

How to overcome the ‘Culture of Compliance’?

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For too long many of the less reputable shipping operators have tainted the industry with standards that are on the regulatory borderline. The approach appears to be that the regulatory standard of operation represents the very zenith of operational standards and that any additional effort to rise above such a level, is effort, time and money wasted. The company culture is one of nothing more than compliance with regulations.

For the reputable operators, their own company policy standards vastly exceed those required by regulation. Moreover, standards in terms of operational procedures and hardware, are often driven up by charterers requirements, again often way above mere regulatory standards.

Changes in regulations rarely affect the reputable operators, many of whom will anticipate legislative changes and enshrine them in their own operational practices long before any legislation amendment is implemented.

Changes in regulations are generally aimed at the non-conformer, who persistently manage to find a way to harm themselves and the environment, which ever regulations are in place at the time. Very often, incidents occur not because the company has failed to train its staff, especially when such training is mandatory but simply where training has been ineffective or not put into practice.

So what are our options?

If the training is failing, perhaps that is the area which needs attention. What could motivate ships’ staff to the extent that they carried out their duties not just safely but efficiently and cost effectively? How could the knowledge and skills imparted by the training become implemented more efficiently?

The paper discusses, through argument and counter argument, possible options to ensure what has been trained will be implemented in the working arena. Training of company staff is often interpreted as a box-ticking exercise, so it is time to rid the industry of this mentality.

Key words; Training, Education, Human Factors, Legislation, Innovation,
Technology in Teaching and Learning.

Define the ‘Culture of Compliance’.

There is a very specific meaning of the phrase ‘Culture of Compliance’ within the context of this paper. There is an apparent prevailing attitude amongst certain shipping staff that compliance with minimum legislative standards alone, will be sufficient for their company to succeed commercially. Many observers may rejoice in the knowledge that their colleagues are willing to make enough effort to comply with regulations, yet the attainment of this level alone, will not enable an operator to compete commercially.

Perhaps a more focussed title would be to refer to the culture of *regulatory* compliance. The implication is that a commercial operator will not succeed by regulatory compliance alone, they require safe, efficient and cost effective operations. Those qualities do not result from mere regulatory adherence. Yet ship safety inspectors, such as Port State or Flag State or even Classification Society are looking only for legislative and regulatory compliance. So perhaps the perception of ship and company staff is that a standard of performance aligned with these requirements is sufficient to continue trading. After all, a ship and ship company (in all contexts of the term) will not be prosecuted or detained, if all rules and regulations are followed.

So why would a workforce choose to put in any extra effort, above and beyond that required to follow the rules? I am basing these comments and suggestion on pure speculation yet it is abundantly clear that there are institutional cultures within the shipping industry that appear to exist on such philosophies. It is not necessary to identify a series of culprits within this paper, one only has to read the trade press even intermittently, to notice the multitude of shipping related incidents that result from a lack of or error in judgement during a navigational or operational procedure. Most would appear to have been following all the rules but perhaps not recommendations and best practice. It is not the intent of this paper to launch into a diatribe about risk management but the incidents to which I refer are very rarely attributable to the misjudgement of one individual alone. More often than not, managerial and supervisory responsibilities are open to question.

How can an operator establish a desired level of performance above and beyond what is required by regulations?

Neither is it the intent of this paper to preach business management and to recite mantras generally found in MBA (Master of Business Administration) material but the business world is full of advice of how to bring the best out of a workforce. There is no lack of application of these principles to shipping and indeed the esteemed InterManager includes the following paragraph in its mission statement to emphasise the point;

“InterManager is committed to improving transparency and governance in the shipping world and ensuring high standards are maintained throughout the shipmanagement sector”.(InterManager)[1]

The organisation may appear to be a highly business oriented enterprise but amongst its aims is to link the performance of individuals who make up the work force with the commercial performance of their employers. Moreover, the impetus is to encourage high standards in both.

Usage of terms such as Key Performance Indicators (KPI) may sound like pretentious management speak to the hardened seafarer but these are very ideas which encourage and enable working standards and performance to be raised.

I am a former hardened seafarer myself and I have often, in the past made the cynical observation that safety and profit are mutually exclusive objectives. One can only be achieved at the expense of the other, or so it is tempting to believe. The fact is that in commercial shipping, lucrative charter parties can be attracted by ships and their staff demonstrating qualities significantly above those required for mere regulatory compliance alone. So maybe safety and commercial success are not so far apart after all. Maybe one can lead to another. Maybe it is this idea that appears such an anathema to the less scrupulous shipping enterprises and their staff.

