanagan (London) Martin Greenslade (Bristol)

OBITUARIES

Kester Field 1929-2008



Kester Field, retired Cinque Ports Pilot and PLA Pilot, died on the 23rd March 2008 aged 79 years. Kester was born at Bookham, Surrey, on the 20th March 1929. Living in Surrey all his young life he attended Purley County Grammar School until 1945 when he began his sea career on the Worcester until 1947. After his pre-sea training he joined the New Zealand Shipping Company serving for 10 years leaving in 1957 as Chief Officer.

Kester was in the RNR and did several tours of duty as Lieutenant Commander, including the Arctic Patrol during the cod war. Having decided he would like to be a pilot he joined the General Steam Navigation Company for Thames experience in 1959 before being accepted for the Trinity House Cinque Ports Pilotage in October 1961, transferring to the Port of London pilotage in 1988

Kester never regretted his decision, loved the profession, piloting every class of vessel from the first M-Class Shell tanker for Shellhaven to the Royal Yacht into Dover Harbour.

Kester married Margaret in 1957, maintained a superb garden near Folkestone, played golf and bridge, was a Magistrate for many years and managed to bring up 2 children, Andrew and Sylvia and spoil four grandsons. He had a healthy distrust of foreign countries, foreign languages and foreign food, extolling the virtues of New Zealand to such an extent that son Andrew promptly emigrated to see if it was true! This started Kester and Margaret's many trips to New Zealand and Australia visiting family and friends. In later years he even managed visits to Madeira and France without being

returned sewn in a tarpaulin!

Kester was an accomplished Norfolk Broads yachtsman and with his brother Mike and myself (neither of the brothers could cook) astounded me by sailing head into the wind-no mean feat.. However my serving them spaghetti bolognese one night nearly ended a beautiful friendship!

Kester retired in 1993 and in 2004 he and Margaret moved to north Cornwall to be near daughter Sylvia and the grandsons and for a daily fix of tide pool watching in St Ives Bay Whilst on a trip to New Zealand in February 2006 Kester suffered a minor stroke, which resulted in deteriorating health until sustaining a bad fall in March 2008 from which he sadly never recovered, dying on the 23rd March shortly after his 79th birthday. Margaret, Andrew and Trudy, Sylvia and Dave, and the "Four Musketeers" greatly miss him.

*John Godden
(Cinque Ports & PLA pilot retd.)*

Captain Robert Bland

1933 - 2008

**Master Mariner Trinity House Pilot
River Orwell and Thames Estuary.**



A Geordie by birth Robert was born on 24th September 1933, in South Shields on the banks of the Tyne. He signed indentures at the age of seventeen with Huntings Shipping Co., of Newcastle upon Tyne and travelled the world with them onboard the *Thames Field*. He left Huntings to attend Marine School to study for his 3rd and 2nd mate's foreign going tickets.

In his early twenties he joined Henry & McGregor's of Leith, Edinburgh as Second Mate and subsequently gained his 1st Mate's and his master's ticket at South Shields Marine and Technical College.

Returning to Henry & McGregor's he took command of his own ship the "Marwick Head" and later the "Cantick Head" He was contracted to run to Russia via Finland and Denmark carrying cargo's of timber and coal on which trips he made many friends.

He then came ashore and moving with his family to Suffolk to join Trinity House as a pilot on the River Orwell. He loved the job seeing the wildlife and all aspects of river life at all hours, day and night. Circumstances at Trinity House resulted in an amalgamation of Orwell and Thames pilots which necessitated travelling between Ipswich and London where he made many contacts and met many more friends some of whom had been to the marine school and had moved south to obtain work.

As time passed, the travelling got very stressful and he took early retirement from the service at the age of fifty seven. He then, with his wife Dorothy, moved to Felixstowe to be nearer the sea to enjoy a great retirement watching the ships plying their trade with the rest of the world. He loved Suffolk for its fauna and flora and the warm and dry East Anglian climate.

He passed away peacefully at home on the 20th March, 2008 after an illness bravely borne leaving his wife Dorothy, children Alison and Andrew, his in-laws Chris and Julia and six lovely grand children all of whom he was very proud.

Mrs Dorothy Bland

Pensioners Deceased

**February 2008 to
April 2007**

DE Aubrey	<i>Swansea</i>
GR Bender	<i>Liverpool</i>
R. Bland	<i>Ipswich</i>
DA Clulow	<i>Manchester</i>
KJ Field	<i>London-Cinque</i>
AD Harkness	<i>Forth</i>
DI Mcmillan	<i>London RT</i>
CL Megginson	<i>Liverpool</i>
R. Nelson	<i>London RT</i>
PJ O'Neil	<i>Liverpool</i>
AL Riddiford	<i>London West</i>
C Thompson	<i>Humber</i>
AE Tytherleigh	<i>Gloucester</i>

