



National Maritime Occupational Health and Safety Committee

Guidelines to shipping companies
on violence, aggression,
verbal abuse and threats against
staff on passenger ships

1. Introduction

- 1.1** The parties to the National Maritime Occupational Health and Safety Committee (NMOHSC), who are the Chamber of Shipping, Nautilus International and the National Union of Rail, Maritime and Transport Workers believe that all staff, contractors and passengers on board any ship have the right to work and travel in an environment that is free of violence, aggression, verbal abuse and threats. Regrettably, in spite of the best efforts of companies, the possibility of such occurrences can never be dismissed.
- 1.2** For this reason, the NMOHSC has produced the following guidelines to assist shipping companies, particularly those providing passenger services, in formulating policies to deal with any incidences of violence, aggression, verbal abuse and threats that might arise.

2. Company policies

- 2.1** Companies should adopt policies on violence, aggression, verbal abuse and threats against members of their staff. These policies should;
- promote the health, safety and welfare of seafarers and others on board
 - prevent, so far as is reasonably practicable, incidences of violence, aggression, verbal abuse and threats from occurring
 - contain procedures to be followed in the event that threats of violence or aggression against staff occur, in order that the threat might be contained and the violence or aggression does not materialise
 - contain procedures to be followed in the event that aggressive or violent acts are committed by passengers against staff members, contractors or other passengers, in order to stop such acts
 - provide training to all staff in the actions they are required to take in accordance with the above procedures
 - ensure that Masters enjoy the full support of the company if it becomes necessary for them to use the powers they have under section 105 of the Merchant Shipping Act 1995
 - provide appropriate support to any member of staff who has been a victim of an act of violence, aggression, verbal abuse and threats
- 2.2** Passengers should be advised of company policies with regard to intoxicated passengers, along with other conditions of carriage. Where possible, this should take place at the time of booking. In particular, organisers of large groups, especially groups of football supporters and stag/hen parties, should be made aware of the policies.
- 2.3** Relevant notification methodology can be used to make passengers aware of the company's policy on staff safety, either verbally through an announcement on a Public Address System (e.g. that CCTV is in continuous operation for passengers' safety and comfort) or via notices, whichever is more appropriate to the company's operation.
- 2.4** Training programmes for staff should cover the most effective means for handling and managing conflict (e.g. a conflict management course). Such training should familiarise staff with step-by-step procedures for dealing with situations that they might be faced with whilst dealing with passengers on board.

- 2.5** Companies may consider the employment of specialist security staff on board and in shore-side terminals, particularly on night-time voyages or during special events if deemed appropriate, subject to the availability of credible intelligence in advance.
- 2.6** Examples of existing company policies are provided for guidance at Annexes 1, 2 and 3.

3. The law

- 3.1** The following legal provisions may be relevant to company policies to combat violence, aggression, verbal abuse and threats:
- Section 8.1 of the International Code for the Safe Management of Ships and Pollution Prevention (ISM Code), entitled Planning for Emergencies
 - Regulation V/2 of the STCW Convention and Section A-V/2 of the STCW Code and Regulation VI/6 of the STCW Convention and Section A-VI/6 of the STCW Code
 - Section 105 of the Merchant Shipping Act 1995 – Master’s Power of Arrest

4. Sale and consumption of alcohol

- 4.1** Many of the incidents that occur on passenger vessels result from the excessive consumption of alcoholic drinks by passengers. Companies should ensure that the applicable laws concerning the sale of alcohol, particularly to minors, are fully understood and strictly enforced by all bar and shop staff on board and in terminals.
- 4.2** If passengers arrive for boarding in an intoxicated state, it may be appropriate, bearing in mind the safety of crew members and other passengers, to refuse them permission to board prior to sailing, in accordance with section 102 of the Merchant Shipping Act 1995.
- 4.3** Companies should also instruct such staff to refuse to serve alcohol to persons who appear intoxicated and whose behaviour appears likely to lead to an incident of violence.

5. Dealing with violence, aggression, verbal abuse and threats

- 5.1** In many circumstances, tact, discretion, good humour and an appeal to the less unruly elements in a group are more likely to produce the desired result than a more authoritarian approach which may provoke aggression.
- 5.2** However, companies should have procedures in place to deal with situations where passengers are not responsive to this approach, in accordance with Section 8.1 of the ISM Code (Planning for Emergencies).

- 5.3** Any passenger deemed likely to prejudice the safety of the vessel and its operation, or threaten the safety of any person aboard, may, with the Master's authorisation, be restrained. Any restraint should be the minimum required and should as far as possible be applied discreetly. Consideration should be given to advising shore-based security authorities if passengers become aggressive and continue to behave in an unruly manner.
- 5.4** Should it become necessary to detain an unruly person, they should be transferred to a detention room, where they should remain under supervision. No objects that might be used to cause harm to persons (including self-harm by the detained person) or damage to property should be left in the detention room.
- 5.5** Companies should provide support and, where necessary, counselling to staff members who have been the victims of abuse from passengers.