Maybe the shipping industry collectively should be more motivated into research of this area. As has been noted as recently as 2007;

“Although there have been numerous studies examining general quality management practices and implementation, industry-specific studies on quality management practices and factors that influence their success in the shipping industry are rather few”.(Cheng and Choy 2007)[2]

It would be wrong to be judgmental when considering the plethora of shipping incidents peppering the pages of the trade press, since we never really know all the pertinent details of any reported incident. However, one wonders how much notice of quality standards and performance enhancing regimes has been taken by the outfits featuring in such sobering press articles.

Of course there is no absolute necessity for any employer to subscribe to any quality management administration managers. There is a mandatory requirement to demonstrate a workable safety management system (SMS). During my time working as an auditor I came to the conclusion that many quality management accreditations simply indicated the company possessed a quality system. It didn't indicate whether the system was of any practical value. To a degree, the advent of the ISM Code requiring a safety management system (SMS) is a great deal more effective. Nonetheless, one does wonder if the SMSs on the ships featured in the casualty lists were followed comprehensively.

What motivates operators and operatives?

The two areas maritime regulation tends to focus upon most rigidly are safety and pollution, though the scope of requirement has spread gradually. The ability to demonstrate adherence to these regulations is not purely for the purposes of passing mandatory inspections, though we can often be forgiven for thinking as such. For example, why would a ship prepare or rehearse for an inspection or vetting? Are they trying to reach a peak of presentation? Or is the inspection meant to provide a snap shot of a sort of plateaux, a consistent standard of operation?

Regulations declare themselves to be ‘minimum standards’. Take a look at chapter 17 of the IBC Code for chemical tankers [3]. What is the title of the chapter? Summary of *Minimum Requirements*. Is it reasonable to expect higher standards, or are the minimum standards too high for some?

Does it occur to operators and operatives that establishing a culture of good practice might possibly be for their own benefit? Ask the surviving victims of the *Doola 3* or the *Edirne* on 15th January, the same weekend as a certain other higher profile navigational incident. Ask the survivors from the hot work incident on the *Prem Diva* 6 days earlier, or the *Stolt Valor* on 15th March 2012, or the *Royal Diamond 7* on 24th March 2012, as reported in the 30th March 2012 edition of *Trade Winds* [4]. Do they feel the adherence to regulations and demonstration of good practice are for inspections, or that there are additional benefits in following them? I am not for one moment suggesting recommended guidelines were neglected in any of these reported incidents and it would be very foolhardy to suggest as much, particularly in the light of the fact that investigations have yet to be concluded. However, I am trying to make the point that it would be equally foolhardy for any seafarer or ship manager to be complacent and to think that the days of shipping accidents are over.

Guidelines exist for a purpose. Even the most reputable operators can be caught out, as recently evidenced. Following guidelines will not guarantee safety but it will certainly reduce the chances of incident. Published guidelines, often endorsed by advisory bodies, are usually accepted as carrying as much weight as an article of legislation by marine prosecutors; they are an *Accepted Code of Practice*. Deviation from such practice would likely be regarded as failing to exercise a due standard of care, as described by Russo, 1999 [5].

So what about pollution avoidance? Once again staff may actually have a conscience about the environment and would choose to protect it, despite apparent commercially attractive alternatives not to. Yet the incentive to being awarded lucrative commercial contracts will be based on a sound track record of pollution free operation.

Again, during my auditing and consulting days of the mid-1990s, one of my obligations was to sit with the Master of a tanker named at the time the *Sea River Mediterranean* and ask if his ship had recently been involved in any pollution incidents – and to do so with a straight face. Mercifully, the Master in question was aware of my obligation and treated my question with sensitivity, where he might have been tempted otherwise. In response to his explanation; “not since March 1989” I, in turn, resisted the temptation to ask, “Can you just run that incident past me again, Captain, what happened then?”

It may seem amusing upon reflection, yet this one incident, arguably the most infamous tanker incident on record, has led to so much development of quality and safety management procedures. The main objective of investigating these incidents to ensure they don’t happen again.

