



Isle of Man Ship Registry

Casualty Investigation Report No. CA 129

"Endeavour", "Our Lads"

**Dangerous manoeuvring which resulted in close-quarters situation
between 2 boats with potential risk to divers.**

19th January 2018

Statement of Intent

Extract from the Isle of Man Merchant Shipping (Accident Reporting and Investigation) Regulations 2001 – Regulation 4:

"The fundamental purpose of investigating a casualty, an accident, or an incident under these Regulations is to determine its circumstances and the causes with the aim of improving the safety of life at sea and the avoidance of accidents in the future.

It is not the purpose to apportion liability, nor, except so far as is necessary to achieve the fundamental purpose, to apportion blame"

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Summary

On the 17/07/2017 the Ship Registry received a complaint sent by e-mail, regarding dangerous manoeuvring of fishing boat "Our Lads" in the area of diving operations. The e-mail was supported by video recorded during manoeuvring. The Ship Registry initiated investigation. There were three boats involved in the situation: d/b "Endeavour", d/b "Kirree Varrey", f/b "Our Lads".

1. Narrative of Events

1. Location

The South of Calf of Man - 54°02'34.1" N; 004°48'49.1"W.

2. The weather conditions from the nearest weather station (Ronaldsway 6nm)

09:00 – 12:00 (LT). The wind direction 270°- 220°, 8-10 knots, Visibility 40km. Sea temp 14°C

Weather conditions were provided for the purpose of this report by Meteorological Office of Ronaldsway Airport.

3. Sequence of events 17/07/2017 (times are approximate):

10:10 diving boat "Endeavour" arrived to South of Calf of Man. There were 12 passengers onboard + 2 crew (skipper and diving instructor).

Fishing marks (red floating spherical buoys) were spotted on arrival in the water indicating fishing gear under the water.

10:22 "A" flag was hoisted by "Endeavour". The flag was reported to be 1m in lengths as required by COLREG.

10:27-10:37 Deployed divers from "Endeavour".

10:37-10:40 another diving boat "Kirree Varrey" arrived to the area. The boat had 10 divers onboard and 2 crew.

10:40 fishing boat "Our Lads" arrived to the area and proceeded to the location of the fishing buoys to pick up the pots (fishing gear). The shape "engaged in fishing" was exhibited (two cones) and was recognised by skipper of "Endeavour". Fishing boat had two crew onboard. They spotted a diving boat near their fishing pots and noticed that flag "A" was exhibited from the boat "Endeavour".

10:41 "Endeavour" broadcasted a voice message addressed to "fishing boat at Burroo" by radio on VHF that they had divers in the water. Skipper of "Our Lads" claimed they were keeping watch on channel 16 at all times and did not receive any calls or broadcasts. It was less than 100 meters between two boats at that time.

"Endeavour" did not try to call "Our Lads" by radio or broadcasted any more messages, and used a loudspeaker to announce that they had divers in the water. Both crew of "Our Lads" stated they could hear the voice but it was not clear what it was saying. At that time there were no any SMB (safe marking buoys) released by divers on the sea surface, so the fishermen couldn't know positions of each individual diver.

10:41 "Endeavour" made a manoeuvre ahead of the fishing vessel with intention to call for attention and stop it from proceeding further ahead. The manoeuvring did not escalate to collision or contact and "Endeavour" eventually kept clear of "Our Lads".

10:41-10:46 "Our Lads" started to pick up the pots (fishing gear) and disengaged the engine. After getting all pots onboard "Our Lads" started to drift in SW direction towards the position of the second diving boat "Kirree Varrey". At that time there was a verbal exchange of opinions on the situation in general between crews of "Endeavour" and "Our Lads".

11:00 "Our Lads" then drifted towards "Kirree Varrey" and had a conversation with skipper. Skipper of "Our Lads" asked if it was safe to use propeller. Skipper on "Kirree Varrey" confirmed it was safe. "Our Lads" proceeded away from the area and since then had no contacts with "Endeavour" or "Kirree Varrey".

4. Established facts:

f/b "Our Lads"

- Skipper of "Our Lads" is a certified radio operator.
- Skipper of "Our Lads" spotted exhibited "A" flag and understood its meaning.
- "Our Lads" was provided with a working radio station which was later tested on channel 16.
- "Engaged in fishing" shape was exhibited at all times.
- Vessel operated under the valid Isle of Man Small Fishing Vessel Certificate.

d/b "Endeavour"

- Skipper is a certified radio operator.
- Statements collected from diving instructor (on "Endeavour") suggest that the radio communication protocol was not followed by "Endeavour" because the fishing boat was not clearly identified and there was no second attempt made after not receiving immediate response from the fishing boat.
- "Endeavour" deliberately manoeuvred in front of the "Our Lads" with intention to stop it.
- The fishing pots marking buoys were spotted on arrival to the area.
- Divers only release SMB 10 minutes before returning on the surface and there were no SMB visible when "Our Lads" arrived.

2. Comment and Analysis.

1. Analysis of actions of "Endeavour" for compliance with the ordinary practice of good seamanship.

1.1 The "Endeavour" arrived to the area where fishing buoys were established and indicated location of fishing gear underwater. The decision was made to deploy divers in the same area where fishing gear was deployed earlier by the fishing boat. The good practice of seamen suggests avoiding any navigational obstacles including fishing gear. The precaution, which was necessary in this case, was neglected by the crew of "Endeavour". The buoys indicate the location of the fishing gear without giving any details of the type of nets, pots or dimensions of the gear. The recreational diving in the vicinity of the fishing gear involves more risks than diving in other areas, due to underwater obstructions for divers and predictable activity of the fishing boats in the area. As it was established during the interview with a diving instructor (one of the crew members of "Endeavour"), the diver, if hooked by the gear and being rapidly pulled on a surface can experience serious and life-threatening injury.

