

Opportunities for Ports in Local Authority Ownership:

A REVIEW OF MUNICIPAL PORTS IN ENGLAND AND WALES



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AND WALES

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1. Executive Summary

The reasons behind this review

1.1 Work on the Trust Port Review clearly indicated that many of the issues raised by that review around accountability, governance and finance were shared with the municipal sector. This view was reinforced by feedback from the annual exercise to allocate Supplementary Credit Approvals aimed to support essential safety and maintenance works in the municipal sector.

1.2 Government's commitment towards this review of the role, status and constitution of municipal ports was contained in "*Modern Ports – a UK Policy*" published in November 2000. In delivering this review the Department worked closely with the British Ports Association (BPA) and the Department for Communities and Local Government (DCLG).

The methodology employed

1.3 The conclusions of this review are derived from the results of a questionnaire sent out to 61 municipal ports in England and Wales and their owning authorities supported by a closer scrutiny of a representative cross section of visits involving discussions with the port managers, portfolio holders, chief executives, the owning authorities and some MP's. The entire review process has been closely supported by a working group of municipal port managers and the BPA.

Key findings

Accountability and decision making

1.4 As a direct result of the '*Modernising Local Government*' initiative many ports now report to a small committee, portfolio holder or cabinet member.

1.5 This has led to concerns from some of the consultees about the capacity and capability of harbour management. There is a perception that in some cases authorities' management structures are failing to provide appropriate accountability, there is insufficient stakeholder involvement, and that some portfolio holders are not seen as accountable to the full council for the decisions they make.

Strategy and business planning

1.6 Concerns have been expressed that many local authorities are pitching dues at a level designed to maximise income from lucrative visitor leisure traffic. Such a policy could be in danger of excluding local stakeholders who have traditionally used the harbour facilities for business and domestic pleasure purposes.

1.7 Local authorities need to have a clear idea of what they want to achieve from ownership of a commercial/industrial port as opposed to a leisure/ tourist harbour.

Management and performance review

1.8 Like trust ports, municipal ports are operated for the benefit of stakeholders including the local community but, unlike trusts, they are not in general governed by an independent, bespoke, expert and directly accountable body. Instead municipal ports generally form an integral part of the local authority and are treated the same way as any other service.

Municipal port finances

1.9 Some consultees felt that local authority accounting methods were not well suited to the needs of a commercial body. Failure to separate port accounts from those of the owning authorities has also hindered systematic provision for maintenance and development and prevented sensible commercial business planning.

The way forward

1.10 Canterbury City Council conducted a best value review of Whitstable. This was carried out by an independent consultant. This review concluded that a (new style trust) harbour management committee (“HMC”) structure (incorporating some elements of the trust port management structure) was the best option. They consider that this has since been borne out in practice.

In view of our analysis of the data collected, the report makes the following recommendations. We invite local authorities to consider the circumstances of their ports in the light of these recommendations.

Accountability and decision making

1.11 Each authority should already have in place a mechanism to review and scrutinise decisions and actions by the executive in relation to its port. Overview and scrutiny committees should be used to question authorities’ discharge of their functions in managing their ports.

1.12 Each authority, where ports are a responsibility of the executive, should keep under review the effectiveness of its existing systems for the delegation of functions, so it is clear what level of decision can be taken by the executive member, by the cabinet as a group and by the full council.

1.13 Local authorities must accommodate underlying statutory requirements (both in local government legislation and in any specific local harbours legislation) in their approach to management of municipal ports. They should also seek to address stakeholder requirements and take full account of the commercial realities of municipal port operations.

1.14 Adoption of the structures recommended in *Modernising Trust Ports: a Guide to Good Governance* (www.dft.gov.uk/stellent/groups/dft_shipping/documents/page/dft_shipping_505328.pdf) could assist in addressing the reported concerns that relevant stakeholders and those with relevant expertise have in practice been excluded from the decision-making process in some ports, to the detriment of important issues such as commercial viability, environment, health and safety.

Strategy and business planning

1.15 Municipal ports are in the main a local asset. Local authorities are strongly advised to carefully consider, and to consult on, the impact of their policies on the communities the ports serve.

1.16 Municipal ports should consider producing a business plan that looks at the future prospects of the port and how it will meet the requirements of the stakeholders, *who should be involved in its development*. The plan should review the strategy of the port and present measurable objectives.

1.17 A local authority's overview and scrutiny committee may wish to consider making a specific inquiry into the role and status, including any statutory basis, of the municipal port and whether this is compatible with the overarching objectives of the local authorities. The committee may subsequently wish to review the circumstances of, and decisions taken on, that port on a regular basis, e.g. by including port business as a permanent agenda item for every overview and scrutiny meeting.

Management and performance review

1.18 Local authorities or municipal ports should undertake an audit of their current status, benchmark themselves against the *Modernising Trust Ports: a Guide to Good Governance* and adapt their structures accordingly.

1.19 When a local authority undertakes a review of its municipal port, the review should be tailored to examine the port as a commercial operation, which allows the port management the appropriate level of independence and flexibility.

1.20 Municipal ports may see benefits in assessing, on a regular basis, their level of compliance with the benchmarks of good and accountable practice set out *Modernising Trust Ports: a Guide to Good Governance*. Each port should set out an implementation schedule for review. Ideally this should allow six months to formulate a plan and two years for implementation.

Municipal port finances

1.21 We feel that municipal ports would benefit from the introduction of 'assured accounts'. We believe that any rental levy imposed on a municipal port by the owning authority should be set within the memorandum of understanding between the port managing body and the owning authority.

1.22 Where a municipal port is in receipt of an operational subsidy the owning authority should explore, as a priority, the feasibility of adopting a strategy for delivering a commercially viable port for the benefit of all stakeholders.

1.23 We believe that prudent and adequate provision should be made for capital asset replacement and future development.

1.24 Local authorities should allow ports to undertake capital expenditure financed by unsupported borrowing where the port can show that it can afford to service the debt.

The way forward

1.25 We believe that the trust port model as described in *Modernising Trust Ports: a Guide to Good Governance* now offers many tried and tested benefits which are readily transferable to the municipal ports sector and offer a real opportunity to provide municipal ports with an accountable, expert and more responsive form of governance.

1.26 We recommend that all local authorities carefully consider whether the experience of Canterbury City Council (Whitstable) and Cumbria County Council (Workington) (detailed in Section 4) could bring similar benefits to their own ports.

1.27 Municipal ports should consider adopting and adapting the recommendations made in the *Modernising Trust Ports: A Guide to Good Governance*. This sets out the benchmarks in terms of board composition, appointment, performance and accountability.

1.28 The Municipal ports sector should consider establishing a similar scheme to run in parallel with the beacon scheme that has been established by ODPM. This would provide recognition of ports that have adopted the recommendations made within this review.

1.29 Department for Transport Ports Division will welcome future opportunities to discuss with local authorities the ways forward for municipal ports.

2. Background

Why a Review?

2.1 There are around 60 ports in England and Wales that are operated by a local authority and subject to local government rules and financing requirements.

2.2 In November 2000, in '*Modern Ports: a UK Policy*', we promised a review of municipal ports' management structures and practices to ensure that municipal ports were playing a full and accountable part in the local and regional economy.

2.3 We had previously conducted a review of trust ports in 1998. We also worked with municipal ports on a programme of financial support for essential safety and maintenance works. Both these exercises provided us with certain information about the small ports sector, and highlighted some problems. These included reports of a lack of public accountability, with ports not appearing to fit comfortably into a typical local authority structure. There were reports of poor performance and lack of investment, with many municipal ports running at a loss. Those municipal ports which were successful were found to be at risk of the owning authorities moving funds from port surpluses towards other local authority services, leaving insufficient funds for future improvement and maintenance at the port. Many municipal ports were perceived as in decline.

2.4 Within the current framework for decision-making in local government there is scope for responsive and dynamic management of municipal ports. In producing this report, the Department for Transport has worked closely with the Department for Communities and Local Government to identify effective ways of working, to assist local authorities' stewardship of the ports which they own. DfT and DCLG have together developed recommendations which, where they are appropriate to the individual local authority and port, can deliver real improvements in ports' management and performance. It is not our intention that implementation of the recommendations should create any new burden on local authorities.

2.5 Our exploratory discussions suggested that local authorities and the municipal port sector would be enthusiastic if we applied a similar approach to municipal ports as we had to trust ports, given the many parallels they saw between the roles of trust and municipal ports. The British Ports Association also pressed hard for work on this study. Certain outcomes of the Trust Port Review appeared to be directly applicable to municipal ports, in particular the *Modernising Trust Ports: A Guide to Good Governance*. Some ports, such as Whitstable, initiated their own reviews, in the light of the Trust Ports Review.

Scope of the Review

2.6 The agreed aims of the Review were to:

- obtain an overview of the municipal ports sector and its operation – benchmarking their performance and accountability against the trust ports and private ports sectors.

- identify benefits and constraints resulting from municipal ownership and their impact on accountability, development and effective operation of their ports.
- assess the impact of best value, modernising local government, and local government finance initiatives on municipal ports.
- examine realistic options for the future role and status of municipal ports.

2.7 The Review covers all municipal ports in England and Wales, as shown on the map at **Annex A**. We agreed with the Welsh Assembly to include Welsh municipal ports in the study. Decisions on the local authority aspects of these ports will be a matter for the Welsh Assembly and their operating local authorities. The Scottish Executive, for their part, intend to consider the results of this Review and consider, in conjunction with local authorities, options in relation to the 230 local authority ports in Scotland.

2.8 The Review is based on the premise that a local authority which operates a port will be doing so using local statutory powers. These powers follow a similar pattern for all statutory harbour authorities in the UK, although there are of course local variations in each case. When considering the application of this Review to any particular port, it will be necessary to take into account the particular local legislation under which the port is operating.

2.9 Typically the local statutory powers through which a local authority will operate a port include:

- a power to construct and maintain the harbour infrastructure (new harbour infrastructure affecting tidal waters usually requires the agreement of the Secretary of State, usually through a harbour revision order under section 14 of the Harbours Act 1964),
- a duty to keep the harbour open to all persons for the shipping and unshipping of goods and the embarking and landing of passengers (e.g. section 33 of the Harbours, Docks and Piers Clauses Act 1847),
- a power to collect harbour dues, and perhaps also to collect other charges for use of the harbour, such as mooring fees,
- a power to regulate the use of the harbour, through general and special directions given by a harbour master and harbour byelaws.

2.10 The Review compares the position of municipal ports with that of trust ports. A trust port operates under the same structure of local legislative provision set out above, but in addition its local legislation creates a statutory corporation which has the function of operating the harbour. The Trust Ports Review set out recommendations for good governance of these statutory corporations. As a result many trust ports revised their constitutions through harbour revision orders under section 14 of the Harbours Act 1964. The usual model adopted was for the statutory corporation to consist of a board of members, appointed in accordance with current good practice for public appointments, who are able to use their relevant knowledge and experience in running the harbour authority.

Conduct of the Review

2.11 We set up a Steering Group to manage the work of this Review, consisting of the British Ports Association (also representing the Local Government Association) and the Department for Transport. The Steering Group approved the aims of the Review and its terms of reference in February 2004.

2.12 The Department, through its Operational Research Unit and in conjunction with the British Ports Association and a representative group of municipal port managers, designed a questionnaire which was sent to all municipal ports and their owning authorities in May 2004. The results of this survey were analysed by the Operational Research Unit, whose report, with further details of the methodology, can be found at **Annex B**.

2.13 We supplemented this with a programme of visits by Departmental staff to a representative cross-section of municipal ports, during which they met port managers, councillors with responsibility for ports and local authority officers.

2.14 Since we started the Review, the environment within which the municipal ports sector works has continued to change. Reforming initiatives such as modernising local government (see **Annex C**), best value reviews, and the prudential capital finance system (summarised at **Annex D**) have begun to change the face of local government and the way in which it operates. These changes are continuing to make a significant impact on municipal ports, and we have sought to address this during the Review.

2.15 In this document we set out the main results of the review, our conclusions and recommendations for future action. We have taken a thematic approach to reporting against the terms of reference, covering;

- overview of sector
- accountability and decision-making
- strategy and business planning
- management and performance review, and
- municipal port financing

3. Results of the Review

Overview of sector

3.1 Of the 61 municipal ports in England and Wales that are operated by a local authority who participated in this survey, 96% handle leisure traffic, and 89% have fishing traffic.

3.2 The majority of municipal ports have 50 or fewer actual employees, while 43% and 68% respectively have no people employed in indirect jobs (employed within the provision of goods or services to direct employers) or induced jobs (employment supported by household spending of direct and indirect employees).

3.3 Municipal ports provide a cross section of the UK ports sector. They range from a major ferry and cargo port such as Portsmouth through fishing ports such as Brixham to leisure harbours such as Salcombe. Major municipal ports are Portsmouth, Ramsgate, Sunderland and Workington. The chart below shows the different types of activities carried out by municipal ports.

Services/Activities Engaged in by Municipal Ports

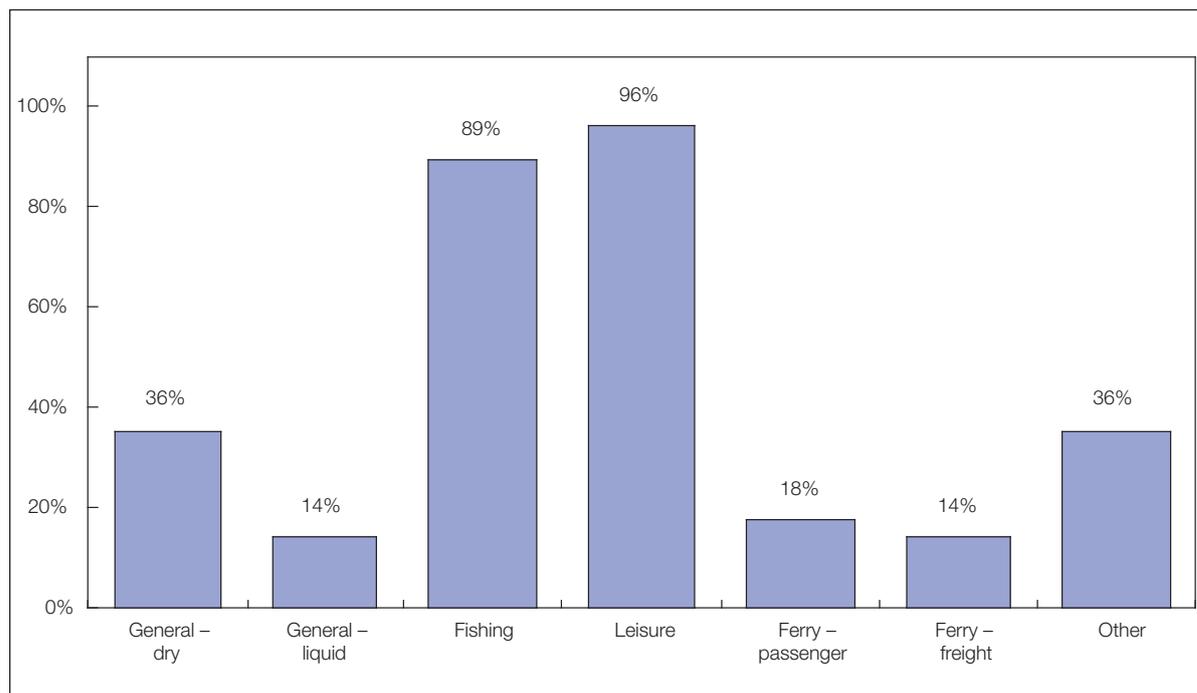


Table 1 shows services and activities at municipal ports (others include chandlery, water taxis). An example of dry cargo would be agricultural products, coal etc. Liquid cargo includes products such as oil and liquid gas.

3.4 The municipal ports sector is not large in traffic terms (only 14% of total traffic) and predominantly comprises small local ports. However, even small ports, if effectively managed, have the potential to be significant economic drivers in regional and local economies.

Accountability and decision making

Background

3.5 Ports which are operated by local authorities must work within the statutory framework that governs local authority functions.

3.6 This framework was radically changed as a result of the reforms in the Local Government Act 2000, which introduced for the majority of councils in England and Wales the possibility of new executive decision-making arrangements. These arrangements can place responsibility for most decisions within the hands of executive councillors responsible to the wider council, with a challenge function being exercised by non-executive members sitting on overview and scrutiny committees.

3.7 The aim is to provide more efficient, transparent and accountable decision-making within local authorities, with a clear management hierarchy, including clarity over responsibilities, an appropriate delegation of decision-making between executive and full council, and arrangements for the review of the executive's decisions by the overview and scrutiny committee.

3.8 Within this legal framework¹, local authorities have discretion to decide whether a port should be the responsibility of the executive or a committee of the council. In either case, whether decisions are made by the executive or a committee of the council, decisions are open to challenge by an overview and scrutiny committee, the membership of which will exclude those making the decisions.

3.9 At the same time, as with all statutory harbour authorities, municipal ports have additional statutory duties and powers, either under the local legislation for that port or general legislation such as the Harbours Act 1964, and general common law and fiduciary duties, including an obligation to conserve and facilitate the safe use of the port and a duty of care against loss caused by the authority's negligence.

Review results

3.10 The results of our questionnaire showed that 93% of municipal ports are operated by a local authority that has adopted arrangements comprising a cabinet of executive members whose leader is elected by council. Of the remaining ports, in response to the questionnaire, only 2 of the ports made some reference to the council, cabinet, executive or specific elected members being their key decision-makers, although this was often in conjunction with harbour forums or harbour committees. In 57% of owning authorities ports report to a committee of elected representatives, while in 52% they report to a portfolio holder.

¹ The Local Authorities (Functions And Responsibilities) (England) Regulations 2000 SI 2000/2853

3.11 The questionnaire results show that many local authorities consider that openness and accountability is satisfactory. The majority of port-owning authorities (54%) believe that the current arrangements are an advance on the situation before the improvement and modernisation of local government initiatives. Only 14% of port owning authorities believed that the existing structure of governance was *unfit for purpose* based on the standards of openness and accountability recommended in ‘*Modernising Trust Ports: A Guide to Good Governance*’, while half thought that it was fit for purpose.