An example of more tangible incentives on offer is provided by Exmar Ship Management, with their retention mantra “we pay you stay” (2007) [6]. This inferred more than simply remuneration but a more comprehensive employment package incorporating what they considered favourable terms and conditions.

*“How are we finding and developing officers?
Exmar ‘we pay, you stay’ 2007”*

I recall an experience of mine, as a tanker training course lecturer with two commercial ship vetting inspectors. We were discussing the minor contrast between the International Safety Guide for Oil Tankers and Terminals (ISGOTT) [7] and the International Chamber of Shipping Tanker Safety Guide for Chemicals [8] for tank washing in a non-inerted condition. The discussion became heated when they started to argue about the contention of *minimum* standards. Despite the increasing tension, the result was a very thought provoking argument. What was revealed was the fact that many different tanker companies approached the task in a number of different ways. The technicalities of different tank washing regimes is not the theme of this paper but the fact that such a frequent and routine tanker operation can be approached so arbitrarily may be of concern. This is not to advocate strict consistency between the various tanker codes or indeed otherwise. However, it is of interest that two recent course attendees, whose profession is based on scrutinising observation of tanker practice, should report such diversity. Only the more reputable tanker operators would have invited these vetting inspectors on board, so they provided an interesting insight into current practice.

So, on the basis of what has been reported, is it fair to say changes in regulations or the introduction of new regulations are made largely to motivate the less reputable operators.

“It takes a major disaster to change the regulations”.

How many times have we heard this lament? I recall hearing this most recently on one of those patronising ‘investigative journalism’ type programmes on UK television in the wake of the *Costa Concordia* incident in January 2102 (Channel 4, 2012) [9] . Well, despite this having become a standard response to such events, I assert that a professional operator does not need regulations in order to execute a professional service. If the mentality of the operator is to achieve a reliable standard, in terms of safety, prevention of pollution and cost efficiency, then of what significance are regulations to such an operator. They know they are meeting all applicable regulations but their motivation is not the existence of regulations alone. Their motivation is to compete in a commercial industry by providing a better ‘experience’ for their customers than their competitors. Regulatory compliance is the *very least* standard expected by their customers. This is what I mean by breaking away from what I term the *culture of compliance*.

This is the basis of what commercial vetting programs are aiming to achieve and perhaps why they have been so prominent in commercial shipping, especially the tanker trade. It is no bad thing either, though the way vetting inspections have evolved has become rather contorted, in that chartering companies don’t seem to trust one another’s reports. However, the premise is a very simple and a very reliable one. It is purely an attempt to find evidence of sound professional practice, where attention to detail is taken to ensure the customer has faith in the service for which they are paying. Once again, regulatory requirement is the very least acceptable, not the most. Customers expect to be provided with evidence that their investment is being protected by knowledgeable and trustworthy professionals. They are looking for evidence of good practice, not simply regulatory compliance alone. That is why their ship inspection questionnaires are so long and detailed.

It is not difficult to find reputable and commercially successful shipping operators. Neither is it difficult to understand how they have built and protected their reputation.

Why are they successful? Possibly because they don't pander to the very *culture of compliance* to which I refer but seek ever increasing standards of operation, which are not covered or required by regulation. These are the companies who see that safety and commercial success actually go hand in hand, in that one is likely to follow the other.

I am constantly being asked about vetting requirements which cannot be found in regulations. My response is usually to the effect that indeed, such requirements will not be found within applicable regulations but the presence of an item or a procedure is re-assuring to the customer. They will have more faith in the client to protect their investment. That is what increasingly high levels of good practice will yield.

Investment in hardware is one matter, such as an oil tanker having a vapour return manifold. This is not required by MARPOL Annex VI, since it governs ship requirements rather than terminal requirements. If the ship never visits one of the few oil terminals which actually possess a vapour return facility, what's the point of the regulations insisting on the ship having one? Nearly all commercially competitive operators have installed such a manifold, so that they will become more attractive to lucrative charter parties.

However, the yield from good practice, where training is implemented is another matter and one worth considering further.

What theories and practices are there to ensure training is effective?

So if an employer provides motivational incentive for operatives to work to a professional standard and yet this standard does not always seem to prevail, then what else can we examine? The training programme is another area that warrants a look. For decades, corporate management has been pondering how to make training more effective, no matter what and how much training has been delivered.