6. Master's powers

- 6.1** Companies should ensure that Masters enjoy their full support if it becomes necessary for them to use the powers they have under section 105 of the Merchant Shipping Act 1995. This includes the power to authorise the restraint of persons in the circumstances referred to in Paragraph 5.3 above.
- 6.2** Masters should also be empowered to close bars if alcohol-fuelled violence was threatened or taking place.
- 6.3** A summary of the Master's powers in relation to disruptive passengers, kindly provided by Stena Line Ltd, is attached for guidance at Annex 4.

7. Liaison with Police

- 7.1** Companies should arrange regular meetings with police forces serving all the ports in which their ships call, bearing in mind that they may be in different countries. It is important to obtain the co-operation of the police, in order to ensure that they are present to take passengers who have been involved in a disturbance or inappropriate behaviour (verbal abuse, assault or damage to the property) into their custody as soon as the vessel docks.
- 7.2** A Memorandum of Understanding between the Crown Prosecution Service and the British Transport Police on the arrest and charging of perpetrators of violence against staff on London's rail and underground transport networks is attached at Annex 5 as it may be of interest in this regard.

Annexes

- Annex 1** Company Policy A
 - Annex 2** Company Policy B
 - Annex 3** Company Policy C
 - Annex 4** Master's Power in relation to Disruptive Passengers
 - Annex 5** Memorandum of Understanding between the British Transport Police and Crown Prosecution Service, London – Staff Assaults
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Annex 1 COMPANY POLICY A

Planning for Emergencies, Passengers Fighting Onboard

1. Control of Unacceptable Behaviour of Passengers

A staged process will ensure that unacceptable or inconsiderate behaviour is responsibly controlled in a manner that is commercially acceptable.

It is the responsibility of the On-Board Services (OBS) Head of Department (HoD) to ensure that a safe and commercially sound passenger environment is maintained with respect to passenger behaviour.

The OBS HoD will ensure that:

- OBS staff fulfil their duty at point of sale to ensure that alcohol is not knowingly sold to under age persons
- OBS staff fulfil their duty at point of sale to ensure that alcohol is not knowingly sold to persons who have clearly consumed excessive alcohol and whose behaviour threatens passenger enjoyment and commercial objectives
- OBS managers and team leaders are visible to passengers and exercise proactive monitoring of behaviour
- OBS work routines provide effective oversight and support at all times that points of sale are open to passengers
- OBS managers and selected OBS staff are trained in confrontation management
- OBS staff are encouraged to exercise common sense and make polite intervention if a passenger is behaving inconsiderately towards others

Staged Intervention Procedure

The staged intervention procedure includes:

Stage 1

- Point of sale staff, lounge staff, OBS manager or team leader make discreet and polite intervention to request moderation of behaviour
- Alternative seating may be suggested and tables/chairs rearranged as conducive to the benefit of those present

Stage 2

- OBS manager, team leader or point of sale staff make a more formal intervention and strong request that behaviour be moderated before it becomes necessary to take further action
- On ships that carry security staff further action may include calling a Security Warden, or security staff, who should remain in the background to provide additional advice on confrontation management without becoming directly involved
- On ships without security staff further action may include calling the senior OBS manager on duty who should provide the same advice

Stage 3

- If the earlier stages fail to correct the unacceptable behaviour or if fighting breaks out, the Security Warden, security staff or senior ships officer should attempt to take control whilst protecting the safety of themselves and persons in the vicinity
- No person is to intervene without sufficient resource being available
- When it is assessed as unsafe to intervene directly the safety of persons adjacent to the incident should be ensured and the incident isolated so far as possible
- The Master and OBS HoD should be called if not already present
- Consider whether female member of staff might provide calming influence over disturbance.
- Call out the Crew as per Fire (or Damage Emergency)
- Muster First Aid party
- Obtain full details of incident, numbers and possible names of people involved
- Close bars, shops etc as appropriate
- Move other passengers away from scene of incident
- Contact authorities ashore and ask for police assistance and/or attendance at arrival Port
- Move protagonist to contemplation area (if appropriate and if fitted)
- If incident cannot be brought under control without undue risk of injury to innocent passengers and crew, cordon off the area

1a. Security Wardens (Ship's Officers)

On ships that carry security wardens, or other security staff, their expertise may be used to stop fighting if it breaks out between passengers, but they may still require support as detailed above.