Structure of Governance meets Standards of Openness and Accountability Recommended in “Modernising Trust Ports”

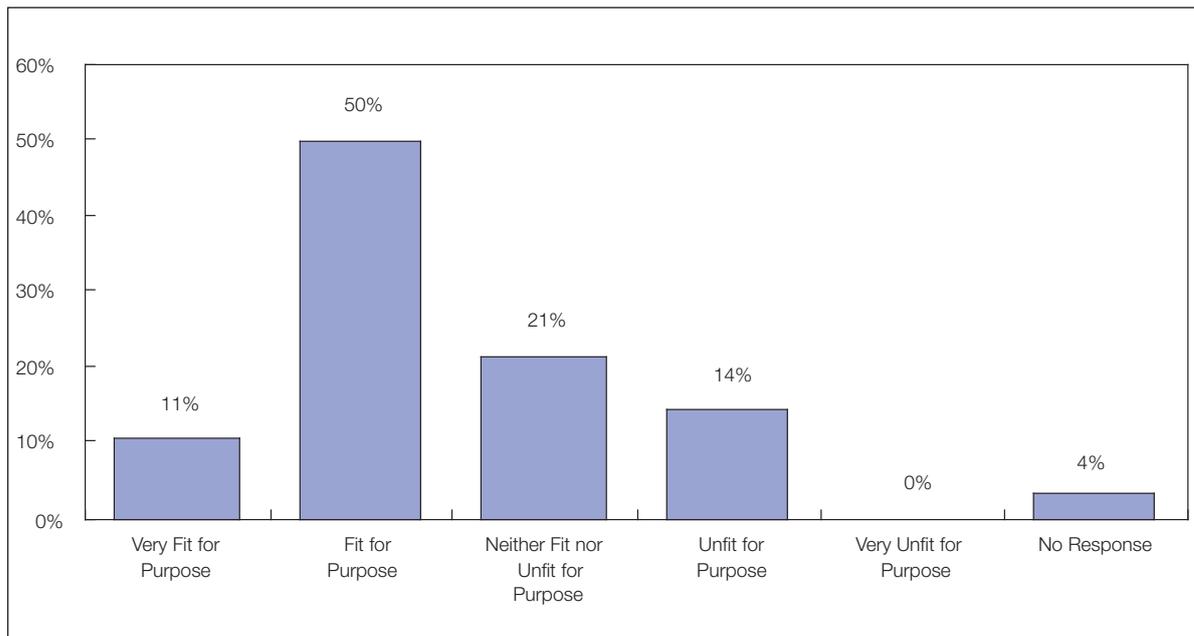


Table 2 shows the views of ports regarding fitness for purpose of the existing structure of governance within the port.

3.12 93% of municipal ports have at least one advisory group or stakeholder forum. 65% of ports felt that the level of influence held by these groups was *neither strong nor weak*, with most ports explaining that the groups were purely advisory.

3.13 81% of port owning authorities felt that advisory groups had a *beneficial* or *very beneficial* impact on the accountability and effectiveness of port operation.

3.14 Of the larger port owning authorities, 50% felt that advisory groups had a *beneficial* impact on accountability and effectiveness, compared to 87% of other owning authorities who felt that the groups were *beneficial* or *very beneficial*.

3.15 Discussions held with port management and the owning authorities during our visits indicated that the requirement for public accountability was well served where municipal port management reported direct to Council or Committee in open public sessions rather than to the executive. In these circumstances we believe that accountability is on a par with that now enjoyed by trust port stakeholders.

3.16 By contrast, anecdotal evidence gathered during visits to municipal ports highlighted concerns about the effectiveness of the existing structures, in particular that in some cases the local authorities' management structures are failing to make executive members properly accountable to the full council for the decisions they make. Some are worried that the executive member responsible for ports will inevitably have other more pressing responsibilities and be unable to make quick decisions, or unable to devote enough effective attention to ports issues.

3.17 The most common local authority departments for municipal ports to report to are: 'Operational Services' (under the responsibility of a Strategy Director) and 'Lifelong Education Services' (13% of ports each). A number of ports have been allocated to seemingly inappropriate portfolios, such as engineering and procurement, and property.

3.18 Concerns were also raised that, where ports are the responsibility of the executive, fewer members are now involved in the decision-making process. Those questioned complained that ports' finances, operations and plans are no longer subject to regular scrutiny in a public forum and this cannot be entirely compensated for by the creation of separate stakeholder groups to advise port management. This resulted, it was claimed, in a lack of relevant experience or knowledge, limited opportunities for input from wider community interests and a lack of long term strategic planning.

3.19 The point was made to us that, if a port is to be run on commercial lines, it is inappropriate for day-to-day decisions to rest with a member of the executive or the cabinet. Cases have been reported of municipal ports which have lost business to a private or trust port because the decision-making process took too long. In one case it was reported that new business was lost to a neighbouring private port because a decision on the necessary port investment took over six months.

Options for change

3.20 In developing its arrangements, however, it is important that the authority gives full weight to a range of considerations, including stakeholder involvement and for consideration of the appropriate level at which day to day decisions should be taken.

3.21 Some councils may take the view that placing responsibility for a port with a committee of the full council is a more effective means of providing for openness and accountability in municipal port management.

3.22 Whether responsibility is for a member of the executive or a committee, it would be wrong if the relevant executive member/committee took decisions without taking proper account of these considerations. Local authority structures should include appropriate arrangements for scrutiny of that committee or member's decisions.

3.23 We also accept that ports operate in a very competitive commercial environment and must be flexible, responsive and managed on a commercial basis if they are to survive and grow.

Use of existing structures

3.24 In these circumstances, authorities should consider how the constitutional structures available can be used more effectively to support open and accountable ports management. Within the local authority an effective structure depends on an effective decision-making hierarchy, involving effective roles for the executive member and cabinet and, where appropriate, the full council, the overview and scrutiny committee, and officers.

3.25 For instance, there is nothing to prevent an overview and scrutiny committee making a specific inquiry into the situation of the municipal port, and subsequently reviewing the circumstances of, and decisions taken on, that port on a regular basis.

3.26 We have identified in the Review good practice ideas for the effective operation of overview and scrutiny committees, which include:

- co-opting to the committee a wide range of community and voluntary groups,
- seeking views from local people and stakeholders to get a balanced picture of the effects of policy and decisions, and
- holding meetings to encourage an accessible and informal dialogue with the public.

3.27 The questionnaire results indicated that these committees with co-opted members holding a purely advisory role are considered to be very beneficial in promoting the accountability and effectiveness of the port.

Involvement of stakeholders

3.28 Statutory harbour authorities are not only commercial undertakings concerned with their owners' or customers' interests. They have a duty to exercise their statutory functions in an open and accountable manner. All statutory harbour authorities need to be openly accountable for the discharge of their duties, powers, policies and standards.

3.29 Both trust ports and municipal ports are run for the benefit of their stakeholders whether these are local residents, employees or those with a direct commercial interest in the ports operation. Both trust ports and municipal ports need to have an open and accountable relationship with these groups.

3.30 There are already some examples of authorities who, having reviewed their ports, have decided to adopt a (new style trust) harbour management committee 'HMC' approach to their ports. We consider this in more detail in section 4 on the way forward.

Recommendations

- Each authority should already have in place a mechanism to review and scrutinise decisions and actions by the executive in relation to its port, where these are matters for the executive. Overview and scrutiny committees can be used to question authorities' discharge of their functions in managing their ports.
- Each authority, where ports are a responsibility of the executive, should keep under review the effectiveness of its existing systems for the delegation of functions, so it is clear what level of decision can be taken by the executive member, by the cabinet as a group and by the full council.
- Local authorities must seek to accommodate underlying statutory requirements in their approach to management of municipal ports. They should also seek to address stakeholder requirements and take full account of the commercial realities of municipal port operations.
- Authorities are reminded of the need for decisions relating to municipal ports to be based on sound advice from officers who have a clear understanding of the special needs of ports and the circumstances in which they operate; and for those decisions to be adequately recorded.
- Adoption of relevant structures recommended in *Modernising Trust Ports: a Guide to Good Governance* (www.dft.gov.uk/stellent/groups/dft_shipping/documents/page/dft_shipping_505328.pdf) adapted as necessary to the local authority structure, could assist in addressing the reported concerns that relevant stakeholders and those with relevant expertise have in practice been excluded from the decision-making process in some ports, to the detriment of important issues such as commercial viability, environmental issues and health and safety.

Strategy and business planning

Background

3.31 The approach taken in the municipal ports sector to strategy and business planning is closely linked with decision making processes within a local authority and the relationship between the local authority and its port, described above. The Trust Ports Review highlighted the benefits to be achieved from sound business planning. Similar arrangements may also be able to provide a strategic framework within which a municipal port can undertake its day to day operations, within the financial and other parameters agreed by the council, and be able to respond flexibly to changes in the commercial environment.

3.32 The consequence of the modernising local government changes is that the management arrangements of port activities have changed, including the involvement of portfolio-holders and overview and scrutiny committees. Some have felt that the changes have meant a reduction in the amount of scrutiny of decision-taking which has not been compensated for by the creation of stakeholder groups to advise port management. Concerns have particularly focused on the fact that, in some cases, stakeholder involvement in the process has been captured by single-interest groups with a particular agenda, which has not allowed a full range of views and interests to be represented, as intended by the new arrangements.

Review results

3.33 According to the results of the questionnaire survey, 85% of ports, including all the larger ports, have a port business plan that feeds into the local authority corporate or strategic plan, and reflects the council's objectives and priorities.

3.34 Port priorities are decided in relation to other local authority priorities and available budgets. A third of ports stated that priorities are decided by the council. This included two of the five larger ports.

3.35 76% of port-owning authorities believed that the commercial status of the port and its commercial needs were adequately taken into account in the overall business planning process. However, at some ports it was felt that the council did not truly appreciate the commercial needs of the port. Only two of the four larger ports responding to this question agreed that the commercial status of the port was adequately taken into account.

3.36 Only 36% of ports believed that they were able to participate in commercial planning on a par with private sector ports, and, when asked, port managers did not think that they were able to. Two of the larger ports said they were able to do so.

3.37 There is also evidence that few councils have agreed memorandums of understanding which allow harbour management to direct the business of the port within a policy framework set by the council. According to the survey, over a third of municipal ports have their business strategies directed by the council.

3.38 In some areas problems arise from the lack of formal business planning. Business plans and strategies developed are themselves subject to unilateral change to meet the overriding needs of the local authority without regard to the social and commercial needs of the port.

Options for change

3.39 There would be benefits to local authorities in developing clear plans for what they want to achieve from their operation of a port, bearing in mind considerations of commercial viability and wider activities, such as provision of leisure and tourist facilities. It would be sensible to develop strategies for running ports that are appropriate for authorities' particular circumstances. For example, a leisure port might wish to reflect in its

strategy the fact that its facilities are used by the local council tax-payer, and point to the regional income from tourists who visit. A commercial port is not accessible by the public, but can be seen to employ many people from the surrounding area. All these considerations, if properly managed can provide a valuable stimulus to the local and possibly regional economies and generate significant indirect and induced employment opportunities.

Recommendations

- Municipal ports are in the main a local asset. Local authorities are strongly advised carefully to consider, and to consult on, the impact of their policies on the communities they serve.
- Municipal ports should consider producing a business plan that looks at the future prospects of the port and how it will meet the requirements of the stakeholders, who should be fully involved in its development. The plan should review the strategy of the port and present measurable objectives. The plan should be agreed with the local authority.
- The authority's overview and scrutiny committee may wish to consider making a specific inquiry into the role and status of the municipal port, including its statutory or other legal status, and whether this is compatible with the overarching objectives of the local authorities. The committee may subsequently wish to review the circumstances of, and decisions taken on, that port on a regular basis, e.g. by including port business as a permanent agenda item for every overview and scrutiny meeting.

Management and performance review

Background

3.40 It follows from the need for clear and accountable decision making and sound business planning, that municipal ports should be managed in a way which promotes efficiency and flexibility, ensuring that managers are able to manage their business in a way which best supports strategic and business objectives agreed with the council.

Review results

3.41 From our survey it was shown that in 28% of ports, the key day-to-day operational decisions are made by the harbour master.

3.42 85% of owning authorities which have been subject to review and have implemented the review's recommendations thought that this had had a *beneficial* or very *beneficial impact* on port operations.

3.43 50% of owning authorities felt that the performance review procedures were appropriate to the assessment of a port operation.

3.44 In discussions, it appeared that some local authorities did not seem to appreciate that their ports are statutory bodies embedded within the municipal structure, nor were fully aware of the statutory or commercial requirements of port operation.

3.45 A number of concerns were raised in representations made by harbour management across the sector. Local authorities clearly think that new constitutional arrangements work well for municipal ports as for other council services. However, at an operational level port managers, whether interviewed or responding to the questionnaire, clearly felt that the way some of the *Modernising Government* initiatives had been implemented did not provide the benefits hoped for, and had even produced damaging effects in some cases. These included lack of accessibility to decision makers and poor opportunities for stakeholder involvement.

3.46 Best value reviews, which have been used to benchmark the performance of municipal ports, are about measuring council service delivery and are therefore inappropriate for measuring the effectiveness of a commercial port operation.

Options for change

3.47 The number of ports (28% of the total) where day-to-day decisions are made by the port manager is low. Decision-making on how a port is run needs to be closer to the operational and commercial side of ports, especially in view of authorities' statutory and regulatory obligations. Decision-making removed from those running the port could easily result in a lack of understanding of port-specific issues, needs and priorities and also in problems of access to the decision-making chain for port management (especially where they are a small and inappropriate part of a very large portfolio). This would have the effect of constricting their economic flexibility and their ability to discharge their statutory functions effectively. Local authorities are naturally risk-averse but ports are commercial entities operating in a very competitive sector that require prompt decision-making and application of funds if opportunities are to be realised.

3.48 We discuss later (see section on municipal port finances) issues surrounding local authorities' approach to selling port assets. We believe the inclusion of people with relevant management skills in the decision-making process would assist in the port being recognised as a valued business asset and managed appropriately as such.

3.49 We believe that local authorities need to better appreciate that, while a port may bring benefits to the local authority, it also brings additional unique statutory responsibilities, and in some cases personal liability for officers. **Annex E** sets out in more detail these responsibilities.

Improving management

3.50 We believe that port management can be improved if the local authority has adopted the right structure and arrangements which provide sufficient autonomy for day to day decision making. There are many different models which authorities might adopt, and we do not wish to prescribe centrally choices which are for authorities to make, in the light of their local circumstances.

3.51 However, we believe that adoption of some of the structures established for trust ports, in particular the HMC, could assist in addressing concerns over port management. The establishment of a HMC (which would be constituted as a committee within the current local authority system) should bring openness and accountability to port decisions, along with more expertise and experience (as a skills audit will be carried out prior to board members being decided upon). This model is set out in more detail in section 4 on the way forward.

3.52 An alternative to the harbour being run directly by the local authority might be to establish a local authority owned company under the well-being powers provided in section 2 of the Local Government Act 2000. In addition, it may be appropriate to make an order under section 70 of the Deregulation and Contracting Out Act, 1994. This would enable a local authority to delegate its statutory port functions to a local authority owned company or other body if this would provide for more efficient management and discharge of port functions.

3.53 If an authority chose to exercise the section 2 well-being powers, to establish a municipal port as a local authority owned company, the authority would need to be satisfied that such a move would achieve the promotion or improvement of the economic, social or environmental well-being of the authority's area, and that there are no prohibitions contained in legislation which might prevent them from using the power in this way. The move would also have to be something that the council determined was broadly within the scope of its community strategy.

3.54 If the local authority operates a port commercially without having specific statutory powers to do so in local legislation, it may be appropriate to make use of general powers to trade in local government legislation. The *Local Authorities (Goods and Services) Act 1970* permits a local authority to trade with other public bodies, and section 95 of the *Local Government Act 2003*² permits a local authority to trade with the private sector. The section 95 power must be undertaken through a company structure within the meaning of Part V of the *Local Government and Housing Act 1989* and is subject to other restrictions in the 2003 Act and in the principal Trading Order³.

Recommendations

- We recommend that local authorities should commission an audit of the current status of their ports, benchmark themselves against the *Modernising Trust Ports: a Guide to Good Governance* and adapt their ports structures accordingly.
- When a local authority undertakes a review of its municipal port, the review should be tailored to examine the port as a commercial operation, or as a provider of such services and facilities for which the port may be concerned if it is primarily run as a local amenity. This would allow port management the appropriate level of independence and flexibility.

² <http://www.opsi.gov.uk/acts/acts2003/20030026.htm>

³ <http://www.opsi.gov.uk/si/si2004/20041705.htm>

- In advance of such a review local authorities should, in conjunction with the port managers, carry out a stock-take of their port's statutory powers and obligations. This will allow full account to be taken of the port's statutory obligations which fall largely to the port management to deliver.
- Municipal ports may see benefits in assessing the level of compliance on a regular basis, with the benchmarks of good and accountable practice set out *Modernising Trust Ports: a Guide to Good Governance*. Each port should set out an implementation schedule for review. Municipal port management have recommended that typically this should allow six months to formulate a plan and two years for implementation.
- In the light of their reviews, local authorities might wish to consider whether there would be any benefits in setting up their port as a local authority owned company.

Municipal port finances

Background

Prudential Capital Finance System

3.55 As parts of local authorities, municipal ports are governed by the general system of local government financing. This has undergone significant change recently, and provides authorities with greater autonomy and responsibility. The main reform is the prudential capital finance system which took effect in England on 1st April 2004.

3.56 Under the new system local authorities are now free to borrow for capital projects without Government consent – provided they can afford to service the debt without extra Government support.

3.57 Since the prudential system came into effect there are no longer any incentives within the statutory framework to being a debt – free authority. This means that local authorities owning ports will have less incentive to use revenue incomes from ports to reduce debt levels across the authority as a whole. More especially it could allow local authorities to effectively direct the revenue stream of commercially viable ports into development and maintenance in much the same manner as a commercial trust port will borrow against its income.

