

PPE used by shore based council marine staff

This issue has been raised on multiple occasions over the past few years with officers, notably Pippa Milne. The issue has also been referred to in the complaint raised by Mrs Milne and 3 other senior officers against me and submitted to the Standards Commissioner, the details of which I am unable to disclose.

At the April 15 meeting of the council's Harbour Board, I raised the matter again. The words I used were to the effect that the buoyancy jackets issued to our shore based staff do not comply with the HSE's advice and that they might, in fact, endanger life rather than save life. I remain of that view. Pippa Milne made it clear at that meeting that she considered this to be an operational matter and that risk assessments had been carried out by competent staff that recommended the use of buoyancy jackets rather than self-inflating lifejackets. The risk assessment I finally obtained fudges the issue further and makes no clear recommendation on what kind of lifejacket/flotation device to wear. Here is what it says about PPE:

Where Appropriate Statutory PPE is worn:

Safety Footwear

Hi-Visibility Clothing

Head Protection

Hand Protection

Life Jacket / Flotation suit

Pippa has stated that this is an operational matter on numerous occasions, notably at the April harbour board meeting. As I have stated repeatedly, safety is everyone's business and there is a duty on all of us to raise safety issues with those managers who are responsible. But, don't just take my word for this. The Good Practice Guide on Port Marine Operations was issued in March 2015 and was prepared in conjunction with the national Port Marine Safety Code. This guidance was developed by people from the ports industry, the Department for Transport and the MCA. Here is an extract from the guidance:

Consultation

4.1.8 Safety is the business of everyone concerned in the provision and support of marine operations, whether commercial or leisure, and is no longer just the responsibility of the statutory harbour authority or navigational authority. The safety management system is the core system around which the entire port operation must function. The Code emphasises that an effective and comprehensive safety management system can only be achieved with the total commitment of the port's senior management and staff together with all practitioners, users, operators and interested parties. Communication and openness are vital. The process must be seen for what it is; of benefit not only to the port authority, but the wider port and its users as a whole.

I am raising this again now because, after further research and observation, there remains a serious problem. In the past few months I have looked at shore based staff going about their duties at a number of ports in Scotland, England, France and Spain. I have taken photographs of the PPE used in each port and it's just about identical everywhere. Hard hats, high-vis waistcoats, self-inflating lifejackets and safety footwear were observed in each location. In fact, what I observed was pretty much like what we issued in 2008, see page 3, and which we're now told has been superseded. As

has been pointed out to Mrs Milne, CalMac shore based staff at Gourrock, doing much the same jobs as our staff in, say, Dunoon and Rothesay, wear all the necessary PPE, in particular self-inflating lifejackets. By chance, on 22 June, I happened to be passing Dunoon Pier and contractors were being given access to the breakwater with a vehicle. The 2 members of the contractor's staff were wearing the 4 essential items: hard hat, safety shoes, high-vis waistcoats, and self-inflating lifejackets. Again, I have photographs. Lastly, on the weekend of 2/3 July I observed the volunteers who assist with the Waverley berthing wearing self-inflating lifejackets. I also have photographs.

Ask yourself this: what is it that makes ports and harbours in Argyll & Bute different from all other ports and harbours and why is it that our staff are exposed to risks others don't expose themselves to?

Some time ago I gave Mrs Milne the link to the Health & Safety Executive's web site where the different buoyancy aid standards are dealt with. The PPE we issue is to standard EN 393 and the HSE state the following:

BS EN 393:1994 ■■Lifejackets and personal buoyancy aids: Buoyancy aids: 50 N. These have a buoyancy of no less than 50 Newtons for the average adult and are intended for use in sheltered waters when help is close at hand and the user is a swimmer; and in circumstances where more bulky or buoyant devices would impair the user's activity or actually endanger them.

The waters round Argyll & Bute are rarely sheltered, especially in winter. Help may not always be at hand and we don't know if all our port staff are swimmers. What we do know is that there is no mention of applicants having to be swimmers in the job and personal specifications for shore based staff. In my opinion, the standard should be a minimum of EN 396, and ideally EN 399. This is what the HSE say about EN 396.

BS EN 396:1994 Lifejackets and personal buoyancy aids: Lifejackets: 150 N. These have a buoyancy of no less than 150 Newtons for the average adult and are intended for use in tidal waters or when foul weather clothing is being used; and where the wearers may not be capable of helping themselves due to injury or exhaustion (or where there may be a delay in rescue).

Our waters are tidal, our staff do wear foul weather clothing and if someone did fall off a pier, there is a high risk they would incur an injury of some type. That's why I believe self-inflating lifejackets to a minimum of EN 396 are significantly more appropriate for our staff. To read more on this, have a look at: <http://www.hse.gov.uk/pubns/ais1.pdf>

The extract below is from the only known port marine safety plan the council has. This one is for Rothesay and is dated June 2008. In 2013 there was another risk assessment carried out which, it is argued, altered the specification of item 2 iv) below from the self-inflating lifejacket to a jacket of lower specification that is merely a buoyancy aid. My interpretation of this revised risk assessment is that it is not at all clear what type of flotation or buoyancy aid it recommends, see page 1.

1. Task: Working on Piers and Harbours

2. Personal Protective Equipment / Clothing to be worn

- i) Safety footwear*
- ii) High Visibility Waterproof Jacket or Long Sleeved High Visibility Waistcoat
- iii) Safety Hat *
- iv) Self inflating life jacket**
- v) Medium or heavy duty protective gloves**

*Items to be worn when in vicinity of working plant, berthing vessels or below surface level of pier or harbour.

