

## Superyachts - the New Normal

Changes in the superyacht industry are not new. Look at the many changes since the year 2000: ILO Maritime Labour convention 2006 (and its subsequent amendments coming into effect as recently as December 2020), LY2, LY3, International Maritime Organisation's Tier III environmental regs, Passenger Yacht Code, the Red Ensign Group Yacht Code, YETS, new tax saving / mitigation schemes that have come and gone, and the Government bodies established to police them and so on.

It used to be said that VAT stood for "Voluntary Added Tax", but now rigorous enforcement makes compliance a deadly serious necessity.

Then to top it all, along came the pandemic, and with it a further seismic shift that resonates throughout the industry and which affects everyone working in it.

### The Old Normal

So when I set out to write this article, I took as my starting point the "old normal", advice I would give to clients looking to buy or build their dream superyacht. It remains current today, but we now need to consider new issues in everything we as advisers do.

And this is why:

**1. Demands of Post-COVID "New Generation Clients".** New Generation Clients ("NGCs") approach yacht ownership with a different mindset, informed by their experiences as UHNW entrepreneurs and businesspeople living through COVID-19 and building a lifestyle accordingly.

They are tech savvy, sophisticated, environmentally aware and concerned – but not, I have found, necessarily familiar with yacht ownership, or how yachts have traditionally been used. Many are new entrants to the market, who now see the advantages of yachts as secure alternatives to other options that involve greater potential risk.

Their needs can differ markedly from more established owners. I am sure you will have noticed this shift too, and it is also feeding into how traditional superyacht owners use their yachts.

**2. NGC's are personally more engaged.** This is a plus. NGC's might not want to leave things in the hands of a family office, managers, a former captain or friend but will take personal charge of the project.

**3. NGC's will spend more time on board their new yacht.** This affects interior layout and design, because NGCs see yacht ownership so differently from traditional owners, who only use their yachts part-time.

Talking with designers, they have seen a noticeable shift towards this family-based floating home / office idea, which reflects the way many of us now use our regular homes, a process speeded-up considerably because of the pandemic.

In a pre-pandemic article entitled "[Why Yachts Are Becoming the Best New Place to Do Business](#)" the author wrote:

"Thanks to ever-improving network capabilities, the number of boat owners and charter guests choosing to do business on board keeps ticking up. The benefits are palpable...the yacht itself becoming a fully efficient, multitasking work center."

In the hands of a NGC, a yacht will now need to be a secure home-office that can be used 24/7, not just 12 weeks a year during summer.

**4. NGC's want their yachts to be environmentally friendly.** Protecting marine life is just as important as enjoying time on board. Major yacht builders such as Lürssen and Feadship have taken a leading role by forming the non-profit [Water Revolution Foundation](#), leading sustainability, and looking for ways to reduce the ecological footprint of superyachts. They have a database for sustainable solutions to act as a leading reference for the superyacht industry.

Then there are designer led solutions. M/Y "Yersin", for example, is a 2015 explorer yacht built mainly from recyclable materials (though I doubt she will be thrown away!), with very low emissions and the IMO Tier III regs ensure new yachts are low emission yachts.

One NGC I know wants a yacht that is not just environmentally friendly, and uses green technologies, but is also a platform for scientific research and preservation of the marine environment.

**5. Crews are now under more pressure.** This is all good stuff, but bear in mind the impact this can have on the working lives of superyacht crews, and the steps that may be needed to protect them.

During the pandemic, yachts have changed from floating pleasure getaways to floating homes and offices, meaning the owners are on board for far longer, which places additional demands on the crew.

For me and my colleagues at Bargate Murray, we are working far harder in 2021 than before in helping to support yacht managers in solving and preventing crew issues brought about by the radical shift in yacht use. Close attention is now required to the terms of Seafarer Employment Agreements, something we are intimately familiar with from working with registries and crew employment agencies since the earliest days of the MLC 2006.

**6. Managers under more scrutiny.** Like crews, the pressure is being heaped on yacht managers, and they too can become overstretched.

This situation is not helped by sometimes aggressive port state control checks, and ever-changing pandemic rules. This has required my firm to leverage our large skilled network of local agents and local lawyers so that we can keep up to date with this evolving and complex situation and advise our clients accordingly.

**7. Yards under pressure.** Despite a yacht building mini boom, driven by the desire for safety and security as well as luxury, and the emergence NGCs, yards have to struggle with stretched supply chains, and covid secure working conditions that restrict the number of workers able to work together in confined spaces.

Moreover, poorly drafted pre-pandemic force majeure clauses might not always protect them from delays caused by supply chain issues, labour and materials shortages.

At what point did the pandemic become foreseeable? We now review and/or draft specific force majeure clauses that protect clients against the worst consequences of pandemic delays, but we know that there is a backlog of cases yet to be dealt with that turn on how effective those clauses are or are not. A lot of money may be at stake.

So the New Normal for a firm like Bargate Murray shows a greater shift towards the following:

- More time is being spent on educating NGCs about yachts, their advantages, how they can be used in furtherance of their objectives – security, confidentiality, work, environmental protection, marine conservation and adventure;
- NGCs want advice about environmental solutions and sustainability. As superyacht lawyers, we cannot just draft contracts; we have to keep up to date and help educate clients about the available choices.
- More work and advice regarding crew and seafarer employment agreements, and how to handle issues arising out of the pandemic (including more time spent by owners on their yachts);
- Drafting clear and detailed manuals used by crew and managers to reduce the impact of more aggressive port state control inspections – including tax compliance, using where necessary our network of trusted local law firms;
- Confidentiality;
- Advising owners and yards about their rights under newbuild contracts, including alleged permissible delay and force majeure clauses – this might all seem a bit boring but big money is potentially at stake here.

This does not replace, but sits alongside the traditional and still very important issues we all see and deal with in newbuild contracts that I wrote about a few years ago in this [article](#).



### **QUENTIN BARGATE - Founder, Chief Executive Officer**

Quentin, the firm's founder, leads its superyacht and dispute resolution practice areas. With over 35 years' experience, and a winner of many industry awards, he is widely acclaimed as a leader in the industry.

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