2. Football supporters

When large numbers of football supporters are carried it will be normal for the company to have made arrangements with the official supporters club for a number of 'stewards' to accompany their club members to ensure good behaviour. In the event that the supporters group has not been identified in advance and no stewards provided, it may be beneficial for the Master or OBS HoD to liaise with the group leaders to request that some of the group be designated to act as stewards during the voyage.

Security Wardens Custody Procedure

This procedure is to ensure that Security Wardens (SWs) maintain their own safety and exercise their duty of care towards a passenger who is detained in custody in accordance with legislation.

1. Power of Arrest and Detention

The Master has Power of Arrest and Detention granted by the Merchant Shipping Act 1995 (UK ships) or Wetboek van Strafvordering (Dutch ships).

The Master may delegate that power so long as he properly considers any such arrest and /or detention and whether it is and/or continues to remain necessary or expedient in the interests of safety or the preservation of good order and discipline aboard his ship to detain a person.

A passenger will only be detained in a meditation room if reasonable grounds justify the action. Their detention shall cease as soon as these grounds no longer exist.

SWs are encouraged to maintain order without the need to detain any passenger unless it is essential. Non-confrontational policing and lesser remedies shall be used whenever the situation allows.

2. Detention Procedure

In the event that it is necessary to detain a passenger:

- When it is decided to detain a passenger the SW shall advise the passenger that he/she is being detained under **section 105 of the Merchant Shipping Act 1995 (UK ships)** or **article 539 of the Wetboek van Strafvordering (Dutch ships)** and that *“The Master of a ship may cause any person to be put under restraint if and for so long as it appears to him necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship”*
- SW will carry out a detainee risk assessment to ensure the safety of the detainee. He will make a visual inspection of appearance and enquire about well-being, health and medication amongst the points considered. He will ensure that the meditation room provides safe lighting, sufficient heat, sleeping arrangements and avoidance of harm in a risk-free but secure environment
- Whenever practicable SW shall seek the Master’s permission to detain a passenger prior to carrying out an arrest and detention
 - If it is not practicable to get the Master’s permission before detaining the passenger, his permission to continue the detention must be confirmed within fifteen minutes
- SW will not accompany a detained passenger to a meditation room without the support of another SW or an OBS manager, team leader or other trained OBS staff, unless he considers it safe to do so
- OBS managers, team leaders or other trained OBS staff will provide support to the SW if insufficient SW are available to safely effect the arrest and transfer of a passenger to the meditation room for detention
- Restraint and control techniques shall minimize risk of harm to both the detainee and SW/staff
- Reasonable force may be used in self defence, but this must not exceed the threat to safety of personnel
 - In particular SW must avoid allowing either a cycle of compression or positional asphyxia to arise due to any form of restraint
- SW will avoid contact with bodily fluids, maintain good hygiene standards and carry medical gloves (vinyl or nitrile)
- SW will limit physical contact with passengers
- SW will change and launder clothing in event of suspect contact with parasitic organisms
- SW will use velcro restraining straps and/or speed cuffs to assist restraint and transfer to the meditation room only if necessary to do so
- SW will exercise proper search procedures
 - Searches will be carried out by a trained person of the same sex
 - They will be carried out in view of CCTV if practicable
 - Detainees will empty their pockets to avoid SW placing their hands into detainees pockets
 - Detainees property will be placed directly into a sealed bag/envelope and a record made
- The detainee will be visited at approximately 30 minute intervals for well-being inspection
- A record of each detention and well-being inspection will be maintained
- The detainee will not be detained for any longer than is necessary for the safety of the ship and maintenance of order
- OBS HoD shall interview any detainee released and receive his verbal agreement to a contract of good behaviour
- Any detainee whom it is necessary to detain until arrival is to be handed to the Police Authority in the port of arrival without exception

Security Wardens Patrol Procedure

To ensure the safety of Security Wardens (SW) on patrol the following measures should be routinely followed by Security Wardens and OBS managers

1. Passenger Composition

So as to ensure reasonable awareness of the passenger mix likely to be encountered on board:

- One SW should be present for embarkation to assess passenger composition prior to and during boarding
- SW should be aware of passenger groups
 - Identity and cabin number of group leaders should be known
 - Where practicable leader to be politely briefed on expectation regarding 'verbal contract' of good behaviour
- OBS managers and SW should build a relationship with groups to assist early guidance or intervention to avoid escalation to unacceptable behaviour

2. Awareness of Passenger Behaviour

Passenger enjoyment is essential to the success of the business. It is important that any inconsiderate behaviour that detracts from enjoyment is identified early and proactively discouraged:

- OBS managers and SW should maintain an occasional presence in public rooms so as to monitor behaviour, business delivery and deter against inconsiderate behaviour that detracts from passenger enjoyment and commercial success
- CCTV should be proactively monitored by OBS managers, reception staff or SW where other duties allow so as to be aware of behaviour in passenger areas