** To be worn when attending berthing vessels, working within 2 metres of edge of pier or harbour or working on boat.

In December 2014, Mr Calum MacMillan of Rothesay, an experienced mariner, wrote the following to Pippa Milne. The yellow highlighting is mine:

You previously advised that the Port Marine Safety code was fully applied in all respects at Rothesay and I advised to the contrary.

As only one example I detailed lifejackets as an important and serious breach.

You have confirmed the standard that you have adopted but that does not meet the standard set out in the current Port Marine Safety Code copied below.

The significant difference is that you have only issued a buoyancy aid which will not prevent the wearer from falling out of it in the water , it will allow the wearer to float face down and drown instead of turning face upwards and has no attachment point for securing a recovery line.

In the event that one of your pier staff falls into the water they are very likely to fall out of the buoyancy aid and be left either without buoyancy or will if unconscious or injured float face down and drown with no attachment point to aid recovery and is further only suited to competent swimmers according to the EN 393 below.

In reality not much better than wearing a body warmer and as a direct comparison the Cal Mac pier staff at Wemyss Bay , who perform a similar function with the same vessels, wear self-inflating lifejackets as described in your Port Marine Safety Code.

Perhaps the person responsible for writing the revised risk assessment should adhere to the conditions set out in the Port Marine Safety Code and understand better the differences between the respective floatation devices or even try out a controlled man over board drill from a height into cold water to simulate worst case scenario and the recovery methods in a similar way to drills on commercial vessels?

Either way you do not conform at this time with your current Port Marine Safety Code as one example only.

It has to be said at this point that things are actually worse because staff routinely don't wear the buoyancy aid jackets at all as I pointed out most recently as the June meeting of the council's audit committee. The reason they don't wear them is that when the weather is warm, these jackets will be very warm, probably overly warm. This is because of the layer of buoyancy material between the outer and inner layers of the jacket. My argument is that, not only do these jackets potentially endanger life when worn for the reasons stated by Mr MacMillan, their design means staff are

unlikely to wear them in good weather so even if there was any benefit from these, there can be none at all if they're hanging on a peg rather than on someone's back.

I have been criticised by officers for "continuously refusing to accept professional advice". The word continuously is clearly inaccurate because I am more than happy to accept professional advice when it's good and competent professional advice.

Although the members of the harbour board are now probably out of the line of fire given Pippa's confirmation at the April harbour board meeting that she has the role of Duty Holder, the harbour board still needs to ensure that any policies and practices we have as a council are safe, in line with standards laid down by the HSE and in line with the national Port Marine Safety Code and its associated guidance.

I believe that we breach all of these on this one issue alone, and there are many others, some of which are also serious. However, it's not just that we are in breach over this issue: **in my view the PPE we instruct our staff to use could endanger them in the event of an accident, rather than save them. That "instruction" means there is liability up the line. Where it stops is unclear.**

It's my unequivocal duty, and yours as members of the harbour board, to persuade or indeed instruct officers of the urgent need to review the position.

Cllr Michael Breslin, Technician Member, Institute of Occupational Safety & Health (TechMIOSH)

July 2016

Note

I have obtained two independent professional opinions on the flotation jackets or life jackets shown on pages 5 and 6.

The conclusion that can be reached from these 2 opinions is that the flotation jackets to EN 393 that our staff wear are unsuitable and, most likely, dangerous. As a minimum, self-inflating lifejackets to EN396 are required and, ideally, self-inflating lifejackets to EN399 should be used.

Hi Michael

It is my opinion that the evidence is very straight forward and the BS EN 396:1994 Lifejackets and personal buoyancy aids: Lifejackets: 150 N is the correct fit for the unsettled waters that the operatives around Argyll and Bute are working in. It is also my opinion that a detailed "Rescue Plan" should be developed in conjunction with the use of this type of buoyancy aid which will include response times.

Regards

Allen Blincow

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Hi Michael

My assessment of the provision and use of life vests would be as follows:

A 50N - EN393 buoyancy aid provides 5.5kg of buoyancy

These would not be suitable for a fully clothed adult wearing all other PPE and especially waterproof clothing. These products are designed for competent swimmers, and are suitable for use in sheltered waters. They will only provide support to a conscious person who can normally help themselves.

A 150N – EN396 buoyancy aid provides 16kg of buoyancy

These are suitable for both swimmers and non-swimmers, and are designed for use in inshore as well as offshore and in all but the most severe conditions.

- They give reasonable assurance of safety from drowning, to a person not fully capable of helping themselves (ie someone unconscious).
- However they may not immediately self-right an unconscious person wearing heavy waterproof clothing that might trap air that could counter-act the normal righting moment of the lifejacket's buoyancy

A 275N –EN399 Buoyancy aid provides 28Kg of buoyancy

These lifejackets are suitable for both swimmers and non-swimmers and are designed to provide a high performance device for offshore and severe conditions, when maximum protection is required or where heavy waterproof clothing is worn that can trap air.

- These products give improved assurance of safety from drowning, to people who are not able to help themselves (ie unconscious).
- While they cannot be guaranteed to immediately self-right an unconscious person wearing heavy waterproofs that might trap air, the buoyancy that they provide should ensure that they will do so in the majority of cases.

In answer to your question:

A 50N – EN393 - would not be considered as suitable in my assessment

A150N – EN 396 - whilst a suitable standard may not self-right an unconscious person wearing heavy waterproofs

A275N – EN399 – this item will in all probability provide the buoyancy to self-right an unconscious person

I would therefore recommend a **275N - EN399** life vest for persons undertaking such work, wearing heavy PPE where conditions may become severe as we know they can be at Dunoon pier and surrounding areas

I trust this will assist

Regards

Kenny McGillivray CMIOSH

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