EMPLOYMENT v SELF-EMPLOYMENT

One of the recurring problems that seem to afflict some of the employed pilots is that of disciplinary procedures. Those harbour authorities who employ pilots seem to be of the opinion that a pilot should be treated no differently than any other employee when it comes to matters of discipline. A classic example of this was enacted not so long ago on the Clyde when three very senior pilots were each given a final written warning by the CHA for refusing to dock a vessel which was overloaded and in clear breach of the under-keel clearance parameters agreed between the pilots and the port authority. When one of the pilots protested that his professional judgement was being challenged the CHA official, on looking out of the window, pointed to a crane driver and said "The company rules for discipline apply equally to every employee and pilots cannot consider themselves the exception". What this CHA failed to take

into consideration is that a pilot IS different to other company employees. To begin with he is subject to an Act Of Parliament under which he can be fined or imprisoned for his actions whilst on board ship. No other employee finds himself/herself in this position.

A second point is that when a pilot is on board a vessel he ceases to be an employee of the CHA but becomes the servant of the ship owner with the CHA as his general employer. No other employee of the harbour authority holds this UNIQUE position. So why are employed pilots being treated in the same way as other shore-based employees?

In a self-employed scenario the disciplinary procedures are clearly divided into two separate and distinct categories; the one for shore-based misdemeanours and the other for ship borne incidents. The two should not be confused.

A third point on this subject concerns

the representation of a pilot in a ship-borne disciplinary hearing by the port authority and the presence (or lack thereof) of a senior pilot on the committee appointed to investigate and ultimately adjudicate on matters pilotage. It would appear that in most ports where pilots are employed they do not have a pilot representative sitting on the committee who can advise and assist the appointed chairperson when it comes to making a balanced judgement on all the maritime issues. Indeed some of the CHA representatives on disciplinary committees have been found to have had little or in some case no sea-going experience and have been placed in a position where they have exercised sole judgement on issues which clearly merit the assistance of someone with maritime knowledge.

*Dave Devey
(concerned ret. Liverpool Pilot)*

YOUR INSURANCES

Drew Smith, Circle Insurance

In the course of the many telephone conversations which I have with Pilots, it is often apparent that they are unsure as to exactly what cover they are paying for. I shall attempt here to give a brief and simple explanation.

The Pilot Protection Policy, currently insured with Royal & Sun Alliance, is unique in the British Insurance Market. The Wording is tailor made to your requirements and is there to provide the Pilot with Loss of Income should he be suspended as a result of a Piloting incident and to cover any Legal Costs which may be incurred in attempting to get his licence reinstated.

The final part of the Policy is in respect of Third Party Claims, which are currently limited to £1,000 in respect of payments, but there is always the concern that a test case may be brought which would involve Legal Costs way in excess of this relatively low amount.

It is often pointed out to me that the Premiums charged appear to be unfair to the Pilots who are not full-time and work out of the smaller Ports. Their issues have been taken into account by us having the two levels of Premium and Cover. The insurer's did originally want just one charge for all Pilots but we managed to agree with them that a split was fairer to the Membership.

The next Policy is the one with DAS, which is principally there to provide Legal Services in the event of a Pilot suffering an

injury where someone else is to blame. This is not just restricted to incidents at work.

There are other Sections which apply to this Policy which include Legal Defence Costs, including for Criminal Prosecutions brought against you, Tax Investigation Costs and numerous Helplines for any Legal question which you may have, even though it may not be covered by the Policy.

Once again, this policy wording is tailor made to suit the UKMPA Membership as it covers both employed and self-employed persons which is unusual for a Commercial Legal Expenses Policy which is usually one or the other.

The two Policies mentioned are Compulsory to the Membership, but there is the Optional Personal Accident Cover. There are still a lot of the Members who do not take this Option, with the regular comment being that they already have sufficient cover. There is no limit to the amount of Personal Accident cover you can take in respect of Death, Loss of Limb, Loss of Eye and Permanent Total Disablement. I am continually told by Members that when they have looked for this insurance on their own, the Premiums they are charged are considerably higher than that being offered by Circle.

Another area where there is perhaps some confusion on this insurance is that once again it is just not restricted to accidents at work.

One final point on the Personal Accident insurance is that the Members do not have

to take this insurance out on the 1st January, it can be any other day of the year, all they have to do is contact me and I will give them a pro-rata Premium for the remainder of the insurance year.

I could go into more detail on the insurances, but the information is currently available on both our website and that of the UKMPA.

I wish to make one final point. Circle Insurance Services and Meridian both work on behalf of the Members of the UKMPA. We are there to provide you with a Professional Service and Assistance during what could be extremely stressful times. We know from day to day experience that insurance companies do not always appear to be the most helpful but we are on your side.

REMEMBER

It is in your interest, if involved in any accident or injury, however trivial it may seem at the time, to inform:

Circle Insurances Services

WITHIN 30 DAYS

Contact: Drew Smith
Circle Insurance Services plc
71 Berkeley Street, Glasgow G3 7DX
Tel: 0141 249 9914 • Email via website:

www.circleins.com/ukmpa

Full policy details for all the insurances can be viewed on both Circle and UKPMA websites

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