Consider the term *training evaluation* and one is likely at some stage to come across the theories of Donald Kirkpatrick, which were first published in a series of articles in 1959 in the *Journal of American Society of Training Directors*. He revisited and updated his theories into a 1976 publication *Training and Development Handbook* [10], which is more commonly quoted these days. Unsurprisingly, being of such a vintage, many other academics have revisited these theories and have come up with some feedback. For example, Salas and Canon-Bowers assert that;

“However, recent work has either expanded it or pointed out weaknesses, such as the need to develop more diagnostic measures”. (2001)[11]

Kirkpatrick's original ideas are based on four levels of evaluation; reaction, learning, behaviour and results. Furthermore, one of the very few books published regarding Crew Resource Management training (Kanki et al 2010) and even more rarely, a short passage of this training in the shipping industry has additional observations.

Within this publication Shuffler et al (2010) [12] describe Kirkpatrick's approach as the most common and most simplistic. Later, it cites Kraiger et al (1993) [13] as taking Kirkpatrick's model;

"a step further by detailing the outcomes (skill based, cognitive, affective) that must be evaluated after training". This model takes a multidimensional approach that is designed to provide a more comprehensive view of outcomes to what is being learned". (Kraiger et al 1993)

So there is no absence of theory relating to how training may be successfully implemented. Several corporate assessments are also illustrated in this publication but it is perhaps a little worrying that shipping companies, unlike their counterparts in for example, the aviation industry, do not apparently seek to promulgate their findings in this area so prominently. It's appears a little perverse that employers should spend millions on training their staff, yet there is very little evidence to indicate how satisfied those that pay are seeing the training implemented. Is it possible the employers see mandatory training as little more than a tick box exercise? As Houghton ((2012) asserts with regard to such mandatory training;

"...one unintended consequence is that they actually give average-performing organisations an excuse for not doing anything substantive". "...everyone assumes the programme is just fine. After all - the boxes are being ticked!" (Houghton 2012)[14]

So maybe I'm not the only one who suspects as much.

What monitoring mechanisms are in use?

This is the tricky question to answer, as alluded to in the previous paragraph. At this stage we can only look at the existing techniques with which the industry is already familiar. Over and above the *minimum* - not *maximum*- regulatory requirements, there are many voluntary schemes which enable an operating establishment to assess themselves. Examples of these are the ship inspection report scheme (SIRE) and the Tanker Management and Self Assessment scheme. They are described by their originators as;

"The Tanker Management and Self Assessment (TMSA) programme provides ship operators with a means to improve and measure their own management systems. The programme encourages ship operators to assess their safety management systems against listed performance indicators. The results of these assessments can then be used to develop an improvement plan, using the stages of attainment described in the programme, to achieve safety and environmental excellence".[15]

Commercial vetting mechanisms, as mentioned earlier, also serve a purpose but there is a theme developing within this list of examples. It does still appear that tankers and tanker terminals have set a trend, which has not been whole heartedly embraced by other sectors of the shipping industry. Danger is not the exclusive realm of tankers.

Recent events have highlighted the hazards associated with passenger liners and dry bulk carriers, according to a paper presented to the IMO Maritime Safety Committee, [16] have an even worse safety record than those of tankers.

Thankfully, there are now many more guidelines available for cargo ships other than tankers, as indicated by the IMO, as well as various P&I clubs. So there is no shortage of suitable guidance easily available for operators to establish and maintain sound operating practice.

Conclusion

The fundamental thrust of this paper is to motivate operators away from and to a higher level than simply a culture of regulatory compliance. This level is cited by regulators' own description as a minimal level, at which a commercial operator will simply pass its mandatory inspections. It is a level which will not guarantee commercial success and customers of such operators will very soon indicate to operators who maintain such a mentality. More simply, there will not be any commercial customers.

The paper advocates an approach which treats regulation as an indication of the bare minimum, in terms of operational standard and furthermore one which encourages aspiration to higher standards. These higher standards can be identified through participation in voluntary self-assessment schemes and following advice given by institutions dedicated to the prevention of incidents, such as P&I clubs, most of whom produce excellent incident avoiding literature. Incident avoidance can be striven for through a number of activities, not just by learning from previous incidents but by adhering to voluntary guidance and by implementing mandatory and non-mandatory training. Fellow high risk industries such as aviation, the offshore industry, medicine and the nuclear industry have all applied and encouraged self-monitoring research. It is time the shipping industry followed suit on a much larger scale than has been hitherto evidenced.

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