3.58 Further information about the prudential capital finance system can be found at **Annex D**.

Accounts

3.59 Local authorities which are a statutory harbour undertaking are required⁴ to submit to the Department for Transport accounts for their ports in the format required for businesses submitting accounts to Companies House.

3.60 Ports accounts can be 'assured', that is protected from having surplus funds or receipts from assets sales transferred to other parts of the local authority not connected with the port.

Review results

3.61 Many municipal ports are commercial operations, with sufficient revenues available for the business to be self-sustaining, without help from the local authority.

3.62 There are a large number of commercially unviable municipal ports which rely heavily on support from the local authority. These ports are primarily local amenities acting as attractions or leisure facilities for the area rather than commercial operations per se (however, in common with all commercial operations, these ports should plan to achieve profitability in the longer term).

3.63 19% of ports have accounts that are fully assured⁵. The majority of ports (54%) do not have assured account reserves.

3.64 73% of all ports said that they were in favour of assured accounts and/or reserves, whilst 60% of large ports are in favour.

3.65 87% of local authorities felt that municipal accounting arrangements were suitable for the effective management of a commercial port. However, when asked, only a third of those charged with the running of the port agreed with this.

3.66 Local authorities levy a variety of charges on ports for services provided by the central organisation of the authority to the port, many relating to central services such as IT and HR/payroll. 88% of owning authorities that specified a view thought that these services provided value for money, in contrast to a small proportion of port managers.

3.67 56% of local authorities felt that there was sufficient commitment in local authorities to support continued maintenance of the port infrastructure, in comparison to only 17% of those charged with the running of the port.

3.68 Municipal ports managers expressed some reservations, especially about funding, fearing that they will lose out against other local authority departments such as social services which are seen as a higher priority .

4 Under section 42 of the Harbours Act 1964

5 All monies going into the harbour accounts are protected and for harbour use only.

3.69 A number of cases came to our attention where the internal administration charges levied on ports by owning authorities closely parallel (or exceed) any profit. This led to the complaint that ports are being left with insufficient resources to invest in new facilities or even effectively to maintain the current infrastructure. Demands from the owning authority would come at short notice, requesting supplementary levies and new fees. In treating a port as another department of the local authority, duplicate charges are sometimes levied (for example some local authorities charge for internal lawyers even though the port has to commission its own advice from external commercial lawyers).

3.70 During the port visits, we discussed the issue of the fees that the ports were expected to pay, even if the services had not been used (such as legal fees) or were felt to be inappropriate (such as the 'cost of democracy'). Some ports are expected to staff an office to collect various council taxes and fees for the authority.

3.71 Several ports complained that they had put money aside into a local authority general fund for maintenance at a later date. However, when they had requested a return of the money in order to carry out maintenance on the port they had found that the money was no longer available, having been delegated to other services within the council. What money they had then been allowed to borrow from the council had been charged at commercial rates.

3.72 There are a few special cases where the harbour authority can levy a precept on local councils, where the councils in return have been very involved in the port's operation.

Options for Change

Prudential funding

3.73 We believe the new arrangements for prudential funding will help commercial operations run by local authorities such as ports fund new investment needed to maintain the existing infrastructure and secure proper development of the port in future. However, this investment can only be secured if ports are allowed to retain sufficient of their revenues to finance the necessary borrowing.

Subsidy

3.74 The fact that some ports are loss-making and receive subsidy from the local authority presents a problem in terms of distorting competition between those ports and either ports with trust status or in the private sector. If a port operation is not self-sustaining, the underlying causes need to be addressed. Structural changes may be required in order to deliver best value to the public. If an operation would not otherwise be viable (e.g. because of excess capacity) subsidy simply exports the difficulties to other communities. Subsidy also makes the operation subject to constant competition with other pressures on local authority funding.

3.75 If a harbour is subsidised then the local authority may wish to consider the feasibility of establishing a strategy to put the port back onto a commercial footing or examine the alternatives. There should be consultation on this strategy with stakeholder groups, setting out a progressive plan to bring the port back into profitability.

Income from revenues

3.76 We believe that municipal ports, like those in any other category, should be primarily funded by dues which are levied on the right to use the facilities to pay for their provision and maintenance. Local authorities may properly seek a dividend as sole shareholder from commercial revenues but income should have 'assured accounts', which are protected from outward virement, to ensure that the interests of the port and its users are properly safeguarded.

3.77 Local stakeholders need to be identified in order to target the operation and development needs of the port in an effective manner. Ports should consider the need, in certain narrow circumstances, to subsidise (or cross-subsidise from commercial activities). This may be acceptable in order to balance commercial operation against public service provision. For example, where there are leisure facilities, dues should be pitched at affordable levels for local residents (akin to residents' parking schemes), who may be on low seasonal incomes, yet may already be indirectly subsidising the port through the council tax. However, all dues should take into account the obligations set out in the Port Marine Safety Code⁶.

3.78 Any formal memorandum of understanding between the port and the local authority should agree that the port accounts will be assured. The memorandum of understanding should also set out the charges the port will have to pay to the local authority.

Accounting Methods

3.79 Most owning authorities consider existing accounting methods effectively provide information on ports' financial position. However, some consultees expressed concerns that current methods were not capable of giving full details of the commercial aspects of ports' operations. There may therefore be benefits for local authorities in local authority accounts being shadowed by accounts which show the commercial standing of the port as a separate business. Such shadow accounts (which in any event are required under Section 42 of the Harbours Act 1964) are already in place in some ports such as Portsmouth and Whitstable. Although Government has not been enforcing compliance with this particular requirement in recent years (and currently has no such intention) the production of shadow commercial accounts by municipal ports would be a useful tool for business planning.

Recommendations

- We believe that all municipal ports could benefit from the introduction of 'assured accounts'. We believe that any rental levy imposed on a municipal port by the owning authority should be the subject of a binding agreement between the port managing body and the owning authority.

⁶ The Port Marine Safety Code was published by DFT on 2000. It introduced a national standard for every aspect of port marine safety. It is available at http://www.dft.gov.uk/stellent/groups/dft_shipping/documents/page/dft_shipping_505324.hcsp

- Where a municipal port is in receipt of an operational subsidy the owning authority should explore, as a priority, the feasibility of adopting a strategy for delivering a commercially viable service for the benefit of all stakeholders.
- We believe that prudent and adequate provision should be made for capital asset replacement and future development.
- We believe that local authorities should produce commercial-style accounts for their ports, as these would be helpful in explaining the financial position of ports to board members without much local authority accountancy training.
- Local authorities should consider applying the benefits and principles of prudential funding to ports by allowing them to seek approval for borrowing that can be funded from revenue from agreed business plans, without increasing the overall borrowing requirement of the local authority.

4. The way forward

Nature of the challenge

4.1 The Review has shown a large number of issues facing local authorities which own ports, in seeking to take up the challenges and opportunities offered by municipal ports. It is apparent that many authorities and ports have already given a great deal of thought to how best to tackle these issues. Some have made good progress, and we believe that their experience can assist other local authorities and their ports as they move forward.

4.2 The most frequently identified short and medium term challenges to municipal ports were issues relating to finance, facility upgrades, attracting business, governance and management.

4.3 In order to resolve these challenges, a third of ports identified the availability of funding as an issue that will need to be overcome.

4.4 71% of ports identified that they are planning some development in the future, and only 14% of these ports have considered funding this through public-private partnership (PPP) or private finance initiative (PFI) schemes.

4.5 When asked what options for the future governance of the port had been *considered* and *explored*, the most common answer was 'conversion to trust', identified by 64% of ports. However, while this had been *considered* by many ports, less than half had *explored* this idea further.

4.6 Public/public partnerships and privatisation had also each been *considered* by 50% of owning authorities.

4.7 36% of ports had *considered* and *explored* the 'lease' option, making this the most commonly explored option for the future.

Local authority company

4.8 An alternative approach could be the reconstitution of the port as a local authority company. This would serve to 'assure' harbour management and finances. However, this would mean that management of the port and its assets became a strictly commercial imperative, whilst an HMC would retain a community focus and is therefore probably a more effective vehicle through which to spark local regeneration and retain community controls.

Trust port status

4.9 Local Authorities could consider reconstituting their ports as a fully independent trust. However, this would remove the ports entirely from their control and would require the local authority to divest itself of a potentially valuable asset for no concrete return. It would also require the owning authority to provide the newly established trust with a

dowry to underpin its first years of existence. This should be the equivalent to at least two years turnover. In the case of a medium sized municipal port this could amount to over one million pounds. In addition, the owning authority would need to ensure that any critical infrastructure problems were addressed in order that the port could be transferred in a good operational condition. This could potentially increase the settlement by several million pounds.

4.10 Alternatively, in lieu of a dowry, the local authority might consider making an arrangement with the newly constituted trust, to subsidise loss making operations by means of a subvention until the port reaches profitability in accord with an agreed strategy as set out in paragraph 3.75. However, the local authority would need to ensure that any arrangement entered into with the trust port did not constitute a state aid.

4.11 As a general rule, where a local authority chooses to set up its port as a separate undertaking with a dowry, they should not be creating an unfair aid to an existing undertaking, particularly if the dowry were no more than is necessary to cover the gap between the port's projected income and its total operating and maintenance costs over a given period. Equally, if the local authority opted to continue wholly owning the port, there should be no State aid involved if the local authority meets any of the port's investment costs, in whole or in part, since that is direct development by the public sector. However, there *might* be a State aid issue if, after the port had been turned into a separate undertaking, the local authority then provided it with finance as an operating subsidy or a capital investment grant, other than on a competitive or contractual basis eg for providing a specific port-related service.

Experience of individual authorities – development of the harbour management committee model

4.12 A number of local authorities have already examined alternative options, with the aid of independent consultants. Ideas considered included trust status, public-public partnership, public-private partnership or privatisation for port ownership. So far all these consultants have recommended the adoption of HMC status as a means of placing municipal ports on a more commercially sustainable footing.

4.13 Canterbury City Council commissioned, with the assistance of the Department, an independent consultant to conduct a best value review of the port of Whitstable. This review concluded (February 2002) that the HMC structure used by trust ports was the best option for managing the overall direction of the port. As a result of this survey in 2003 the Council reconstituted the board as described in the section below and the port is now moving towards profitability.

4.14 Other owning authorities have scrutinised the 'Whitstable model' with a view to using this approach for their own ports. Following a further independent review, Cumbria have concluded that the HMC is its best option for moving Workington forward. Several other local authorities are awaiting the outcome of this current Review of municipal ports before reaching a decision.

Making harbour management committees work

4.15 The HMC can be constituted as a committee within the current local authority structure, provided that the local authority has chosen ports to be a function of the full council, and not reserved to the executive

4.16 The formation and membership of the committee is critical. Ideally it will need to remain protected against short term thinking and be subject to a coherent and consistent treatment by the council. It should also be apolitical.

4.17 Before recruiting, local authorities should undertake a skills audit to assess the balance of skills required to effectively govern the port and deliver against the business plan. These skills should be considered for all committee members.

4.18 The committee should ideally compromise:

- 50% local authority appointees. These do not have to be local authority employees and councillors, but can be co-opted by the local authority to represent the interests of other bodies (such as the Environment Agency) or provide specific skills in support of port management. The harbour master or chief executive officer should be included within the local authority appointees.
- The remaining 50% of the committee should be made up from external appointees, including stakeholder representatives
- The external members should be appointed by public advertisement using the rules applicable to public appointments⁷. This is in line with the advice given in the *Modernising Trust Ports: A Guide to Good Governance*.
- The chairman should be a local authority member. This will ensure that the local authority maintains overall control of the port business and strategy.
- Any committee member who declares an interest in a particular area may remain in the meeting, but may only raise factual issues and must leave the room for the vote.

4.19 The Combined Code published by the Committee on Corporate Governance reinforces the overall approach we are recommending, suggesting that:

- The chairman and harbour master together on a committee provide an effective balance of power and authority (no individual has unfettered powers of decision);
- A balance of executive and non- executive (independent) directors is required so that no one group of interests can dominate the committees decision making;

⁷ The combined code (Cadbury/ Greenbury) published by the Committee on Corporate Governance. Further information can be found at www.fsa.gov.uk/pubs/ukla/lr_comcode.pdf

- There should be a formal and transparent appointments procedure for the committee members;
- All directors should be required to submit themselves for re-election at regular (3 year) intervals.

4.20 A particular benefit likely to derive from the HMC model is that the mixture of members on the governing body should provide relevant expertise, local representation and independence. The local authority appointees would include those with a direct professional interest, including harbour masters, and members of interest groups, guaranteeing that the principle of local accountability and the need to provide a relevant skills base are incorporated at the centre of the decision-making process.

Training

4.21 Committee members may require training to fulfil their roles on the board. The Department for Transport with help from DCLG and the British Ports Association will develop a training programme specifically aimed at local authority members/officers and HMC members.

4.22 This training should cover port operation, statutory and regulatory obligations and governance issues.

Memorandum of Understanding

4.23 In order for the HMC to operate effectively we believe that a formal memorandum of understanding should be established between the harbour committee and the local authority. We see the memorandum of understanding as central to the process and setting out the recommended ground rules for a framework between the port and the authority. This memorandum of understanding should (as a minimum) cover the following topics so that both parties have a full understanding of what is expected of them:

- The reporting lines.
- The charges and subsidies – these should be agreed on a yearly basis between the local authority and the HMC and set out in the MOU these should include the harbour dues as well as any asset rental.
- The asset base – all assets of the local authority that are part of the running of the harbour, should be listed and where possible ownership should be passed over to the harbour estate to allow for proper maintenance and effective running of the harbour. These can be buildings infrastructure (piers, sea walls etc), machinery (dredgers, cars, boats, computer systems etc).
- The claw back provisions – these provisions should be set up within the ‘MOU’ stating the amount of profit that needs to be reached in order for the port to be self sufficient for its maintenance and general upkeep. Once this level of profit has been breached then the percentage of claw back provision should be stated.

Beacon status for municipal ports

4.25 The Beacon Scheme identifies excellence and innovation in local government. It is much more than just a badge, however. The scheme exists to share good practice so that best value authorities can learn from each other and deliver high quality services to all.

4.26 Introduction of an equivalent scheme for municipal ports to recognise the effort and commitment of those implementing this Review would provide a very useful focus for improvement in the municipal ports sector.

A harbour management committee in action: Whitstable

4.27 Whitstable was a declining medium sized municipal port suffering from many of the problems outlined in this report. It was arguably managed as a property asset rather than as a commercial port enterprise. Decision-making was not focused on the needs of the port and its stakeholders. Yet, in common with small ports around the UK, it clearly had the potential to deliver an effective contribution to the local and regional economy.

4.28 In 2001 Canterbury City Council involved the Department in a review of the port's future, along the lines of a 'best value' review. As a direct result of this exercise the port was reconstituted with a trust style of governance with a ten-person harbour board, which was later raised to eleven. Of these, five were originally councillors (now six), chosen to meet the requirements of political balance and five independent members appointed following public advertisement in accordance with the *Modernising Trust ports: a Good to Governance*. The chairman, who holds a casting vote, was one of these councillors.

4.29 The result was a board representative of local interests and, through inclusion of independent members, with the potential to include external ports-specific expertise to advise and support the port manager and harbour master. By choosing to have ports as a function of the full council, Canterbury was able to set up the harbour board as a decision-making body. Technically the board is a council committee, with delegated powers to take decisions and make reports to full council. The board is serviced by the port manager and harbour master and supported by officers of the authority. Finance officers monitor the accounts, while legal, engineering and estate functions together with a committee clerk are provided by the authority, with full costs provided by the port.

4.30 The council has delegated most decision-making in relation to the port to the board. There is a memorandum of understanding between council and board to ensure that the board works within council policy and financial frameworks. The port has assured accounts and these include asset and service charges. In recent years the port has been working at a loss and this was covered by the council's general fund. However, they have developed a strategic business plan with its main aim being to achieve financial self sufficiency, and as a consequence the port is in line to break even this year. When it comes into surplus the port will be allowed to build up a working surplus for reinvestment for harbour purposes. The board has established shadow accounts on a commercial basis

to demonstrate true cost accounting. These include items such as dredging and maintenance reserves. Under the prudential borrowing system the port will be able to borrow (with council authority) for capital investment funded from revenues within their own ring-fenced accounts, where it can show that it can afford to service the debt. In advance of profitability, any capital expenditure is dependent on the council's own capital programme.

4.31 The property asset base of the harbour was defined through the best value review process and some additional parcels of land have been included by the council to provide the port with a coherent operational area for the long term.

4.32 In common with the reconstituted trust ports, the council was pleasantly surprised at the calibre and scale of application for the independent posts which far exceeded applications for similar voluntary sector appointments. The new board has been very active. It meets six-weekly, mostly in public. It has pushed through changes required for health and safety and the Port Marine Safety Code, has brought in new business and negotiated new property leases. It has initiated publication of an annual report and holds annual public meetings to ensure accountability. It has created a fishermen's stakeholder group (a major port business) and has ensured that there is time set aside in every board meeting for stakeholders to come and talk to the board. There are also consultation meetings for specific projects. The board has published a draft development brief and undertaken an extensive local consultation on the potential for redevelopment of a significant proportion of the harbour that is currently under-utilised.

4.33 There is a firm belief that if these changes had not been adopted the port would have steadily declined towards closure. Instead local stakeholders have been re-engaged and the port's prospects regenerated through provision of the flexibility and certainty required to operate on a commercial and competitive basis.

A harbour management committee in action: Workington

4.34 Much like Whitstable, Workington (a large municipal port owned by Cumbria County Council) was once a profitable port. Over the past decade it has progressively lost its core chemical and steel traffic. The downturn in some of the main cargoes for the port combined with aging infrastructure in need of major repair and replacement has led Cumbria to re-think the future of the port.

