

# A Criminal Pilotage Investigation

*The subject of safety v pecuniary advantage in the maritime sector is not confined to just crewing as in the recent P&O case. Barrie Youde is a retired Liverpool pilot of nearly 30 years standing who followed that career with 25 years as a solicitor, specialising in Pilotage Law. In 2014 he took up this case in which he avers that a CHA created a shortage of pilots by obstruction and subsequently granted authorisations to underqualified persons specifically in order to gain a financial advantage for itself. Barrie sees it as a case of corruption and has made 56 Personal Witness Statements and written numerous letters and emails to the Metropolitan Police, Dame Cressida Dick, the Prime Minister, the Speaker, Ministers past and present and made allegations of misconduct in Public office against the Shipping Ministers involved. Some of the Government departments will no longer respond to him and he is treated almost as a vexatious litigant. Here is an explanation of the case that he wrote for The Times in the hope of gaining their interest.*

1. The background to the corruption lies in the abuse of the Pilotage Act 1987. The Act gives to local harbour authorities for the first time the discretionary power to impose compulsory pilotage upon shipping and to levy charges for the services of pilots provided by those local authorities. Before 1987 and since recorded time began, the power to impose compulsory pilotage had been reserved to the Crown.

2. The Act provides a statutory definition of a pilot as “A person not belonging to a ship who has the conduct thereof”. To have the conduct of a ship means to have control of the speed and direction of a ship which is being navigated. Accordingly, the master of any ship which is made subject to compulsory pilotage is obliged to transfer control to the pilot; or, in the alternative, to risk prosecution under Section 15(2) of the Act for navigating other than “under pilotage” when subject to the compulsion. It follows necessarily both that a pilot is properly qualified and that a shipmaster is obliged to trust the pilot provided to him. These matters are legally binding on all persons for all purposes.

3. To that end, the harbour authorities are empowered to set the standards to be required of the pilots who operate in their area of jurisdiction. Where standards have been set there is an equal requirement that the standards are maintained at least for as long as the compulsion is also maintained; in default of which there is a clear and obvious breach of the relevant law (The Crown v Milford Haven Harbour Authority 1999 – following the SEA EMPRESS disaster of 1996).

4. In January 2014 Londonderry Port & Harbour Commissioners operated a compulsory pilotage scheme in accordance with the Pilotage Act 1987. The Commissioners were nominated as a “competent harbour authority”, by Section 1 of the Act and had determined under Section 2 that compulsory pilotage should be imposed in the interest of public safety. The Commissioners had licensed or “authorised” three pilots to perform the necessary pilotage in accordance with qualifications determined under Section 3 of the Act; and the three pilots served on self-employed terms as members of a co-operative (“Foyle Pilots Co-operative”) under Section 4 of the Act. As to payment to the pilots, Section 10 of the Act empowered the Commissioners to levy financial rates as a civil debt against any ship obliged to use the services of the pilots and to pay the pilots via the co-operative in accordance with the rates.

5. The qualifications of pilots determined under Section 3 of the Act were set out in a document entitled “Londonderry Port and Harbour Commissioners Rules and Regulations for Engagement of Pilots”. The rules and regulation as mentioned required that any candidate for authorisation must initially hold a Class One Master Mariner’s Certificate in accordance with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978. Thereafter the candidate would need to undergo a minimum training period of three months before being examined by an examination board consisting of “two Senior Pilots and the Harbour Master”. The rules and regulations required further that after the grant of any authorisation as a pilot, restrictions would remain in place as a matter of probation for at least two years before qualification to perform the pilotage of any ship of more than 140 metres in length overall or 8.3 metres in draft. Accordingly, a minimum period of two years and three months would be required before the best-qualified candidate for authorisation could become qualified to undertake the pilotage of the largest ships making use of the port.

6. On 30th January 2014 the Commissioners proposed to reduce by thirty percent the pilotage rates payable to the pilots whilst leaving the rates chargeable against the ships unaltered. It was proposed that the thirty per-cent placed at issue should be retained by the Commissioners. Notice was given to the three pilots via their co-operative that the reduction in rates paid to them would be implemented in twelve months time (i.e. by 1st February 2015) whether the pilots might agree or not. It was obvious as a matter of chronology that if the pilots might not agree to the reduction in income payable to them then, on and after 1st February 2015, there would be no qualified pilots available to serve in the compulsory pilotage scheme, for the simple reason that the two years and three months minimum probation prior to full qualification for any replacement pilots could not be condensed into twelve months.

7. The three pilots did not agree to the thirty percent reduction in their income and in April 2014 applied to the High Court in Belfast for judicial review of the Commissioners’ proposal. On hearing the initial application in June 2014 Mr Justice Seamus Treacy asked whether there might be any reason for the proposal other than financial gain for the Commissioners. Counsel for the Commissioners (David Scoffield QC) admitted that there was no other reason; and permission was granted for the application to proceed to a full hearing, listed for hearing in November 2014.

8. In July 2014 reports were served to both the Maritime and Coastguard Agency and the Department for Transport at Westminster, asking for intervention in the judicial review proceedings in order to ensure the maintenance of the public safety standards. Admiral Massey (Chief Executive of MCA) responded by letter of 7th July 2014 that he had forwarded his concern to the Department. By letter of 15th August 2014 the Department responded that it would not intervene, stating also that the matter should be determined by the Court.

9. At the hearing in November 2014 proceedings were adjourned by direction of Mr Justice Wear. On 31st December 2014 the Commissioners renewed the authorisations of the three pilots for a further twelve months (i.e. until 31st December 2015). By



1st January 2015 the funds of the three pilots were exhausted and they were unable to pursue the judicial review proceedings any further. In those circumstances the pilots agreed with the Commissioners that the judicial review application should be withdrawn on the condition that the Commissioners and the pilots should each meet their own costs. Accordingly on 8th January 2015 the judicial review proceedings were concluded without judgment of the Court.

10. On 1st June 2015 the Commissioners discontinued all payments to the three pilots and obstructed them from taking any further part in the pilotage arrangements; while at the same time continuing to operate a compulsory pilotage scheme by the use of underqualified pilots. The names of the underqualified pilots are for the greater part unknown because the relevant records are yet to be disclosed to the criminal investigation. It is clear, however, that none of the underqualified pilots was qualified in compliance with the Londonderry Port & Harbour Commissioners' Rules and Regulations for the Engagement of Pilots. None of the substitute pilots had been examined by any Senior Pilot; and it was a chronological impossibility that any one of the substitute pilots had completed any part of the prescribed two-year probationary service in the pilotage of smaller ships before the pilotage of the largest ships using the port could be undertaken. Accordingly, the Commissioners by their misconduct had wilfully placed in hazard the pilotage of the largest ships using the port, including oil tankers, chemical tankers and large passenger-carrying cruise liners.

11. The three obstructed pilots, in the knowledge that the largest ships using the port were being provided with underqualified substitute pilots, offered nonetheless to continue to provide their services. The offer of the three obstructed pilots was rejected by the Commissioners

12. Reports of the further misconduct of 1st June 2015 at Londonderry were sent to both the Maritime and Coastguard Agency and the Department for Transport at Westminster. By letter of 16th June 2015 the Shipping Minister at the Department for Transport authorised for release to me a letter acknowledging the repeated warnings, ignoring altogether the Rules and Regulations and pledging the best support to the Commissioners. A copy of the letter of 16th June 2015 is appended to this explanation.

13. The letter mentions a "Pilotage Manual" adopted by the Commissioners. The manual, in common with both the Commissioners and the Department for Transport, ignores, omits and overlooks any reference whatsoever to the standing Rules and Regulations created in accordance with the Act. It is clear that the Rules and Regulations were simply dismissed and abandoned whilst the Commissioners continued nevertheless to impose compulsory pilotage and to levy charges fraudulently in respect thereof, purporting all the while that standards had been maintained within the compulsory pilotage scheme, when the truth is that regulated standards had been abandoned altogether and without legal authority of any kind. The public fraud and breach of public trust were both clear and remain so.

14. The maintenance of the compulsory pilotage scheme obliged the Commissioners to maintain the regulated standards, which they failed wilfully to do; and in which regard the Commissioners continued their failure with unrestricted abandon.

15. On 7th July 2015 a report was sent to the Director of Public Prosecutions and, twelve months later on 11th July 2016, the Metropolitan Police Service opened its criminal investigation 6530204/16 which remains unresolved.

16. It is obvious that in order to provide resolution to the Metropolitan Police criminal investigation the public record of events at Londonderry during 2015 and subsequently will need to be disclosed. At present those records are being suppressed wilfully by persons in the Department for Transport who have the power to obtain the records and, in perversion of the course of criminal justice, have declined to exercise their given power.

Here is the reply from the DfT of 16th June 2015:

Dear Mr Youde,

Thank you for your correspondence addressed to Rt. Hon. Patnick McLaughlin MP and Sir Alan Massoy of 10, 12, 14 and 16 June, which alleged there had been breaches of the Pilotage Act 1987 during the piloting of several named ships at Foyte Port. I have been asked to reply.

The Department has sought information from the Londonderry Port & Harbour Commissioners (LPHC) in respect of the allegation about the Lerax and has been assured by the LPHC that the act of pilotage in question was undertaken by an authorised Class 1 pilot in accordance with their pilotage manual. The LPHC has also provided Information about their provision for piloting Class 1 and 2 vessels generally.

The Department notes that you have written to the Foyte Port harbour master asking a number of questions, and trusts that their reply will satisfy you about the pilotage of the Lerax and other large vessels. The Department will continue to consider how it can best support LPHC to verify that the provisions they have put in place are appropriate.

**To date, there has been no attempt by any authority to inspect the LPHC pilotage records of 2015, nor to interview any witnesses.**

**MetPol consider the case as closed, even though they admit that no investigation has taken place. In the absence of any new evidence they now refuse to engage further with Mr. Youde.**

**In October 2015, Robert Goodwill, the Shipping Minister at the time, instructed the MCA to issue a 'clean bill of health' to LPHC. He faces allegations of Misconduct in Public Office from Mr. Youde.**

**The current Shipping Minister, Robert Courts, said in a letter to Justin Madders, Youde's MP, dated 16th November 2021, that he (i.e. the Minister, together with the entire Department of Transport) has "no power" to obtain copy of the pilotage records of a United Kingdom CHA, which begs the question, "then who has?" Youde considers that this claim has no credibility, is plainly dishonest and to date has obstructed the criminal investigation.**

Barrie Youde continues to persevere with his criminal investigation and to maintain his sense of humour. See page 13.

In Southampton, to get to unrestricted First Class takes a pilot around five years.

Terry Clark, retired Southampton Pilot