3. Patrol

To ensure safety whilst on patrol SWs are to:

- Maintain UHF radio communications with reception and/or the other SW at all times whilst on patrol
 - Ensure that UHF batteries are regularly recharged and that spare charged batteries are available
 - Advise reception and/or other SW on beginning patrol
 - Advise reception and/or other SW prior to entering any identified 'UHF dead-spots' within the ship and re-establish communications as soon as clear
 - Keep reception and/or other SW advised of location
 - Advise reception and/or other SW on finishing patrol
- Conduct dynamic risk assessment of any situation encountered during their rounds and to withdraw and await assistance when needed
- Employ management of confrontation techniques to avoid any escalation of unacceptable behaviour encountered on rounds

4. Management of Confrontation

SWs and a number of OBS staff are trained in the management of confrontation. These techniques are to be used to avoid unnecessary escalation of any unacceptable behaviour and in addition:

- Unnecessary aggression, physical or verbal, shall never be used
- Physical restraint may only be used in self-defence or if considered necessary to maintain good order
- In the use of physical restraint the degree of restraint shall be appropriate to the degree of threat to safety of the SW, but shall never be excessive
- OBS managers and staff trained in management of confrontation will provide support for the SW
- SWs are to assess dynamic situations and withdraw or wait for additional support as necessary for safe intervention

5. Avoiding Unhygienic Contact

SWs are to take appropriate measures to avoid any unhygienic contact resulting from the close proximity to persons in the course of their work. These measures include:

- Avoiding contact with bodily fluids of others
 - Medical gloves (vinyl or nitrile) and resuscitation mask to be carried and worn as necessary
- Practising good hygiene standards at all times
- Seeking medical advice in event of any contact, particularly if not inoculated for HBV immunisation
- Requiring a passenger subject to search to empty their own pockets or bags so as to avoid risk of blade or needle injury
- Limiting physical contact with passengers to avoid infestation
- Changing and laundering clothing immediately in event of suspect contact with any parasitic organism

6. Safety Measures and Equipment

Due to the nature of the role of the SW a number of safety measures are to be taken and in addition suitable equipment is provided for safe and lawful use in the manner trained during SW training and refresher training courses as provided by the company. These include

- Wearing safety footwear and a clip-on tie as part of their uniform
- Training in weapon and edged blade awareness
- Availability of velcro restraint straps to restrain kicking or punching
- Availability of speed-cuffs and training in their safe use
- Availability of batons (on the permission of the Master due to a specific threat) and training in their safe use

7. Carriage of Batons

A baton may be worn with the Master's permission when a perceived threat to the SW is considered to exist. It is important that correct procedures are followed at all times.

Under Section 1 (1) of the Prevention of Crime Act 1953, any person who, without lawful authority or reasonable excuse, has with him an offensive weapon in any public place is deemed to have committed an offence. Reasonable excuse is reserved for the notion of self defence as an immediate threat needs to be on a person for them to rely on this defence. It should be borne in mind that each strike with the baton carries a medical implication. The potential injury must be balanced against the threat and level of control required.

The Master is responsible for ensuring the safety of the ship, its crew, passengers and cargo. This is reflected in the Merchant Shipping Act 1995 (and Dutch equivalent) which grant him the Power of Arrest. The Master is able to delegate this power to the SW.

The company's procedure is as follows:

- A baton will not be worn by a SW as a matter of routine
- Batons are to be securely locked in a safe place
- The key to the secure stowage of a baton is to be held by the ship's duty SW
- A baton may only be removed from stowage and worn by a SW at the discretion of the Master
- The Master's permission to wear a baton will only be granted to a SW when a threatening situation is perceived to exist which warrants the wearing of a baton
- The express permission of the Master must be given before a baton is removed from secure storage. Before granting permission the Master must be satisfied that the circumstances are such that the carrying and potential use of a baton is both necessary and excusable
- The use of a baton by a SW for self defence will be as a last resort only
- When circumstances warrant use of a baton it shall be used as instructed in company training
- SW will receive regular update training on the safe use of batons and shall at all times use the baton in accordance with this training
- SW will make a positive report to the Master to confirm return of the baton to its secure stowage once a threatening situation no longer exists
- The Master should keep a record in the ship's logbook to record the time of and reason for granting permission for the baton to be removed from secure stowage and time of its subsequent return