4.35 A partnership was established during 2003 comprising of Allerdale Borough Council, West Lakes Renaissance and the North West Development Agency to address the port's future, and to establish its role in the regeneration of both Workington and West Cumbria, by strengthening the current business position and the opportunity to access new markets. To this end the partnership enlisted the help of consultants to create a development framework and investment programme⁸ for the port. The Department was also involved in this review.

8 Port of Workington Development Framework and Investment Framework written by Gillespies March 2005

4.36 The consultants established that there were several options available ranging from complete closure to privatisation. It was eventually agreed that the long term aim for the port should be either conversion to a trust port, or privatisation.

4.37 At present privatisation is not considered practicable because the market has already been tested. The private sector was approached by Cumbria County Council in 2003, to submit proposals for buying the port. No firm bids were received, reportedly because of the need for remedial investment and the uncertain prospects for cargo and revenues.

4.38 Similarly, there would be difficulties in moving directly to trust port status, because:

- there is a backlog of investment;
- an allowance (dowry) would have to be paid (possibly equivalent to two years turnover which would equate to over £2.5 million) to provide initial financial stability for the port to allow it to run for the first two years. In the case of Workington, more than the last two years' turnover would probably be required as turnover has gone down in recent years due to lack of investment;
- a Harbour Revision Order would be needed (a process that can be expected to last up to 18 months if objections are made to it and a public inquiry results).

4.39 However, it was clear that institutional change was required at Workington, for several reasons:

- the port did not have sufficient managerial or financial autonomy to operate successfully in a commercial environment;
- the port no longer had reserves to fund repairs and refurbishments necessary to retain and develop traffic flows;
- assured funding and income was required if the port was to receive external funding for investment to guarantee that the funds would be invested in the port and the profits retained
- the port's accountability to its stakeholders had deteriorated. It no longer reported to a sub-committee in the county council in public session. Instead the port now reported to the construction unit of the council's Contract services, and had lost direct access to councillors. The unit to which the port reported had no specialised knowledge of maritime affairs. As a result, requests for decisions on large expenditures took longer to reach councillors and the port's ability to compete effectively with private ports was compromised.

4.40 Cumbria County Council has taken action to remedy these problems. In 2005 it established a new committee known as the 'Workington Harbour Board'. The harbour board consists of five representatives from Cumbria County Council, three Allerdale Borough council representatives and four co-opted independent members (this

includes representation from West Lakes Renaissance). To try and keep the balance as even as possible an independent is the chairperson. All members of the harbour board have full voting rights. The harbour board will have full responsibility for the governance and management of the port, and in particular, implementing future changes.

4.41 The port accounts will be assured to ensure that the owning council does not divert any future profits made by the port. Any surpluses that are earned are to be retained within assured accounts. Funding arrangements will need to be agreed to facilitate works required by the port to enable it to be returned to a sustainable operation.

4.42 Cumbria has decided to undertake a valuation of the port estate and its assets and agree a rental figure or capital return on the valuation with the new board.

4.43 The consultants recommended that this 'HMC' be set up by the Council as an interim solution. The aim will be to provide the benefits and advantages of a trust, while remaining under Council ownership. The HMC would therefore not require a dowry or Harbour Revision Order. The intention of these arrangements is to put the port on a sound footing for eventual conversion to a separate corporation, for sale to the private sector at a later date.

Recommendations

- We believe that the trust port model as described in *Modernising Trust Ports: a Guide to Good Governance* now offers many tried and tested benefits which are readily transferable to the municipal ports sector and offer a real opportunity to provide municipal ports with an accountable expert and more responsive form of governance. It also sets out the benchmarks in terms of board composition, appointment, performance and accountability (with regard to Municipal Ports the Secretary of State will not be involved with the board selection process).
- We recommend that all local authorities carefully consider whether the experience of Canterbury City Council (Whitstable) and Cumbria County Council (Workington) could bring similar benefits to their own ports. We are willing to discuss the ways ahead with any local authority.
- The Municipal ports sector should consider establishing a similar scheme to run in parallel with the 'beacon scheme' that has been established by DCLG. This would provide recognition for ports that have adopted the recommendation made within this review, and we would be happy to discuss any ideas.

ANNEX B

Municipal Ports Review Analysis of Ports' Questionnaire Responses

Prepared by the Operational Research Unit
for Ports Division

Department for
Transport



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1. Management summary

1.1. Introduction

1.1.1. Ministers' commitment to a review of the municipal ports sector, similar to that successfully carried out in the trust sector in 1998, was published in November 2000 in the White Paper 'Modern Ports: A UK Policy'. Due to external events, this review was delayed until early 2004, and this report presents the results of analysis of a questionnaire seeking municipal ports' views.

1.2. Aim

1.2.1. The review of the 61 municipal ports in England and Wales aimed to assess the effectiveness of these ports, and the extent to which they are playing a part in the local and regional economy. This would be done by reviewing ports' management structures and practices to obtain an overview of the sector, identify benefits and constraints resulting from municipal ownership, assess the impact of performance reviews and examine options for the future.

1.3. Analysis

1.3.1. Ports Division commissioned the Operational Research Unit (ORU) to work with them to design and analyse a questionnaire to be sent to all 61 municipal ports. A questionnaire was distributed to the Local Authority and views were also sought from those charged with the running of the port.

1.3.2. Questionnaire responses were received from 28 Local Authorities. This represented a response rate of 46%, meaning that the findings presented in this report may not be representative of the municipal ports sector as a whole.

1.3.3. The results presented in this report are presented for all ports responding, and for larger ports separately to other ports. Five of the ports who responded have been categorised as larger ports. These are Portsmouth, Ramsgate, Sunderland, Weymouth and Workington.

1.4. Key Findings

1.4.1. Section 1: Profile of Port

1.4.1.1. 96% of municipal ports handle leisure traffic, and 89% fishing traffic. Nearly two-thirds of ports are involved with two or three activities.

1.4.1.2. The majority of municipal ports have 50 or fewer actual employees, while 43% and 68% respectively have no people employed in indirect or induced jobs.

1.4.1.3. 69% of municipal ports do not operate under any sort of memorandum of understanding with their Local Authority.

1.4.2. Section 2: Organisational Structure

1.4.2.1. 93% of municipal ports are owned by a Local Authority that has adopted an 'executive with leader elected by council/leader and cabinet' style of governance. The remaining ports are governed by 'District Council with committee system/alternative arrangements'.

1.4.2.2. 57% of ports report to a committee of elected representatives, whilst 52% report to a portfolio holder (there exists a subset of ports that report to both).

1.4.2.3. 80% of larger ports report to a portfolio holder only, compared to only 13% of other ports.

1.4.2.4. The most common Local Authority departments/officers for municipal ports to report to are 'Operational Services/Strategic Director' and 'Head of Lifelong Education Services' (13% of ports each).

1.4.2.5. In 28% of ports, the key day-to-day operational decisions are made by the Harbour Master.

1.4.2.6. 64% of ports made some reference to the council, cabinet, executive or specific elected members being their key decision makers, although this was often in conjunction with Harbour Forums or Harbour Committees.

1.4.2.7. The majority of ports (54%) believe that the arrangements currently in place are an advance on the situation prior to the improvement of modernisation of Local Government initiatives.

1.4.2.8. Only 14% of ports believe that the existing structure of governance is *unfit for purpose* in terms of the standards of openness and accountability recommended in 'Modernising Trust Ports', whilst half felt that it was *fit for purpose*.

1.4.2.9. 93% of municipal ports have at least one advisory group or stakeholder forum. 65% of ports felt that the level of influence held by these groups was *neither strong nor weak*, with most ports explaining that the groups were purely advisory.

1.4.2.10. 81% of ports felt that advisory groups have a *beneficial* or *very beneficial* impact on the accountability and effectiveness of port operation.

1.4.2.11. Of the larger ports, 50% felt that advisory groups have a *beneficial* impact on accountability and effectiveness, compared to 87% of other ports who felt that the groups were *beneficial* or *very beneficial*.

1.4.3. Section 3: Business Planning

1.4.3.1. 85% of ports, including all the larger ports, have a port business plan that feeds into the Local Authority corporate or strategic plan, and reflects the council's objectives and priorities.

1.4.3.2. Relative port priorities are decided in relation to other Local Authority priorities and available budgets. A third of ports stated that priorities are decided by the council. This included two of the five larger ports.

1.4.3.3. 76% of ports agreed that the commercial status of the port, and its commercial needs are adequately taken into account in the overall business planning process. However, at the port it was felt that the council does not truly appreciate the commercial needs of the port. Only two of the four larger ports responding to this question agreed that the commercial status of the port is adequately taken into account.

1.4.3.4. Only 36% of ports felt that they were able to participate in commercial planning on a par with private sector ports, and when asked port managers did not feel that they were able to. Two of the larger ports felt they were able to do so.

1.4.4. Section 4: Financial Structure

1.4.4.1. 19% of ports have accounts that are fully ring-fenced, and 44% have accounts that are partly ring-fenced. The majority of ports (54%) do not have ring-fenced reserves.

1.4.4.2. 80% of large ports do not have ring-fenced accounts, and 60% do not have ring-fenced reserves. This is in comparison to 27% and 52% respectively of other ports.

1.4.4.3. 73% of all ports said that they were in favour of ring-fencing accounts and/or reserves, whilst 60% of large ports are in favour.

1.4.4.4. 87% of ports felt that municipal accounting arrangements were suitable for the effective management of a commercial port. However, when asked, only a third of those charged with the running of the port agreed with this.

1.4.4.5. 60% of large ports felt that municipal accounting arrangements were suitable, compared to 94% of other ports.

1.4.4.6. Local Authorities levy a variety of charges on ports for services provided, many relating to central services such as IT and HR/payroll. 88% of ports that specified a view thought that these services provided value for money, in contrast to a small proportion of port managers.

1.4.4.7. 52% of ports felt that the prudential system would make it *neither easier or more difficult* for the port to obtain funding approvals.

1.4.4.8. 50% of large ports responding to this question felt that the prudential system would make it *easier* to obtain funding, compared to 29% of other ports.

1.4.4.9. 56% of ports felt that there was sufficient commitment in Local Authorities to support continued maintenance of the ports infrastructure, in comparison to only a sixth of those charged with the running of the port.

1.4.5. Section 5: Performance

1.4.5.1. 39% of municipal ports who returned a questionnaire have been subject to a performance review, with the most common type being a best value review (64% of reviews).

1.4.5.2. 85% of ports who have been subject to review and have implemented the review's recommendations thought that this had had a *beneficial* or *very beneficial* impact on port operations.

1.4.5.3. 50% of ports felt that the performance review procedures were appropriate to the assessment of a port operation.

1.4.5.4. 40% of ports thought that the review was *neither effective or ineffective* in moving municipal ports towards accountability and openness on a par with Government guidelines for the trust sector.

1.4.5.5. When rating the impact of the performance review overall, none of the ports felt that the review had had a negative impact, although 40% gave a neutral response.

1.4.6. Section 6: Future Plans

1.4.6.1. The most frequently identified short and medium term challenges to municipal ports were issues relating to finance, facility upgrades, attracting business, governance and management.

1.4.6.2. In order to resolve these challenges, a third of ports identified the availability of funding as an issue that will need to be overcome.

1.4.6.3. 71% of ports identified that they are planning some development in the future, and 86% of these ports stated that they would be funding this through means other than PPP or PFI.

1.4.6.4. When asked what options had been *considered* and *explored*, the most common answer was 'conversion to trust', identified by 64% of ports. However, whilst this had been *considered* by many ports, less than half had *explored* this idea further.

1.4.6.5. Public/public partnerships and privatisation had also each been *considered* by 50% of ports.

1.4.6.6. 36% of ports had *considered* and *explored* the 'lease' option, making this the most commonly explored option for the future.

2. Introduction

2.1. Background

2.1.1. Ministers' commitment to a review of the municipal ports sector, similar to that successfully carried out in the trust sector in 1998, was published in November 2000 in the White Paper 'Modern Ports: A UK Policy'. This review aimed to report back to Ministers in spring 2001.

2.1.2. However, following this announcement, various events including those of September 11th 2001 led to the postponement of the review. The intention to review municipal ports was revised in early 2004.

2.2. Aim

2.2.1. The review of the 61 municipal ports in England and Wales aimed to assess the effectiveness of these ports, and the extent to which they are playing a part in the local and regional economy. This would be done by reviewing ports' management structures and practices, to obtain an overview of the sector, identify benefits and constraints resulting from municipal ownership, assess the impact of performance reviews and examine options for the future.

2.2.2. There were a number of issues that the review hoped to address. Municipal ports are run by the owning Local Authority (LA), and as such are subject to local government rules and financing requirements. Many municipal ports run at a loss, and many report a lack of understanding on the part of the LA. A lack of financial ring-fencing of accounts leaves successful ports open to having their accounts raided by LAs.

2.3. Analysis

2.3.1. ORU were commissioned to work with Ports Division to design a questionnaire to be sent to all municipal ports to find out more about the sector and seek their views on business planning, the financial structure the ports operate within, performance reviews and future plans.

2.3.2. A questionnaire was distributed seeking the official view of the Local Authority, to be completed by the Port Manager and the LA representative. Views were also sought from those charged with the running of the port. The questionnaire is provided at Annex A for reference.

2.3.3. ORU also designed a user-friendly database that would allow Ports Division to enter questionnaire responses into a system that could be easily interrogated for analysis.

3. Methodology

3.1. Questionnaire Analysis

3.1.1. The questionnaire comprised six sections, and a mixture of multiple-choice and free text questions. Section 4 of this report presents the results of analysis of responses received. In general, answers to multiple-choice questions have been presented graphically, whilst the key points to emerge from the remaining questions have been summarised in the following sections.

3.1.2. Once the data entered into the database had been cleaned, there were 28 responses available to analyse. This represents a response rate of only 46%, and so the analysis presented in this report may not be representative of the municipal ports sector as a whole.

3.1.3. For the analysis presented in this report to be representative of all municipal ports, responses from approximately 50 ports would have been required. This would have allowed conclusions to be drawn that we could be 90% confident would reflect the true position in all municipal ports. With only 28 responses, the analysis presented in the following sections can only present a picture of those responses received, rather than the entire municipal ports sector.

3.1.4. The results presented in this report are presented for all ports responding, all port managers responding (although findings from these questionnaires were only reported when noticeably different from Local Authority responses), and for larger ports separately to other ports. Five of the ports who responded have been categorised as larger ports. These are Portsmouth, Ramsgate, Sunderland, Weymouth and Workington.

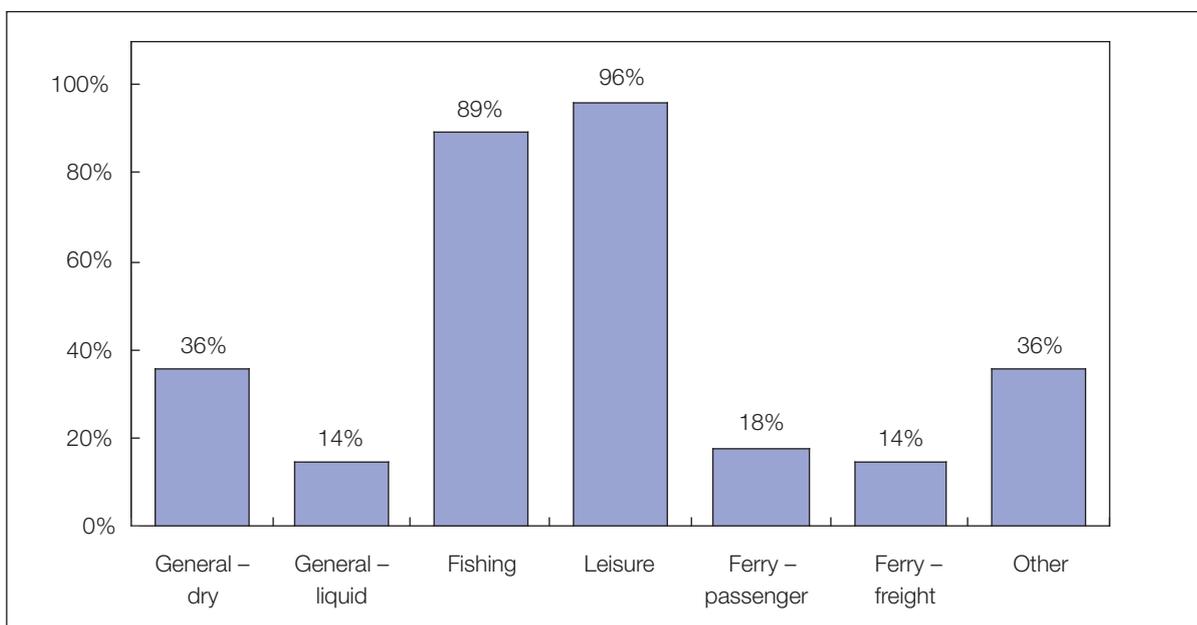
4. Results

4.1. Section 1: Profile of Port

4.1.1. Activities and Traffic Handled by Municipal Ports

4.1.1.1. Figure 1 below shows the range of services/activities handled by municipal ports. The most common activities are *leisure* and *fishing*, with 96% and 89% respectively of ports engaging in these activities. More ports handle *general cargo* than *ferry services*, although the proportion involved with *general dry cargo* (36%) is much higher than those involved with *general liquid cargo* (14%).

