

# **Investigation into the Dumping of Food Waste in Territorial Waters off the Angus Coast**

**Report written by;  
Angus Clean Environments. January 2022**

# Investigation into the Dumping of Food Waste in Territorial Waters off the Angus Coast

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## **Executive Summary**

This report has been written by community group, Angus Clean Environments (ACE) following the discovery of food waste washed up on the Angus coast in May 2021. It highlights the challenges faced by members of the public playing their part in not just cleaning up marine litter but in attempting to trace it back to source and hold those responsible to account. Importantly, it exposes an element of confusion about roles and responsibilities amongst agencies and organisations as well as gaps in legislation which allow the British Military to dump waste at sea during training exercises in peace time.

Following eight months of investigation and communication with various bodies ACE finally established that although the MARPOL regulations prohibit the dumping of waste in territorial waters (within 12 nautical miles of land) this does not apply to military ships. This raises a number of questions which are discussed in section four below.

### **1. Background**

During week of 24th May 2021 large canisters of rancid food waste washed ashore along the coast between Carnoustie and Arbroath. Five were initially collected in Carnoustie and four in East Haven. By the 31st May 2021, 14 foul-smelling containers had been washed up containing food waste such as meat, vegetables and rice. In addition, wooden pallets and seven smaller metal canisters containing a hot roll yeast mix were washed up. A number of cabbages and fruit peelings were also picked up in East Haven. All the food waste was washed up along a 7km stretch of Angus coastline over the period of a week. In addition, ten sealed food canisters were washed ashore and two of them were still wrapped in a label from the producer, Mountain Maid. They were dated as being packed on 12 January 2020 and contained a Hot Roll mix. This is a yeast based product which would enable bread rolls to be provided to people in an environment where it is difficult to obtain fresh bread supplies. Mountain Maid is a food production company based in North Carolina in the USA. They have a contract to supply the U.S. Defence Logistics Agency Troop Support.

ACE immediately made contact with statutory agencies but discovered that neither SEPA, Scottish Water nor Angus Council had any responsibility to investigate the incident. In the absence of information about any other responsible body ACE carried out extensive work to establish whether the incident was connected to the Nato exercise, Operation Strike Warrior. This was a large exercise involving the Royal Navy, Royal Air Force, Royal Marines and British Army. Alongside forces from other countries including the US, Nato war ships were anchored approximately 10 miles off-shore from Carnoustie and East Haven during week beginning 10th May 2021 and troops were accommodated on board ships. On 17 May 2021, ships from US Exercise Ragnar Viking met up with ships participating in Strike Warrior and exercised together off the Angus coast. The ships could clearly be seen training in territorial waters between Carnoustie and East Haven. The link between ships from US Exercise Ragnar Viking and tins of Mountain Maid amongst the waste washed ashore provided strong circumstantial evidence that at least some of the waste was dumped by US naval ships.

### **2. Legislation**

In terms of legislation, ACE established that the Environmental Protection Act 1990 does not apply to the Royal Navy or visiting forces. There are, however, internationally recognised rules set by the International Maritime Organisation which governs pollution and the dumping of waste at sea. These are found in the 'Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972' (MARPOL). There are 89 signatories to the convention, including the UK and the US. The rules are extensive though it should be noted that the UK military have no powers to investigate foreign militaries.

### 3. The Investigation

Having established what legislation might apply, ACE contacted the office of the International Maritime Organisation (IMO) in London. After some discussion and deliberation they directed ACE back to the Scottish Government as it was their view that Scottish Ministers were responsible for any investigation as it was assumed that they had issued a licence for the exercise. Disappointingly, it took the the Scottish Government over nine weeks to respond to ACE's enquiry. They disagreed with the IMO as they said that Marine Scotland had no remit for issuing a marine licence for warship exercises. The Minister for Environment, Biodiversity and Land Reform said that the Maritime and Coastguard Agency (MCA) was responsible for enforcing MARPOL regulations (Appendix 1).

ACE immediately thereafter made contact with the Counter Pollution and Salvage section of the MCA (Appendix 2). They subsequently sought advice from the Royal Navy's Marine Environmental Protection Advisor. It was assumed that this would be with a view to establishing contact with the US Navy as ACE had previously made the MCA aware that they are the only agency authorised to investigate a foreign military. We were therefore puzzled by the response from Royal Navy Command (Appendix 3) who explained why the incident might have taken place and said that it was regrettable. This response appeared to satisfy the MCA and no further action was planned.

