

*“We were unable to complete our survey due to the vessel sailing ahead of schedule and accordingly no opinion or assessment is made with respect to the vessel’s holds, machinery or navigation equipment.”*

Any estimates of cost of repairs given in a report should either be backed up by written quotation from the repair agency, or the following note inserted so that the client:

*“should be aware that costs vary subsequently from agency to agency and written quotations should be obtained before decisions are made.”*

*“These standard trading terms, all agreements and disputes relating thereto shall be governed by and interpreted in accordance with <Country> Law.”*

Note that there is reference to copyright of the report in one of the above disclaimers. If your standard terms and conditions state that the report will not be issued until payment has been received then this phrase is redundant.

## **2.7 Professional Indemnity Insurance**

It is often advisable for persons supplying a professional service to have some form of professional indemnity (PI) insurance to protect themselves. This is also known as ‘errors and omissions’ insurance in the United States. It is also a prerequisite for membership of several professional surveying organisations with some providing this service as part of the membership, eg, NAMSGlobal.

Several underwriters provide this specific service at competitive rates. However, the costs can be significant for smaller companies so membership of a professional organisation which provides such cover is advantageous.

Underwriters who provide this service advise those who have PI insurance not to reveal the information to clients as it is akin to painting a bulls eye on your back.

## **2.8 Limiting liability**

Marine consultants and professional marine engineers have other options open to them to limit liability. One way is to set up the company as a limited liability company. The nomenclature for such companies varies around the world but the operating and legal principles adopted in establishing this type of company are generally very similar.

A limited company is a corporation with shareholders/directors whose liability is limited by shares (Ltd), which is the most common form of privately held company. Setting up as a limited company is an attractive option for many people as, unlike sole traders, personal assets are completely distinct from company finances. Some countries insist on there being two or more shareholders whereas others allow single shareholders.

If your company is a limited liability company, it should be shown on all company documents, including your reports, eg, Company Name Ltd, Company Name LLC, etc, as it may not be possible to rely on this exemption if it has not been previously stated. Examples are given in the appendices.

## 2.9 Copyright issues

Copyright is a form of intellectual property (IP) that gives the author of an original work exclusive rights (IPR) for a certain time period in relation to that work. This includes its publication, distribution and adaptation, after which time the work is said to enter the public domain. It may then be reproduced without any obligations to the original author.

Copyright applies to any expressible form of an idea or information that is substantive and discrete and fixed in a medium. Some jurisdictions also recognise “moral rights” of the creator of a work, such as the right to be credited for the work. Copyright is described under the umbrella term intellectual property along with patents and trademarks. If you intend to use somebody else’s work for profit you will need to check that copyright does not apply. If it does, you will need to negotiate a fee with the author, or his agents, before using it.

If somebody uses your work for profit without your permission they can be sued for damages. If they use your work with your approval they will also need your permission to make any changes.

By writing technical articles or books you show whether or not you know your subject. If you are writing articles for general publication it is often advisable to include a proviso when you send your work in to the editor. Very often your piece will be changed to suit their purposes. In some cases it will make your article unrecognisable from the original.

You should also insist that they acknowledge your work by adding your name. If you wish to use your writing to advertise your company then you should add your company name at the bottom of the article when submitting it and insist that it is included. If they refuse to do so, you have the choice to withdraw the article from publication. If you work for somebody else, you will often need to get their permission to have an article published or you will need to add a disclaimer such as:

*“The views expressed in this article are those of the author and not necessarily those of <company> Marine Consultants Ltd.”*

Layout and format are not subject to copyright laws, only the report content. Consequently, any of the layouts you see in this document may be used by the reader without the need for the author’s permission.

You will note in the last section on ‘Caveats and Disclaimers’ the sentence:

*These standard trading terms, all agreements and disputes relating thereto, shall be governed by and interpreted in accordance with <Country> Law. Please note that copyright remains with <company>. No part of our report may be disseminated until such time as our invoice is paid in full.©”*

Note the © copyright mark. Whilst copyright is implied, if you wish to advertise the copyright for a specific purpose it is advisable to use the appropriate mark. In the above case it is used as a tool to get the client to pay the invoice. They will be unable to use the

contents of the report until they have done so. On payment of the invoice the copyright transfers to the client but the original IPR remains with the author.

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## Chapter 3

# PREPARING FOR THE REPORT

Consultants are often reminded to keep an open mind when tackling a new survey and to avoid preconceived ideas. This is because every survey is different. No two surveys are ever the same. The same applies to reports. No two are ever the same. Consequently, each one must be tackled in its own way. However, there is one important rule for all reports; if you start with a certain style and layout you must stick with it throughout the report, ie, you must be consistent.

