
MSC NAPOLI – INITIAL LESSONS LEARNT FOR TORBAY

**Report OSB/7/07 to the Harbour Committee on 19 March 2007
and the Cabinet on 10 April 2007 and the Council on 22 May 2007**

1. Introduction

- 1.1 The MSC Napoli was grounded a mile off Branscombe, near Sidmouth on Saturday 20 January 2007. The ship, which was carrying almost 2400 containers, was holed in storms on the previous Thursday following which its 26 man crew was airlifted from the vessel.
- 1.2 The drifting ship was being towed to Portland Harbour for a salvage operation when it suffered “serious structural failure” and the decision was made to deliberately beach the ship to prevent it breaking up in deep water.
- 1.3 Over 100 containers fell from the ship into the sea on Saturday night. Approximately 50 containers washed ashore at Branscombe. As members of the public began removing goods from the containers, secondary pollution in the form of packaging and discarded goods was strewn along the coastline. The number of people arriving in the village caused problems with roads becoming gridlocked. A number of public order offences were also committed in the village.
- 1.4 The Scrutiny Lead Member for the Environment requested that the overview and Scrutiny Board review the Council’s Emergency Plan to ensure that any initial lessons learnt from the grounding of the Napoli were taken on board.

2. Process

- 2.1 The Members of the Overview and Scrutiny Board met informally to review the immediate lessons learnt from the grounding of the MSC Napoli in Lyme Bay and whether Torbay’s Emergency Plan required any amendment.
- 2.2 The Board invited the Council’s Emergency Planning Manager, Director and Assistant Director of Marine Services and Service Manager (Highways Management) to the meeting together with representatives of the Police and HM Coastguard.
- 2.3 Prior to the meeting the Board received some background information from the Maritime and Coastguard Agency website plus extracts from Torbay Council’s Major Emergency Plan and Coast Pollution Plan.

3. Key Findings

- 3.1 The Board heard that the Duty Harbour Master (and therefore Torbay Council) was notified by the Maritime and Coastguard Agency on Thursday 18 January 2007 that the MSC Napoli was under tow. The Emergency Cascade was activated over the weekend of 20 and 21 January and on Monday 22 January the Strategic Director (Community Services) was nominated as the Lead Director. Throughout the incident, Torbay Council has been informed of the latest situation and, at the time of writing, this continues to be the case as the incident continues.
- 3.2 The Board heard that provisions within the Merchant Shipping Act 1995 exist to reunite an owner of wreck material with their property and to ensure that, where applicable, a legitimate salvor is entitled to a salvage reward in recognition of their efforts to return the property to its rightful owner. However, due to the number of people who travelled to Branscombe to “salvage” goods, time was needed to interpret the law to ensure that how each agency acted was legal. It was accepted that there was a time-lag whilst this interpretation took place and that the authorities had been hindered by the lack of clarity about the Act. However a precedent had now been set which could be referred to in any future incidents.
- 3.3 The Emergency Planning Manager reported that he believed that if the ship had been grounded in Tor Bay it would have had the same impact as it did in Branscombe. This was because no one had anticipated the secondary pollution that would occur and the public order incidents. It was felt that no emergency plan would have taken into account the actions that took place over the weekend of 20 January.
- 3.4 It was accepted that this was a unique incident that was fuelled by the media interest in the story and ultimately people’s greed. All agencies are now aware of the salvage laws and understand what powers each agency has to prevent similar scenes at any future incident.
- 3.5 Reference was made to how beaches in Torbay that were not easily accessible by land could be cleaned following the Napoli incident. It was explained that salvors could use landing craft to access these beaches but that they would only clean pollution that was a direct result of the incident (for example, remove goods that had been washed ashore).
- 3.6 The Board heard that if the incident had occurred in Torbay, the Council may have been in a better position as it is both the Harbour Authority and a Unitary Authority. As such the Council has control of the harbours, beaches and roads. The Police reported that it may have been easier to manage in terms of restricting access to the affected beach(es) as Torbay is an urban area but that even so it would be unfair to expect complete containment of the area.
- 3.7 It was explained that, if an incident like the grounding of the Napoli were to happen in Torbay tomorrow, Torbay Council’s response would be inline with its existing Emergency Plan. The Emergency Planning Manager stated that he believed that the Plan was “fit for purpose”. The Board also heard that emergency plans should not be too prescriptive and that they need to be flexible enough to respond to the full range of incidents. Torbay Council has well rehearsed structures in place to deal with emergencies. Officers from all agencies who are actually responding to incidents on the ground should be empowered to take the necessary decisions within the powers of the agencies they represent.