Annex 2 COMPANY POLICY B

Control of passengers and restraint policy

1. The On-Board Services Officer and staff must use their best endeavours to ensure that no individual or group causes inconvenience or distress to others and that crewmembers are not subjected to abuse or assault by passengers.
2. Passengers may be unruly for many reasons, including as a result of excessive consumption of alcohol, whether consumed prior to boarding or subsequently, in which case it may be necessary to exercise some degree of control over such passengers.
3. In these circumstances tact, discretion, good humour and an appeal to the less unruly elements in a group are more likely to produce the desired result than a more authoritarian approach which may provoke aggression.
4. Any passenger who through their conduct or actions is deemed likely to prejudice the safety of the vessel and its operation, or threaten the safety of any person aboard may, with the Master's authorisation, be restrained. Any restraint shall be the minimum required and should as far as possible be applied discretely. Consideration shall be given to advising shore base security authorities if passengers become aggressive and continue to behave in an unruly manner.
5. The On-Board Services Officer should advise the Master at an early stage if there appears to be the likelihood of serious trouble amongst the passengers or violence against crew.
6. The On-Board Services Officer is reminded that when sailing with a full load of passengers, optimum use is to be made of all available facilities and seating and to take special care of passengers such as the elderly, disabled and mothers with young children.

Annex 3 COMPANY POLICY C

Guidelines for shore based staff on how to deal with aggressive customers

If you see an incident developing:

Stay cool, calm and collected.

Politeness, even under any provocation, is your best defence. If you lose your temper, you will lose control of the situation.

Answer the passenger's questions firmly and politely.

If you are in the wrong – admit it and apologise.

If you are drawn into an argument between a passenger and another member of staff, try not to take sides until all the facts are clearly established.

Don't be pushed into a slanging match. If you cannot reason with the passenger, try to summon help.

Do not touch a person who is arguing with you as, in law, this can amount to an assault. Even worse, it could trigger off a violent reaction.

If you are met with verbal abuse:

Do not immediately go on the defensive.

Do not allow your reactions to show you are annoyed or unconcerned.

If you cannot reason with the person, or the situation looks particularly ugly, summon help.

In cases of physical abuse withdraw if possible and summon help.

If you are assaulted you should attempt to summon help from other members of staff and or security officers.

If you cannot do this or while you are waiting for help to arrive, you should defend yourself to the best of your ability, however you must remember the law only allows you to put up such a defence to protect yourself.

Do not retaliate. Any retaliation, in law, could be considered an assault.

Annex 4 MASTER'S POWER IN RELATION TO DISRUPTIVE PASSENGERS

1. Passenger offences

In this section all references to the male gender include the female gender, or vice versa.

- (a) A person commits an offence if he does any of the following things:
- if being drunk or disorderly, he has been on that account refused admission to the ship by the owner or any person in his employment, and persists in attempting to enter the ship
 - whilst being drunk or disorderly on board the ship, he is requested by the owner or any person in his employment to leave the ship and does not comply with the request
 - if, on board the ship, after warning by the Master or other officer thereof, he molests or continues to molest any passenger
 - if, having been refused admission to the ship by the owner or any person in his employment on account of the ship being full, he nevertheless persists in attempting to enter the ship
 - if, having gone on board the ship at any place, and being requested, on account of the ship being full, by the owner or any person in his employment to leave the ship before it has left that place, he does not comply with that request
 - if, on arriving in the ship at a point which he has paid his fare, he knowingly and intentionally refuses or neglects to leave the ship
 - if, on board the ship he fails, when requested by the Master or other officer thereof, either to pay his fare or show such ticket or other receipt, if any, showing the payment of his fare, as is usually given to persons travelling by and paying their fare for the ship
- (b) A person commits an offence if on board any ship he intentionally does or causes to be done anything in such a manner as to:
- obstruct or damage any part of the machinery or equipment of the ship
 - obstruct, impede or molest the crew, or any of them, in the navigation or management of the ship, or otherwise in the execution of their duty on or about the ship¹
- (c) Breach of the Peace: This is a common law offence defined as whenever harm is actually done or is likely to be done to a person or in his presence to his property or a person is in fear of being so harmed through an assault, an affray, a riot, an unlawful assembly or other disturbance.²
- (d) A person is guilty of an offence if he:
- uses towards another person threatening, abusive or insulting words or behaviour
 - distributes or displays to another person any writing, sign or other visible representation which is threatening, abusive or insulting

¹ Section 101(2) *Merchant Shipping Act 1995*.

² *R v Howell* [1981] 3 All ER 383, 388-89.

