

# **The Pilotage Authority**

## **Introduction**

During the 5 years that I worked solely as a Pilot in SE Wales the phrase that I dreaded most when meeting people for the first time was “what do you do for a living?”. After replying that I was a pilot, I would hastily have to qualify that by explaining that I was not an airline Pilot but in fact worked for the local Harbour Authority taking ships in and out of the South Wales Ports. This would invariably be countered by something along the lines of “oh yes, you work on the tugs then? I’ve seen them taking the ships in to the docks”. The natural progression of the conversation would then usually go the way of me explaining that Pilotage is distinct from towage then trying to explain what a Pilot does and why he is needed when the ship already has a Captain. Perhaps wrongly, I got into the habit of answering the dreaded question with “I work on the docks in Cardiff”. Ironically a white lie that is truer now that my job has taken on a managerial aspect and I spend most of my time in one of several offices across the ABP South Wales Ports.

Please don’t feel that the my opening comments are in any way disparaging or dismissive of many peoples understanding of Pilotage, rather, It is just a good example of how little most people know about what is one of the oldest and, in my opinion, most important maritime disciplines.

## **The Pilotage Authority**

The title of this Presentation may be “The Pilotage Authority” but the questions posed in the brief clearly called for a Pilot’s knowledge and perspective. I am presently employed, in part, in a managerial position within a CHA but, given the brief, my presentation is based very much on my experiences as an acting Pilot, a job that I still do to this day.

I am not intending to focus today on the history of Pilotage or the Pilotage Authority but feel that a brief rundown of how we got to where we are today with regard to Pilotage Authorities in the UK may help to set the scene for the presentation.

As mentioned earlier, Pilotage is one of the oldest seafaring professions; it is referenced at least as far back as the 12<sup>th</sup> Century in the laws of Oleron, the laws that are generally accepted as forming the basis of maritime law as we know it.

It is believed that the word Pilotage is derived from the Dutch “Pjil” meaning straight and “Loed” from the lead line used for measuring water depth. Early Pilots where often fishermen or seafarers with local knowledge, unlicensed, self employed and having to compete for employment from Masters of visiting ships.

In 1514 Henry VIII granted a charter to the already existing Trinity House, to ensure the safe regulation of shipping on the river Thames. Amongst other duties Trinity House became the principal Pilotage authority for the River Thames with exclusive licensing from 1604. It also became the licensing authority for 40 other “outports”. Other areas in the country developed separate licensing authorities during the 18<sup>th</sup> and 19<sup>th</sup> centuries for example Bristol and Liverpool. Despite the formation of Pilotage authorities, unlicensed Pilotage did in fact continue. For example just over the estuary at Newport where unlicensed dock Pilots operated until the mid 20<sup>th</sup> century.

The several Pilotage Authorities that formed during this time in the UK did not employ the Pilots directly; they acted as licensing authorities funded by levies raised upon ships dues and the licensing activities themselves.

As an aside, during this period, because of disputes between Pilots in Bristol and their then Licensing Authority, a group of Pilots formed an association from which sprang the UKPA in 1884. The UKPA became the UKMPA in 2000. A professional association that to this day represents the interests of around 500 licensed Pilots in the UK. The UKPA was involved with the development of all the Pilotage Acts from 1889 to 1987 and the Merchant Shipping Act of 1894. The UKMPA Technical and Training sub committee has been instrumental in promoting health and safety of Pilots and continues to this day to play arguably the lead role in Pilotage training and standards in the UK

The 1987 Pilotage act repealed all previous Pilotage acts and conferred a duty and power to authorise Pilots upon Competent Harbour Authorities (CHA's), a position that has been opposed by some, but nevertheless a position that has been endorsed by both the Department of Transport's 1998 review of the 1987 Pilotage act and The Port Marine Safety code, being the principal recommendation of that review.

## Who employs Pilots in the UK?

Since the introduction of the 1987 Pilotage act the provision and authorisation of all (non Deep sea) Pilotage and Pilots in the UK has become a duty and power of the Competent Harbour Authorities (CHA's)

CHA's not only have the power to issue Pilotage Authorisations to suitably qualified individuals they also have a duty to keep under regular review the need for and implementation of Pilotage in the area for which it has responsibility. It has to set the level of Pilotage required, develop and promulgate Pilotage directions, where required and satisfy itself that prospective Pilots for authorisation meet the required standards that it has determined, in respect of age, physical fitness, time of service, local knowledge, skill, character and otherwise The CHA has a duty to regulate the Pilots and the Pilotage service they provide by means of either a Contract of Employment or a Contract of Service.

Does this mean that Pilots are therefore employed by the CHA?

Not necessarily!

If the Pilots are contracted under a contract of service they may be self employed, part of a cooperative or part owner of a company for which they may be directors or partners. If the Pilots are contracted under a contract of employment this may make the CHA the "general employer" but we have to consider recent case law to answer the question fully.

The 1989 Esso Bernicia ruling, albeit being heard in the context on the 1913 Pilotage act, is the leading modern case to set a precedent in determining employment of Marine Pilots in the UK. A shipping company claimed vicarious liability against a CHA for alleged negligence of a Pilot who was in, the then, unique position of being "employed" directly by the CHA. It was ruled by the House of Lords that a Pilot is "*an independent professional man who navigates the ship as a principle and not as a Servant of his employer*"

This position was later challenged in the High Court in the context of the 1987 Pilotage Act in relation to the "Cavendish". The High Court ruling confirmed that the if section 2 of the 1987 Pilotage act had meant to change the position of a Pilot from an independent professional it would have made it clear that was the intention. The Judge made the following comments

*"No man can serve two masters"*

*"The purport and effect of section 2 of the 1987 Pilotage act was not to impose duties on the CHA to Pilot Ships but to require them to supply properly authorised pilots for ships"*

It has therefore been established that with regard to matters of navigation, an authorised Pilot is in fact a servant of the Ship Owner and not the servant of the CHA. For all other aspects of his (or her) employment the Pilot is bound by and has the benefit of the terms of the contract that he has with his general employer or by the contract of service that has been entered into with his group or company and the contracting CHA.

## **What is a Pilots expectation as regards access to the ship?**

There are obvious inherent dangers in transferring from one moving platform to another or in transferring from a floating object to the shore or visa versa. A Pilot, quite rightly, expects these risks to be as low as reasonably possible.

The ship to shore issue is the least problematic. There are strict rules for safe ship to shore access, placing responsibility, in most cases, on the ship to provide a properly rigged and maintained gangway. There are also possible issues in access to and from vessels on certain berths. A Pilot, much as any other person with a legitimate reason to access the vessel, would expect the berth operator to provide a safe access route to and from the vessel

The Pilot transfer at sea is more problematic mainly due to the dynamic nature of the operation. In some cases the risk has been deemed too great to perform boat to ship or vice versa so helicopter transfers have been instigated.

The vast majority of Pilot transfers at sea are still performed by Pilot Boat via a Pilot ladder or a combination of Pilot ladder and accommodation ladder. There are very strict rules regarding the ladders construction and their rigging and indeed the Pilot boats themselves. Port state Control, MAIB, the IMO and again the UKMPA as part of the International Maritime Pilots Association and through their technical and training sub committee have all been instrumental in setting safe standards for Pilot transfers and in both monitoring and improvement.

The other aspect of access to vessels where Pilots have an expectation is with regard to the ISPS procedures that are in place as part of the vessels classification society approved plans. There is a general acceptance amongst Pilots, (boarding from ashore in order to sail a vessel) that there will be a certain level of procedure regarding security, which the Ships crew and the Pilot are obliged to comply with. This is generally seen to be reasonable given that the Pilot could be anyone in an orange coat gaining access to the vessel from the shore.

The situation is somewhat different when a Pilot boards from a Pilot Cutter or Helicopter at sea, at the allotted Pilot boarding time and boarding position. Due to operational reasons and the fact that Pilot boarding areas are sometimes congested with vessels altering course and speed to make a lee or to get back on course, Pilots will usually be very keen to get to the bridge as quickly as possible and would expect that they would not be held up unduly .

## **The assistance expected of the ships crews? And**

## **What do pilots think that the ship expects of them?**

Just as the Master/ Pilot relationship differs from ship to ship, each act of Pilotage is also different.

For that reason, it may be easier to answer these two questions together.

Expectation will vary considerably from ship to ship. Some ships may be regular traders but, for one or more of several reasons, may not be pilotage exempt nor have PEC holders aboard. In these cases the expectation of assistance from the Pilot may be simply to provide advice and information regarding dimensions, times, tides etc and perhaps to liaise with other port services. Most Pilots will have been faced with this scenario from time to time and while perhaps not conducting the navigation will certainly be keeping a good eye on the situation and be ready to offer strong advice in a timely manner. Both Pilot and Master may be comfortable with the situation provided it has been made clear who is conducting the navigation.

Conversely, there are times where a Pilot may walk on the bridge and there is a clear expectation that the Pilot is “taking over” and an almost palpable atmosphere of relief once the Pilot has settled in and taken charge of the Navigation.

The above scenarios are the extremes, for the most part the Pilot would expect to be greeted by the Master or Chief Officer after being escorted to the bridge where after settling in he would be handed an accurate Pilot card and appraised of any defects to navigation or other critical equipment or characteristics that may have an effect on the passage and or manoeuvring. The Pilot would expect that the bridge team are suitably rested and sufficient in number to cope with the expected work load, that there is adequate communication with regard to language and sufficient familiarity with the bridge equipment. The Pilot would also expect there to be an existing berth to berth passage plan and once any changes had been agreed, that passage plan to be monitored throughout the Pilotage.

For the most part, the ship would expect the Pilot to have up to date information and knowledge of the Pilotage area and to explain where and why he will be making changes to the ships berth to berth passage plan. To issue timely, clear and safe orders with regard to navigation. To offer pertinent advice as to local conditions and procedures. To offer recommendations regarding towage requirements and to have a good knowledge of the tugs and procedures and to have knowledge of emergency procedures and contacts

## **To what extent do Pilots rely on the ship for navigation?**

Again, a difficult question to answer satisfactorily as the requirements of the Pilotage varies in different districts.

At one end of the spectrum we have small ports servicing short sea vessels where the Pilot may board very close to the berth, perhaps conducting navigation only in daylight hours and relying, for the main part, on visual references. There is also the scenario where in some ports; Pilots will be bringing their own electronic navigation equipment on board, radars and portable Pilot units for example. In these cases the reliance on the ship for navigation may be as little as carrying out helm and telegraph orders and monitoring the passage plan.

Conversely there are Pilotage districts where the Pilotage will consist of a long river or estuary passage, in these cases the Pilot may expect to be able to set up ships navigation equipment to his own requirements and/or expect the bridge team to help execute and monitor his passage plan, effectively integrating into a lead role in the bridge team while he has the conduct of the Navigation and with the Captain retaining command and assuring himself that the Pilot is conducting the Navigation properly at all times

## **How do Pilots see their relationship with other port services?**

Pilots, by the very nature of the job, often work flexible shift patterns that do not correspond or relate to other port services; often they respond from home and therefore don't have a conventional office or work place. They often have to work without the presence and support of other colleagues in an environment where they are stepping into what is not only the workplace of a group of people they most probably don't know, but is also that group of peoples " temporary home". Add to this the fact that they will be stepping into a well entrenched hierarchy system. Now ask the Pilot to walk onto the bridge of that ship at a time that the ships crew are, in all probability, entering the most stressful phase of the voyage cycle and ask the Pilot to take charge of the navigation whilst projecting an air of professional confidence and hopefully reassuring the Master that he is entrusting the navigation of his/her vessel into the right hands.

While the previous comments may be slightly dramatic, they also serve to explain why Pilots tend to be very independent and confident individuals. Add to this the Historic situation where Pilots were invariably self employed and authorised by an authority that was independent of other port services and it is not too difficult to understand why Pilots tended to view themselves as separate from other port services.

The 1987 Pilotage act and the Port Marine Safety Code being the principal recommendation of the Department of Transport's 1998 review of the 1987 act, made it clear that CHA's not only have duties and power with regard to Pilotage provision and authorisation but also have a duty to retain sufficient control of the Pilotage Services and integrate them with other Port Marine activities under the management and responsibility of one statutory authority.

Since the 1987 Pilotage act many Pilots in the UK have become employees of CHA's and in some cases taken on other Port Marine roles alongside Pilotage. It has been recognised that Pilotage is one of the most effective Marine risk mitigation measures in the port and approaches and that Pilots have a lot of experience and knowledge that can benefit the overall Port Marine safety environment.

From my own experience of being an authorised Pilot over the last 6 years I would say that Pilots are tending to see themselves as less of an individual or autonomous service and more as a part of the overall "Port Marine Team", playing their part along with Coordination services, Towage Providers, Conservancy and Surveying Departments, Operations, Safety Departments, Mooring Gangs, Agents, Harbourmasters and Ships Crews all working towards getting ships in and out of port in a timely and safe manner.

## **Recruitment, Qualifications and training for Pilots.**

In the UK, as previously mentioned, a CHA has a duty to satisfy itself that prospective Pilots for authorisation meet the required standards that it has determined in respect of age, physical fitness, qualification, time of service, local knowledge, skill, character and otherwise and that, once authorised, these standards are maintained and kept current. Recommendations for this Training and certification (authorisation) are laid down in IMO resolution A.960.

Pilotage law in the UK is non prescriptive with regard to qualification. The 1987 Pilotage act and the PMSC (though not law in itself) only require a Pilot to be “suitably qualified” with no defined “required standard”

Prior to the 1987 act the Pilotage licensing authorities tended to take prospective Pilots or trainees as young as school leaving age and enter them into a training or apprenticeship program. Often these trainees would gain local knowledge while working on Pilot Cutters or as helmsmen. Once their training period or apprenticeship was completed they would go to work at sea only returning to take up a position as a Pilot once a position became vacant, bringing with them a sea going qualification, the level of that qualification determined by the type of trade that they had been employed in and the time that they waited for their “Pilot Job” to come up.

Some trainees and apprentices were never offered Pilots positions due to no vacancies arising or had attained Command or senior rank and preferred to remain at sea in that capacity.

Once the responsibilities of the Pilotage Authority transferred to CHA’s with the 1987 Act, the usual accepted qualification for entry into Pilotage as a trainee was with a Senior sea going STCW ‘78, then latterly, STCW ‘95 Certificate of Competency. The STCW ‘78 or ‘95 Certificate of competency does not, in itself, guarantee a candidates suitability or qualification as a Pilot but most certainly does guarantee a certain level of education and marine experience.

The overriding difficulty facing Pilotage licensing authorities and the Pilotage profession in general, as I see it, is the lack of qualified ships officers. Take this problem in the context of Western Europe and further to the context of the UK alone and the lack of qualified Officers has risen exponentially. To compound the problem, there are a lot of Pilots in the UK who are due to retire in the next 10 years or so. Going back to the global shortfall of qualified ships Officers for a moment, consider that only a small proportion of the available qualified Officers will want a career in Pilotage then add to that the fact that, as previously mentioned, not everyone who seeks a career in Pilotage is cut out for the profession and it is clear that if Marine Officer levels continue in the trend that they are presently, the present system of recruiting trainee Pilots from seagoing ranks has a finite life

10 years ago the UKMPA developed a set of national occupational standards (NOS) for UK Pilotage that were not fully taken up. This set of occupational standards has recently been revisited by an “expert group” consisting of Port Skills and Safety Council (PSS) the UKMPA and other major port industry stakeholders. Along with the NOS this expert panel have been working on a possible Certificate of Competency (CoC) for Pilotage in the UK that will be underpinned by the NOS.

It is expected that this qualification will be

- Validated and issued by the MCA
- Though not compulsory, the qualification would address the non prescriptive nature of Pilotage qualification and therefore be a worthwhile qualification that will enhance a Pilots recognition/professional status
- In recognition that Pilotage is part of the Port team, encompass disciplines other than maritime, for example safety, environmental, commercial and security etc
- Be flexible enough to satisfy the requirements across the whole range of UK ports, with regard to size and scope of operations
- In due course, establishing alternate pathways to develop future generations of Pilots

It is clear in my mind that while CHA's will continue to have legal duties and powers with regard to qualification, fitness, suitability, character, local knowledge etc of the Pilots that it authorises, the NOS and Pilotage COC certainly offer a very real alternative route to developing and verifying underpinning knowledge for trainee Pilots.

## **Conclusions**

I hope that I have done a reasonable job of answering the questions posed in the brief for this presentation and have hopefully not managed to send you to sleep in the process. Given that the focus of this conference is to ask if the Ship/Port interface can be made any more efficient, I feel that I should offer a few thoughts, with regard to Pilotage, as to that very question.

During my relatively short time as a Pilot in South Wales it has not been uncommon to hear the phrase "every day is a School day" even coming from senior men with a lot of Pilotage miles under their belts. In my experience Pilots tend to be very proud professionals who never the less realise that they have an adapting role to play in the Port/Ship interface and are not afraid to admit that they learn new things almost every day.

As to making the Port/Ship interface more efficient with regard to Pilotage my immediate thought is that while the Master/Pilot relationship may be a complex and often symbiotic one, the procedures and expectations from both Master and Pilot have developed over many years in order to promote safety and good practice. Granted, these expectations and procedures will continue to evolve in the future as new technology and legislation is introduced but I find it difficult to foresee a revolution.

When we talk about efficiency in a commercial context, one of the aspects of that efficiency is can we reduce the cost? Which inevitably leads us to the question that has been asked on many an occasion in the past, for example when major technological advances have been made in the Port Marine environment, Tractor Tugs, Radar AIS DGPS to name but a few.

*"Is there really a need to physically put a person onboard a ship to conduct the navigation when that ship has a well trained and qualified crew who in all possibility have just brought that ship from the other side of the world?"*

My answer to this question is a resounding YES.

As I mentioned previously, Pilotage has become integrated with other "Port Marine activities" playing its part in compliance with the Port Marine Safety Code, what is in effect a Safety Management System for Ports based on Formal Risk assessment and compliance with key measures.

Apart from communications with Ships Agents, when the Pilot walks onto the bridge of a ship it is often the first point of actual contact between the Ship and the Port. Between the time that a Pilot first sees the vessel as he approaches in the Pilot vessel and when he is settled in on

the bridge with charge of the navigation he has perhaps five or ten minutes where he will be considering many parameters including weather, tides, configuration and apparent condition of the vessel and equipment, the ships crew, available towage assets etc, all of these considerations will contribute to any revisions to the Pilots passage plan and dictate how he will approach the challenges of the Pilotage. About the best example of a dynamic risk assessment that I can offer!

In my opinion it is very simple to see why, for more than 800 documented years we have been accepting the risk and expense of putting Pilots with expert local knowledge and experience on board visiting ships. And why CHA's should continue to risk assess their marine activities and provide the type and level of Pilotage that those assessments would suggest are right and proper. because the risk and expense of not doing so, in many cases, is simply unacceptable.

On a lighter note, to finish off, I would like to revisit the opening comments of this presentation and offer the following comments by Captain Robert Lovell as the quote that I always wish I could remember when being asked "what does a Pilot do and why do we need him when the ship has a Captain"

- The Marine Pilot is trying to manoeuvre the largest moveable manmade objects on earth
- They drive them down relatively narrower channels than the driver of a road truck is required to do
- It is not uncommon to have 80000 tonne vessels powered by as little as 8000 horse power that equates to 1 horse power per 10000kg of Mass. A bit like having to drive an articulated lorry, powered by a lawnmower engine, then park it in a parking space with a metre clearance each end and a few centimetres each side (sea lock)
- Now to make it interesting, let's simulate leeway drift by making the truck slide sideways at 1 kph and the current by making the parking place move along the road. We will give you two smaller 'ride on' lawnmowers to help push and pull the truck but like the truck they are also slipping and sliding.
- Sounds too easy doesn't it? Let's add one more dimension - we won't give you any brakes! We will make you slow the truck down by making the wheels spin backwards and when you do so you will have to let go of the steering wheel because large ships don't steer when going astern.
- Finally if you mess up we will throw you in court and make you justify why you have a job!