ACE's understanding of the MARPOL regulations was that all vessels are prohibited from dumping waste in territorial waters. We therefore wrote back to the MCA asking for further clarity and explanation. In their response on 14th December (Appendix 4) it became clear that even in peace time, military ships are only under an obligation to comply with MARPOL regulations. This is not a legal duty.

### 4. Discussion

The dumping of food waste in territorial waters in May 2021 has highlighted a number of issues which are worthy of further consideration.

#### 4.1 Clarity on Investigation and Enforcement

Firstly, the difficulties encountered when trying to obtain information and clarity about which agency/agencies are responsible for investigation of such incidents and enforcement. There was an absence of certainty in terms of which organisation should assume responsibility and this led to delays in information provision which could have significantly undermined the investigation. It is worth noting that the Marine Conservation Society were the only organisation who responding in a timely manner with clear advice and information. ACE would like to see easily accessed public information outlining legislation and statutory responsibilities for investigation and enforcement. This should be widely available and relate to the dumping of all kinds of waste be it on private land, farm land, public land, waterways as well as the sea.

#### 4.2 Obligations versus Legislative Duties

Secondly and importantly, there are difficulties relating to the military arising from the fact that they are only under an **obligation** and not a **duty** to comply with MARPOL regulations. ACE has learned that MARPOL Annex V and its implementation into UK law is the sole responsibility of the Maritime and Coastguard Agency and a reserved matter for Westminster (Appendix 5).

ACE fully accepts that military training is essential to ensure that the UK is ready to meet any future challenges and events. However, ACE is also of the view that during peace time the military should not have discretion to ignore wider societal and environmental responsibilities. This was a peace time exercise which took place in territorial waters close to the port of Dundee. There has been no investigation into why Nato Ships ignored their 'obligation' not to dump waste in territorial waters. Instead, Navy Command state that it is not feasible to ascertain whether the MARPOL rules are always adhered to by every vessel.

Royal Navy Command also state in their letter that they, their partners and allies take their environmental responsibilities very seriously and that that they will enter into the spirit of the Convention when it is appropriate for them to do. It is therefore difficult to reconcile and justify this

position with the dumping of waste at sea which could have been brought ashore in Dundee or possibly discharged ashore when vessels returned to their home ports.

It is also asserted by Royal Navy Command that perhaps the weather played a part in washing the dumped waste ashore. Setting aside the fact that the conditions were very calm during the period of the exercise this suggests that there is an acceptance that dumping waste at sea is a sustainable and acceptable practice. MARPOL regulations currently allow the military to dump almost everything but plastic if they are more than 12 nautical miles from shore. This includes, wood, steel, food waste, concrete and other bulky items. These practices undermine any claims made to take account of environmental responsibilities whenever circumstances permit.

#### **4.3 Storage of Waste on Ships**

ACE suggests that the UK Government should prioritise ways in which to store and process waste on ships. There is clearly a need for innovative design and facilities to compress waste items so that they can be brought ashore for recycling and/or disposal. It would appear that this is also a reserved matter and that the MCA is responsible for negotiation on MARPOL Annex V and Port Reception facilities (Appendix 5).

#### **5. Conclusion**

ACE has worked very hard to bring this incident to the attention of policy and law makers in a constructive manner in the hope of influencing future practice and management of waste at sea. There is so much more that can and should be done to protect the marine environment. Every ship which dumps waste at sea is damaging the marine eco system and this impacts on climate change. Each one of us has a responsibility to do everything within our power to improve practices and make the world a more sustainable place in which to live.

**Report written by**  
Angus Clean Environments  
31 January 2022.

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www.aceangus.co.uk

## Appendix 1.

### Minister for Environment, Biodiversity & Land Reform

Ministear airson Àrainneachd, Bith-iomadachd agus Ath-leasachadh Fearainn

**Mairi McAllan BPA/MSP**



Scottish Government  
Riaghaltas na h-Alba  
gov.scot

T : 0300 244 4000

E : scottish.ministers@gov.scot

Graeme Dey MSP

Jamie.Wilson@parliament.scot

Our Reference: 202100216934

Your Reference: Dumping of food waste from ship

23 August 2021

Dear Graeme,

Thank you for your email of 21 June regarding the Great Angus Beach Clean and the discarded food waste canisters which were found on beaches between Carnoustie and Arbroath. I apologise for my delayed response.