This does not mean that you cannot start to put the report outline together before leaving your office. As you do so you will start to see areas which will need investigation and questions that will need to be asked. By having the outline report set up you will be able to concentrate on inputting the relevant information from the investigation much quicker. Many consultants use written reminders sometimes known as 'aide memoire'. These are often generated by drafting the report before the inspection.

### 3.1 Interviewing skills

One of the prime requirements for a consultant is to be able to communicate well with people from different ranks and nationalities when gathering information. To be able to get the maximum from your contact with other people you will need to establish a rapport, ie, put them at ease so that they will be responsive to your questions. For those whose assignment involves mixing with international crews it is often helpful to learn how to say 'hello', 'goodbye', 'excuse me', 'please' and 'thank you' in the languages of the major seafaring nations. Making the effort to learn only one word is often the key to getting foreign crews to co-operate.

Interviewing skills are normally only necessary when carrying out investigations where verbal evidence must be obtained from witnesses to an incident or accident. They are also essential when carrying out ISM and ISPS audits.

There are many techniques used in interviewing. Scientists and psychologists have theorised for many years on efficient and effective methods, eg, cognitive interviewing technique. The reader may wish to explore the different techniques in their own time. Below are suggested some simple rules to follow:

- Dress casually so that the interviewee is not intimidated. Uniforms and suits should be avoided as these imply authority. Jeans and a casual shirt are fine as these will probably be similar to the clothes worn by the interviewee.
- It is important to note that you will find it very difficult to get information out of a subject if you are confrontational, especially with Asian crews. You should always start with a spirit of co-operation. This is where establishing a rapport is essential.
- Body language and seating arrangements can also give the interviewee the wrong impression. Sitting with your arms folded on the opposite side of a table signals to the subject that you are going to be confrontational or defensive. By sitting alongside the

subject you are telling him/her that you are there as a friend and prepared to listen. Psychologists suggest that using the same body language as your subject will also help to relax him/her. If he sits back and crosses his legs then you should do the same but don't make it too obvious or do it too much as the situation will then become comical. Use the technique at key moments during questioning as this is when it will have maximum effect.

- Always start with the easier and less contentious questions and build up to the more difficult ones later. It is often advisable to have a break after a particularly difficult set of questions so that the subject is not intimidated or stressed out. Always be polite and respectful to the interviewee.
- Remember that you are seeking facts and not opinions from the interviewee. However, it is often acceptable to allow them to offer opinions to build the necessary rapport. They may also give you some indication of where you should be looking. Lawyers will often welcome a word for word statement to get a feel for the interview and the witness' involvement.
- You should learn how to ask efficient questions. The way that questions are phrased is important. You can save a lot of time and energy by asking questions correctly. Try to avoid questions which can have a 'yes' or 'no' answer, eg, Did you ..? Have you ..? Were you ..? These will be long questions for a single word answer and thereby, time consuming. Use the prefixes 'who', 'what', 'when', 'why', 'how' and 'where' as these will always evoke narrative type answers and the information for which you are looking.
- When asking questions to a stranger, it is essential that you are clear, concise and precise, speaking more slowly than normal to reduce the possibility of misunderstandings, particularly if his first language is not the same as yours.
- Listening is an essential part of interviewing. What are you there for? You are there to learn from the subject and the only way of doing that is to listen to their answers. As long as you are talking you are learning nothing. Interrupting other people is also disrespectful and will turn them against you.
- You should not interrupt the interviewee when he is in full flow as this may distract him and move him off the subject. If his answers are raising more questions, write them down on a note pad so that you can come back to them at the end of his current answer.

One of the problems of interviewing is maintaining eye contact whilst listening to answers and writing them down. Dictaphones are often used to record statements which are later typed out by audio typists. However, the permission of the interviewee is required before using such equipment. Shorthand is an advantage but is a dying technique with the advent of computers and word processors. Experienced interviewers have their own methods for writing down information in a shortened form. If you touch type, you can be listening, maintaining eye contact and recording the answer on your laptop. This is where both accuracy and speed are essential. You will need to be able to type at 80 - 100 words per minute to be able to do this.

Having said all of the above, in more contentious cases, a lawyer will generally be used to interview witnesses. However, where this is not possible, the consultant may be asked to carry out the interviews. In these situations there will be members of the crew who do not wish to incriminate themselves or have something to hide. Whilst a lawyer with good marine knowledge can be good at getting the necessary information, an experienced consultant with good interviewing skills can be just as good, if not better. Often, witnesses