- with intent to cause that person to believe that immediate unlawful violence will be used against him or another by any person, or to provoke the immediate use of unlawful violence by that person or another, or whereby that person is likely to believe that such violence will be used or it is likely that such violence will be provoked³
- (e) A person is guilty of an offence if, with intent to cause a person harassment, alarm or distress, he:
- uses threatening, abusive or insulting words or behaviour, or disorderly behaviour
 - displays any writing, sign or other visible representation which is threatening, abusive or insulting
- thereby causing that or another person harassment, alarm or distress.⁴
- (f) A person is guilty of an offence if he:
- uses threatening, abusive or insulting words or behaviour, or disorderly behaviour
 - displays any writing, sign or other visible representation which is threatening, abusive or insulting
 - within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby⁵
- (g) There are also offences against the safety of ships and fixed platforms which deal with:
- hijacking of ships and fixed platforms⁶
 - destroying a ship or a fixed platform; damaging a ship or its cargo so as to endanger, or to be likely to endanger, the safe navigation of the ship; committing on board a ship an act of violence which is likely to endanger the safe navigation of the ship; or unlawfully and intentionally placing, or causing to be placed, on a ship any device or substance which is likely to destroy the ship or is likely so to damage it or its cargo so as to endanger its safe navigation⁷
 - unlawfully and intentionally destroying or damaging property, or seriously interfering with the operation of property where the destruction, damage or interference is likely to endanger the safe navigation of any ship⁸
 - the making of a threat that is likely to endanger the safe navigation of the ship⁹
 - committing an act of violence¹⁰
 - placing a device which is likely to destroy or damage the ship and endanger its safe navigation¹¹

These offences can be committed in the United Kingdom or on a UK ship or elsewhere and apply to whatever the nationality of the person committing the acts.

There are also other offences for any person who intentionally communicates any information which he knows to be false, where the communication of the information endangers the safe navigation of any ship.¹²

³ Section 4 *Public Order Act 1986*.

⁴ Section 4A(1) *Public Order Act 1986*.

⁵ Section 5(1) *Public Order Act 1986*.

⁶ Section 9 *Aviation and Maritime Security Act 1990*.

⁷ Section 11 *Aviation and Maritime Security Act 1990*.

⁸ Section 12 *Aviation and Maritime Security Act 1990*.

⁹ Section 13 *Aviation and Maritime Security Act 1990*.

¹⁰ Section 14 *Aviation and Maritime Security Act 1990* and generally the *Offences against the Person Act 1861*.

¹¹ Section 11(2) *Aviation and Maritime Security Act 1990*.

¹² Section 12(3) *Aviation and Maritime Security Act 1990*. See also Part 3 of the *Aviation and Maritime Security Act 1990* which deals with the protection of ships and harbour areas against acts of violence.

2. Master's powers

These are powers which relate solely to the Master, unless otherwise stated.

(a) Power to detain and to hand a passenger over to a constable.

The Master (and all persons called by him to his assistance) or other officer of any ship where a passenger is behaving as described in sections 1(a) or 1(b) may, without any warrant, detain any such person. The person detaining the passenger must ensure that the name and address of the passenger are known to the Master or officer and the person must be handed over to a constable.¹³

(b) Power to hand a passenger over to the authorities relating to passengers committing offences under 1(g).

This power is wider in scope than the one stated in section 2(a). If the Master of a ship (wherever that ship may be and whatever the state (if any) in which it may be registered) has reasonable grounds to believe that any person on board the ship has:

- committed one of the offences listed within section 1(g)
- attempted to commit such an offence
- aided and abetted, counselled, procured, incited or been part in the commission of such an offence (i.e. assisted or encouraged the commission of an offence)

He may hand that person over to an appropriate officer in the UK or any other 'Convention country'.¹⁴ All the major nations are deemed to be a 'Convention country'.¹⁵

Where the Master of the ship intends to hand over any passenger he must give notice to an appropriate officer that he intends to hand the person over. The appropriate officer must be in the country in which the Master intends to hand the person over in.

In addition to the above notice, reasons for handing over the person must be given. This notification should be done before the ship enters the territorial sea of the country concerned or as soon as reasonably practicable after the ship has entered that territorial sea.¹⁶ Failure to do so will result in the Master being guilty of an offence,¹⁷ unless the giving of the notification would endanger the safety of the ship and/or the Master has notified some other competent authority.¹⁸

The Master must give the appropriate officer any oral or written statements relating to the alleged offence which the officer reasonably requires along with any other evidence relating to the alleged offence which is in the Master's possession.

¹³ Section 101 (3) *Merchant Shipping Act 1995*.

¹⁴ Sub-section 15(2) *Aviation and Maritime Security Act 1990*.

¹⁵ A Convention country means a country which the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation signed at Rome March 1988, the provisions of which are enacted in this Act. The Convention has been ratified by some 70 countries and is in force in all the major nations.

¹⁶ Section 15(4) *Aviation and Maritime Security Act 1990*.

¹⁷ Section 15(6) *Aviation and Maritime Security Act 1990*.

¹⁸ Sub-section 15(7) *Aviation and Maritime Security Act 1990*.