Section 20 of the Marine Scotland Act 2010 restricts the deposit of any substance or object into the Scottish Marine area unless a license to do so has been obtained. A person guilty of an offence is liable on summary conviction, to a fine not exceeding £50,000, or conviction on indictment, a fine or imprisonment for a period not exceeding two years, or both. Marine Scotland employs officers who are warranted as Marine Enforcement Officers and can enforce Section 20. Any reports of deposits into the Scottish Marine area without a license, or in breach of a licence, should be reported to Marine Scotland Compliance.

However, Marine Scotland would not issue a marine licence for warship exercises as this type of activity does not fall within their remit. The Maritime and Coastguard Agency (MCA) is responsible for enforcing the International Maritime Organisation's International Convention for the Prevention of Pollution from Ships (MARPOL) regulations, and any reports should be made directly to them using the contact details overleaf.

Glasgow Marine Office  
Albex House  
Marchfield Drive  
Paisley

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

Tha Ministearanna h-Alba, an luchd-comhairleachaidh sònraichte agus Rùnaire Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh [www.lobbying.scot](http://www.lobbying.scot)

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## Appendix 2.

### Maritime and Coastguard Agency



25th August 2021

Maritime and Coastguard Agency

#### **RE: Prevention of Pollution from Ships (MARPOL) regulations**

I write on behalf of Angus Clean Environments (ACE) to request that the Maritime and Coastguard Agency (MCA) undertake an investigation into the dumping of food waste and metal containers in territorial waters off the Angus coast. ACE is of the view that there is enough circumstantial evidence to prove that this waste was fly-tipped from ships taking part in a large multi-national Nato exercise held between the 8th and the 20th May 2021.

ACE is a community group representing people across Angus who work to keep our marine and landscape environments clean and healthy. The Fourth Great Angus Beach Clean was held in May 2021. An outcomes report dated 18th June 2021 recommended that further investigation be undertaken to bring those responsible to account.

I apologise for the length of time which it has taken for ACE to bring this incident to your attention and we sincerely hope that the delay does not compromise your investigation in any way. ACE began to progress a community level investigation on the 28th May 2021. After establishing that neither SEPA, Scottish Water or the Local Authority had any enforcement responsibility we undertook further research which led us to contact the International Maritime Organisation (IMO). After several days of communication with IMO they advised us that Scottish Government Ministers were responsible for undertaking an investigation. IMO arrived at this decision after concluding that Scottish Ministers must have issued a licence for the Nato exercise to take place.

An enquiry was made to Mairi McAllan, Minister for Environment, Biodiversity and Land Reform on the 21 June 2021. Despite subsequent reminders on the 28 June, 26 July and 20 August the Minister did not respond until the 24 August 2021. It is extremely regrettable that it took her Office 64 days to inform ACE that it was not Scottish Ministers who were responsible for an investigation but the Maritime and Coastguard agency.

I now provide specific information in relation to the incident below. Please contact me directly if there is anything further I can assist with.

#### **Angus Clean Environments**

25th August 2021

[angusisace@gmail.com](mailto:angusisace@gmail.com)

[www.aceangus.co.uk](http://www.aceangus.co.uk)

## Appendix 3.



**Navy Command**

**Navy Command Secretariat  
Mailpoint 3.1  
Leach Building  
HMS EXCELLENT  
Portsmouth  
Hampshire  
PO2 8BY**

10 November 2021

Dear Ms Murray,

Thank you for your letter of 25 August 2021, copied to the Royal Navy Maritime Environmental Protection Adviser, regarding food waste washed up on Angus beaches during Exercise JOINT WARRIOR earlier this year. Your correspondence has been forwarded to the Navy Command Secretariat and I have been asked to respond.

Firstly, it is regrettable that this situation occurred so soon after important military activity and I would like to reassure you that the UK, our partners and allies take our environmental responsibilities very seriously. Please be reassured that strict rules are in place to mitigate against such events occurring.

It is the case, that all vessels operating in maritime waters are under obligation to follow the International Convention for the Prevention of Pollution from Ships (MARPOL) rules, which clearly state that no garbage should be discharged into the sea from vessels proceeding at a distance not less than 12 nautical miles from the nearest land. These are international rules that all maritime vessels, both military and civilian, will be aware of and operate in accordance with.

As I am sure you will appreciate, it is not feasible to ascertain whether the MARPOL rules are always adhered to by every vessel. It is possible, in this particular case, that weather conditions such as wind and wave swell resulted in garbage exceptionally washing up on shore. The MARPOL regulations relating to distance from shore are in place to avoid this risk, and ordinarily prevent garbage washing ashore, but maritime conditions are unpredictable and waste landing on shore cannot be completely mitigated against.

Finally, I hope that you will appreciate that military training with partners and allies is essential to ensure we are ready to meet any future challenge. Scotland's terrain and weather conditions make it an ideal area to conduct arduous training which is so very important for our collective defence.

I hope the above helps to clarify the situation.

Yours sincerely,

Navy Command Secretariat



Helen Devereux

Appendix 4.

14 December 2021 at 13:43

RE: Investigation request - Dumped waste at sea

To:

[Details](#)

Hi

Paul has sent your e-mail to the Clean Ship Operation Team as we are responsible for the UK policy and implementation of MARPOL Annex V - Garbage.

As to your first Point 1 ) in your e-mail, I would like to provide some clarity on the application of MARPOL and the UK implementing regulations.

Article 3 of MARPOL states:

*The present Convention shall not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service. However, each Party shall ensure by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with the present Convention*

Furthermore, the UK SI (SI 2020/ No.0621), which implements MARPOL Annex V, which set the legal requirements and the power to enforce, states:

*(2) These Regulations do not apply to any—*

*(a) warship;*

*(b) naval auxiliary ship; or*

*(c) other ship owned or operated by a State and used, for the time being, only on government non-commercial service.*

Therefore, legally military ships are not required to comply with the regulations, however we do ask that they enter into the spirit of MARPOL, as appropriate. As you have noted from para 3 from the Navy Command Secretariat, they have adopted this as their policy. However, it will be internal RN policy which they will be required to enforce, as UK legislation does not apply to them and hence, we have no enforcement power of them.

As to point 2) Following on from the information provided above and why Paul would have contacted the RN is that it would be for the RN to look into this and take any necessary action as it is their internal policy that the NATO exercise would have had to follow as military ships are not covered under MARPOL.

I hope this provides further clarification.

Helen

**Helen Devereux**

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Policy Lead

**Clean Ship Operation Team**

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Maritime &  
Coastguard  
Agency

**Maritime & Coastguard Agency**

Spring Place, 105 Commercial Road,  
Southampton, SO15 1EG



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[www.gov.uk/mca](http://www.gov.uk/mca)



**Lorraine Weller**

RE: Investigation request - Dumped waste at sea

Appendix 5.

20 December 2021 at 09:16



[Details](#)

Hi All,

MARPOL Annex V and its implementation into UK law is the sole responsibility of the Maritime and Coastguard Agency as it is a reserved matter and not devolved to the Regions.

You mention in your reply “believe that it should be both practical and incumbent on all parties participating in military exercises to comply with regulations” The MCA agree and so do the Admiralty and hence they will enter into the spirit of the Convention when it is appropriate for them to do so. The Admiralty will voluntarily comply with the regulations in peace time, however if conflict arises, they may not be in a position to comply with MARPOL. Therefore, MARPOL and implementing legislation does not cover military ships as if they were covered they would be legally bound to comply, which could cause strategic issues and the need to rush through legal changes in Parliament to keep our military ships legal and safe.

I have lead UK negotiation on MARPOL Annex V and Port Reception Facilities for around 15 years and would be more than happy to talk you through the intricacies of waste law, the machinery used to reduce waste etc. This may also save you time as if you write to the Scottish Government they will say that this is not for them and pass it to the UK Government which will result in the letter coming to my desk to reply to and you will appreciate how long that took last time!

Kind regards,

Lorraine

**Lorraine Weller**  
Team Lead  
Clean Ship Operation Team

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