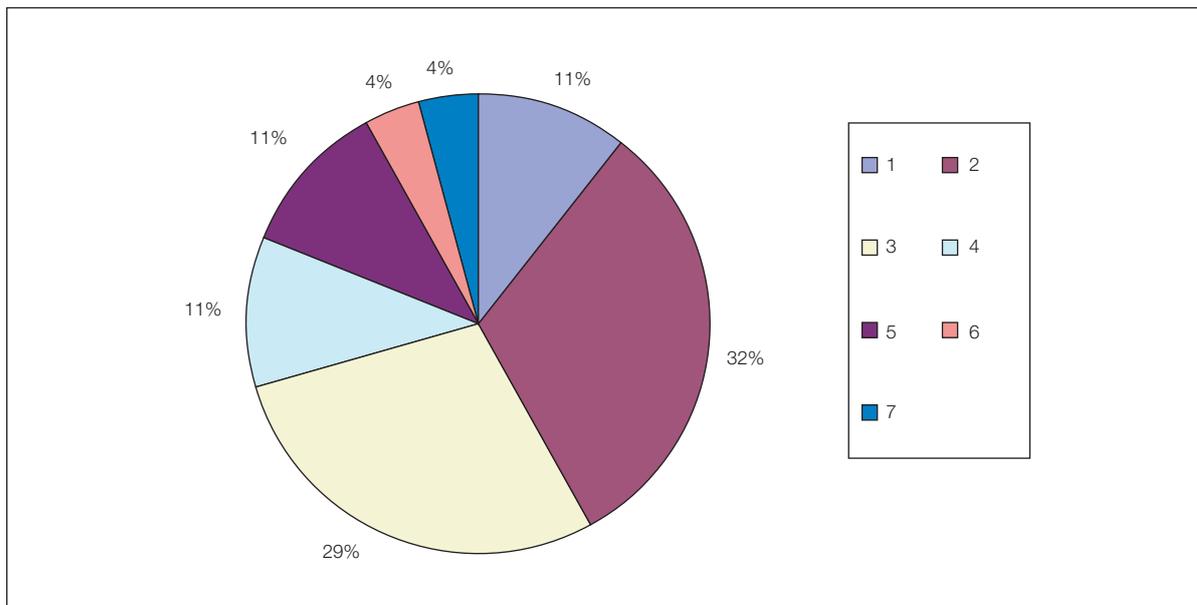
Figure 1: Services/Activities Engaged in by Municipal Ports



4.1.1.2. Just over a third of municipal ports reported that they handled ‘*other*’ activities/traffic. Several ports described these activities as pleasure boat voyages, whilst other activities mentioned included vessel repair, cruise ship dockings and MOD range safety vessels.

4.1.1.3. The majority of municipal ports handle more than one activity. The pie chart below shows the proportion of ports who are involved in varying numbers of activities.

Figure 2: Total Number of Services/Activities Engaged in by Municipal Ports



4.1.1.4. As the chart shows, nearly two-thirds of municipal ports are involved in two or three activities. Only 11% are involved with a single activity or service, and 4% are engaged in seven activities.

4.1.2. Volumes of Traffic Handled in the Last Five Years

4.1.2.1. There was wide variation reported in the volumes of traffic handled by municipal ports. Volumes were also reported inconsistently, with some ports reporting numbers of vessels, some numbers of permanent moorings, others tonnage, other financial totals, and some just reporting volumes as “small”. This inconsistency makes comparisons difficult. Many ports did not report volumes of traffic at all, and for those who did it was not always clear whether the figures reported related to the last five years (as the question asked) or were per annum.

4.1.2.2. Of those ports who handle *general dry cargo*, and who reported the volume of traffic that they handle, volumes ranged from 22,000 tonnes to 80 vessels or 101,152 tonnes.

4.1.2.3. Of those ports handling *general liquid cargo*, only one reported volumes of traffic – a fleet of 12 fishing/shellfish vessels, which presumably relates to other activities within the port.

4.1.2.4. The ports involved with the *fishing* industry varied considerably in how they reported their volumes of traffic. This ranged from “2 demersal trailers and 3 potting boats” to 27 registered vessels. Another reported financial volumes of £14,713,102, whilst two reported that they were involved in the regulation of oyster fishery.

4.1.2.5. Less than half of the ports engaged in *leisure* activities reported their volumes of traffic. This ranged from “1/2 visits by v/l Balmoral several hundred passengers” to 13,000 visiting yachts and 1,600 visiting dinghies. Another port reported 23,008, but it was not clear whether this referred to numbers of vessels, or what period this covered.

4.1.2.6. 80% of ports handling *passenger ferries* reported their volumes of traffic – this ranged from one passenger vessel to “218,685”.

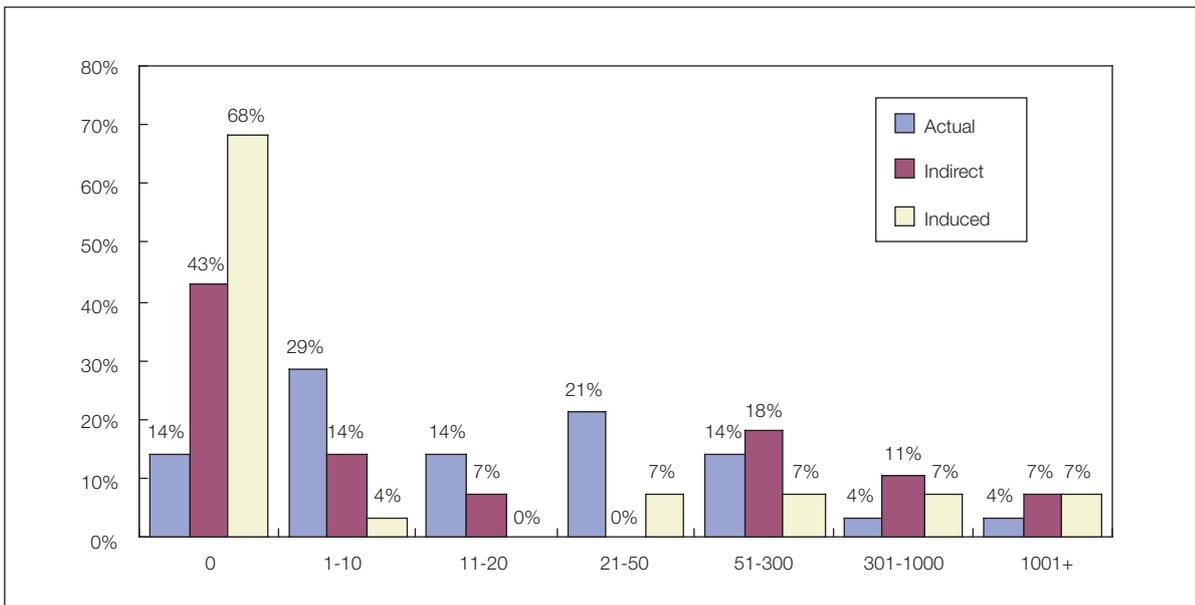
4.1.2.7. Only one port handling *freight ferries* reported its traffic volumes, and its entry merely stated “5257” – it was not clear whether this referred to numbers of vessels or tonnage, or some other measure.

4.1.2.8. Six municipal ports described their volumes of traffic in the ‘*other*’ category, although two just stated that volumes were “small”. Other volumes included four MOD vessels, 2,000 moorings and “99 pilotage acts, 200 ships anchored”.

4.1.3. Port Employees

4.1.3.1. The number of people employed by ports also varied considerably. Figure 3 below shows the proportion of municipal ports employing varying numbers of people in actual, indirect or induced jobs.

Figure 3: Numbers of People Employed by Municipal Ports



4.1.3.2. The chart shows that the majority of ports (79%) have 50 or less actual employees (jobs created by port and shipping facilities activities and services). However, one port has over 1000 actual employees.

4.1.3.3. The chart also shows that a significant proportion of ports have no people employed in indirect (jobs created by suppliers of goods or services) or induced (jobs created by local services purchased by workers) jobs (43% and 68% respectively). However, there are two ports that each have over 1,000 indirect and induced employees.

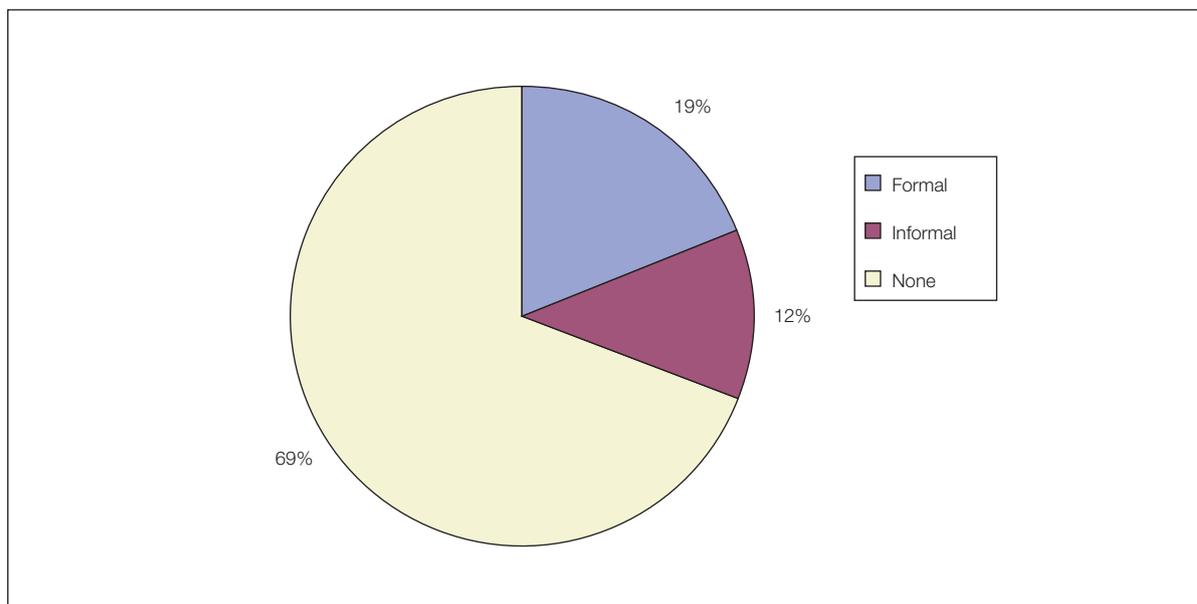
4.1.4. Local Acts From Which Powers are Derived

4.1.4.1. The local Act that municipal ports derive their powers from varies from port to port. The most noticeable result from this question was that most ports derived their powers from Acts passed in the nineteenth century, and in many cases there have been no revisions since.

4.1.5. Memorandums of Understanding

4.1.5.1. Figure 4 below shows the split of municipal ports, depending on whether they operate under a *formal*, *informal* or *no memorandum of understanding* with the Local Authority.

Figure 4: Proportion of Ports Operating Under a Formal or Informal Memorandum of Understanding with the Local Authority



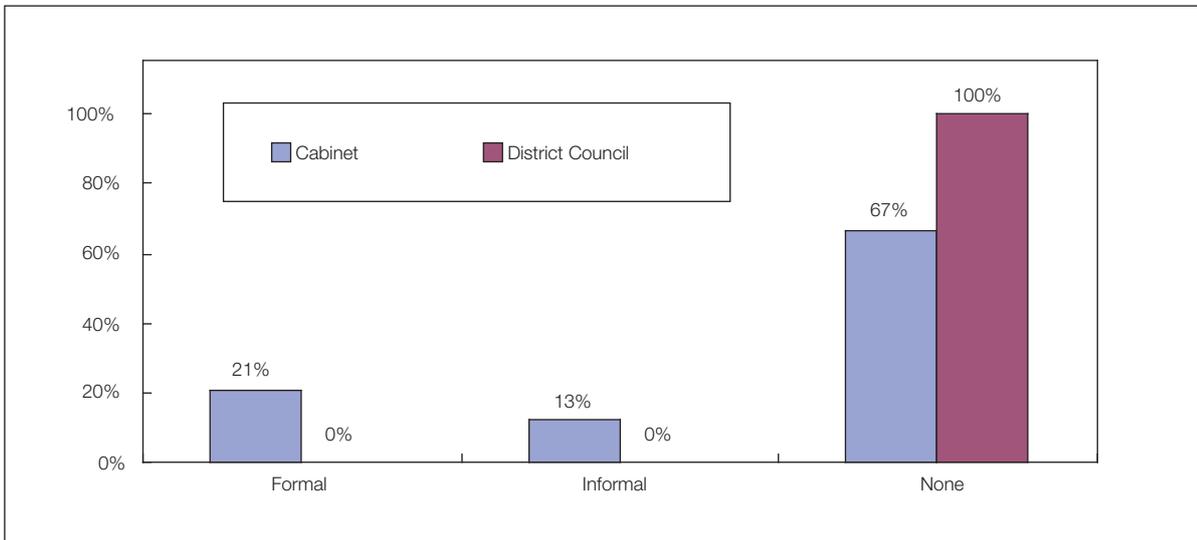
4.1.5.2. As the chart shows, the majority (69%) of municipal ports do not operate under any sort of *memorandum of understanding* with their Local Authority. 19% and 12% of ports operate under *formal* and *informal memorandums*, respectively.

4.1.5.3. This split was then analysed further to see if there were any noticeable differences in the proportions of municipal ports operating under different memorandums of understanding when the style of governance adopted by the Local Authority was taken into consideration.

4.1.5.4. The majority of municipal ports completing the questionnaire reported that their Local Authorities had adopted an ‘*Executive, with Leader elected by Council/Leader and Cabinet*’ style of governance. Only 7% (two ports) reported a different style of governance, and in both cases this was a ‘*District Council with Committee System/Alternative Arrangements*’ style.

4.1.5.5. Neither of the ports in Local Authorities with District Council style governance have a memorandum of understanding with the LA. However, the majority of all ports have no memorandum (see Figure 5), and so the presence or otherwise of a memorandum can not be said to be related to style of governance.

Figure 5: Proportion of Municipal Ports Operating Under a Memorandum of Understanding, by LA Style of Governance

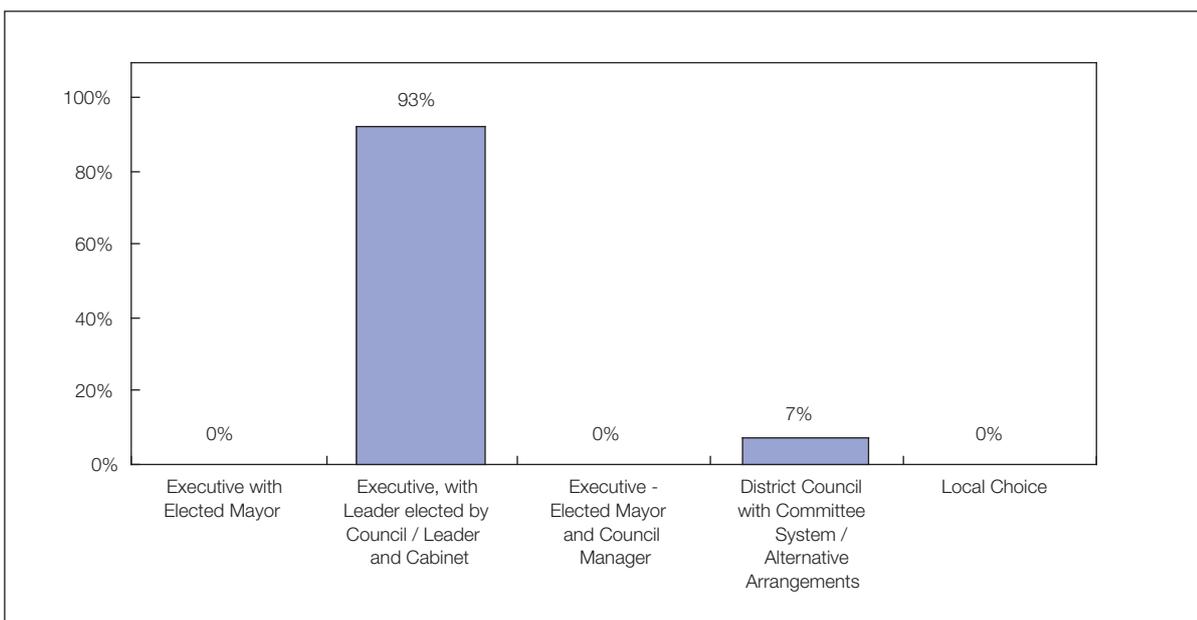


4.2. Section 2: Organisational Structure

4.2.1. Style of Governance of Local Authorities

4.2.1.1. Figure 6 shows the proportions of municipal ports according to the style of governance adopted by their Local Authority.

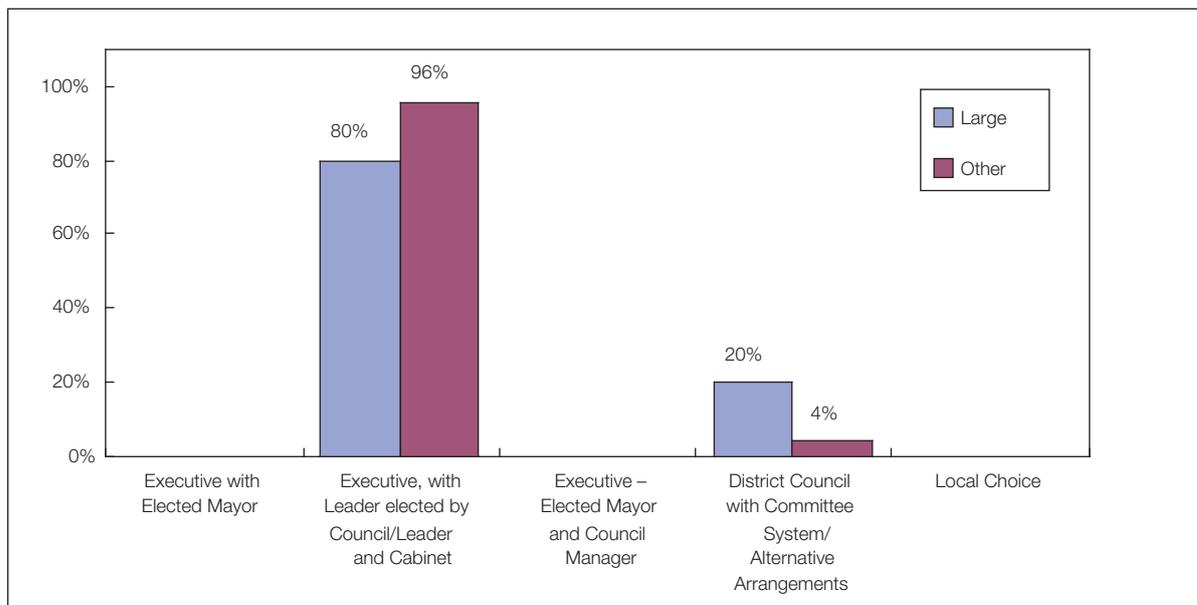
Figure 6: Local Authority Style of Governance



4.2.1.2. The chart shows that the majority of ports (93%) have an executive style of governance with either a leader elected by the council or with a leader and cabinet. District Councils govern a very small percentage of Local Authorities with municipal ports – just 7%.

4.2.1.3. When considering ports by size, the following chart shows that the style of governance is very similar regardless of size.

Figure 7: Local Authority Style of Governance by Size of Port

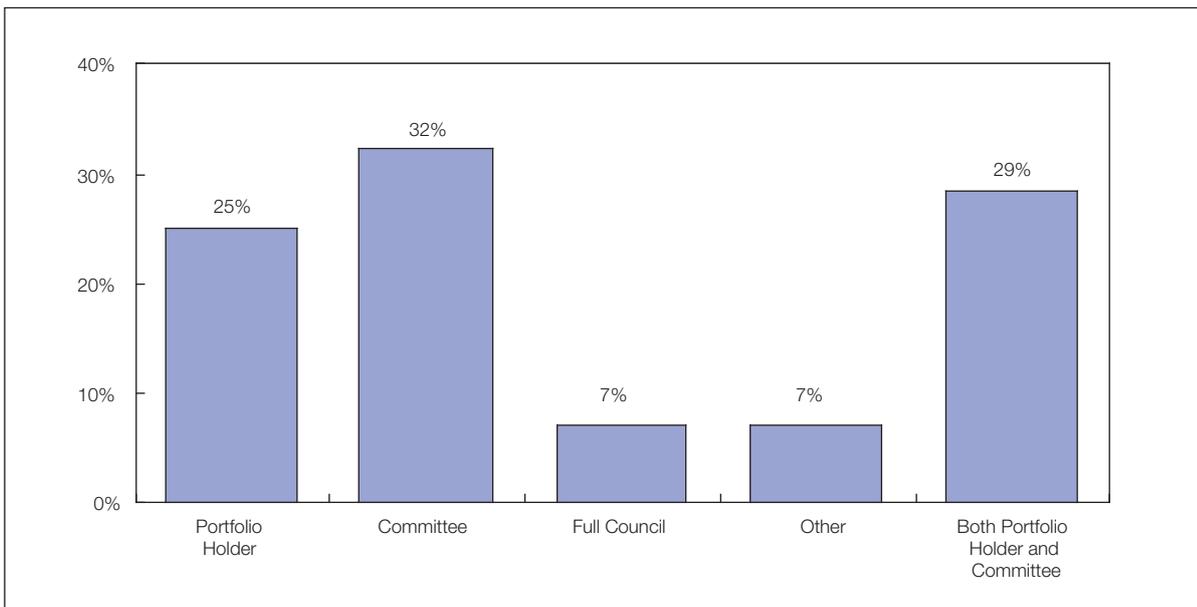


4.2.1.4. 20% of the larger ports are governed by District Councils, compared to only 4% of other ports. However, in both cases this represents only one port, so there is no difference in style of governance of ports of different sizes. The remaining ports all have an executive style of governance with either a leader elected by the council or with a leader and cabinet.

4.2.2. Elected Representatives to Whom Municipal Ports Report

4.2.2.1. Figure 8 below shows the proportion of ports that report to each type of elected representative. Several ports (29%), whilst not selecting any of the specified options on the questionnaire, named a portfolio holder and a committee that they report to.

Figure 8: Elected Representatives to Whom Ports Report

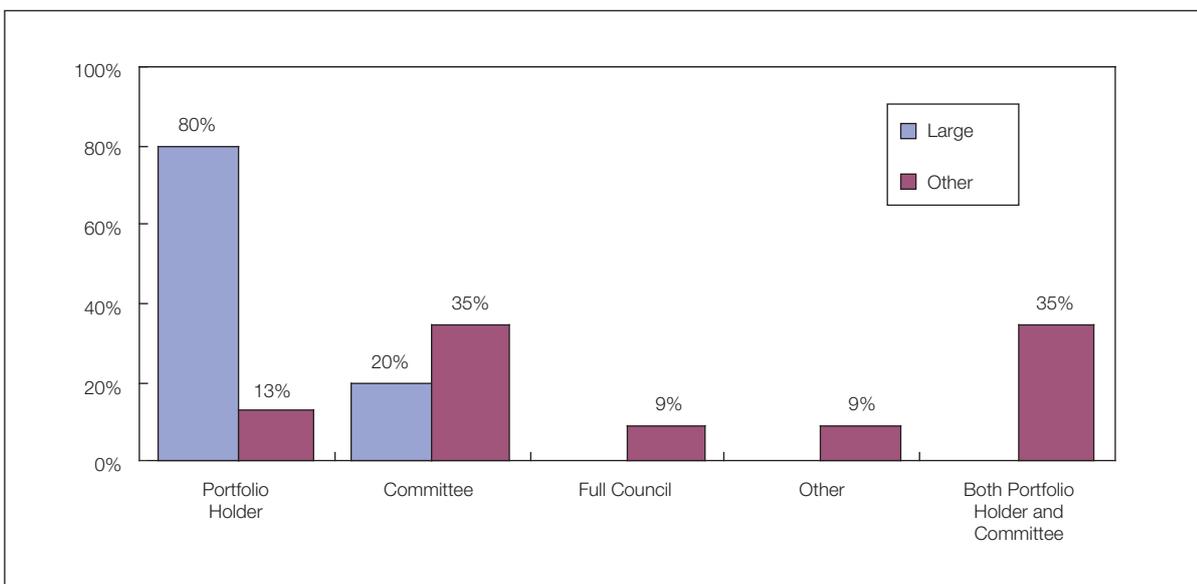


4.2.2.2. The chart shows that it is most common for ports to report to a *committee* (31% of ports) whilst 24% of ports report to a *portfolio holder*. However, taking into consideration those ports that described both the *portfolio holder* and *committee* that they report to, 57% and 52% of ports have a *committee* and *portfolio holder* respectively in their reporting structure.

4.2.2.3. The 7% of ports which report to a representative other than those specified, stated that this was the director of development.

4.2.2.4. Figure 9 below shows the proportion of ports that report to each type of elected representative depending on the size of the port.

Figure 9: Elected Representatives to Whom Ports Report by Port Size

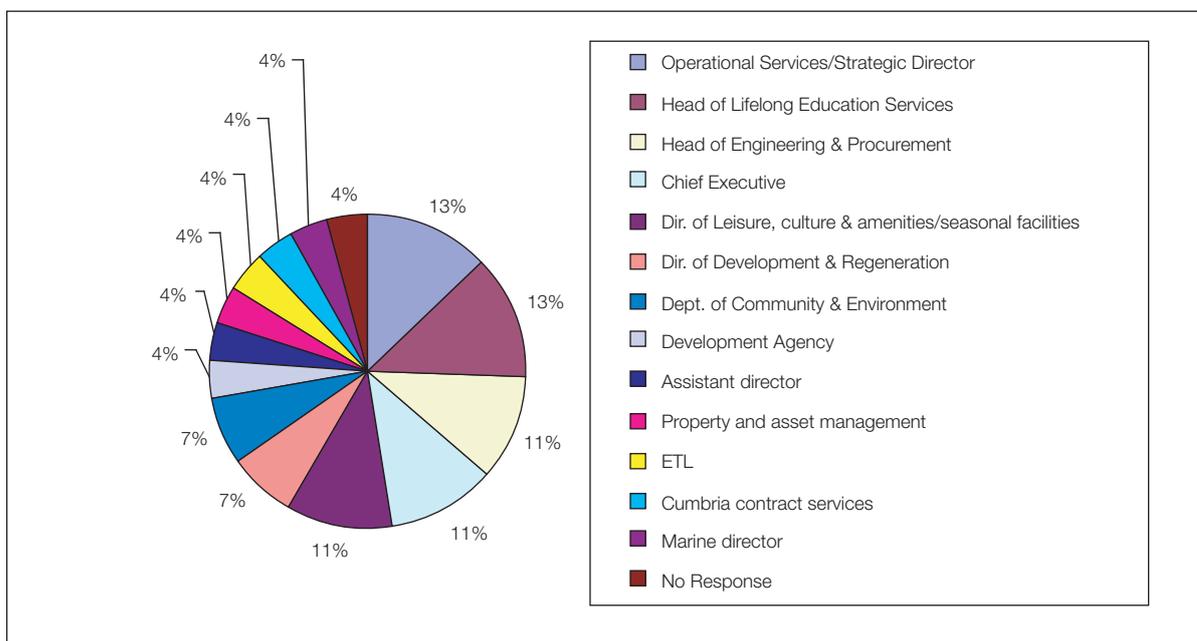


4.2.2.5. It is clear that the majority of large ports report to a *portfolio holder* (four out of five) which is significantly different to other ports. Just one of the large ports reports to a *committee* corresponding to 20% of these ports, compared to 35% of other ports.

4.2.3. Local Authority Departments and Officers to which Municipal Ports Report

4.2.3.1. Figure 10 shows which Local Authority departments and/or officers ports report to. The chart shows that the most common departments/officers for municipal ports to report to are ‘Operational Services/Strategic Director’ and ‘Head of Lifelong Education Services’ with 13% of ports reporting to each.

Figure 10: Local Authority Department/Officers to Which Ports Report



4.2.3.2. One each of the larger ports report to ‘Operational Services/Strategic Director’, ‘Chief Executive’, ‘Director of Development & Regeneration’, ‘Department of Community & Environment’ or ‘Cumbria Contract Services’. As all large ports report to different departments/officers, the smaller ports therefore show a very similar distribution to that shown in Figure 10 detailing all ports.

4.2.4. Key Decision Makers

4.2.4.1. A variety of answers were given to the question ‘Who are the key decision makers for your port?’, with some ports interpreting this as asking who makes the key decisions on a day-to-day basis, and others providing answers at a higher level.

4.2.4.2. Eight ports (29%) specified that the day-to-day operational decisions were made by the Harbour Master, although some stated that this was in consultation with the Marine Officer and Harbour Committees. Many of these ports reported that strategic or policy decisions were made by the council or executive. Of these ports, only one was a large port.

4.2.4.3. Two ports (7%) reported that the key decision makers were the Officers of the Engineering Division. In total 64% of ports (all five of the large ports and 57% of others) made some reference to the council, cabinet, executive or specific elected members as their key decision makers, although this was often in conjunction with Harbour Forums or Harbour Committees.

4.2.5. Problems Accessing Decision Makers

4.2.5.1. Only 7% of ports have had any problems in accessing the decision-makers to obtain decisions. In this survey, the two ports that were affected both explained this issue. One port, which is one of the larger ports, explained that as decisions must flow up the reporting structure it can be a very drawn out process to gain a final decision. The second port commented that the decision-makers meet on a monthly basis and so there is always a delay.

4.2.5.2. Both of these ports are governed executively with either a leader elected by council or a leader and cabinet.

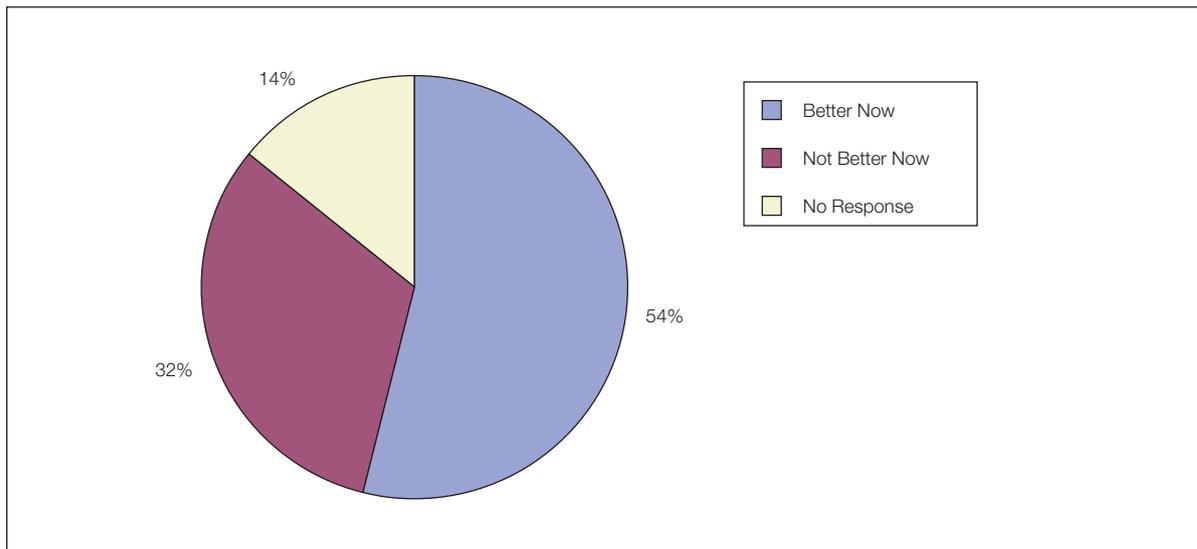
4.2.5.3. When asked, one port manager commented that while he does not have a problem accessing the decision makers, he has experienced problems getting decisions made. Another felt that port operations are not considered by the council to be a key service, resulting in difficulties gaining support and funding.

4.2.6. Current Arrangements in Comparison to the Situation Prior to Modernising Local Government

4.2.6.1. Ports were asked for their opinion on whether or not the current arrangements in place are an advance on the situation before the improvement of modernisation of Local Government initiatives.

4.2.6.2. Figure 11 shows the responses obtained. The majority of ports agree that the arrangements are better now than they were. 14% of ports did not respond, explaining that either there were very few changes made to the port's operations or that the person answering the questionnaire only began their duties after the changes.

Figure 11: Comparison of Arrangements Before and After Modernising Local Government

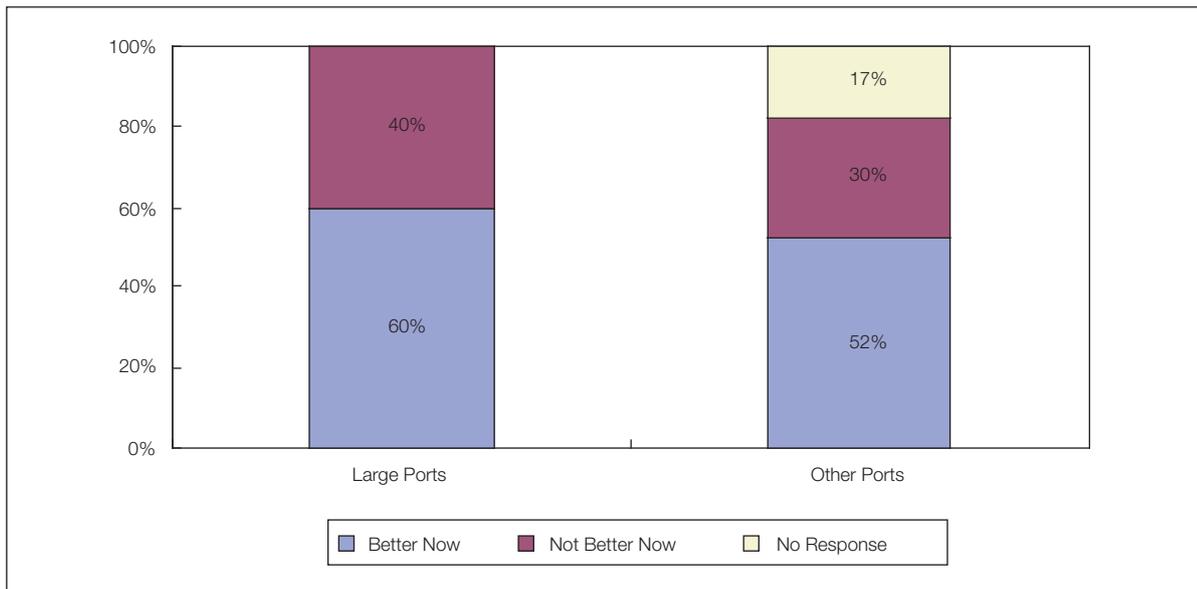


4.2.6.3. Several of the ports who stated that they believe the arrangements are now better reported that the new arrangements give better access to decision makers, meaning that the decision-making process moves faster and more effectively. Several ports also stated that they now had additional resources for staffing and central office support.

4.2.6.4. The ports that felt that the arrangements were better before the changes commented that some things had been improved and others had got worse. The majority of respondents felt that the new arrangements enable full accountability though effectiveness and efficiency have been lost. Some ports suggested that if the chairman of the harbours forum is of a different political party to the portfolio holder then problems could arise. Another common response was that fewer members are now involved in the decision making process with no local champions and that the ports business is quite low on the council’s list of priorities. Finally, one port found that overall effectiveness had been lost by not retaining a specific harbour committee.

4.2.6.5. Figure 12 below shows the views of ports depending on their size. It is clear that ports have similar views regardless of their size. All of the ports that did not respond were smaller ports.

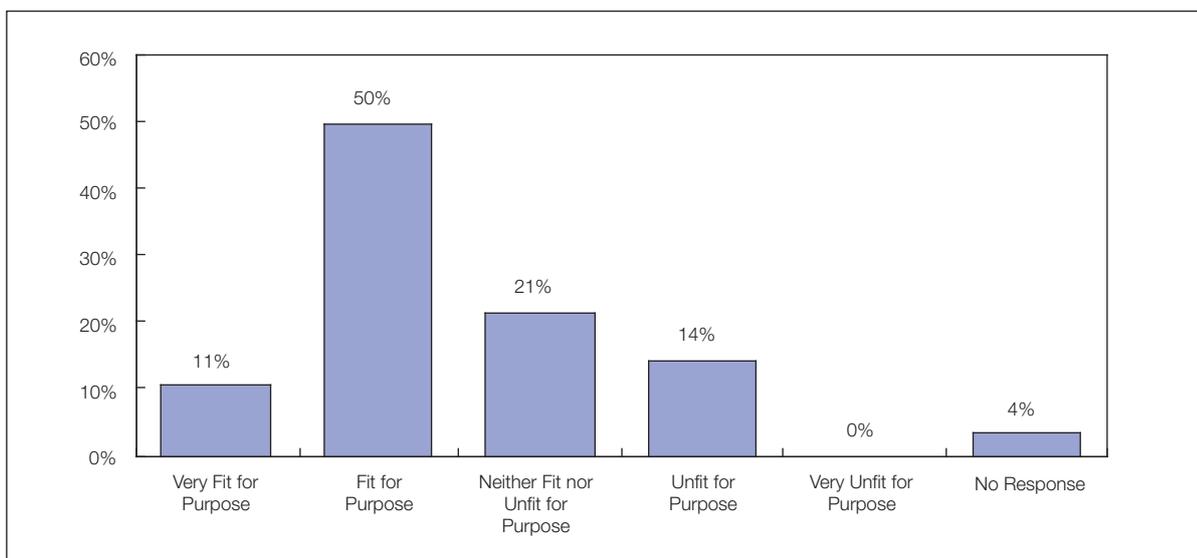
Figure 12: Comparison of Arrangements Before and After Modernising Local Government by Port Size



4.2.7. Standards of Openness and Accountability

4.2.7.1. Figure 13 shows the views of ports regarding how fit for purpose the existing structure of governance in the port is in terms of the standards of openness and accountability recommended in “Modernising Trust Ports – A guide to good governance according to Government guidelines”.

Figure 13: Structure of Governance meets Standards of Openness and Accountability Recommended in “Modernising Trust Ports”



4.2.7.2. Only 14% of ports responded negatively, saying that the existing structure of governance in the port was *unfit for purpose*. These ports were concerned about the committees in place, in particular the lack of facility for any input from wider community interests and also the lack of long-term strategic plans.

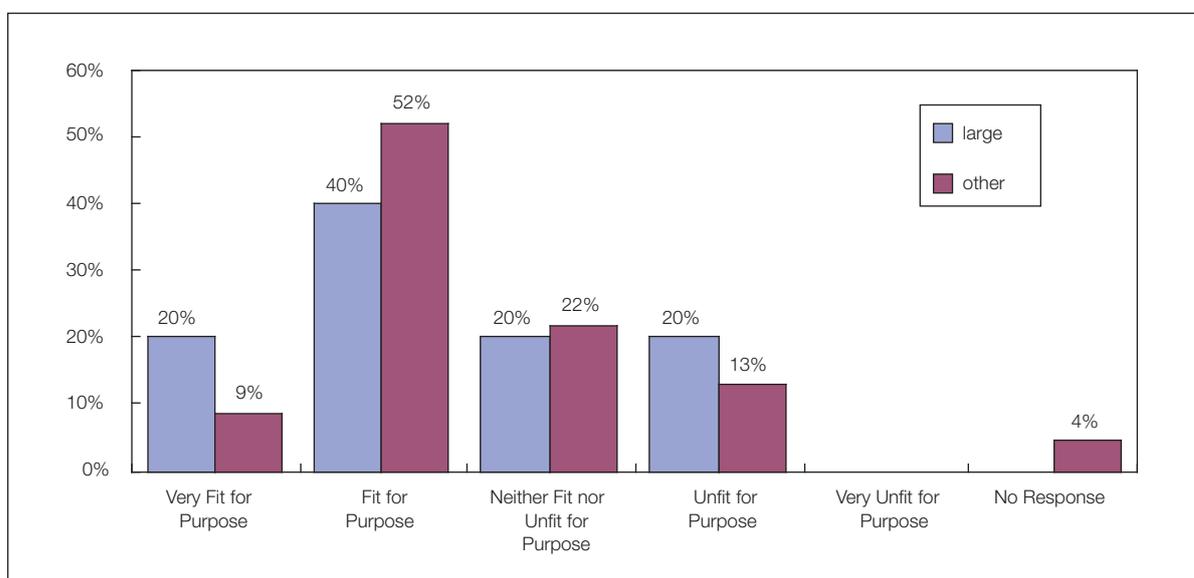
4.2.7.3. Other comments from ports explaining why they did not give a more positive response suggested that there are issues regarding the structure of governance (for example, one port’s board does not meet Government guidelines in terms of size and method of selection), and that elected members on committees have a lack of experience and knowledge where it’s necessary. Several ports also made comments comparing the structure of governance unfavourably to the trust ports sector. Other ports generally made comments which were port specific giving examples where improvements could still be made.

4.2.7.4. However, half of the municipal ports that responded felt that the existing structure of governance in the port was *fit for purpose*, with a further 11% stating that the structure was *very fit for purpose*. These ports commented on the democratic nature of the existing structure, with one port mentioning that “after 18 months of operation, the harbour board is meeting all its anticipated potential”.

4.2.7.5. A similar trend in views can be seen when the ports are considered according to their size, as can be seen in Figure 14. The single large port that believes that the structure does not meet the standards commented that there are problems with the management and reporting structure, the accounts are not ring-fenced and there are no long-term strategic plans in place.

4.2.7.6. 60% of large ports (three out of five) felt that the structure is either *fit for purpose* or *very fit for purpose*, compared to 61% of other ports. This shows a great level of similarity across the different sizes of port.

Figure 14: Structure of Governance meets Standards of Openness and Accountability Recommended in “Modernising Trust Ports” by Port Size



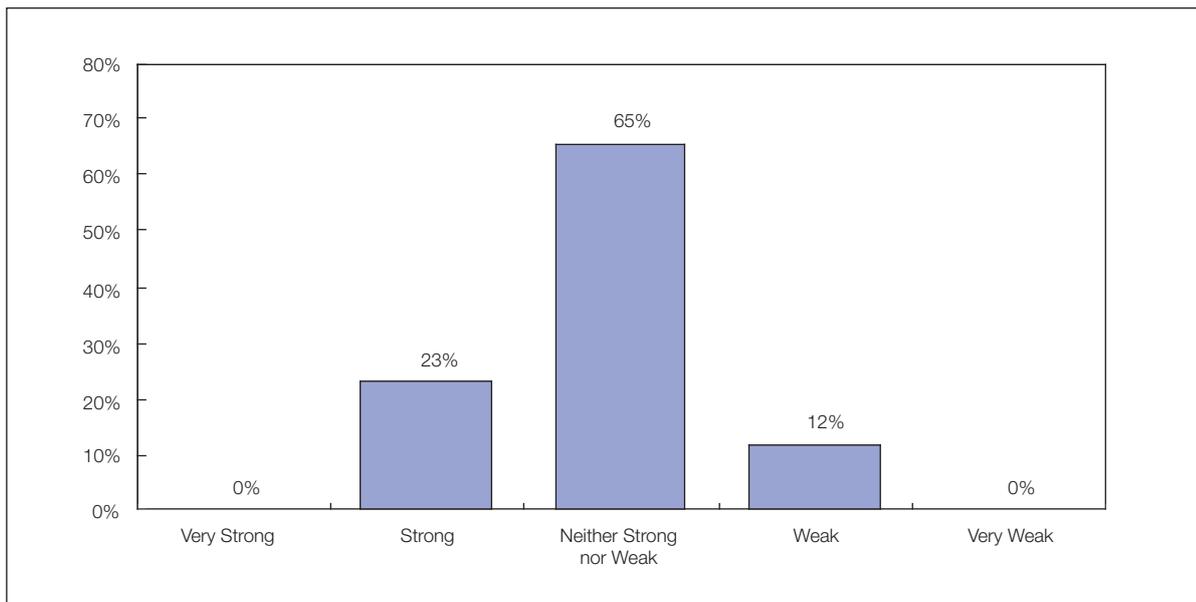
4.2.8. Advisory Groups

4.2.8.1. 93% of ports have at least one advisory group or stakeholder forum. These groups range from open meetings to executive member groups so a variety of users and/or officials are able to discuss their views depending on the port concerned.

4.2.8.2. These meetings can occur monthly, yearly or somewhere in between. The open meetings tend to occur least often, perhaps only once each year, whereas the majority of meetings which include representatives from user groups, occur quarterly.

4.2.8.3. Figure 15 below shows the level of delegation or influence that these groups have on the port's operations and plans. The chart clearly shows that the level of influence held by the majority of groups (65%) is *neither strong nor weak*, with most ports explaining that the majority of groups are simply advisory.

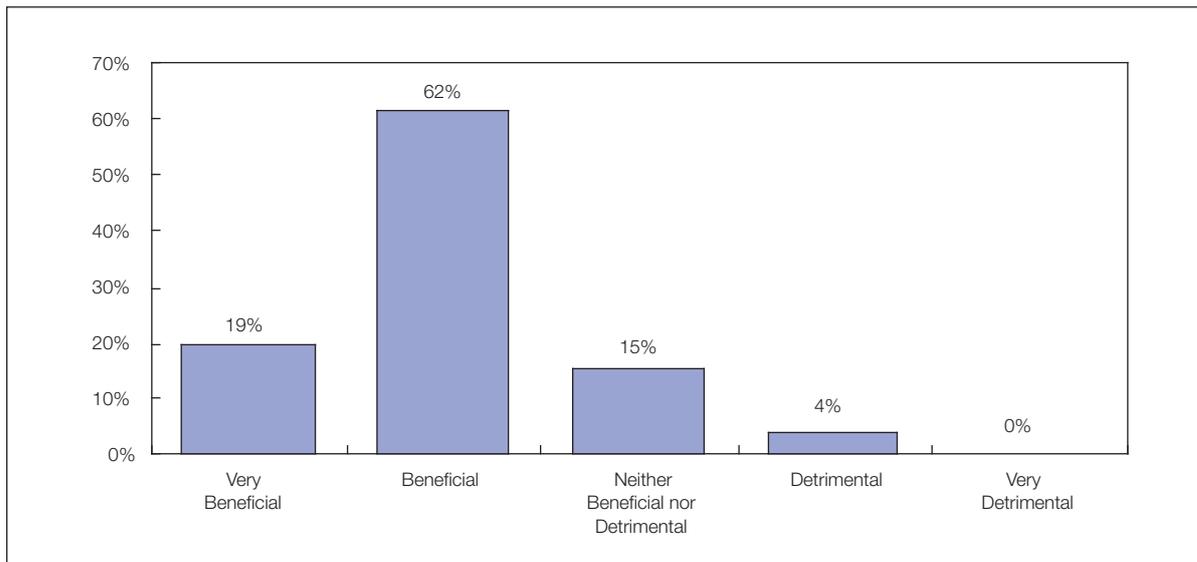
Figure 15: Level of Delegation or Influence of Advisory Groups



4.2.8.4. The comments describing the level of delegation or influence that these groups have explained that the groups have no formal powers of delegation, but they form an opportunity for opinions to be heard and advice given which is then considered by the port when making decisions.

4.2.8.5. Figure 16 below shows how beneficial the groups are to the accountability and effectiveness of port operation. 81% of ports found that these groups have a *beneficial* or *very beneficial* impact on the port. The comments made show that these meetings provide a regular opportunity for different user groups and management to build awareness of each other's issues and share information.

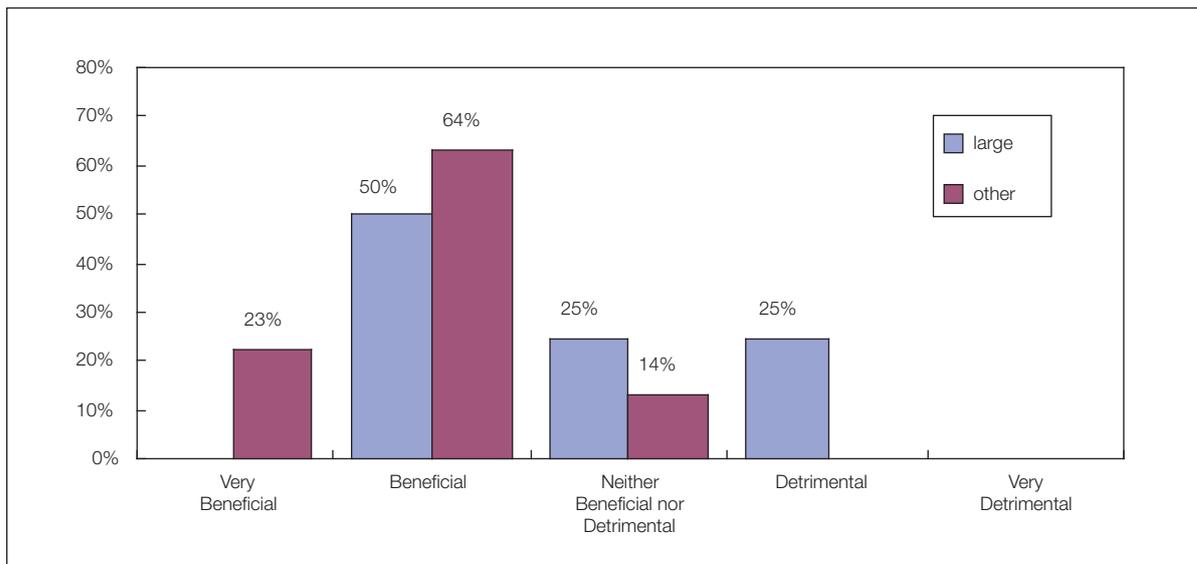
Figure 16: How Beneficial Groups are in Terms of Accountability and Effectiveness of Port Operation



4.2.8.6. One port found the meetings *detrimental*, and explained that this was because one issue dominates the meetings, reducing the time available for operational issues and affecting the quality of discussions.

4.2.8.7. When considering the ports by their size, large ports' and other ports' advisory groups have similar levels of delegation and influence to that shown in Figure 15. However, different sized ports do not agree with how beneficial groups are in terms of accountability and effectiveness of port operation, as shown in Figure 17.

Figure 17: How Beneficial Groups are in Terms of Accountability and Effectiveness of Port Operation by Port Size



4.2.8.8. The only port which finds advisory groups *detrimental* is one of the five large ports (see paragraph 4.2.8.6).

4.3. Section 3: Business Planning

4.3.1. Integration into Local Authority Plans

4.3.1.1. Of the 27 ports that completed Section 3 of the questionnaire, the vast majority (85%) stated that they had a port business plan that fed into the Local Authority corporate or strategic plan, and reflected the council's objectives and priorities. This was true for all of the larger ports. Several ports said that their business planning was integrated into the LA plans through community, corporate and service plans, while another simply stated that the standard local government performance planning system was used.

4.3.1.2. Several ports (22%) also mentioned that their business planning was integrated into the LAs plans through the port's budget, with four ports saying that their budgets were agreed as part of the council's budget. This corresponds to 60% (three out of five) of large ports, one of which stated that the port was virtually a standalone business, although it had financial links to the Authority.

4.3.1.3. However, those charged with the running of the port suggested that while port's business plans are integrated into LA plans at face value, in practice the integration may not be as neat. One commented that the port joins a long "wish-list" of new resources, saying that the port's business plan has been diluted into a hefty, wordy and meaningless directorate plan. Another commented that although the port completes a service plan every year, the harbour service plan has not been discussed or challenged for many years. A third explained that the council's objectives may not be the same as commercial and businesslike objectives.

4.3.2. Port Priorities

4.3.2.1. Generally, relative port priorities are decided in relation to other Local Authority priorities, and available budgets. A third of all ports stated that priorities are decided by the council at cabinet/executive/committee meetings, including two of the five larger ports.

4.3.2.2. 19% of all ports, including one of the larger ports, said that they have to bid for resources in competition with other council services, although whether they receive funds depends on what will help the council achieve its objectives, and whether the council considers the port a high priority. However, in their confidential response, one port manager stated that the council considers the port to be a non-core service, and capital expenditure is unlikely to be agreed regardless of the robustness of the business case.

4.3.2.3. Only one port specifically reported that some political influence will inform the council's priorities, although they said that community and stakeholder consultation would also be a factor.

4.3.2.4. 26% of all ports (including one larger port) stated that their relative priorities were set as part of the annual planning process. Two ports (7%) said that they set their own priorities (one of these was a larger port), which are decided by the port management team. One port reported that port priorities tend to conflict with the council's main priorities, however transport policy is recognised in the Authority's local transport plan.

4.3.3. Ports' Commercial Needs

4.3.3.1. Only 21 ports answered the question on whether or not they believe the port's commercial status and commercial needs are adequately taken into account in the business planning process. Many of those that did not answer did not do so as they did not feel they were a commercial port. Of those that did answer, 76% agreed that the commercial status of the port was adequately taken into account (or 57% of all ports returning a questionnaire).

4.3.3.2. Of those ports that agree that their commercial needs are taken into account, there was a range of reasons given for why this view had been reached. For example, some ports stated that they no longer had significant commercial needs, while others reported that the council is committed to ensuring that the harbour contributes to the economic well-being of the local area.

4.3.3.3. Problems with the business planning process were stated as reasons why some ports did not feel their commercial needs were adequately taken into account. For example, one port explained that ports' business planning requires a long-term approach that does not sit easily alongside the changes in administration/policy brought on by elections, whilst another felt that long-term strategic planning was difficult due to the Local Authority budgetary system.

4.3.3.4. One port stated that the council and Harbour Authority needed to provide a more effective and united approach, whilst another felt that the dual use of their working quays affected commercial operations.

4.3.3.5. Of the five large ports just one did not answer, explaining that the council had recently been facing very difficult financial situations. Of the remaining four large ports, half agreed that the commercial status of the port was adequately taken into account and half disagreed. Those who disagreed gave comments in line with those above (see paragraph 4.3.3.3).

4.3.3.6. At the port it was felt that councils do not truly appreciate the commercial needs of the port. One port manager stated "the Councils stewardship of the port is highly questionable and commercial need is overlooked", whilst others felt that the importance of supporting commercial activities, albeit small ones, was overlooked and decisions were not made on commercial grounds or what would be best for the port.

4.3.4. Long Term Commercial Planning

4.3.4.1. Only 25 ports expressed their view on whether the new funding and governance structure for LAs allowed municipal ports to participate in commercial planning on a par with private sector ports. Of these, only 36% felt that they were able to participate in commercial planning on a par with the private sector. When split according to port size, two out of five large ports (40%) agreed compared to 30% of other ports.

4.3.4.2. Those ports that did not feel they were able to participate in commercial planning on a par with private sector ports gave a variety of reasons for their answer. These included not having the desire to undertake commercial planning (two ports), not having

significant commercial operations (four ports), or because the nature of the annual budgetary planning process, and the need to compete with other departments for council funds was not comparable to the ability of private sector ports to plan for the future. This is particularly relevant for the leisure industry, which is not considered as essential as other council services, such as fire, education and social services. The need to take into account the needs of the community and other stakeholders was also mentioned as a constraint on commercial planning on a par with private sector ports.

4.3.4.3. However, many of the ports that did feel that they were able to engage in commercial planning on a par with the private sector gave similar reasons to those disagreeing with the statement, suggesting a possible misunderstanding of the question. For example, one port mentioned that the port competes with other important public services for capital funding, whilst another port referred to the difficulty of presenting a business case that will justify investment in the port. Another port simply said that they agreed with the statement as the “financial process is on an annual basis”.

4.3.4.4. However, there were several ports who agreed that they were able to engage in commercial planning as their Local Authorities were willing to invest in the port. Four of the Welsh ports said that the Prudential Code enables the council to invest in marine services without being forced to seek private sector partnership, citing examples of development in their harbours. Another port also gave an example of where the council had invested in the harbour, whilst another stated that having access to full public funds creates opportunities.

4.3.4.5. When asked, those charged with the running of the port stated that they did not feel that they were able to participate in commercial planning on a par with private sector ports.

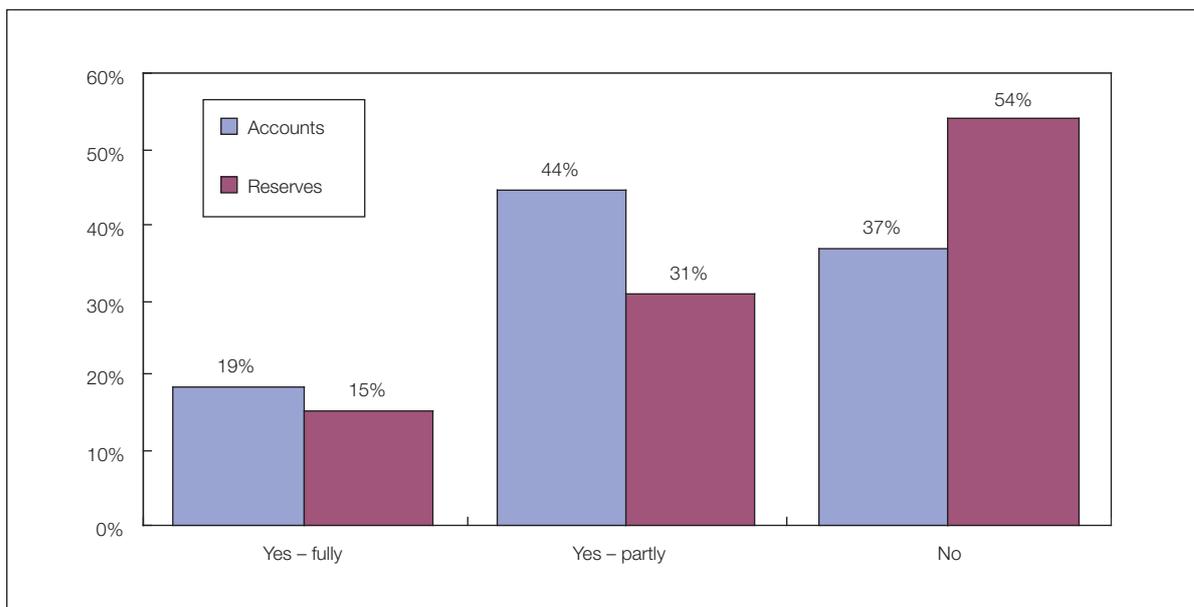
4.3.4.6. One of these port managers explained that commercial opportunities are not recognised or provided for, whilst another said that his council had declined to invest in new facilities because of the “commercial risk”, whilst a third reiterated that the port was in political competition with other services.

4.4. Section 4: Financial Structure

4.4.1. Ring-Fencing of Accounts and Reserves

4.4.1.1. Figure 18 below shows the proportion of municipal ports completing Section 4 of the questionnaire whose accounts and reserves are fully or partly ring-fenced.

Figure 18: Proportion of Accounts and Reserves that are Ring-Fenced

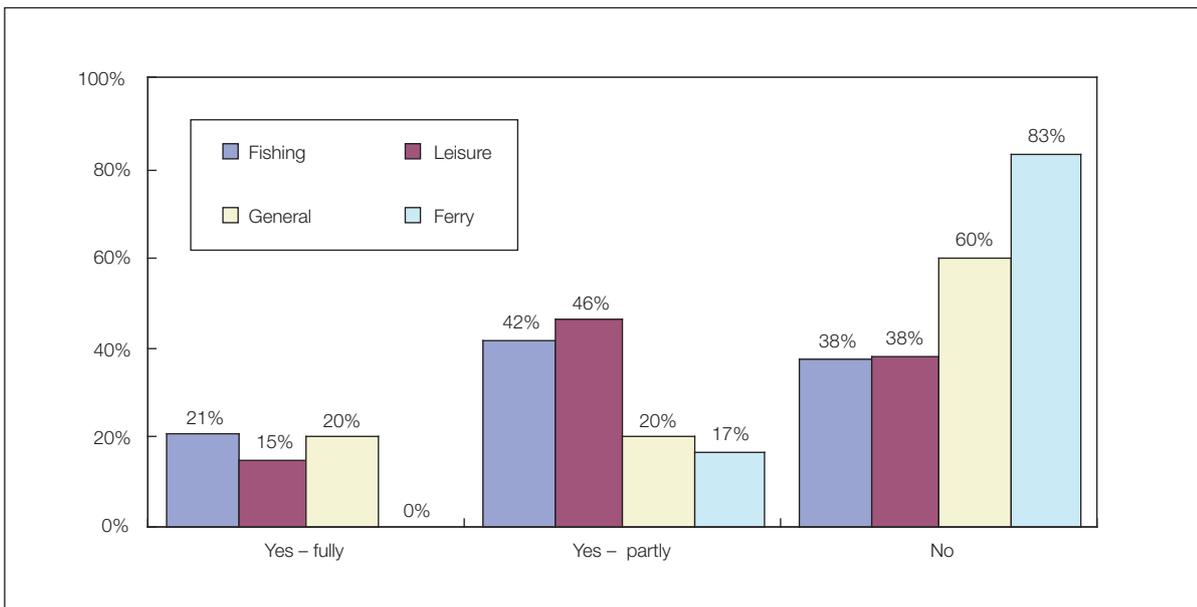


4.4.1.2. As the chart shows, the largest proportion of ports (44%) have accounts that are partly ring-fenced. A further 19% of ports' accounts are fully ring-fenced. In comparison, the majority of ports (54%) do not have ring-fenced reserves, and of those who do, most (31% of all ports) are only partly ring-fenced.

4.4.1.3. Ports were then split by Local Authority method of governance, to investigate whether this had any bearing on ring-fencing of accounts. Only two ports are governed by a District Council, with the remainder being governed by an executive with leader. The two District Council ports do not have ring-fenced accounts or reserves. As the remainder of ports are governed in the same way, the distribution for these ports is very similar to that shown in Figure 18.

4.4.1.4. Questionnaire responses were also investigated to see whether type of port activity/traffic handled (*fishing, leisure, general or ferry*) had any relationship with ring-fencing of accounts. Figure 19 shows the proportion of accounts that are ring-fenced for each type of port. It should be noted that some ports may handle traffic in more than one of these areas, and so may be counted in more than one of these categories.

Figure 19: Proportion of Accounts that are Ring-Fenced, by Port Activity

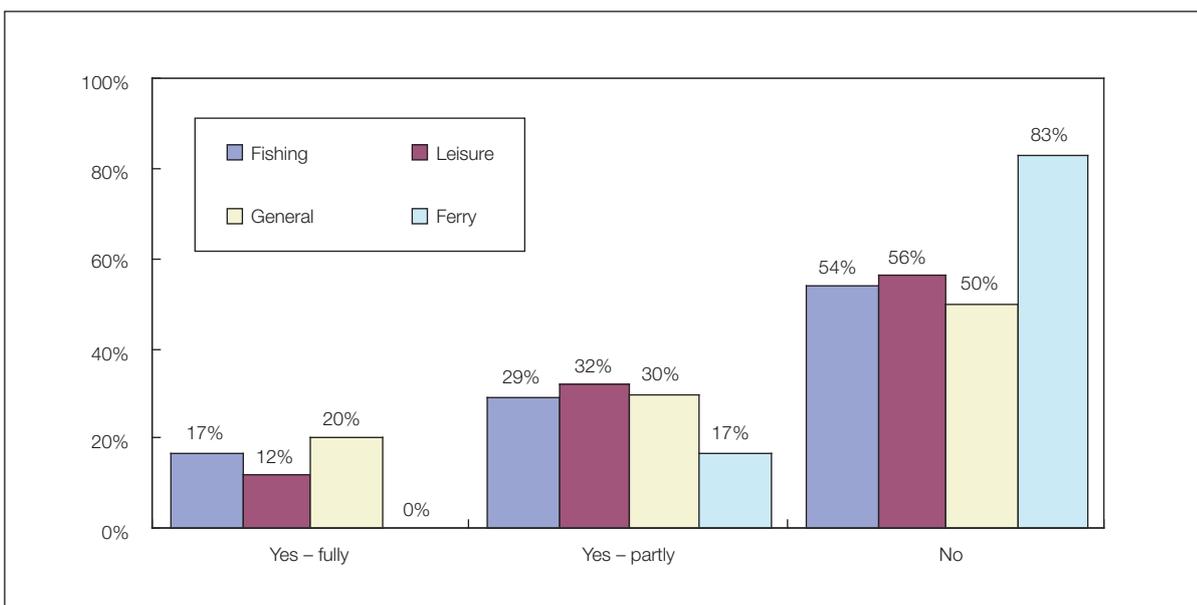


4.4.1.5. As the chart shows, ports that handle *general cargo* or *ferries* are unlikely to have ring-fenced accounts, and no ports that handle *ferries* have fully ring-fenced accounts.

4.4.1.6. *Fishing* ports are most likely to have fully ring-fenced accounts (true for 20% of ports), while ports that are involved in the leisure industry are most likely to have partly ring-fenced accounts (true for 46% of ports).

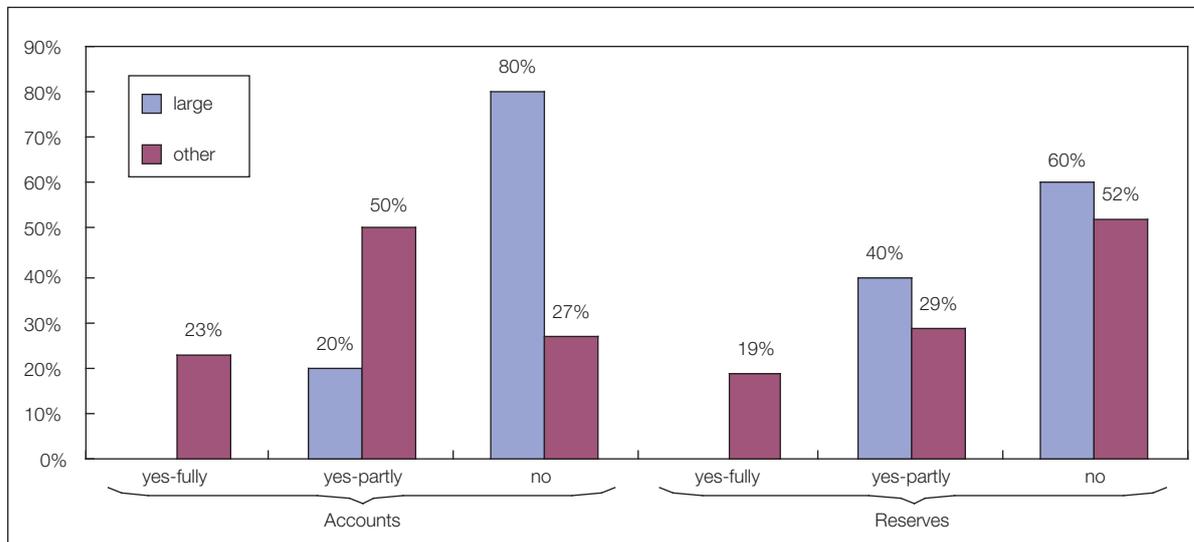
4.4.1.7. Figure 20 below shows a similar picture for the distribution of ring-fenced reserves. However, *general cargo* ports are more likely to have ring-fenced reserves than accounts, whilst *fishing* and *leisure* ports are less likely to have ring-fenced reserves.

Figure 20: Proportion of Reserves that are Ring-Fenced, by Port Activity



4.4.1.8. Ports were then split according to their size. Figure 21 below shows the proportions of ports with ring-fenced accounts and reserves.

Figure 21: Proportion of Accounts and Reserves that are Ring-Fenced by Port Size



4.4.1.9. The proportions for the smaller ports are very similar to those when all ports are considered together (see Figure 18). However there are some differences amongst the larger ports. Four out of five large ports do not have ring-fenced accounts and three out of five do not have ring-fenced reserves. The remaining large ports have partly ring-fenced accounts/reserves, leaving no large ports with either fully ring-fenced accounts or reserves.

4.4.1.10. Ports were asked to specify how their accounts and/or reserves were ring-fenced, and the mechanisms in question. Those ports whose accounts are fully ring-fenced explained that there was no cross-subsidisation between the harbour funds and the general council funds, and any income generated by the harbour was allocated to the harbour fund only.

4.4.1.11. Of those ports who stated that their accounts were partly ring-fenced, several specified that their revenue and costs were ring-fenced and not available for other uses, but capital funding had to be bid for, or profit from the sale of fixed assets went to the council’s general funds. Three ports explained that their harbour budget is fixed, but that the harbour has an income target to meet within the financial year. There is the capacity to divert funds from one heading to another, and the service head has the ability to move funds from Marine Services to other council services.

4.4.2. Benefits of Ring-Fencing Accounts

4.4.2.1. Ports described several benefits of ring-fencing accounts and/or reserves. The most common perceived benefit, described by roughly half the ports, was the ability to be able to plan for the long-term, to have funds available for maintenance and development, but also to be able to cope with unexpected events where funds are required at short notice.

4.4.2.2. Further benefits included not being dependent on the council, or not needing to compete with other council services for funds (around a quarter of ports), better management of reserves (four ports) and increased accountability and openness (two ports).

4.4.2.3. A range of disadvantages to ring-fencing were also described by ports. These included not having control over reserves – for example, ports need their LA's agreement for funds, and they may not get this. Other disadvantages mentioned included the inflexibility in diverting budgets, problems that may occur if the port makes a loss, or there are insufficient funds available for certain areas such as Health and Safety, that it was difficult to take a long-term view, and that ring-fencing removes accountability.

4.4.2.4. Both larger and smaller ports described similar benefits and disadvantages to those stated above.

4.4.3. Ports' Views on Ring-Fencing

4.4.3.1. Ports were asked whether or not they were in favour of ring-fencing accounts and/or reserves. 73% said that they were in favour. Ports were then asked in what terms they would be in favour of ring-fencing. Many ports interpreted this question as asking what the benefits of ring-fencing would be, and gave similar answers to those described in section 4.4.2, such as the ability to make long-term plans.

4.4.3.2. Several ports stated that income generated by ports should be invested in the port, and not in other council services. One port felt that accounts should be fully ring-fenced, while another felt that the council should be free to opt for or against ring-fencing.

4.4.3.3. 60% of large ports and 76% of others were in favour of ring-fencing. The large ports stated that the council should have alternative arrangements so that any loss can be overcome, or have a minimum amount in the reserve to accommodate losses over several years. Another large port stated that long-term plans could become more certain, though the earlier dis-benefits of ring-fencing should not be ignored. The comments from the smaller ports are included above (see paragraph 4.4.3.2).

4.4.4. Municipal Accounting Arrangements

4.4.4.1. Of the 23 ports who expressed a view on whether municipal accounting arrangements are suitable for the effective management of a commercial port operation, 87% felt that they were. Of the larger ports, 60% felt the accounting arrangements were suitable compared to 94% of other ports.

4.4.4.2. In general, ports seemed to agree that municipal accounting arrangements were suitable simply because they did not perceive any problems with how the current accounting arrangements worked in practice, stating that the current arrangements were supportive of the port's operations, or reflected best practice for commercial accounting. Several ports were unable to give a specific reason for why they felt municipal accounting arrangements were suitable, but explained that budgets were audited effectively, and they did not foresee the need for any change to the current arrangements.

4.4.4.3. One port agreed that municipal accounting arrangements were suitable for effective management with the proviso that accounts were ring-fenced and the management board has clear terms of reference and is able to manage financial matters autonomously.

4.4.4.4. The three ports (two large and one other) that did not agree that municipal accounting arrangements were suitable for the effective running of a commercial port operation gave different reasons for their answers. Of the two large ports one said that it was difficult, if not impossible, to produce a meaningful profit and loss account that will allow for historic investment, while another felt that a Companies Act accounting system would be better for running a business as it gives a better view of the real performance of the enterprise and makes proper allowances for depreciation and accruals. The final smaller port stated that the harbour operates as a focused leisure development, which is different to LA requirements

4.4.4.5. However, the views of those charged with the running of the port present a slightly different picture. When asked, only around a third of port managers felt that municipal accounting arrangements were suitable for the effective management of a port operation.

4.4.5. Local Authority Charges

4.4.5.1. Ports described a variety of charges levied on them by their Local Authorities for services provided. Many of these related to central support services, such as IT (22% of ports who answered this question), and HR/payroll services (26%), although some ports specified that this was the same as other council departments.

4.4.5.2. Three ports explained that charges were agreed through Service Level Agreements at budget time. Two ports said that they were liable for capital charges, another is charged for mooring and berthing fees only, whilst for some ports charges vary from year to year.

4.4.5.3. