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Inland Water Safety

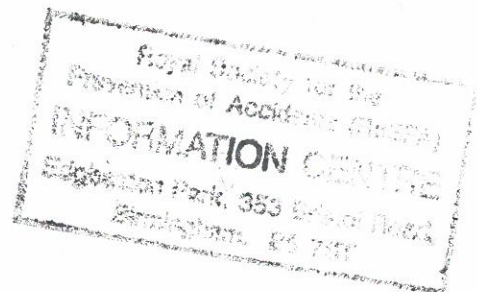
Final Report of Scoping Study

Present Roles and Responsibilities

August 2002

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Following the reorganisation of the government in May 2002, the responsibilities of the former Department of the Environment, Transport and the Regions (DETR) and latterly the Department for Transport, Local Government and the Regions (DTLR) in this area were transferred to the Department for Transport.

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Section 1: Introduction, and approach

- 1.1 This document describes how roles and responsibilities for inland water safety stand as of August 2002.
- 1.2 A broad definition of inland waters has been adopted. It embraces navigable rivers and canals, as well as unnavigable rivers and streams, lakes, reservoirs, amenity sites and ponds, flooded gravel pits and other ex-industrial locations; and other water sites where there is a likelihood of public access, whether by permission or trespass. This definition *excludes* coastal, estuarial and – save for the Norfolk and Suffolk Broads – other tidal waters. The primary safety issues in major estuaries derive from vessel interactions, and are addressed by the Government's undertaking to implement where appropriate the recommendations of Lord Justice Clarke's Inquiry into Thames Safety, not only in relation to the lower Thames but to similar waters elsewhere.
- 1.3 Also outside the scope of the present work, concerned as it is with inland water as encountered in the environment, are swimming pools, whether municipal or private, water features in gardens, and accidents with water in the home.¹
- 1.4 The work is not concerned with water quality standards.
- 1.5 Some functions relating to inland water safety have been devolved or affected by devolution. This document describes where this is so.

The Inland Water Scene

- 1.6 There are some 5,000 km of fully navigable inland waterway in England and Wales, including about 2,000 km of canal. A further 900 kms is managed but unnavigable, and some 2100 km is presently abandoned. British Waterways, the Environment Agency and the Broads Authority together manage some three quarters of inland waterway in England and Wales. Notes on their roles, on other smaller navigation authorities, and on some related organisations are at Annex A.
- 1.7 In Scotland there are 230 km of canal, including some lochs along the Caledonian Canal, all under British Waterways' stewardship. Since December 1999 the management and maintenance of the navigable inland waters system in the island of Ireland has been the responsibility of *Waterways Ireland*, which was established under the British Irish Agreement. *Waterways Ireland* has the status of a Non-Departmental Public Body in Northern Ireland, and is accountable to the North/South Ministerial Council.²

¹ The Department of Trade and Industry has policy responsibility within Government for water safety in the domestic environment. In 2000 its Consumer Affairs Directorate published *Drowning Accidents in the Garden involving Children under Five*, a report of research undertaken for DTI by the consultants *Business Strategy Group*, and in 2001 a fuller report on *Drownings in the Home and Garden*. In 2000 DTI published *Safer Ponds by Design*, with advice on safe design for garden ponds.

² In Northern Ireland *Waterways Ireland* is ultimately accountable to the NI Assembly for its effectiveness and efficiency. Departmental responsibility rests with the Department for Culture, Arts and Leisure, which also has custodial responsibility, under the Departments (Transfers of Functions) Order (NI) 1999, for those abandoned Northern Ireland waterways in Government ownership.

- 1.8 The UK private water companies own and operate some 700 reservoirs, together with about 10,500 water treatment works and about 1500 boreholes. British Waterways operates some 90 reservoirs itself, used in the main for rebalancing water volumes between stretches of canal and locks. No comprehensive information has been identified about numbers of other natural lakes, agricultural drainage ponds, amenity sites etc, but clearly these too are very numerous. Work for DEFRA on access to waterspace has suggested that there are some 2,000 lakes in England and Wales of over half a hectare.
- 1.9 The same work suggests that between 6% and 7% of all visits to the countryside make direct use of inland water for recreation purposes, and that perhaps another 7% have water as part of the overall recreational experience. A variety of bodies and organisations play a role in relation to safety on, in and by this wide range of types of water. This document maps them in relation to a notional river/canal, considered with some characteristic adjacent premises, in a landscape which includes some outlying water sites such as lakes and reservoirs. It also distinguishes, importantly, between safety as it bears at the water's edge and on or in the water. At Annex G are tables which summarise the arrangements described more fully in the body of the text.

Section 2: Roles and Responsibilities for Safety at the Water's Edge

2.1 This section concerns a notional non-tidal river or canal, along which are located a dock, a works (“undertaking”), waterside leisure facilities (such as pubs), and boat hire firms. In the countryside round about are lakes, agricultural drainage/irrigation ponds, and various kinds of water supply infrastructure.

(a) Duty of care

2.2 By statute, those occupying riparian land have a duty to ensure that safety measures are implemented on their land. The Occupier’s Liability Acts of 1957 and 1984 apply to all land in England and Wales bordering or covered by inland waters, of whatever sort. The equivalent legislation in Scotland is the Occupier’s Liability Act (Scotland) 1960. Under the 1957 Act, the occupier of the land owes a duty of care to visitors – specifically, a duty to “take such care as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for the purposes for which he is invited or permitted by the occupier to be there.” The 1984 Act goes further, in providing a duty of care towards both those exercising a right of way, and towards trespassers. It talks of a duty “to see that the trespasser does not suffer injury on the premises”.

2.3 The legal provisions described in this section apply in respect of bodies of inland water generally, including those for which additional arrangements are described separately below. There are however exceptions to this duty of care in the case of “access countryside” (see paragraphs 2.18-2.19 below).

(b) Safety in the Harbour

2.4 Inland water as defined for present purposes may include non-tidal waters within the jurisdiction of a harbour authority.

2.5 Following a review of the 1987 Pilotage Act, DETR published in March 2000 the *Port Marine Safety Code*. This introduced a national standard for all aspects of water safety in ports, for the benefit of those who work in or use ports as well as ships’ crews and passengers. The Code recognises that the public interest is wider than that of harbour users, extending to the local community and environment, and it sets out duties to ensure that these too are protected in the management of the harbour undertaking. Harbour authority policies are required to be supported by procedures which protect the general public from dangers arising from marine activities.

2.6 To help harbour authorities comply with the new Code, a *Guide to Good Practice for Port Marine Operations* has been produced, along with competence standards for port marine personnel. The Guide, ISBN 1851125221 price £25.00, is available from the Department for Transport, Publication Centre, PO Box 236, Wetherby, West Yorkshire, LS23 7NB. In addition, a policy paper *Modern Ports* was published by DETR in November 2000, with the aim, amongst other things, of promoting the safe operation of UK ports.

- 2.7 The Docks Regulations 1988, made under the Health and Safety at Work etc Act 1974 (HSWA), deal with safe access in docks. They include in certain circumstances the provision of fencing, for example where persons are engaged on dock operations at dangerous corners or edges, and anywhere a person might fall more than 2 metres. The regulations do not require the fencing of straight edges.³

(c) Safety at a Waterside Works

- 2.8 Employers who conduct undertakings adjacent to inland water have duties under the HSWA, in respect of the public as well as of their employees. Such duties include assessing the risk of falling into the river or canal, taking appropriate measures to prevent it and mitigating the result.⁴
- 2.9 In general, the Health and Safety Executive (HSE) itself is responsible for enforcement where a person or company employs workers in an undertaking at the waterside, or makes his premises available as a workplace for others.⁵ Where a safety boat attends a construction site, and for construction work carried out from vessels on inland waters, the HSE is responsible for enforcing the safety of the construction activity and of the shore-based workers on the vessel. The Maritime and Coastguard Agency (MCA) is however responsible for enforcement of the health and safety of the crew, and the safety of the vessel and its equipment.

(d) Safety at the Waterside Pub, Boat Hire Firm (etc)

- 2.10 The Health and Safety (Enforcing Authority) Regulations 1998 set out the main activities which determine whether local authorities – rather than the HSE – will be enforcing authorities for health and safety legislation.⁶ Those particularly relevant to inland water safety include “the practice or presentation of ... recreational activities”, catering services, and the hiring out of pleasure craft. Thus the local authority will enforce the HSWA in respect of the recreational use of reservoir waters, of a public house adjacent to a river, at a fishing lake for public use, and at a boat hire firm.
- 2.11 The HSE enforces at facilities provided by the local authority itself, for example at a municipal boating or bathing lake or lido, or at an adventure or water-related facility provided by a local or education authority.

3 The Regulations also provide for suitable rescue and life-saving equipment, means to effect escape from danger, and fire fighting equipment. An Approved Code of Practice requires that there be means for persons to rescue themselves from drowning, and for others to rescue those in danger, without endangering themselves, and that that these should include handholds at water level, ladders on quay walls and lifesaving apparatus. The spacing of ladders and handholds is specified, and similarly the types and spacing of lifesaving appliances.

4 Section 3(1) of the HSWA states that “It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.”

5 The aspects of inland water safety for which HSE has specific enforcement responsibility include docks and dock workers; the safety of passengers while at a jetty or landing stage; ship & boat building and repair; the construction, maintenance and operation of an inland water navigation (eg bank repair, dredging, bridges, wharves, locks etc); diving; dangerous goods while in docks; and storage of explosives.

6 The activities currently include marinas; water sports facilities (save where the facility is provided by a local authority or local education authority); boat hire, pubs, restaurants, museums and theatres, including those in permanently moored vessels. The Regulations are to be reviewed in the near future.

(e) Safety at the Reservoir (etc)

2.12 Many bodies of inland water in the UK, notably but not only reservoirs, are owned and operated by private water companies. They are subject to the provisions of the Occupier's Liability Acts, and of the HSWA. The Water Industry Act 1991 also contains a power under which a water undertaker may make byelaws "regulating sailing, boating, bathing and fishing and other forms of recreation".⁷

2.13 The water in question can be divided into a number of kinds:

- *Large surface reservoirs with public access*, typically with well developed leisure uses. Thus for example Bewl Water in Kent, or Rutland Water.
- *Surface reservoirs, not necessarily small, with no general public access but often some limited specified access*, for example for a sailing, fishing or diving club. The agreement between the water company and the club will typically address safety responsibilities, with these perhaps having been in part transferred where a site has been leased (rather than licensed) to the club.
- *Surface reservoirs with no public access*. In a subcategory of this group is "bankside storage", open bodies of untreated water held between reservoirs/streams and treatment plants as a reserve against eg temporary pollution of the supply source.
- *"Service" reservoirs*. These are concrete tanks of treated water serving a local community. They are sealed units, with no access even for water company staff. They are typically small, and fenced.
- *Open aqueducts*. For example that at Sunbury on Thames.⁸
- *Water treatment works*, whether of water or sewerage. These feature larger or small bodies of water in open tanks on secured sites.
- *Boreholes*, of which the water companies own some 1500. All have tops which are sealed, but which may be subject to vandalism.

2.14 In addition, many natural watercourses and man-made channels are managed (though not owned) by drainage boards, which undertake maintenance and regulate activities within and alongside them. Within such watercourses and channels are water control structures, including pumping stations owned and operated by drainage boards. Most pumping stations operate automatically, and sites will usually be fenced with warning notices displayed. Such authorities' by-laws typically require the borders of drainage watercourses and channels to be unobstructed, to allow access for maintenance.

⁷ Water Industry Act 1991, Section 157(3)(a). Safety is not the primary purpose of these byelaws, but provisions aimed at safety may nonetheless be introduced under them.

⁸ Sections of canals and other waters also of course run over aqueducts. Thus the New River over Pymmes Brook near Palmers Green, and the open feeder to the reservoir at Trawsfynydd near Blaenau Ffestiniog.

- 2.15 In May 1999 Water UK, the industry trade body, produced an Occasional Guidance Note on *Public Access to Open Reservoirs*. This was prepared by representatives of the water industry, and agreed with the HSE. It sets out a framework within which individual water suppliers can assess risk to members of the public who may have access to open reservoirs, addressing risk control measures, maintenance regimes, and the need for record keeping.
- 2.16 Safety enforcement at those reservoirs owned by British Waterways is likewise the responsibility of the HSE, under the HSWA. This does not relate to the structural safety aspect of reservoirs, or to reservoirs with a capacity in excess of 25,000 cubic metres, as these are regulated under the Reservoirs Act 1975.
- 2.17 In 1989 DoE, jointly with MAFF, produced for the first time a *Code of Practice on Conservation, Access and Recreation*. Reissued in February 2000 by DETR, it provides practical guidance for water and sewerage undertakers (and also for the Environment Agency) on their conservation, access and recreation duties. These involve amongst other things having regard to the desirability of preserving public access to places of natural beauty. The Code provides that such access should be allowed “provided there is no significant danger to public health and safety”, and that where such access is not possible, notices should normally be displayed, explaining why.

(f) Safety on inland water in “Access Countryside”

- 2.18 In framing legislation giving greater access to the countryside in England and Wales, passed as the Countryside and Rights of Way Act 2000, Ministers took the view that the new rights should not be extended to certain types of land, including river and canal sides, and that greater access in those contexts should instead be encouraged by more active promotion of voluntary arrangements under existing legislation.
- 2.19 There will nonetheless be “access countryside” on which there are lakes, ponds and so forth. The Act allows access for open air recreation, but makes this subject to a number of restrictions, the effect of which is that water-based activities such as swimming, canoeing or fishing are excluded. The Act also reduces to zero the liability of occupiers of access lands in respect of natural features, and in respect of rivers, streams, ditches or ponds whether or not they are natural features, by disapplying the Occupier’s Liability Acts. The Government’s view was that those using the new right of access should be responsible for their own actions, and that obtrusive safety measures such as fences and notices can seriously detract from the beauty and amenity of open countryside.

(g) Other sources of advice on safety at the water's edge

- 2.20 The Royal Society for the Prevention of Accidents (RoSPA) responds to enquiries about inland water safety from the general public, from health and safety officers, and from managers of open water. It estimates that it handles some 1500-2000 enquiries each year, and that its Press Office secures some 5000 press "mentions" for water safety issues annually. RoSPA's web site, which includes information on water safety, is visited about 220 times daily. The Society maintains a network of organisations interested in water safety, and produces a thrice-yearly journal *Staying Alive*. Jointly with the Royal Life Saving Society (RLSS, see below), RoSPA prepares an annual statistical summary of drownings in the UK, which it publishes. In September 2001 it organised a National Water Safety Congress in Blackpool, and is organising another for late 2002.
- 2.21 In 1999 RoSPA published a substantial volume of detailed safety guidance for operators of inland water sites, called *Safety at Inland Water Sites: Operational Guidelines*. This provides operators with a risk assessment framework for accident prevention, and aims at fostering a more uniform approach to risk control at inland water sites. The guidance was produced as a sister publication to RoSPA's earlier volume, *Safety on British Beaches* (1993). With support of the National Water Safety Committee (see below) RoSPA has also developed a four-point Water Safety Code, aimed primarily at children, designed to make them "water wise" and to promote an element of water safety consciousness which might then be carried into adulthood. This code has been taken up by several other organisations, and forms the core many national and local water safety campaigns.
- 2.22 The National Water Safety Committee, a voluntary organisation founded in the 1960s, brings together some forty bodies and individuals committed to improving water safety.⁹ It is an advisory body to RoSPA, which provides its secretariat, and it is required to have regard, in its deliberations, to RoSPA policies. The Committee meets thrice yearly, and seeks to act as a focal point for developing a consensus on national water safety issues, and to identify ways and means of reducing the number and risk of drownings, near-drownings and other water-related accidents. It has amongst its objectives –
- "to consider the law, regulation, standards and guidance with the potential to influence water safety and to assess the need for revision or change."*
- 2.23 The Royal Life Saving Society, a member of the Committee, is a charity whose own mission is to reduce the number of deaths by drowning, through education, through the teaching of swimming, water rescue and resuscitation, and through lifeguard training. It is presently developing an award orientated towards local authorities and operators of inland water.

⁹ Membership of the Committee is at RoSPA's invitation, and presently includes the RNLI (in the chair), DES, the Royal Life Saving Society, the Environment Agency, the MCA and British Waterways. The full membership is at Annex E.

- 2.24 In 1998 the Department of Education and Employment published *Health and Safety of Pupils on Educational Visits*, designed to help head teachers, teachers, governors and others ensure that pupils stay safe and healthy on school visits. It reflects and collates existing good practice, following consultation with relevant organisations, and is not offered as an authoritarian interpretation of the law. The guidance includes a section on swimming in the sea and other natural waters. The Department of Education and Employment also published a good practice guide for health and safety in study support (*Safe Keeping*, October 2000), which includes material on supervision, risk assessment, emergencies and safety checklists for outdoor work.
- 2.25 Three supplements to *Health & Safety of Pupils on Educational Visits* were made available by DfES in July 2002.¹⁰ One of these, *A Handbook for Group Leaders*, focuses on the practicalities of visit supervision. It recommends that in-water activities should take place only when a proper risk assessment has been completed, that proper measures are put in to control the risks and that the activities are formal and supervised. Recent fatalities have happened in water-margin situations, something the guidance recognises.
- 2.26 British Waterways and the Environment Agency, in addition to producing advice and safety information for boaters (described later), also produce other water safety awareness and information material useful to non-boaters. Thus British Waterways' local waterway managers undertake schools awareness programmes; it has produced a video entitled *Still Waters*, distributed to secondary schools; it has piloted in Glasgow a national scheme for primary and junior schools, aimed at bringing wider community involvement into child awareness programmes; it is developing a website to provide water safety information and advice direct to members of the public; and in June 2002 it launched, jointly with the Waterways Trust and Inland Waterway Association a *Wild on Water* campaign aimed at water education within the National Curriculum, including safety. In the same way, the Environment Agency produces User Guides, such as that for the Thames, which cover advice for non-boaters as well as for those afloat; and Broads Authority River Inspectors give water safety talks at schools.
- 2.27 Advice on safety in and by water is also produced and distributed by other interests, or groups of interest. Thus some local authorities have produced leaflets and posters targeted at school children, while others have developed teaching packages for use by schools, with both printed material and accompanying videos. Others again run seasonal campaigns, for instance warning of the dangers of thin ice in winter, or of bathing in unsuitable waters in hot weather. A recent example of a joint initiative is the publication in May 2002 of *Health and Safety Guidelines for the Thames and its Foreshore*, by the Thames Explorer Trust, an educational charity, on behalf of the Thames Estuary Partnership. Although aimed at the tidal Thames, these guidelines contain much practical information relevant to non-tidal rivers.

¹⁰ *Standards for LEAs in Overseeing Educational Visits, Standards for Adventure and A Handbook for Group Leaders.*

2.28 The MCA has reviewed its incident prevention strategy, and intends to adopt a more proactive role without diminishing its SAR capacity. It plans a programme of education and advice, and to identify the key audiences for preventative safety information. There could be some useful read-across for inland water safety from its intended targeting of inland populations with sea safety advice.

Section 3: Roles and Responsibilities on (and in) the Water

- 3.1 The inland waterways are used by both commercial and leisure vessels, the latter either hired or privately owned. There is also boating, mostly for leisure purposes, on lakes and reservoirs and on the Broads, as well as on the navigable rivers. Some larger lakes and lochs are served by sizeable commercial passenger ships. The boat hire industry attracts a quarter of a million customers annually, and British Waterways estimates that there may be some 120,000 vessels using the network as a whole.
- 3.2 There is also bathing in inland waters of many kinds.

(a) A safe vessel: European regulation

- 3.3 The principal European legislation on vessel safety is contained in EC Directives 76/135 and 82/714. The first addresses reciprocal recognition of navigability licences for inland waterway vessels, while the 1982 Directive lays down technical requirements (though not for passenger vessels). Both are designed to ease the operation of the free market on Community inland waterways.
- 3.4 The UK is in the process of implementing EC 76/135, which will allow it to impose existing UK safety regulations on vessels of all flags using the deeper "Category C and D" waters, where the safety risk is greatest. This will not however be possible in respect of such vessels' use of our "Category A and B" waters, with which the present study is largely concerned.¹¹
- 3.5 There is also an EU Directive aimed specifically at Recreational Craft, implemented in UK law in 1996. It is designed to ensure a uniform level of safety in design and manufacture, and applies to all craft intended to be used for sporting and recreational purposes with a hull length of between 2.5 and 24 metres. Its safety requirements cover such aspects as hull structure and integrity, stability and installation arrangements for engines, fuel systems and fire protection. As a trade directive it bears at the first point of sale, and Member States are unable to elaborate on its rules

11 Under Merchant Shipping Notice 1758(M), all UK waters are categorised as follows:

Category A: narrow rivers/canals with a depth generally less than 1.5m.

Category B: wider rivers/canals with a depth generally more than 1.5m and a significant wave height not expected to exceed 0.6m.

Category C: tidal rivers/estuaries and large deep lakes with a significant wave height not expected to exceed 1.2m.

Category D: tidal rivers/estuaries with a significant wave height not expected to exceed 2m.

The present work is thus concerned with the first two categories, and with the lakes in the third. Under EC 76/135 an operator of an inland waterway vessel flying the flag of another EU Member State and holding a valid navigability license has a legal right to operate on UK Category A and B waters, and on those Category C waters not navigable from the sea. Both EC76/135 and EC82/714 (the UK has no plans to implement the latter) are to be superseded by a new amending Directive which will update the law in line with technical developments. This too is expected to allow Member States to impose their national safety standards, where these are more stringent than those in the Directive, but again only on major waterways.

in the conditions they themselves impose on new craft being first placed on to their waters. At the national level the Department of Trade and Industry has responsibility for the Recreational Craft Regulations, with enforcement being the responsibility of local authority trading standards departments.

- 3.6 In 2000 the Working Time Directive was extended to cover mobile workers on inland waters. DfT and the MCA are currently developing proposals for consultation with industry on implementation, which is required by August 2003.
- 3.7 The European Commission is also proposing further harmonisation of boatmaster's licences, and adoption of a UNECE agreement on the carriage of dangerous goods on inland waterways as an EC Directive. There is no timescale yet for the development or adoption of either Directive.
- 3.8 The MCA will shortly be consulting on proposals to introduce a national training framework for those operating commercial vessels which do not go to sea (other than passenger vessels, which are covered by the UK boatmaster's licence). The lack of training requirements for these vessels was highlighted by the Thames Safety Inquiry.

(b) A safe vessel: UK regulation

- 3.9 At a national level, the body primarily charged with regulating the safety of vessels used on inland waters is the MCA. Its role derives from the similar duties it has in relation to estuarial and tidal waters. While both its statutory duties and its non-statutory functions are important, none is exercised *exclusively* on inland water.
- 3.10 The MCA exercises the Secretary of State's power to make regulations for the safety of vessels and those on them. Specifically, the Agency –
- certifies passenger vessels¹² to indicate compliance with various regulations bearing on eg construction, fire protection, and manning.
 - issues Boatmasters' licences, required to be held by skippers of all domestic passenger ships not covered by the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers.¹³ The MCA conducts examinations, for which the medical standards are set by the Government's Chief Medical Adviser (Transport). The regulations also allow equivalents, such as a Port of London Authority Waterman's Licence.
 - regulates qualifications for recreational boaters (eg Yachtmaster) which are examined and issued through the Royal Yachting Association.
 - categorises inland waters, as a basis for determining the detailed statutory requirements which apply to passenger vessels operating on them.

¹² Defined as carrying more than 12 passengers.

¹³ The Convention is implemented in part by the Merchant Shipping (Training and Certification) Regulations 1997.

- enforces statutory standards laid down for non-passenger vessels on inland waters, covering for example fire, quality of navigation visibility, and life-saving appliances.
 - confirms byelaws for the regulation of pleasure boats and vessels let for hire to the public made by local authorities in England under the Public Health Act 1936 and the Local Government, Planning and Land Act 1980.
- 3.11 The statutory standards which are applied to vessels which operate only on inland waters generally differ from those applied to ones which operate additionally in estuarial or coastal waters. With the exception of passenger vessels (defined as carrying more than 12 passengers), standards applied to the former are limited in scope, reflecting a view that closer regulation is not appropriate given the lower level of risk. A working group drawn from industry and relevant regulatory authorities (ports, navigation authorities, HSE, police and fire authorities, and local authorities) is working with the MCA to produce proposals for a voluntary Code of Practice for the safety of vessels carrying up to 12 passengers on inland waterways.
- 3.12 The position so far as standards for leisure boating are concerned is one of self-regulation, through governing bodies such as the British Canoe Union or the Royal Yachting Association. The 1992 Report of the Inquiry into River Safety suggested that the Government reconsider whether voluntary means would sufficiently improve standards for amateur boatmen, and whether compulsory tests should instead be introduced. DETR advised Lord Justice Clarke, in the context of his 1999-2000 Inquiry into Thames safety, that Ministers had endorsed an approach which puts the initial emphasis on education and on a voluntary code of practice, but that there was also “a long term commitment to legislate to provide a blueprint for bylaws”.
- 3.13 Amongst intended Government measures is an order-making power to allow the application of merchant shipping legislation to craft outside the current definition of a “ship”. These include personal watercraft such as “jet-skis”, which are not subject to shipping legislation and may not be covered by local primary legislation or byelaws, even though they can pose a risk to their pilots and other water users. Extending the Secretary of State’s existing order-making powers would allow merchant shipping legislation to be applied to these craft, where no local arrangements exist.
- 3.14 The Government announced in March 2001 plans for alcohol and drug testing and for a blood/alcohol limit to apply to all commercial and recreational mariners. The proposed limit of 80 milligrams of alcohol per 100 millilitres of blood is in line with the limit for road and rail, and would apply to all mariners and all civil waterborne transport in UK waters, including recreational craft on inland waters.¹³ The proposals would strengthen current legislation by establishing limits, and giving police the power to test suspects. Reserve powers are proposed in respect of testing for drugs, to enabled through further consultation and secondary legislation, if the need arises and meaningful tests are developed.

¹³ The Railway and Transport Safety Act 2003 contains provisions for ‘Jet Skis’ and blood/alcohol limits. Consultation will take place towards the end of 2003 with regards to the alcohol provisions.

- 3.15 The Government also announced, in the licensing reform White Paper published in April 2000, its intention to require operators of passenger carrying boats which travel between places in England and Wales (including river trips), to obtain personal and premises licenses if alcohol is to be served aboard them. The reforms will also enable the police to order boats back to berth on grounds of disorder, drunkenness and public safety.¹⁴ The Government intends to introduce the reforms laid out in the White Paper as soon as Parliamentary time permits.
- 3.16 The MCA is involved with inland water vessel safety in various non-statutory ways. Thus by agreement with the HSE it has assumed responsibility for the safety enforcement of chain ferries: a voluntary Code of Practice developed in consultation with chain ferry operators was introduced on 1 November 2000. The order-making power mentioned at paragraph 3.10 above could be used to bring chain ferries within the definition of “ship” under merchant shipping legislation.
- 3.17 The MCA also publishes a wide range of material giving advice to users of pleasure craft, relevant to such craft when used on inland water. For consistency, this advice is produced under the aegis of the Sea Safety Liaison Group, chaired by RNLI.
- 3.18 The MCA’s roles in enforcing health and safety on vessels on inland water, and in relation to search and rescue on such waters, are described later.

The Boat Safety Scheme

- 3.19 A significant vessel safety measure in place on inland waterways is the Boat Safety Scheme (BSS). The Scheme was introduced in the 1990s as a joint initiative between British Waterways and the Environment Agency, in order both to harmonise their existing standards required for the construction and equipment of vessels using their waterways, and to provide a means of regularly verifying compliance with those standards through an independent examination of the vessel every four years. The requirement for mandatory examination of vessels was phased in between 1997 and 2000. The BSS and its standards have subsequently been adopted by most other inland navigation authorities. As well as setting standards of construction,¹⁵ the Scheme provides advice and guidance to navigation authorities, the trade industry and other organisations and to the general public at large. Currently, some 39,300 boats possess certificates issued under the BSS.

¹⁴ *Time for Reform: Proposals for the Modernisation of our Licensing Laws*, Home Office, Command 4696, April 2000.

¹⁵ For example fuel, gas and electrical supplies. It does not bear, except for hire vessels and new vessels not covered by the Recreational Craft Regulations, on hull integrity issues.

- 3.20 The Boat Safety Scheme standards are legally enforceable by the participating navigation authorities, through local Acts or through bylaws made under them. The navigation authorities generally enforce the legal requirement by requiring boat owners to submit a Boat Safety Certificate as a licensing condition. Failure to do so, or to maintain the vessel to the required standard, results in the licence being withdrawn. Boat owners using the waterways without a valid licence can be prosecuted.¹⁶
- 3.21 The Scheme has recently been reviewed, in light of concerns about its operation and future development, that it might not be addressing the major issues, and that it had become over-complicated, with a compliance cost disproportionate to the risks involved. Amongst the recommendations in the review's March 2001 report were proposals that desirable best practice should be encouraged, with the Scheme doing more to publicise, encourage and promote good practice and communicate risk; that individual boat owners and users should play a significant part in safety improvements; and that there should be a presumption against the retrospective introduction of higher standards to existing craft unless primary legislation or other safety regulations required them. The Scheme was re-launched at the January 2002 Boat Show.

(c) Health and safety afloat

- 3.22 The HSWA bears on work activities conducted on inland waters in Great Britain. It is the Health and Safety Commission's policy not to seek to enforce the HSWA where an activity is subject to other legislation and there is judged to be adequate safety enforcement by another body. Thus health and safety enforcement in respect of commercial vessels using inland waters is undertaken by the MCA.
- 3.23 There are nonetheless some overlapping responsibilities, not only between MCA and the HSE, but also with the Marine Accident Investigation Branch, located within (but in practice operationally independent of) DfT. A Memorandum of Understanding has been drawn up between the three bodies, setting out the detailed responsibilities of each. This MOU assigns to the HSE responsibility for some aspects of the operation of vessels hired out to the public where there is a work activity (eg school parties). The HSE enforces on vessels operated by the Crown and the police.
- 3.24 In his Interim Report on Thames safety published in December 1999, Lord Justice Clarke commended the MOU as a sensible arrangement, but noted that it did not contain an agreement that the MCA will exercise the responsibilities of the HSE, or vice versa; and that in particular it did not provide for the MCA to enforce the Management of Health and Safety at Work Regulations 1992 with regard to non-sea-going vessels. Lord Justice Clarke suggested that careful thought be given to which regulations should apply to such vessels.

¹⁶ The Boat Safety Scheme is not presently operated on the Broads, where there is no equivalent to the licence to navigate required by other navigation authorities: the Broads Authority instead finances its conservancy and other activities by levying tolls on vessels using its waters. However the Authority has undertaken to join the Scheme by 2005.

- 3.25 This recommendation was accepted, and amending regulations came into force in February 2001. They apply merchant shipping health and safety general duties legislation to non-sea-going ships, and more closely align the duties under merchant shipping legislation with those in place under the HSWA. There has been no substantive change to the duties placed on employers on non-sea-going ships, but those duties now exist under merchant shipping legislation and are enforceable by MCA surveyors rather than HSE inspectors. Other sets of health and safety legislation are to be amended in the same way.
- 3.26 Neither the use of private leisure craft nor that by the public of hired leisure craft is subject to the HSWA.¹⁷

Local authority powers in relation to boating

- 3.27 Section 94 of the Public Health Acts Amendment Act 1907 permits a local authority to grant licenses, with such conditions as it thinks fit, for pleasure boats and pleasure vessels to be let for hire or used for carrying passengers for hire. Any such hiring out is itself a work activity enforced by the relevant local authority, with the boat owner having S.3 responsibilities under the HSWA. Under section 54 of the Public Health Act 1961, local authorities and parish councils may provide boating pools in any park or pleasure ground under their management and control, and may also provide boats and other equipment required in connection with its use.

(d) Safe adventure boating

- 3.28 A licensing scheme for commercial providers of certain adventure activities was established by the Adventure Activities Licensing Regulations 1996, made under the Activity Centres (Young Persons' Safety) Act 1995. DfES is the scheme's sponsoring department in Government.¹⁸
- 3.29 Under regulations implemented by the Adventure Activities Licensing Authority (AALA), commercial or local authority providers of adventure activities, including watersports and sailing on the sea or non-placid or sizeable inland waters, are required to be licensed, where the activities are offered to schools or other groups of people under 18 years old. The Regulations do not apply to activities provided by voluntary associations to their members or by schools to their pupils, or to provision for young people accompanied by their parents or guardians. The AALA may impose extra conditions in licences, and may inform the appropriate enforcement authority where it has concerns that it cannot resolve itself through revocation or variation of the licence. There is an agreement on enforcement responsibilities between the HSE and local authorities.

¹⁷ Gas safety aboard hired leisure craft is however subject to the provisions of the Gas Safety (Installation and Use) Regulations 1998. For privately owned vessels this is covered by the Boat Safety Scheme, when the vessel in question is on "participating waters".

¹⁸ Where the facility was provided by a local authority, enforcement falls to the HSE.

- 3.30 The AALA's inspections of premises include examination of safety arrangements and of boats and other equipment.

(e) Vessel safety in National Parks

- 3.31 The National Parks are able to set water safety rules through bylaws made under section 13 of the Countryside Act 1968. Local councils in a Park area also have a part to play: thus for example the South Lakeland District Council is the licensing authority for leisure craft in the Lake District.

(f) Other sources of advice on vessel safety

- 3.32 The Government has asked the Environment Agency and British Waterways to work together to provide a more integrated and safe service for users of their waterways. The two bodies have introduced a joint registration and licensing scheme to allow vessels to use all of the waterways for which they are responsible. A Collaboration Agreement drawn up between the two covers, amongst other issues, safe navigation practices.
- 3.33 British Waterways has some 95 lock-keepers around the country, stationed in the main at the larger locks, whose duties in addition to assisting in the safe passage of vessels include customer care and provision of advice. Their numbers are supplemented at busy times by seasonal staff. British Waterways also employs about 13 patrol officers whose main duties bear on bylaw enforcement but also include providing customers with information and advice. Other staff carry out regular inspections of the waterway infrastructure, during which they assist and advise the public. British Waterways also produces Waterway Code booklets, with advice and safety information, and has commissioned other water safety awareness and information material.
- 3.34 The Environment Agency employs Navigation Inspectors and lock-keepers to ensure the safe use of its waterways. Thus on the Thames these staff monitor the safety of navigation and discharge an educational role in the safety education of users. The Agency currently has 18 Navigation Inspectors, operating 14 patrol launches, and some 70 lock-keeping staff. The latter man 45 lock sites on the Thames, and have as their principal responsibility the safe passage of vessels. The Agency and its predecessor bodies have produced a range of booklets with safety advice and information, issued to boat owners but also available to other river users.
- 3.35 The levies which the Broads Authority places on commercial and pleasure craft using its waters fund amongst other things the provision of River Inspectors, responsible for ensuring safe, orderly use and practice. As well as enforcing speed limits and making sure that boats navigate in the proper manner, River Inspectors have a role in educating and informing people on the water about safety and sensible navigation.

A particular area of attention is hire-boat hand-over arrangements and skipper's manuals. There are currently 7 permanent and 6 seasonal River Inspectors on the Broads, operating 8 launches.¹⁹

- 3.36 That part of the RoSPA publication *Safety at Inland Water Sites* concerned with water-based activities includes material on risk control vis-à-vis personal watercraft and recreational boat hire.
- 3.37 The RNLI is giving its educational efforts an increasing orientation towards inland waters. The focus of its *SeaCheck* scheme, which provides users of pleasure craft with a safety audit, is being switched inland to popular water sites, and it is similarly adapting its lectures on "man overboard/water survival/stability" to inland waters. The RNLI visits schools to deliver a water safety message as part of the citizenship element of the National Curriculum, and organises station visits, poster competitions, and clubs for children.

(g) Safe bathing in inland waters

- 3.38 RoSPA has found drowning to be the third most common cause of death among the under-16s, and has observed that more than half of all those who drown are able to swim.
- 3.39 For children in England aged between 5 and 7 there are non-statutory guidelines for swimming activities and water safety, as part of the physical education programme. From those aged 7 to 11 swimming activities and water safety are required by statute, and pupils are taught amongst other things to swim unaided for a sustained period of time over a distance of at least 25 metres. Swimming activities and water safety are optional for children over the age of 11.
- 3.40 Local authorities have powers under provisions in public health legislation to regulate bathing. Under sections 231-234 of the Public Health Act 1936 they may *inter alia* make bylaws regulating the times and places at which bathing is allowed, and require those providing "accommodation for bathing" to put in place life-saving appliances. Local authorities may also under the Act provide life-saving appliances "at such places, whether places used for bathing or not, as they think fit".

(h) Safe water sports

- 3.41 Responsibility for the management and regulation of individual sports, including for safety, rests principally with each sport's governing body. These are many in number, and take different forms, reflecting the organisation of the sport in question. In most cases the governing body's responsibility for safety focuses only on its subscription-paying or otherwise affiliated members, for whom it might for example provide

¹⁹ The Broads River Inspectors have worked with boatyards to ensure that hire craft are properly calibrated for speed, have used radar checks to issue informal warnings, and have helped private craft owners to calibrate their own boats.

training courses. In other cases governing bodies are willing to provide guidance across the whole of the activity, with the development of standards and the dissemination of advice to non-members. For example, the Royal Yachting Association produces boating safety guidance for inland waters, and advice and guidance on seamanship and safety for all leisure craft, in addition to its training regimes and qualifications such as Inland Helmsman Certificate. Or again, the Amateur Rowing Association has produced its own Water Safety Code of Practice, for both rowing clubs and individual ARA members.

- 3.42 The principal body in England responsible for developing opportunities to participate in and promoting sport is *Sport England*. Its policy aims do not have a specific safety focus, but safety is addressed indirectly through for example the specification of optimum technical and operating requirements for sports facilities, the provision of advice on recreation management, and its financial support to and oversight of water sports governing bodies. *Sport England* has its equivalents in Scotland, Wales and Northern Ireland.
- 3.43 In 1989 the then Minister for Sport established an independent Water Sports Safety Review Group to report on the effectiveness of existing provision for safety in water sports in England. The Group, which drew no distinction between competitive and recreational sports, took the view that the scale of the safety problem in water sports was relatively small, and focused on casual and infrequent participants, and that the levels of safety advice, education and enforcement were in the main acceptable.
- 3.44 The Group's report did however make a number of recommendations relevant to the present work, including that sports governing bodies should be encouraged to accept responsibility for safety across their activity as a whole; that the Central Council of Physical Recreation should develop its role in co-ordinating and promoting governing body concerns about water sports safety; that the Association of District Councils and the Association of Metropolitan Authorities should examine the scope for further promotion and discussion of the safety issues, with local authorities in areas with heavy recreational use of water considering the need to develop an integrated and strategic policy on safety issues; and that to address a perceived need for co-ordination amongst the groups concerned with water safety, RoSPA should consider ways in which the National Water Safety Committee might strengthen its role in identifying public safety issues which affect sporting activities.

Section 4: Search and Rescue on Inland Waters

- 4.1 The Hayes Report found “a serious lack of responsibility for and information about emergency services on rivers and inland waters”. It recommended that the Department work to define responsibility for the provision of such services.²⁰
- 4.2 A Strategic Committee for UK Search and Rescue (SAR), chaired by DfT, now brings together SAR interests from within Government, the emergency services and the RNLI. It is tasked with determining the criteria for the coverage, responsiveness and availability of SAR resources and with providing advice to Ministers, and it has issued a National SAR Framework to ensure effective co-operation between the parties.
- 4.3 Responsibility for rescue on inland water rests with the traditional emergency services, with the police responsible for co-ordination,²¹ and fire services often first to the scene of an incident.²² Harbour and (in respect of their own property) navigation authorities have duties, for example under the HSWA and the Fire Precautions Act, to take appropriate steps to safeguard those using their harbours and navigations, including provision for rescuing persons from the water.
- 4.4 HM Coastguard, a part of the MCA, has a range of Memoranda of Understanding and letters of agreement with the land-based emergency services, laying down lines of responsibility and providing for assistance to such services in their response to emergencies on inland waters. Its involvement is generally of two kinds: providing resources to assist the Police with an SAR incident, and/or co-ordinating the response to SAR incidents at the request of the Police, perhaps for reason of local communications problems.
- 4.5 Exceptions to these general rules have been made by special arrangement for a small number of particular, large inland waters. Thus co-ordination of SAR for Lough Neagh and Lough Erne in N Ireland has been formally delegated by the police to the Coastguard. (A pilot scheme is also under way in N Ireland where, again at the request of the police, HM Coastguard is co-ordinating all SAR within the province). Similar arrangements are in place at the Caledonian Canal (at the southern end of which a remote radio site is being established to provide the necessary VHF coverage), Loch

²⁰ Lord Justice Clarke, in his report on Thames safety, recommended that in respect of the *tidal Thames* a statutory duty should be imposed on an appropriate entity or agency to assess and ensure provision of search and rescue facilities. Following consideration by the UK Search and Rescue Strategy Committee, Ministers decided that the Secretary of State, acting through the Maritime and Coastguard Agency, should take co-ordinating responsibility for search and rescue on the tidal Thames, but without a specific statutory provision. This brings the arrangements for the tidal Thames into alignment with those for the coast and other tidal areas. Increased rescue provision for the tidal Thames have been negotiated with the Port of London Authority, the Royal National Lifeboat Institution and the Metropolitan Police, and since the beginning of 2002 some 350 incidents have been recorded.

²¹ Inland water emergency issues are addressed in the Emergency Procedures Subcommittee of the Association of Chief Police Officers, on which the MCA is represented.

²² Inland water rescues form only a small part of a fire services activities, with some tens of incidents per year as against some tens of thousands of fires. Nonetheless it can account for considerable load at times, notably during flooding.

Ness and the Norfolk and Suffolk Broads. Discussions are also at an early stage regarding further exceptions of this type in Loch Lomond, the upper Clyde and the Lake District. The new arrangements now in place for the tidal Thames were noted earlier.

- 4.6 The RNLi has been considering the scope for itself becoming involved in inland water rescue, whereby it can make best use of its inshore rescue experience. Successful pilot trials have been held on the Norfolk and Suffolk Broads and in Ireland, informing its consideration of the scope for its further involvement in inland water.

Section 5: District Marine Safety Committees

5.1 The first of the recommendations in the report of the Hayes Inquiry was that a single body should become the focus for all aspects of marine safety, including on inland waters. At the close of his report John Hayes expressed the hope that those concerned would “sort out the confusion of responsibility for river and inland water safety in this country.”

5.2 In response, the then Department of Transport set up local committees across the UK to draw together local navigation authorities, emergency services and river users, primarily to consider emergency preparedness. These District Marine Safety Committees (DMSCs) had as their initial terms of reference –

“to review the organisation of responsibilities for safety, rescue and the prevention of pollution from vessels in inland waters, rivers and estuarial and tidal waters, harbours and coastal waters of the marine District and to provide a co-ordinated approach to safety of vessels and their users in these areas”.

5.3 In 1994, following the completion of these initial reviews, the remit of the DMSCs was enlarged. Their scope – vessels and their users – remained unchanged, but a broader range of issues was encompassed. The Committees’ terms of reference now include –

“to keep under review the distribution of responsibilities for the preventative aspects of safety in inland waters, rivers, estuarial waters, tidal waters, harbours and coastal waters of the Marine District”

and to –

“identify risks and potential hazards within the scope of [sub- paragraphs dealing with safety, pollution and SAR] and in particular consider whether there are any gaps in coverage or situations which might arise in which present arrangements might not be effective.”

5.4 The DMSCs are chaired and serviced by the MCA, whose Chief Executive heads a Marine Safety Co-ordinating Committee (MSCC) tasked with maintaining an overview. The membership of each DMSC, chosen by its chairman, is required to consist of “representatives with a direct interest in the safety of the sea and inland waters” in the Marine Office area, and to reflect “a reasonable balance between regulating authorities and water users”. Each of the DMSCs has a subcommittee structure which reflects local geography and local concerns. Most DMSCs have at least one subcommittee or working group dedicated to inland waters: the regularity with which these subcommittees and working groups meet varies between regions, and the amount of time devoted to inland water issues at Committee level also varies.

- 5.5 The DMSCs report each year on matters of national concern to the MSCC, which considers what action is needed and makes recommendations to appropriate bodies. Thus it was concern on the part of South East DMSC members over the absence of agreed standards for non-sea going vessels outside the scope of the MCA's passenger ship regime which led to the establishment of the working group described at paragraph 3.8 above.

Section 6: Devolution

- 6.1 The inland water safety picture under devolution is complex. Some of the relevant legislation reaches across borders, and in other cases it is replicated. Certain of the bodies with a safety role or responsibilities are UK-wide in their reach: thus the MCA, MAIB, and the Search and Rescue Strategic Committee, and beyond Government RoSPA and the Royal Life Saving Society. Some bodies operate only in England and Wales (the Environment Agency), and others again only in England (the Broads Authority). In the case of British Waterways and the Inland Waterways Amenity Advisory Council, Ministerial functions are reserved to Westminster, but are subject to a detailed division of responsibilities with the devolved administration in Scotland. The views of the Welsh Assembly on certain aspects of the activities of both organisations are required to be invited by DEFRA.
- 6.2 Marine policy is for the most part a reserved matter. However that on ports and harbours is, with some detailed exceptions, devolved in Scotland; and some Ministerial functions under a number of ports and harbours provisions have been devolved to the Welsh Assembly.
- 6.3 So far as general safety at the waterside is concerned, the principal pieces of legislation are the HSWA, which applies in Great Britain and has its parallel in Northern Ireland, the Occupier's Liability Acts of 1957 and 1984 applying in England and Wales, and the Occupiers Liability Act (Scotland) of 1960. The 1936 Public Health Act provisions bearing on local authority regulation of public bathing, and those in the Local Government, Planning and Land Act 1980 having to do with local authority licensing of pleasure boats and vessels hired to the public, apply in England and Wales.
- 6.4 More detail of these various arrangements is described below, and in extracts from the relevant Concordats with the devolved administrations at Annex C.

Inland water in Scotland

- 6.5 Ministerial functions in relation to British Waterways and to the Inland Waterways Amenity Advisory Council are in general reserved to UK Ministers, although an Order made in 2001 under Section 89 of the Scotland Act provided inter alia for byelaws for Scottish canals to be confirmed by Scottish Ministers.²³
- 6.6 In general, marine policy (including vessel and people standards for vessels which do not go to sea) and marine accident investigation in Scotland are reserved to DfT. Ports and harbours are *not* reserved and have been devolved except for the subject matter of certain provisions.²⁴

23 Scotland Act (Cross-Border Public Authorities)(Adaptation of Functions etc)(No.2) Order 2000 : SI 2000/3251. Both BW and the IWAAC are specified under the Scotland Act 1998 (Cross-Border Public Authorities) (Specification) Order 1999 (S.I. 1999/1319).

24 Specifically S2 of the Protection of Wrecks Act 1973 (prohibition on approaching dangerous wrecks); Dangerous Vessels Act 1985; Aviation and Maritime Security Act 1990, other than Part I (aviation security); and Merchant Shipping Act 1995.

- 6.7 Annex 3 of the Scottish Executive Concordat on Transport describes the position as regards ports and shipping, and emergency planning. The HSE itself is reserved under the Scotland Act.²⁵

Inland water in Wales

- 6.8 The functions of UK Ministers so far as they are exercisable in relation to Wales are transferred to the National Assembly for Wales (NAW) if they are included in a Transfer of Functions Order, or if primary legislation made or amended after devolution allocates them to the Assembly. There is also a power in the Government of Wales Act 1998, whereby the Secretary of State for Environment, Food and Rural Affairs (in the case of cross border bodies such as the Environment Agency and/or an English border area) can intervene, if he considers the Assembly in the exercise of its functions, or the failure to exercise its functions, might have a serious adverse effect on water resources, water supply or the quality of water.²⁶
- 6.9 No functions under the Transport Act 1968 relevant to inland water safety have been transferred, and Ministerial functions in relation to British Waterways and the Inland Waterways Amenity Advisory Council are not devolved. Schedule 5 to the Government of Wales Act lists British Waterways as a body which may be required to attend Assembly proceedings to give evidence or to produce appropriate documents.
- 6.10 On ports and harbours, Ministerial functions under a number of provisions are devolved to the Welsh Assembly.²⁷

25 The subject matter of the following Parts of the Health and Safety at Work etc Act 1974 are reserved under Head H2 Scotland Act: Part I (health, safety and welfare in connection with work, and control of dangerous substances) as extended or applied by section 36 of the Consumer Protection Act 1987, sections 1 and 2 of the *Offshore Safety Act 1992* and section 117 of the Railways Act 1993; and Part II (the Employment Medical Advisory Service). Public safety in relation to matters which are not reserved under the above Acts is expressly devolved to the Scottish Executive. Some public safety matters may be the subject of other reservations.

26 The legislation which is affected by these intervention powers is the Environment Protection Act 1990 and the Water Resources Act 1991. Powers in the Environment Act 1995 devolved by the Transfer of Functions order also imposed an obligation on the Assembly to act concurrently with the Secretary of State for the Environment in respect of the catchment areas of the rivers Dee, Severn and Wye. In terms of inland waterways legislation both the Water Resources Act 1991 and the Environment Act 1995 would be relevant.

27 Namely the Harbours Act 1964 (c.40) sections 15, 15A, 16, 30, 31, 60 and Schedule 3, so far as they relate to fishery harbours.

Section 7: Casualties in Inland Water

7.1 There are a number of sources of information about drownings and incidents in inland water.

ONS Data

7.2 The principal source of information for drownings in England and Wales is the Office of National Statistics (ONS), which takes its data from death registrations. The equivalents of the ONS in Scotland and Northern Ireland are the General Register Offices in Edinburgh and Belfast respectively.

7.3 The ONS classifies deaths using internationally agreed codes for cause, and then by age and sex. Each death is assigned a single, underlying cause, supplemented where appropriate by an “external” or “nature of injury” cause. Since 1993 the ONS has kept electronic copies of that part of the form (Part V) completed by coroners for deaths where the verdict was accident or misadventure, giving further details of the circumstances of the event. For other verdicts, completion of Part V is optional.²⁸

7.4 Drownings are allocated by ONS to one of ten categories. The data for deaths in England caused by drowning for the years 1998-2000, showing external cause, are as follows:

Drowning deaths, showing external cause, England 1998-2000

	1998	1999	2000
Injury undetermined whether accidentally or purposely inflicted	186	188	167
Accidental drowning	183	203	169
Suicide and self-inflicted injury	91	81	87
Water transport accident	26	8	12
Motor vehicle traffic accident	12	14	9
Other specified means	2	1	4
Air transport accident	3	0	2
Accidental falls	3	3	4
Homicide or injury purposely inflicted by other persons	5	7	4
Other accidents	2	1	2
Total	513	506	460

7.5 Those deaths in the single largest category – drownings which might have been accidents, homicides or suicides – reflect an “open” verdict by a coroner. Some will be suicide cases in which there was insufficient evidence to reach the level of proof

²⁸ The Home Office does not itself collate or analyse data from Coroner’s Reports.

which is required for a suicide verdict.²⁹ For each year, the figures show almost exactly as many open verdicts as clear accidental drownings. Setting aside the open verdicts and those of suicide and homicide leaves some 200-230 accidental drownings in England in a year. This will be an understatement, insofar as some of the deaths in the “undetermined” category will also have been accidents of one sort or another.

- 7.6 Others who have done more detailed work in this area have identified difficulties with drowning data, having to do with mis-described locations for drowning deaths, with the consistency (and relatively small amount) of information captured on death registration forms, and with coding complexities. Thus the 1993 Report of the Water Sports Safety Working Group said that the working group had been hampered in its task of establishing the causes of drowning and injury in water sports “by the lack of a single comprehensive source of information on drownings in the United Kingdom.” Similarly, it was one of the findings of the 2000-01 review of the Boat Safety Scheme that statistical evidence on accident rates on the waterways was poor, with data sources incomplete or largely anecdotal. The review recommended that “considerationbe given to improving accident statistics by data gathering and investigation, [in order to] better inform future decision making and those affected.”

Hospital Episodes Statistics

- 7.7 Coded data on hospital inpatients provided to the Department of Health by all National Health Service hospitals in England is assembled in that department’s Hospital Episode Statistics (HES) database. External cause of injury codes W69 and W70 are concerned with accidental drowning and submersion “while in natural water” and “following falls into water”, respectively. For 1999-00, the combined data on hospital admissions in England for injuries with these cause codes are –

**Hospital admissions W69/70 combined, males and females
(...while in natural water/...falls into water)**

Location	Age				Total
	Under 15	15-24	25-64	65 and over	
Home	10			1	11
Street and highway		2	1		3
Farm				1	1
Other specified places	13	12	27	9	61
Unspecified place	9	2	4	1	16
Total	32	16	32	12	92

- 7.8 A breakdown by the two separate HES codes, and within those by male and female hospital admissions, is at Annex D.

²⁹ Intention must be demonstrated and proved conclusively, to the criminal standard, usually by means of a note or clear statement to someone of the deceased’s intention.

- 7.9 The HES data is clearly of limited value in the present context, in capturing only some of the totality of drownings (ie only those which result in the injured person being admitted to hospital). Moreover the key category here “Other specified places”, accounting for two-thirds of the total drownings recorded under these codes for 1999/00, includes not only the inland water of interest here (rivers, canals, streams, lakes, reservoirs, ponds, pools, docks and harbours), but also the seashore and numerous other locations, including campsites, derelict houses, military training grounds, railway lines and zoos. No breakdown is made within this group. Finally, HES Codes W69 and W70 do not capture drownings connected to water transport accidents (for example the loss of the *Marchioness*), which are registered under other codes.

RoSPA/RLSS Data

- 7.10 RoSPA has compiled annual drowning statistics since 1983, when it set up a system for using press reports to record and analyse accidental drownings in the UK. This was subsequently extended to take in drownings in the Channel Islands and the Isle of Man. In 1982 the Royal Life Saving Society UK revived a system, first established by the Home Office in the 1970s, whereby reports on accidental and deliberate drowning events with a police presence were collected from coroners, and processed.
- 7.11 Research carried out in 1995 by the University of Wales College of Medicine highlighted weaknesses in both RoSPA’s system and that run by the RLSS.³⁰ In response, the two organisations combined their systems, and starting in 1998 the annual drowning statistics which are published annually by RoSPA now carry the stamp of both organisations. Reports of accidental drownings are analysed, and common factors isolated (eg age, gender, location, activity, behaviour etc). Established homicides and suicides are omitted from the data, but coroners’ open verdict drownings – which will inevitably encompass some unconfirmed cases of both – are included.
- 7.12 In its report for 2000³¹, RoSPA records 440 drownings in the UK, broken down by location as follows:

Location	Deaths (1999)	% (1999)
Rivers, streams etc	199 (248)	45 (44)
Coastal	79 (112)	18 (20)
Lakes and reservoirs	51 (84)	11 (15)
Home baths	27 (31)	6 (5)
Canals	44 (43)	10 (8)
Docks and harbours	17 (19)	3 (3)
Swimming pools	13 (14)	3 (2)
Garden ponds	8 (18)	2 (3)
Other	2 (0)	2 (0)
	440 (569)	

30 Not all police forces participated; and where there were events with no police involvement, this led to gaps in the RLSS data.

31 Published April 2002.

- 7.13 The sum of drownings in 2000 in those kinds of water under examination here (shaded in the above table) is 294, three quarters of the total. By excluding “docks and harbours” it may be slightly understated. On the other hand, river drownings here includes those in underground rivers and drains, which might be considered to lie outside the scope of the present work. And as noted above, the data, by including “open verdict” drownings, will also include some unrecognised suicides and homicides.
- 7.14 In presenting their 2000 data RoSPA noted that the total for all drownings represented a significant reduction from those for 1999 (569) and 1998 (568). It warned however that not too much ought to be read into this. A similar significant fluctuation occurred in 1993, and RoSPA’s unprocessed data for 2001 shows drownings already ahead of the curve, notwithstanding the presumed inhibiting effect of the countryside closures following the foot and mouth outbreak. RoSPA also noted that the RNLI had reported significant reduction in the number of incidents responded to during 2000, and that poor summer weather may have resulted in fewer people putting themselves at risk. They took more encouragement from a decline in 2000 in the number of child deaths, particularly – and for the first time in several years – drownings in garden ponds and water features.
- 7.15 RoSPA’s UK drowning trend data for 1990-2000 is shown below. The “projected” totals reflect a retrospective uprating to correct for errors identified in the 1995 research study.

	Collected total	Projected Total
1990	496	611
1991	446	561
1992	496	611
1993	384	499
1994	448	563
1995	473	588
1996	441	556
1997	440	555
1998		568
1999		569
2000		440

- 7.16 Together with the RLSS and the University of Wales College of Medicine, RoSPA has revised the drowning report form used by police in order to gather data more compatible with that obtainable from the ONS.

- 7.17 RoSPA and the RLSS are also currently working, in concert with ONS and RNLI and under the aegis of the National Water Safety Committee, on a three year project aimed at generating more robust drowning data, and at capturing “near miss” data. The model being considered is SEAREM, an initiative taken in the early 1990s and led by the RNLI, to improve the quality of data on maritime casualties.

DTI Consultancy study

- 7.18 Some other work useful here is that carried out recently for DTI by the consultants *Business Strategy Group*, looking at drownings in a domestic context.³²
- 7.19 The consultants first undertook an analysis of ONS drowning data for the period 1993-1998 and part of 1999. RoSPA data for incidents in Scotland, Northern Ireland and the Channel islands were added to the ONS data for England and Wales, and coroners were consulted on a sample of cases where doubts remained as to the exact nature of the incident. In this way 4152 drownings were identified in the UK during the period 1993-98, and a further 319 for part-1999. This total of 4471 was then examined in closer detail, yielding the following information.

UK Drownings from all causes 1993-98/part 1999: by location

Location	Total	%
River	1368	31
Dwelling (home and garden)	783	18
Sea	651	14
Canal	469	10
Lake/reservoir	267	6
Port/harbour/marina	187	4
Stream/dyke/ghyll/drainage channel etc	158	4
Parks (ponds, lakes)	137	3
Public/private swimming pools	116	3
Hospitals/nursing homes	106	2
Other locations	229	5
Total	4471	100

32 See footnote 1

- 7.20 Taken together, rivers and streams, canals, lakes and reservoirs, and country and town park waters account in this dataset for 2399 (54%) of all of the identified drownings, with rivers easily the largest single category. The consultants' "other locations" category includes quarries, farms, works and angling pools, and so for the purposes of the present study some part of that figure of 229 should also be included, as too should some part of the 187 shown for "port/harbour/marina" drownings. The final figure for inland water drownings attributed to the types of water relevant to this study, but including suicides, may therefore be in the region of 2500 (56% of total drownings) for the period in question, suggesting perhaps some 350 per year assuming a steady rate.³³
- 7.21 The consultants' analysis of the data in terms of gender revealed that for the drownings in locations other than dwellings, 77% were male and 23% female. Overall, it is the 20-59 year old male who appeared at greatest risk. Over 40% of drowning incidents involving this group occur in rivers, with a further 30% split evenly between the sea and canals.

Other casualty data sources

- 7.22 The bodies which collect data about drownings and injuries within their own sphere include the HSE, MAIB, British Waterways and the Environment Agency.
- 7.23 The nature of the various data collected by these bodies is described briefly below, together with that of some other bodies. More detail is at Annex D. The differences in coverage and category make analysis across the various data problematic.
- *Association of Inland Navigation Authorities*
- 7.24 The Association of Inland Navigation Authorities (AINA) has agreed in principle to collate its members' inland water safety data, subject to discussion of the practicalities. British Waterways is closely involved with this initiative, managing the data and providing reports to an agreed protocol on behalf of AINA. As a first step it is collecting all currently available data from AINA members. A key element of the work will be to encourage better reporting of incidents with low consequence outcomes, which may it is believed in turn provide insights into the underlying causes of more serious accidents.
- *Health and Safety Executive*
- 7.25 The HSE maintains a database of injuries to employees and the self-employed in an inland water context, as well as to members of the public affected by a work activity. The data are incomplete, inasmuch as the HSE does not have responsibility for all aspects of inland water work. Injuries resulting from a leisure activity are not covered at all by the HSE regime.

³³ The 1993 Report of the Working Group on Water Sports Safety considered it was "possible to state with some certainty that around 500 people accidentally drown each year in the United Kingdom". That conclusion seems to have been informed by RoSPA data which include drownings in coastal and domestic waters and in swimming pools, and also "open verdict" drownings some of which will be unidentified suicides and homicides.

7.26 The HSE data at Annex D are for 1996-2001, changes in employment classifications making equivalent information for earlier years unavailable.

- *DfT Marine Accident Investigation Branch*

7.27 MAIB may choose to investigate any accident to a vessel or its crew while in navigation in the UK, from small dinghies upwards. If another body were already investigating, the MAIB might choose not to do so itself. It holds detailed data on those accidents or incidents it has investigated, or which are required to be reported to it.

7.28 MAIB's data for 1991-2000 at Annex D show that for rivers and canals – where the data indicate by far the greatest number of inland water incidents occur – the number of incidents remained broadly stable over the decade at about 70 per year. The fatality numbers are lumpy. Injuries have been increasing, from an average of 5.6/year for 1991-95 to 21.2/year for 1996-2000. This study has not looked at severity of injury or volumes of traffic, and it is not possible to draw conclusions from these data about improving or lessening safety.

- *British Waterways*

7.29 British Waterways' accident statistics cover its own staff, its contractors and members of the public, for waters under its management. It is presently upgrading its reporting system. Some of the incidents involving employees are also reportable under the HSE's Reporting of Injuries, Diseases and Dangerous Occurrences Regulations.

7.30 The accident data for British Waterways for 1995-2000 summarised at Annex D shows deaths of members of the public running at around fifty per year. For 44% of these deaths, a coroner's open verdict was recorded: the earlier observations about the level of proof required for suicide verdicts will be relevant here. The next largest groups are accidental deaths (31%) and suicides (9.4%). Children under the age of 15 account for 9% of the deaths, and 9.4% of all individuals who died were categorised as "playing on towpath", "swimming" or "riding bicycle" at the time of their death. For 40% of all deaths, the activity is not known, which must clearly condition any conclusions here.

7.31 British Waterways suspects some under-reporting in its data on incidents involving its contractors, which as recorded have been averaging ten per year, and it is encouraging improved reporting.

7.32 British Waterways' role in relation to AINA's data collection initiative was noted above. British Waterways is also a member of the *Visitor Safety in the Countryside Group*, which brings together a number of organisations responsible for the management of large property holdings with extensive unsupervised public access. The Group is working up a set of guiding principles for visitor risk management, for possible adoption by bodies of this kind. It is also intended that the Group should collect and collate accident data, and here again British Waterways will be closely involved.

- *The Environment Agency*

- 7.33 The Environment Agency collects boat accident data by region. The fullest set obtained for the present study is for boating on the Thames. They show that over the period 1993-99 three members of the public died as a result of boating accidents on the river, with a further 99 injured, thirteen of them sufficiently seriously to warrant medical treatment. The data also show 57 vessels damaged over the period as a result of collision, striking obstructions in the river, navigating in "high flow" conditions, or incidents in locks. A further 60 vessels experienced a "fire or explosion", with 23 people injured in consequence. Over this period there were nearly 5 million vessel passages through Thames Locks, and an estimated 17 million people passages.
- 7.34 The Agency has no reporting responsibility in respect of non-boating accidents, and there is no responsibility laid on emergency services or individuals to bring accidents to its attention.

- *The Broads Authority*

- 7.35 The Broads Authority collects injury and fatality data, for accidents on and by its waters, whether or not involving a boat. The details are at annex D. There is no legal or other requirement for those involved in accidents on the Broads to report them to the Authority, and so there may be some under-reporting.

- *Royal Life Saving Society*

- 7.36 The part played by the RLSS in collaborating with RoSPA in assembling data on drownings was noted above. The RLSS has been collecting data on drownings since 1992, compiling information from press cuttings and from questionnaires filled in by Chief Police Officers.

- *National Water Safety Committee*

- 7.37 It is one of the objectives of the National Water Safety Committee, an advisory committee of RoSPA's, to –

"monitor drowning data and relevant research and assess the need for intervention and/or the need for better information."

- *Sports bodies*

- 7.38 Some of the National Governing Bodies for water sports collect information from their own sources specific to their particular activity.

Annex A

Principal Inland Waterway Navigation Authorities

1. The inland waterways have never formed an integrated national network. About half of the system was nationalised in 1948, with the balance either left in private hands or remaining in those of public river authorities or drainage authorities. Since then the identity of many navigation authorities has changed, as has the responsibility for individual waterways.
2. There are currently some thirty statutory navigation authorities, some of them public bodies, others private or voluntary. There are also a number of non-statutory authorities responsible for major inland waters. A full list of the statutory and non-statutory authorities is at annex B. Navigation authorities have historically managed their waterways in different ways, reflecting the nature or use of the water in question, and depending too on the body concerned and its wider responsibilities.
3. British Waterways, the Environment Agency and the Broads Authority together manage some three quarters of the total length of inland waterway. DEFRA sponsors all three, providing grant-in-aid towards BW's and EA's activities and satisfying itself that they perform efficiently and meet their waterway responsibilities in the most cost-effective way.

British Waterways

4. British Waterways is a public corporation responsible for managing and maintaining 2600 km of navigable inland waterway in England and Wales – just over half of the total, three quarters of it canal, largely used for recreation and leisure. It runs its affairs on a commercial basis consistent with its statutory responsibilities for navigation. It is expected to promote the use of its waterways for leisure and recreation, tourism, regeneration, and transport while also conserving their built and natural heritage. British Waterways also manages 320 km of unnavigable waterway.
5. British Waterways generally owns the towpaths associated with the canals for which it is the navigation authority, and these form part of its “undertaking” for the purposes of the HSWA.
6. British Waterways estimates that its waterways attract some 160 million visits every year, as people use them to walk, boat, visit canal-side pubs, fish, watch wildlife, or visit canal-side attractions.

The Environment Agency

7. The Environment Agency is a Non-Departmental Public Body sponsored by DEFRA. It manages 875 km of navigable waterway in England and Wales, nearly all of it rivers, and it is also the formal harbour authority for Rye Harbour and the Dee Estuary. The Agency also manages 120 km of unnavigable waterways. It is primarily an environmental regulatory body, which manages its waterways as an integral part of its other water management functions.
8. The Agency has a general duty to promote the recreational use of waterways, and an obligation to operate those for which it is responsible in an efficient and business-like manner. As a navigation authority it is responsible for managing and maintaining its navigations and regulating the craft using them, through statute and byelaws relating to licensing, charging and safety (eg speed limits, vessel construction and rules of navigation). Its powers are contained within local acts, covering individual navigations, and so will differ in detail. A joint licensing scheme with British Waterways allows craft use of both authorities' waters.
9. The Agency has a general duty to promote the recreational use of water throughout England and Wales, and seeks to make its inland water resources available to the public for leisure activities. As part of this it issues licences for over 40000 boats, and assesses and acts on reports of navigation incidents. It also has a responsibility for maintaining, improving and developing certain fisheries, and issues some 1 million licences for rod angling and net fishing. It estimates that some 10 million people visit its Thames lock sites alone, every year. It has produced leaflets on the dangers which rivers can present
10. The Agency also has powers under the Water Resources Act 1991³⁴ to make bylaws to regulate, on any inland waters and associated land, vessels of any description, swimming, fishing, sailing and other forms of recreation. These powers are subject to there being no extant navigation authority for the inland waters concerned. The Agency is presently³⁵ seeking, subject to the granting of a Transport and Works Act Order, to introduce such byelaws for the River Wye.

The Broads Authority

11. The Broads Authority manages its waterspace together with surrounding land on National Park lines, combining its responsibility for navigation with conservation and recreation.³⁶ It has a duty to protect navigation interests, to be balanced with the need to conserve and enhance the Broads' natural beauty and to promote their enjoyment by the public. The Authority is also formally a harbour authority, sponsored by DfT. In 2000, some 9000 private craft and 2000 hire craft used the Broads.

³⁴ Section 210 and Schedule 25.

³⁵ June 2001.

³⁶ The navigation section of the Authority is independently funded by the collection of tolls, and does not receive funding from Government.

12. The Broads Authority, having the status of a national park, is responsible for managing Britain's largest protected wetland and the longest inland lock-free waterway, with 200 km of navigable rivers winding into some 40 shallow lakes. It currently invests £1.5 million annually to improve navigability on the waters under its control, as part of its overall remit to conserve the area's resources, manage current pressures and restore the integrity of the Broadland waterways for navigation. The Authority makes bylaws under the Norfolk & Suffolk Broads Act 1988.

Association of Inland Navigation Authorities

13. The Association of Inland Navigation Authorities was formed in 1996 to bring together navigation authorities to provide a single voice on waterway management issues. It has amongst its objectives the sharing of best practice and expertise.

Inland Waterways Amenity Advisory Council

14. The 1968 Transport Act established the Inland Waterways Amenity Advisory Council, to advise the Government and British Waterways on the use and development of the latter's waterways for recreation and amenity purposes. DEFRA appoints members of the Council, which since 1993 has concentrated on providing strategic policy advice, including on specific issues such as restoration priorities.

Annex B

UK Statutory and Non-Statutory Navigation Authorities

British Waterways
Waterways Ireland
Environment Agency
Bristol City Docks
Lower Avon Nav Trust
Upper Avon Nav Trust
Basingstoke Canal Authority
East Riding of Yorkshire Council
Manchester Ship Canal Company
Bude Canal Trust
River Cam Conservancy
Chelmer and Blackwater Navigation Ltd
Colchester Borough Council
Chester City Council
Driffield Navigation Ltd
Droitwich Canal Trust
Exeter City Council
City of York Council
Devon County Council
Associated British Ports
Hull City Council
Port of Medway Authority
Mersey Docks and Harbour Co
Middle Level Commissioners
Neath Canal Navigation
Port Tennant Canal Navigation
The Broads Authority
Sedgemoor District Council
Rochdale Canal Company
The Waterways Trust
Sleaford Navigation Trust
The Company of Proprietors (Stroudwater)
Tees Barrage Ltd
Tees and Hartlepool Port Authority
Port of London Authority
Wansbeck District Council
National Trust
Lake District National park
South Lakeland District Council
Witham and Fourth District Internal Drainage Board
Loch Lomond Regional Park Authority

Annex C

Devolution and inland water

British Waterways and the Inland Waterways Amenity Advisory Council are specified as cross border public authorities, operating under the aegis of DEFRA. The consequential detailed arrangements between DEFRA on the one hand and the Scottish Executive on the other, and similarly between DEFRA and the Welsh Assembly, have still to be agreed. They are however expected to replicate in their effect those formerly in place under the DETR Concordats with the devolved administrations. These are reproduced below.

The detailed arrangements between DTLR and the Scottish and Welsh devolved administrations so far as ports, shipping and emergency planning are concerned are set out in new concordats agreed between each of those two administrations and the department. Again, the terms are reproduced below. These concordats will need to be further amended to reflect the recent change from DTLR to DfT.

Scotland

Extract from former DETR/Scottish Executive Concordat, on British Waterways and Inland Waterways Amenity Advisory Council

- 1.9.1 British Waterways and the Inland Waterways Amenity Advisory Council are specified as cross border public authorities. The responsibilities of the Executive and DETR for these bodies are set out in secondary legislation. Detailed arrangements will be set out in a jointly agreed Sponsorship Concordat. The Executive and DETR will consult each other as necessary over their respective responsibilities.
- 1.9.2 Subject to formal consultation with BW and IWAAC, the enactment of further subordinate legislation, and agreement on the terms of the Sponsorship Concordat, DETR and the Executive intend, among other things, that:
- the Executive will be responsible for funding BW's activities in Scotland, including an appropriate share of central costs incurred by BW;
 - the Executive will issue a Financial Memorandum (FM) for BW's Scottish activities and DETR will issue one for its activities in England and Wales. The requirements of these may differ but DETR and the Scottish Executive will consult each other on the requirements they set down for the FMs, with a view to avoiding unnecessary burdens on BW;
 - the Executive will appoint two members of BW's Board, and two members of the Council.

- 1.9.3 In relation to any matters affecting safety on inland waterways in Scotland the Executive will consult the MCA.

Extract from former DTLR/Scottish Executive Concordat, on ports and shipping, and emergency planning

2.6 Ports and shipping

- 2.6.1 Maritime policy overall is a reserved matter, but legislative competence and responsibility for the statutory powers of ports and Ministerial appointments to trust port boards in Scotland is devolved. It is envisaged that DTLR and the Executive will establish joint arrangements to deal with the trade associations representing Scottish ports.
- 2.6.2 Health and Safety aspects of ports operations (as defined in the Docks Regulations 1988) remain the responsibility of the HSE, and reference should be made to the HSE concordat. DTLR is developing safety proposals for the application of a Marine Operations Code for Ports on which, as a reserved matter, they will consult the Executive to the extent relevant to Scottish ports.
- 2.6.3 Legislative competence, regulation and casework arising under the Coast Protection Act 1949 is devolved, save for issues relating to the energy and telecommunications industries which remain the responsibility of DTLR. The Maritime and Coastguard Agency (MCA) within DTLR will be consulted by the Executive on relevant casework under the Act, to ensure that works in tidal waters do not endanger or obstruct the safety of navigation through waters for which the UK Government remains responsible. DTLR will keep the Executive informed from as early a stage as possible about policy developments which are likely to be of interest to the Executive in relation to ports, ferry services and other reserved matters, and before any public announcement is made.
- 2.6.4 The marine accident investigation function remains the responsibility of the Marine Accident Investigation Branch (MAIB) within DTLR.
- 2.6.5 Regulatory, enforcement, search and rescue and counter-pollution functions remain the responsibility of DTLR, largely exercised through the MCA. The successful conduct of search and rescue and counter-pollution operations will require the closest co-operation between the MCA and the landward emergency services; MCA's regional management will pursue this liaison and the Executive will have a standing invitation as observers to the UK Search and Rescue Maritime and Aviation, and Inland Committees. (Assessment of the environmental impact of marine accidents is also covered by para 2.7.3 of Annex 1.)
- 2.6.6 DTLR remains responsible for the development of maritime safety and regulatory standards. The MCA (or in some cases DTLR) normally holds a briefing on the UK Government position before main Committee meetings of the International Maritime Organisation (IMO), to which the Executive will have a standing invitation. In relation to any matters affecting safety on inland waterways in Scotland the Executive will consult the MCA.

2.6.7 DTLR retains the policy responsibility for the General Lighthouse Authorities including the Northern Lighthouse Board (NLB) and for the management of the General Lighthouse Fund across the United Kingdom and the Republic of Ireland. The NLB will continue to take responsibility for liaison with the users of aids to navigation in Scottish waters.

2.7 *Emergency planning*

- 2.7.1 Responsibility for setting transport security requirements, for verifying that they are delivered, and for more general civil emergency planning in relation to railway, aviation and maritime industries remains with DfT, as reserved matters. In practice, the closest liaison between DfT, the Executive and the emergency services and local authorities in Scotland will be required in precautionary planning, in dealing with incidents and in facilitating subsequent investigation.
- 2.7.2 For incidents and emergencies arising from use of inland waters, the responsibilities of the Executive, of the emergency services and of local authorities will parallel their responsibilities in normal circumstances. For all significant incidents, the Executive will keep the MAIB informed (in case an investigation is required) and the MCA informed (in case it is necessary to proceed against those responsible under the Merchant Shipping Act). Special arrangements for incident and emergency handling also apply to the Caledonian Canal and Loch Ness which, because they communicate with the sea, are considered to be sea for the purposes of MCA's responsibilities for search and rescue.
- 2.7.3 DfT has responsibility for marine emergencies, including dealing with major spillages of oil and other hazardous substances at sea from ships and which threaten UK interests. However the assessment of the environmental impact of marine accidents is devolved. The Maritime and Coastguard Agency deals with marine emergencies and is the competent national authority as required by the OPRC Convention 1990. DfT and the Executive will therefore liaise closely, as appropriate, on responses to marine emergencies. This will be within the framework of the UK National Contingency Plan.
- 2.7.4 MCA remain responsible for command and control arrangements in handling maritime emergencies and incidents, and will keep the Executive informed on events in or affecting Scottish waters. For landward incidents in Scotland, involving aircraft or rail services, the Executive will keep DfT informed as required.

Wales

Extract from former DETR/National Assembly for Wales Concordat, on Inland waterways

- 1.11.1 DETR will continue to fund the England and Wales activities of British Waterways and will remain the lead (England and Wales) sponsor. DETR will invite the Assembly, as appropriate, to comment on general policy matters and appointments.

- 1.11.2 DETR will invite the Assembly, as appropriate, to comment on appointments to the Inland Waterways Amenity Advisory Committee.

The Ministerial functions in the Activity Centres (Young Persons' Safety) Act 1995 are transferred to the Assembly.

Extract from former DTLR/National Assembly of Wales Concordat, on ports and shipping, and emergency planning

2.6 Ports and Shipping

- 2.6.1 Maritime policy and legislation overall, including merchant shipping, ports and harbours, are mainly non-devolved matters. Exceptionally, issues relating to specific fishery harbours (which are those listed in Schedule 4 to the Sea Fish Industry Act 1951) are the responsibility of the Assembly, including the making of Orders under the Harbours Act 1964 and the confirmation of bye-laws. The Assembly is also responsible for the commercial sponsorship of the sea fish industry in Wales, but its safety and environmental regulation remain matters for DTLR. The protection of culturally and historically important wrecks, under the Protection of Wrecks Act 1973, is devolved to the Assembly and the responsibility of DCMS in England; responsibility for dealing with dangerous wrecks remains a non-devolved matter.
- 2.6.2 Health and Safety aspects of ports operations (as defined in the Docks Regulations 1988) remain the responsibility of the HSE, and reference should be made to the HSE concordat. DTLR is developing safety proposals for the application of a Marine Operations Code for Ports on which, as a non-devolved matter, they will consult the Assembly to the extent relevant to Welsh ports.
- 2.6.3 Policy and legislation, including casework, arising on Part II of the Coast Protection Act 1949 matters (except in respect of the impact of navigation works on coastal defences), Harbours Act 1964 matters (except in respect of fishery harbours) and other related issues in respect of tidal waters and ports, remain generally the responsibility of DTLR, who will keep the Assembly informed from as early a stage as possible about policy developments and board appointments which are likely to be of interest to the Assembly in relation to ports, ferry services and other non-devolved matters, and before any public announcement is made.
- 2.6.4 The marine accident investigation function remains the responsibility of the Marine Accident Investigation Branch (MAIB) within DTLR.
- 2.6.5 Regulatory, enforcement, search and rescue and counter-pollution functions remain the responsibility of DTLR, largely exercised through the Maritime and Coastguard Agency (MCA). The successful conduct of search and rescue and counter-pollution operations will require the closest co-operation between the MCA and the landward emergency services; MCA's regional management will pursue this liaison and the Assembly will have a standing invitation as observers to the UK Search and Rescue Maritime and Aviation, and Inland Committees.

- 2.6.6 DTLR remains responsible for the development of maritime safety and regulatory standards. The MCA (or in some cases DTLR) normally holds a briefing on the UK Government position before main Committee meetings of the International Maritime Organisation (IMO), to which the Assembly will have a standing invitation.
- 2.6.7 DTLR retains the policy responsibility for the General Lighthouse Authorities and for the management of the General Lighthouse Fund across the United Kingdom and the Republic of Ireland.

2.7 *Emergency Planning*

- 2.7.1 Responsibility for setting transport security requirements, for verifying that they are delivered, and for more general civil emergency planning in relation to railway, aviation and maritime industries remains with DTLR, as non-devolved matters. In practice, the closest liaison between DTLR, the Assembly and the emergency services and local authorities in Wales will be required in precautionary planning, in dealing with incidents and in facilitating subsequent investigation.
- 2.7.2 For incidents and emergencies arising from use of inland waters, the responsibilities of the Assembly, of the emergency services and of local authorities will parallel their responsibilities in normal circumstances. For all significant incidents, the Assembly will keep the MAIB informed (in case an investigation is required) and the MCA informed (in case it is necessary to proceed against those responsible under the Merchant Shipping Act).
- 2.7.3 DTLR has responsibility for marine emergencies, including dealing with major spillages of oil and other hazardous substances at sea from ships and which threaten UK interests. However, the assessment of the environmental impact of marine accidents is devolved. DTLR's Maritime and Coastguard Agency deals with marine emergencies and is the competent national authority as required by the OPRC Convention 1990. DTLR and the Assembly will therefore liaise closely, as appropriate, on responses to marine emergencies. This will be within the framework of the UK National Contingency Plan.
- 2.7.4 MCA remains responsible for command and control arrangements in handling maritime emergencies and incidents, and will keep the Assembly informed on events in or affecting Welsh waters. For landward incidents in Wales, involving aircraft or rail services, the Assembly will keep DTLR informed as required, and will encourage the relevant bodies in Wales to establish liaison machinery to do likewise.

Annex D

Casualty Data

(i) ONS: Death by selected types of accident, England 1998-2000

Accident type	1998		1999		2000	
	no	%	no	%	no	%
Falls	3,590	36	3,723	37	4,010	39
Motor vehicle traffic accidents	2,840	29	2,908	29	2,788	27
Other	1,198	12	1,370	13	1,338	13
Poisoning	983	10	999	10	1,018	10
Fire and flames	357	4	325	3	326	3
Choking on food	235	2	212	2	226	2
Other transport accidents	219	2	192	2	189	2
Natural and environmental factors ³⁷	208	2	194	2	185	2
Drowning	189	2	209	2	174	2
Choking (non-food)	44	.4	51	.5	36	.3
Total	9,863	100	10,183	100	10,290	100

(ii) DETR Marine Accident Investigation Branch: UK Incidents, Deaths and Injuries 1991-2000

(a) Rivers and Canals

Year	No of incidents	Deaths	Injuries
1991	74	5	4
1992	61	4	0
1993	65	4	9
1994	45	2	6
1995	70	1	9
1996	93	0	18
1997	77	2	11
1998	77	4	28
1999	68	4	21
2000	59	2	28
	689	28	134

³⁷ Natural and environmental factors' includes for example exposure to excessive heat/cold, hunger, thirst, exposure, neglect; venomous animals and plants; and lightning.

(b) Non-Tidal waters

Year	No of incidents	Deaths	Injuries
1991	1	0	0
1992	2	0	1
1993	1	1	6
1994	8	1	0
1995	5	0	1
1996	6	1	3
1997	2	0	2
1998	4	0	3
1999	5	0	1
2000	4	0	1
	38	3	18

NB MAIB's distinction between incidents on "rivers and canals" and those on "non-tidal waters" derives from the nature of the accident location, as described in the reports received by MAIB. It may in practice reflect a distinction between waterways on the one hand and lakes, reservoirs etc on the other. Of the 28 fatalities in rivers and canals recorded in MAIB's data, 17 were recorded as "Accidents to Personnel" and 10 were attributed to "Foundering/ Floodings". The 3 fatalities in non-tidal waters comprised one person who died in a collision, and two deaths logged as "accident to personnel".

**(iii) Health and Safety Executive: Inland water transport deaths and Injuries
(Employees, Self-Employed, and Public) April 96–Mar 2001**

Year	Person	Death	Major injury	Lesser Injury
1996/7	Employee	0	1	12
	Self-Employed	0	0	1
	Public	0	0	0
1997/8	Employee	0	4	17
	Self-Employed	0	0	0
	Public	0	0	0
1998/9	Employee	0	4	17
	Self-Employed	0	0	0
	Public	1	0	0
1999/00	Employee	1	5	14
	Self-Employed	0	0	0
	Public	1	1	2
2000/01	Employee	0	5	16
	Self-Employed	0	0	1
	Public	0	2	2
	Total	3	22	82
		inc 2 public	Inc 3 public	inc 4 public

(iv) British Waterways**(a) Deaths and Injuries to the Public 1995-2000**

Year	Deaths	Injuries
1995	50	52
1996	51	52
1997	44	63
1998	45	38
1999	55	90
2000	64	140
	309	435

(b) Deaths of Public by Coroner's Verdict 1995-2000

Verdict	1995	1996	1997	1998	1999	2000	TOTAL	%
Accidental	16	13	12	17	18	19	95	31
Suicide	6	6	6	7	2	2	29	9.4
Unlawfully killed	1	4	2	1	6	6	20	6.5
Misadventure	2	4	2	2	4	2	16	5.2
Natural causes	1	1	4	1	0	4	11	3.6
Stillborn	0	1	0	0	0	0	1	0.3
Open verdict	24	22	18	17	25	31	137	44
	50	51	44	45	55	64	309	

(c) Deaths of Public by Activity at Time of Death 1995-2000

Activity	1995	1996	1997	1998	1999	2000	TOTAL	%
Walking/jogging	6	5	6	6	11	15	49	16
Leisure boating	7	7	4	10	3	7	38	12
Playing on towpath	3	1	2	1	9	1	17	5.5
Driving in/vehicle	4	1	2	3	0	1	11	4
Swimming	2	4	0	0	2	1	9	2.9
Fishing	0	0	1	1	0	0	2	0.6
Riding bicycle	0	0	0	1	0	2	3	1
Other	10	11	11	6	11	8	57	18
Unknown	18	22	18	17	19	29	123	40
							309	

(d) Deaths of Members of Public 1995-2000 – by Age

Age	1995	1996	1997	1998	1999	2000	TOTAL	%
Under 7	1	4	2	2	5	2	16	5
7-15	4	2	1	0	3	1	11	4
16-25	11	8	7	6	4	5	41	13
26-35	11	7	5	5	3	7	38	12
36-45	1	7	9	7	10	9	43	14
46-59	11	8	10	13	10	18	70	22.5
60 and over	10	10	8	9	15	18	70	22.5
Not known	1	5	2	3	5	4	20	7
							309	

(e) Incidents involving BW Employees 1995-2000

Year	All incidents	Not reportable to HSE
1995	247	219
1996	233	187
1997	212	181
1998	165	133
1999	207	174
2000	288	247
Total	1,352	1,141

(f) Incidents involving Contractors 1995-2000

Year	No of Incidents
1995	11
1996	9
1997	11
1998	18
1999	6
2000	13
Total	68

(v) DOH HOSPITAL EPISODES STATISTICS 1999/00

Figures for hospital admissions in England where the primary diagnosis is an injury.

(a) Code W69 Accidental Drowning and Submersion while in Natural Water (males)

Location	Age				Total
	Under 15	15-24	25-64	65 and over	
Home	1			1	2
Street and highway					
Other specified places	4	7	14	4	29
Unspecified place	2	1	3		6
Total	7	8	17	5	37

Code W69 Accidental Drowning and Submersion while in Natural Water (females)

Location	Age				Total
	Under 15	15-24	25-64	65 and over	
Home	1				1
Street and highway		1			1
Other specified places	1	2	4	1	8
Unspecified place		1			1
Total	2	4	4	1	11

(b) Code W70 Accidental Drowning and Submersion following Falls into Natural Water (males)

Location	Age				Total
	Under 15	15-24	25-64	65 and over	
Home	5				5
Street and highway		1	1		2
Other specified places	5	2	8	2	17
Unspecified place	3		1		4
Total	13	3	10	2	28

(b) Code W70 Accidental Drowning and Submersion following Falls into Natural Water (females)

Location	Age				Total
	Under 15	15-24	25-64	65 and over	
Home	3				3
Street and highway				1	1
Other specified places	3	1	1	2	7
Unspecified place	4			1	5
Total	10	1	1	4	16

(vi) Broads Authority

	90	91	92	93	94	95	96	97	98	99	00
Deaths on or from boats	1			2	2	3	1	1	3	2	1
Deaths not from boats	3			1	3	4		2	1	4	4
Total deaths	4	0	0	3	5	7	1	3	4	6	5
"Near Miss" drownings	3	2	3	0	0	0	9	8	7	9	8
Persons reported as requiring hospital treatment	3	2	3	0	0	0	9	8	7	9	8

Annex E

National Water Safety Committee: Membership at May 2002

- Royal National Lifeboat Institution
- Department of Education and Skills
- Local Government Association
- British Canoe Union
- Chartered Institute of Environmental Health
- English Schools Swimming Association
- British Resorts Association
- Royal Life Saving Society UK
- Institute of Leisure and Amenity Management
- Environment Agency
- Swimming Teachers Association
- Institute of Sport and Recreation Management
- Maritime and Coastguard Agency
- British Waterways
- Scottish Accident Prevention water and Leisure Safety Cttee
- Institute of Leisure and Amenities management
- Royal Yachting Association
- British Sub-Aqua Club
- National Safety Education Association of GB
- Amateur Swimming Association
- Water UK
- Central Council for Physical Recreation
- Sport England
- Surf Life Saving Association of Great Britain

The Committee also has some co-opted members, invited in their own right.

Annex F

Glossary of Acronyms

AINA	Association of Inland Navigation Authorities
AAALA	Adventure Activities Licensing Authority
BW	British Waterways
BSS	Boat Safety Scheme
DEFRA	Department of the Environment, Food and Rural Affairs
DETR	<i>former</i> Department of the Environment, Transport and the Regions
DTLR	<i>former</i> Department of Transport, Local Government and the Regions
DfT	Department for Transport
DCMS	Department for Culture, Media and Sport
DMSC	District Marine Safety Committee
EA	Environment Agency
EC	European Community
EU	European Union
FM	Financial Memorandum
HSE	Health and Safety Executive
HSWA	Health and Safety at Work etc Act 1974
IMO	International Maritime Organisation
IWAAC	Inland Waterways Amenity Advisory Council
MAIB	Marine Accident Investigation Branch
MAFF	Ministry of Agriculture, Fisheries and Food
MCA	Maritime and Coastguard Agency
MSCC	Marine Safety Co-ordinating Committee
MOU	Memorandum of Understanding
NLB	Northern Lighthouse Board
ONS	Office of National Statistics
RLSS	Royal Life Saving Society
RNLI	Royal National Lifeboat Institution
RoSPA	Royal Society for the Prevention of Accidents
SAR	Search and Rescue

INLAND WATER SAFETY: At the Water's Edge

Annex G

	Relevant regulation	Safety regulator(s)	Other safety actors	Search and rescue
River and canal banks	Public Health Act 1936 (regulation of public bathing). Occupier's Liability Acts 1957 and 1984. Occupier's Liability (Scotland) Act 1960. Local navigation authority acts. Water Resources Act 1991.	Local authorities. Local navigation authority.	RoSPA. Waterway Code. Association of Inland Navigation Authorities. Relevant navigation authority. DTLR/MAFF Code of Practice on Conservation, Access and Recreation. DfES (educational visits) Sports governing bodies.	Emergency services, assisted where appropriate and available by HM Coastguard.
Canal undertaking, inc locks/weirs, etc. River locks/weirs	HSWA. Occupier's Liability Acts 1957 and 1984. Occupier's Liability (Scotland) Act 1960. Local navigation acts. Water Resources Act 1991.	HSE. Local navigation authorities.	District Marine Safety Committees. RoSPA. Waterway Code. Association of Inland Navigation Authorities. DTLR/MAFF Code of Practice on Conservation, Access and Recreation. Navigation inspectors and lock staff. DfES (educational visits) Sports governing bodies.	Emergency services, assisted where appropriate and available by HM Coastguard.

	Relevant regulation	Safety regulator(s)	Other safety actors	Search and rescue
Harbours	Various local Acts and Orders. Duties and powers described in Port Marine Safety Code. HSPA. Fire Precautions Act.	Harbour authorities. HSE.	District Marine Safety Committees. RoSPA. DfES (educational visits). Sports governing bodies.	Emergency services, assisted where appropriate and available by HM Coastguard.
Leisure premises adjacent to river or canal	HSPA. Occupier's Liability Acts 1957 and 1984. Occupier's Liability (Scotland) Act 1960.	HSPA enforced by local authorities.	RoSPA. Local navigation authority.	Emergency services, assisted where appropriate and available by HM Coastguard.
Work premises adjacent to river or canal	HSPA. Occupier's Liability Acts 1957 and 1984. Occupier's Liability (Scotland) Act 1960.	HSE.	RoSPA.	Emergency services, assisted where appropriate and available by HM Coastguard.
Adventure centres	HSPA (Adventure Activities Licensing Regulations 1996).	Adventure Activities Licensing Authority for commercial facilities, HSE for those run by local or education authorities.	RoSPA.	Emergency services, assisted where appropriate and available by HM Coastguard.
Reservoirs with general or limited public access	HSPA for provision of leisure activities. Public Health Act 1936 (regulation of public bathing). Occupier's Liability Acts 1957 and 1984. Occupier's Liability (Scotland) Act 1960. Water Industry Act 1991, Section 157(3)(a).	Local authority enforces HSPA and Public Health Act 1936, (excludes structural safety aspects of reservoirs larger than 25,000 cubic metres).	District Marine Safety Committees. RoSPA. Water industry guidance. DTLR/MAFF Code of Practice on Conservation, Access and Recreation.	Emergency services, assisted where appropriate and available by HM Coastguard.

Relevant regulation	Safety regulator(s)	Other safety actors	Search and rescue
<p>Reservoirs with no public access, service reservoirs, boreholes and treatment plants for water supply and/or sewerage</p>	<p>HSWA. HSE (excludes structural safety aspects of reservoirs larger than 25,000 cubic metres).</p>	<p>RoSPA. Water industry guidance.</p>	<p>Emergency services, assisted where appropriate and available by HM Coastguard.</p>
<p>Water amenity sites</p>	<p>Local authority enforces HSWA and Public Health Act 1936.</p>	<p>District Marine Safety Committees. RoSPA. DfES (educational visits). Sports governing bodies.</p>	<p>Emergency services, assisted where appropriate and available by HM Coastguard.</p>
<p>Natural lakes</p>	<p>Local authorities enforce Public Health Act 1936.</p>	<p>RoSPA. DfES (educational visits) Sports governing bodies.</p>	<p>Emergency services, assisted where appropriate and available by HM Coastguard.</p>

INLAND WATER SAFETY: On (and in) the Water

	Relevant regulation	Safety regulator(s)	Other safety actors	Search and rescue
Jet-skis, wind surfers	Consumer safety legislation covering equipment. Water Industry Act 1991, Section 157(3)(a). Local navigation acts and byelaws. Water Resources Act 1991.	Water undertakers. Local authorities. Local navigation authority.	RoSPA. Environment Agency Navigation Inspectors and lock staff. Broads Authority River Inspectors. Sports governing bodies.	Emergency services, assisted where appropriate and available by HM Coastguard.
Private leisure craft	Recreational Craft Directive. Boat Safety Scheme. Bylaws made by National Parks under Countryside Act 1968. Water Industry Act 1991, Section 157(3)(a). Local navigation acts and byelaws. Water Resources Act 1991.	Trading Standards Offices. British Waterways and Environment Agency for operation of Boat Safety Scheme. Local navigation authorities.	District Marine Safety Committees. RoSPA. Waterway Code. Association of Inland Navigation Authorities. Environment Agency Navigation Inspectors and lock staff. Broads Authority River Inspectors.	Emergency services, assisted where appropriate and available by HM Coastguard.

	Relevant regulation	Safety regulator(s)	Other safety actors	Search and rescue
Hired leisure craft	<p>HSWA 1974. Boat Safety Scheme. Adventure Activities Regulations. Water Industry Act 1991, Section 157(3)(a). Section 94 Public Health Acts Amendment Act 1907. Section 231 Public Health Act 1936. Section 54 Public Health Act 1961. Local Government, Planning and Land Act 1980. Local navigation acts and byelaws. Water Resources Act 1991.</p>	<p>Local authorities enforce HSWA re: hiring firms, and vessel hire with a work activity, and Public Health Act Amendment Act 1890. British Waterways and Environment Agency re: of Boat Safety Scheme. Adventure Activities Licensing Authority.</p>	<p>District Marine Safety Committees. RoSPA. Waterway Code. Association of Inland Navigation Authorities. Broads Authority River Inspectors. Environment Agency Navigation Inspectors and lock staff.</p>	<p>Emergency services, assisted where appropriate and available by HM Coastguard.</p>
Passenger vessels carrying fewer than 12 persons	<p>Local navigation acts and byelaws. Boat Safety Scheme. Water Resources Act 1991.</p>	<p>British Waterways and Environment Agency re: operation of Boat Safety Scheme. Local navigation authority.</p>	<p>District Marine Safety Committees. RoSPA. Waterway Code. Association of Inland Navigation Authorities.</p>	<p>Emergency services, assisted where appropriate and available by HM Coastguard.</p>

	Relevant regulation	Safety regulator(s)	Other safety actors	Search and rescue
Passenger vessels carrying more than 12 persons	1995 Merchant Shipping Act regulations governing construction, fire protection, manning etc; boatmaster licensing of UK vessels. Boat Safety Scheme HSWA. Local navigation acts and byelaws. Water Resources Act 1991.	MCA, inc enforcement of health and safety for workers on ships. British Waterways and Environment Agency re: operation of Boat Safety Scheme. Local navigation authority.	District Marine Safety Committees. RoSPA. Association of Inland Navigation Authorities.	Emergency services, assisted where appropriate and available by HM Coastguard.
Non-Passenger commercial vessels	1995 Merchant Shipping Act regulations governing eg fire protection, quality of navigation visibility, and life-saving appliances. Boat Safety Scheme. Local navigation acts and byelaws. Water Resources Act 1991.	MCA, inc enforcement of health and safety for workers on ships. British Waterways and Environment Agency re: operation of Boat Safety Scheme. Local navigation authority.	District Marine Safety Committees. RoSPA. Association of Inland Navigation Authorities.	Emergency services, assisted where appropriate and available by HM Coastguard.
Chain ferries	HSWA. Local navigation acts and byelaws. Water Resources Act 1991.	MCA, under Code of Practice agreed with HSE. Merchant Shipping Act to be amended to enable MCA to make safety regulations.	District Marine Safety Committees. RoSPA.	Emergency services, assisted where appropriate and available by HM Coastguard.