1.2 This situation clearly showed that communication with the fishing boats can be inefficient and does not guarantee that the fishing boats will suspend their routines or even understand that there are divers around the fishing gear. Consideration should be given to foreign boats which may not have good understating of English at all. Even though failure to understand signals or language does not exonerate fishing boats from responsibility to take necessary precautions and act accordingly, the diving instructors should carry out a proper risk assessment which would include all possible risks for divers.

1.3 Diving boat "Endeavour" exhibited flag "A", declaring a status of being restricted in her ability to manoeuvre. It was done deliberately to keep other ships away from the area of recreational diving. The fishing gear was placed in the area before arrival of "Endeavour". Therefore it should be considered that crew of "Endeavour" knew that fishing was in progress at that specific area but decided to take advantage of her status in order to prevent fishing boat from its activity for the time of diving. By doing so "Endeavour" deliberately restricted an access of the fishing boat to their property underwater.

1.3 Manoeuvring in front of the fishing boat with an intention to stop it can be described as dangerous and unprofessional, and could have resulted in collision or caused additional risk to divers.

2. Analysis of actions of "Our Lads" for compliance with the ordinary practice of good seamanship.

2.1 While approaching the location of their property (fishing gear), the crew of "Our Lads" spotted the diving boat "Endeavour" in the vicinity of the marking buoys which they established to mark their fishing gear earlier. The crew admitted they spotted flag "A" and understood its meaning (vessel engaged in diving operations) and understood that there could be divers underwater. The exact meaning of flag "A" as per definition of the International Code of Signals 1969 (rev.2003) is "I have a diver down; keep well clear at slow speed". The skipper of "Our Lads" stated that he reduced speed and disengaged the propeller.

2.2 The boat followed the precaution by reducing speed, but only kept clear enough to avoid a collision with "Endeavour" and not clear enough for not causing a threat to divers. The "Our Lads" was drifting in the area after picking up the fishing gear with disengaged engine and asked verbally to the second diving boat "Kirree Varrey" whether it was safe to engage propeller. The skipper of the boat "Kirree Varrey" confirmed it was safe to do so. It may indicate that "Our lads" took some precautions not to cause any damage to divers, but only after picking up the fishing gear.

2.3 The crew of "Our Lads" realised that divers could be in the water, but did not make any attempt to contact the diving boat by radio and ask whether it was safe to proceed closer or pick up the fishing gear from the water.

2.4 After approaching the diving boat close enough, the crews of two boats communicated verbally. The crew of "Our Lads" was clearly notified about diving operations and that picking the fishing gear from the water could be dangerous for divers. The verbal communication should be considered as sufficient and informative way to notify fishing boat about diving activity at that time.

2.5 The crew of "Our Lads" was not aware that at that time divers were instructed to deploy SMBs 10 minutes before coming to the surface and were trying to argue that in their opinion there were no divers due to missing SMBs on the surface. Even after being verbally notified about divers in the water, the crew ignored precautions and started to pick up the fishing gear from the water.

3. Conclusions

3.1 The actions of both vessels can be described as dangerous and could have potentially resulted in collision, death or serious injury to divers and crew.

It is obligation of every person engaged in any capacity onboard any ship to do anything required to prevent his/her ship from causing the loss or destruction of or serious damage to any other ship or any structure, or the death of or serious injury to any person not on board his ship.

3.2 The diving boat did not use proper means of communication because the protocol for radio communications was not followed.

The diving instructor used the following message only once:

- "Fishing boat at the Burroo (x2 times), we have divers down, don't come across here".

By sending this type of message there is no guarantee that station being called can relate to it or receive the message at all.

The correct protocol suggests calling station (by name, registration number, location or any other characteristics which can be visually identified), followed by identification of calling station. The message should be repeated several times in case station called is set to low volume or due to signal interference and noise.

3.3 Means to attract attention should be used as prescribed by COLREG. Every boat regardless of size and nature of operation should carry a light capable to produce short and prolonged flashes and sound equipment capable to produce short and prolonged blasts. The sound equipment should also be used in restricted visibility which is common in the Irish Sea. The Ship Registry ensures that sound and light equipment is available on fishing boats which is verified during periodical surveys, but the equipment carried and used onboard pleasure crafts is beyond control of the Ship Registry.

3.4 The diving boat could have expected appearance of the fishing boat due to operating in the vicinity of the deployed fishing gear. Therefore it should be considered that the crew deliberately decided to dive in the vicinity of the fishing gear and accepted the risk. Flag "A" and other COLREG statuses should not be used to take advantage of the situation or for the purpose of convenience and should only be used to notify other ships that the vessel, due to the nature of its operations, can't change the course/speed to avoid collision.

Therefore the decision to dive and manoeuvre in the vicinity of the fishing gear was dangerous and irresponsible.

3.5 The fishing boat did not take necessary precautions by proceeding to the area of diving operations without ensuring that they would not cause danger to divers. After the crew was clearly informed that there are divers in the water, the skipper of "Our Lads" started to heave up the fishing gear realising it can cause damage to divers. The actions of the crew of "Our Lads" were dangerous and irresponsible.

4. Recommendations

In order to reduce the risk of similar situations occurring in the future, it is recommended that –

- steps are taken to increase awareness in both the fishing and diving communities of good practice and precautions that should be taken by divers and fishermen; and
- further research is conducted into whether or not a specific regulatory regime or Code of Practice is required to specify and enforce good practice.