(c) Arrest - For any of the offences 1(a) - 1(g)

Arrest is defined as depriving someone of his liberty by some lawful authority, for the purpose of compelling his appearance to answer a criminal charge, or as a method of compelling someone to comply with a judgement.¹⁹

The Master of any UK ship may put any person on board the ship under restraint if and for so long as it appears to him necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.²⁰

Furthermore, with regard to passengers committing the offences listed in 1(c)-1(f), called 'arrestable offences', the Master's powers are the same as any member of the public.²¹ Any member of the public may arrest without a warrant:

- Anyone who is in the act of committing an arrestable offence
- Anyone whom he has reasonable grounds for suspecting to be committing such an offence²²

Where an arrestable offence has been committed, any person may arrest without a warrant:

- Anyone who is guilty of the offence
- Anyone whom he has reasonable grounds for suspecting to be guilty of it²³

The power of summary arrest above is exercisable only if:

- The person making the arrest has reasonable grounds for believing that for any of the following reasons it is necessary to arrest the person in question:
 - causing physical injury to himself or any other person
 - suffering physical injury
 - causing loss of or damage to property
 - making off before a constable can assume responsibility for him
- It appears to the person making the arrest that it is not reasonably practicable for a police officer to make the arrest²⁴

Moreover, the Master must hand the arrested person over to a constable or magistrate²⁵ as soon as possible.²⁶

An arrest will automatically be deemed unlawful if the passenger is not informed of the ground of the arrest at the time or as soon as is practicable thereafter.

¹⁹ Osborn's Concise Law Dictionary, 7th Ed.

²⁰ Section 105 *Merchant Shipping Act 1995*.

²¹ They are the powers available to persons other than police officers for arrestable offences (Section 24A - Arrest without warrant - other persons, *Police and Criminal Evidence Act 1984*).

²² Section 24A(1) *Police and Criminal Evidence Act 1984*.

²³ Section 24A(2) *Police and Criminal Evidence Act 1984*.

²⁴ Section 24A(3) *Police and Criminal Evidence Act 1984*.

²⁵ Section 24 *Police and Criminal Evidence Act 1984*.

²⁶ *Dallison v Caffrey* [1965] 1 QB 348.

3. False imprisonment

The Master will need to be careful that he is not subjected to a false imprisonment charge.²⁷ False imprisonment occurs if the Master unlawfully and intentionally (or recklessly) detains someone's freedom of movement from a particular place.²⁸ Consequently, an unlawful or wrongful arrest might also result in false imprisonment.²⁹

3.1 Imprisonment

Imprisonment includes 'arrest'. It consists of confining a passenger in any place,³⁰ which could include a ship, cabin or cell. Imprisonment may take place either physically or verbally, but in either case the passenger must be aware that he is being constrained. For example, if steps are taken to prevent the passenger from leaving, for example by placing policemen outside the door of the room, he is not imprisoned if he is not aware of the policemen. However, as soon as he tried to leave and sees or hears the policemen and realises he is not permitted to leave then he will be imprisoned.

There is some debate over how large the area of confinement must be for there to be imprisonment but it appears to be quite large. For example, it has been decided that preventing a person who has landed at an airport from leaving that airport was imprisonment.³¹

3.2 False / Unlawful Imprisonment

To prevent a charge of false imprisonment it is important to be reasonably certain that one of the offences for which the Master has a power of arrest has been committed. Reasonable 'suspicion' will not be sufficient grounds for an arrest without a warrant. Reasonable and honest 'belief' is instead required.³² An arrest will automatically be unlawful if the arresting Master does not have a valid ground for the arrest in mind when he makes it.³³

4. Does the Master's power of arrest give him the power to search?

The power of arrest does not appear to give an additional power of search.

5. Means to prevent a passenger injuring themselves

The Master has absolute control over the passengers of his vessel.³⁴ They are bound to obey his reasonable orders. Consequently, if the Master felt it necessary to try and prevent a passenger injuring themselves, provided the order was reasonable in the circumstances and the order was performed using reasonable means, it could be a valid course of action to take.

²⁷ A remedy for false imprisonment is available both as a tortious and a civil remedy. However, there are some important differences between the two.

²⁸ 'Criminal Law', Smith & Hogan, 9th Ed, p435.

²⁹ Ibid.

³⁰ 'Criminal Law', Smith & Hogan, 9th Ed, p435.

³¹ *Kuchenmeister v Home Office* [1958] 1 QB 496.

³² *Wills v Bowley*, [1983], 57, 1 A.C.

³³ *Edwards v DPP* (1993) 97 Cr App Rep 301, 306-307.

³⁴ This is a common law power.

6. Further power of Master to prevent someone from harming themselves

There is a statutory provision³⁵ which gives a Master the authority to put anyone under restraint, for such period as is necessary, if the Master believes it is necessary in the interests of safety or for the preservation of good order or discipline on board the ship. Consequently, this could be construed as providing the Master with the ability to invoke such a power if he feared that a passenger was likely to harm themselves. An argument which could be used is that the passenger's actions would be likely to harm the safety or discipline on board the ship due to the panic it would cause.

³⁵ Section 105 *Merchant Shipping Act 1995*.

Annex 5



A Memorandum of Understanding between the British Transport Police and Crown Prosecution Service, London – Staff Assaults

1. This document sets out the protocol between the Crown Prosecution Service and British Transport Police relating to the arrest and charge of offenders who assault staff on London's railway and underground systems. It reinforces paragraph 5.9 of the Code for Crown Prosecutors – that a prosecution is likely to be needed if "the offence is committed against a person serving the public." The Crown Prosecution Service Policy Directorate has stated that rail staff, when on duty, will be considered public servants and an assault against such a member of staff will be considered more serious by the CPS than the same kind of assault on a non-public service victim.
2. In 2005-2006 the British Transport Police recorded 2090 assaults on staff and detected 46% of those offences. However there remains a perception amongst staff that assaults against them are not taken seriously by the Criminal Justice Service. By working to this Memorandum of Understanding the partner agencies will increase confidence in the Criminal Justice Service amongst transport workers by ensuring that appropriate steps are taken to ensure the needs of the victim are met and that offenders are brought to justice.
3. The British Transport Police, London Criminal Justice Board and the Crown Prosecution Service are working in partnership as part of an overall strategy to help build a safe railway environment that is free from disruption, crime and the fear of crime. Partner agencies are working hard to ensure that perpetrators of assaults against staff are brought to justice.

Undertaking: British Transport Police

4. The British Transport Police will exercise a positive arrest policy to affect the apprehension and detention of any persons who assault Rail, London Underground, DLR or Croydon Tramlink

Signed



Dru Sharpling
Chief Crown Prosecutor
Crown Prosecution Service London

Date 20/10/2006

staff. Officers will not use simple cautions as a means of disposal for this type of offence. All such cases will be presented to the Duty Prosecutor for a charging decision.

5. The British Transport Police undertakes to furnish the Crown Prosecution Service with case files that fully meet evidential requirements and Crown Prosecution Service time constraints. In addition to taking a witness statement officers will give victims of staff assault the opportunity to make a victim personal statement in accordance with the victim personal statement scheme. The Force will respond promptly to any follow up requests for additional evidence from the Crown Prosecution Service.

Undertaking: Crown Prosecution Service

6. The Crown Prosecution Service will support this policy and apply the evidential and public interest tests set out in the Code for Crown Prosecutors. In cases where the evidential sufficiency test is met, a prosecution is likely to be needed in the public interest because the offence is committed against a person serving the public. The decision to prosecute any offender is the sole responsibility of the Crown Prosecution Service in accordance with the Code for Crown Prosecutors. Conditional cautions will only be authorised in exceptional circumstances and only for low level offences. In order to assist the Crown Prosecution Service Duty Prosecutor to decide the appropriate level of compensation to be paid by the assailant to the victim, the guide at figure 1 has been agreed by the Crown Prosecution Service Assistant Director of Policy (Law Enforcement).
7. At any sentencing hearing, the prosecuting advocate will draw the courts attention to any aggravating features, including the fact that the victim is a public service employee.

Signed



Ian Johnston
Chief Constable
British Transport Police

Date 20/10/2006

Conditional Cautions Compensation Grid

Offence	Effect	Mitigating & Aggravating Factors	Other Considerations	Compensation
Assault	No Battery Verbal intimidation	Impulsive action	Shock Distress	£50-00
		Deliberate Aggression [Offending act made in the heat of the moment]	Shock Distress	£75-00
		Premeditated Aggression [Offending act calculated and considered]	Shock Distress	£100-00
Assault and Battery	No Injuries Pushing or Shoving	Impulsive action	Shock Distress Time off work	£125-00
		Deliberate Aggression [Offending act made in the heat of the moment]	Shock Distress Time off work	£150-00
		Premeditated Aggression [Offending act calculated and considered]	Shock Distress Time off work	£200-00
Assault and Battery	Minor Injuries Grazing Light bruising Spittle Offences	Impulsive action	Shock Distress First Aid Rendered Time off work	£250-00
		Deliberate Aggression [Offending act made in the heat of the moment]	Shock Distress First Aid Rendered Time off work	£300-00
		Premeditated Aggression [Offending act calculated and considered]	Shock Distress First Aid Rendered Time off work	£350-00