- 3.8 In terms of the immediate lessons learnt, it was agreed that a strong message would be sent to the public on their rights in terms of salvage as these rights were now fully understood by all agencies. (It was accepted that what happened at Branscombe was “looting” rather than “salvage”.) The Coastguard also reported that more Receivers of Wreck had been sworn-in following the Napoli incident. The Receiver of Wreck has the power to declare when and where goods should be surrendered and it was felt that in future this declaration would be “here and now” and therefore goods would not be allowed to leave the beach.
- 3.9 Powers already exist to enable footpath and road closures to be put in place within hours on the grounds of public safety or public order issues.
- 3.10 The Board heard that the Napoli incident is still ongoing and therefore a full de-brief and/or inquiry has not yet been held or planned. In line with usual practice, all agencies would be expected to consider the findings of the de-brief/inquiry and amend their plans accordingly.
- 3.11 The Board noted that a Joint Emergency Response Protocol is in place and its purpose is to act as the overarching protocol by which all emergencies (as defined by the Civil Contingencies Act 2004) are managed within Devon, Cornwall and the Isles of Scilly. It provides the underpinning principles for the development of all contingency plans within the area. It is expected that this Protocol will be amended following the de-brief of the Napoli incident.
- 3.12 It was noted that local authorities, and others, who incur costs as a result of pollution from a ship-source pollution incident may seek to recover their costs by lodging a claim in court in accordance with the domestic law which applies the Limitation of Liability for Maritime Claims Convention 1996. Points were raised at the meeting about what the limit of the liability under this Convention is and who pays the local authority’s costs once the limit of liability is reached.
- 3.13 Reference was made to the Marine Bill which was due to be published in March 2007. Whilst it was not felt that the proposals within the Bill would have helped in this situation, there was concern that there seemed to be an overlap of legislation when incidents at sea but close to shore happened. It was felt that it might be possible for the Bill to try to clarify these issues.

4. Conclusions

- 4.1 The Board was confident that Torbay Council had responded to the grounding of the MSC Napoli in accordance with the Major Emergency Plan that is currently in place for Torbay. The Board accept that this Plan may need amending to take account of the lessons learnt from this incident.
- 4.2 The Board accept that it is sensible to wait for the de-brief before any response plans are amended. The Board understand that the Joint Emergency Response Protocol is due to be updated but would hope that this would take place within the next six months.
- 4.3 The Board acknowledges that, should an incident like the grounding of the MSC Napoli happen within Tor Bay, the Council is “fortunate” in that it is a unitary and harbour authority and that this should help to ensure a well co-ordinated response.

- 4.4 The agencies involved in the aftermath of the grounding of the MSC Napoli have accepted that they were not fully fluent with the laws they were able to use to prevent access to Branscombe beach and, in turn, prevent the looting of the containers. However a precedent has now been set and all agencies are now fully aware of their powers in relation to this type of incident.

5. Recommendations

To the Cabinet:

- 5.1 That, should a similar incident occur in the future, a strong media message should be developed to ensure that the public are aware of the salvage laws and their role in clearing beaches of salvage.
- 5.2 That, through continued training and emergency exercises, operational officers are made aware of the powers that they have in emergency incidents and that their sense of ownership is strengthened.
- 5.3 That representations be made to the Secretary of State for Transport and Torbay's Members of Parliament to establish the Limit of Liabilities under the Limitation of Liability for Maritime Claims Convention 1996 and the arrangements for covering local authorities' costs once the Limit is reached.
- 5.4 That the Council's insurance arrangements be reviewed to determine if the Council's costs over and above the Limit of Liabilities in 5.3 above could be recovered in the event of a future incident.
- 5.5 That the Secretary of State be encouraged to incorporate any lessons learnt from the grounding of the MSC Napoli into the Marine Bill as it is developed.
- 5.6 That beaches which are inaccessible by land be cleaned following the Napoli incident and that arrangements are put in place to clean these beaches each spring to ensure that any winter debris is cleared.

To the Council:

- 5.7 That the Council's Byelaws in relation to beaches and harbours be reviewed to ensure that they are fit for purpose in light of the lessons learnt from the Napoli incident.