

## **GUIDANCE ON THE APPOINTMENT AND FUNCTIONS OF THE DESIGNATED PERSON UNDER THE PROVISIONS OF THE PORT MARINE SAFETY CODE (PMSC)**

- 1 The PMSC states there is a requirement for a Designated Person (DP), as follows:

*2.8. Each harbour authority must appoint an individual as the designated person to provide independent assurance directly to the duty holder that the marine safety management system, for which the duty holder is responsible, is working effectively. Their main responsibility is to determine, through assessment and audit, the effectiveness of the marine safety management system in ensuring compliance with the Code.*

*2.9. In order to fulfil this function the designated person must have a thorough knowledge and understanding of the requirements of this Code (and supporting Guide to Good Practice) and associated port and marine legislation. Their role does not obscure the accountability of the authority and its board members.*

- 2 Ultimately, it is the duty holder who is responsible for deciding who should be appointed as the DP in order to provide the level of assurance that they believe is necessary to comply with the Code. In considering such an appointment the following should be considered:

- 2.1 Each harbour authority must appoint an individual as the DP to provide independent assurance directly to the duty holder that the marine safety management system (SMS), for which the duty holder is responsible, is working effectively.
- 2.2 The DP must be able to demonstrate independence of the operation of the marine SMS; in many cases the Duty Holder may determine that this means it may be inappropriate for the Harbour Master, or anyone who reports directly through him, to be appointed as the DP. Where the Duty Holder decides that a person involved in the SMS shall also be the DP, the Duty Holder should ensure independence of the DP function by taking the action recommended in para 4 and by undertaking periodic external audits of the DP function.
- 2.3 Specific terms of reference for the DP should be issued that are separate and distinct from any other role the post holder may fill and clearly identify the accountability of the DP direct to the Duty Holder.
- 2.4 The main responsibility of the DP is to determine, through assessment and audit, the effectiveness of the marine SMS in ensuring compliance with the Code.

- 2.5 In order to fulfil this function the DP must have a thorough knowledge and understanding of the requirements of the Code (and supporting Guide to Good Practice) and associated port and marine legislation.
- 2.6 In using this knowledge and understanding the DP will take appropriate measures to determine whether the individual elements of the marine SMS meet the specific requirements of the Code.
- 2.6.1 These measures will include:
- Monitoring the thoroughness of the risk assessment process and the validity of the assessment conclusions.
  - Monitoring the thoroughness of the incident investigation process and the validity of the investigation conclusions.
  - Monitoring the application of lessons learnt from individual and industry experience and incident investigation.
  - Assessing the validity and effectiveness of indicators used to measure performance against the requirements and standards in the Code.
  - Assessing the validity and effectiveness of consultation processes used to involve and secure the commitment of all appropriate stakeholders.
- 3 The role of the designated person does not absolve the duty holder and its board members of their individual and collective responsibility for compliance with the Code.

The need to appoint an appropriately qualified individual as designated person was one of the recommendations made in MAIB's reports on the Flying Phantom

- 4 It is important that the DP has independent access to the duty holder; therefore the Duty Holder may wish to consider the nomination of a specific director as a direct point of contact for the DP.
- 5 Currently there is no bespoke qualification for the role of the DP therefore, in appointing an individual to the role, the Duty Holder should consider the functions applicable to the role and ensure that the individual is suited to undertake such functions, or is able to attend training courses which will provide the necessary skills.

5.1 Additionally, best practice supports the view that a DP should have:

- Relevant first-hand experience of the marine environment and how ports operate.
- Appropriate knowledge of shipping, shipboard operations, and port operations.
- Understanding of the design, implementation, monitoring, auditing and reporting of Safety Management Systems.
- Understanding of assessment techniques for examining, questioning, evaluating and reporting.

6 It is acknowledged that there are numerous approaches to fulfilling the requirement to appoint a DP and it is for the Duty Holder to be demonstrably satisfied that they have adopted the best approach for their circumstances, as it is they who must demonstrate compliance with the Code. Examples of suitable approaches include, but are not limited to:

- A DP with the aforementioned qualities who works for the same port/group but is not directly linked to the operation of the marine SMS.
- A DP with the aforementioned qualities who is an external consultant.
- A DP with the aforementioned qualities appointed under a reciprocal arrangement with another port/operator.
- A DP with some of the aforementioned qualities who sits as part of a 'select committee' where additional relevant knowledge is available to supplement their direct capabilities.
- A DP with some of the aforementioned qualities who supplements their capabilities with the assistance of external consultants.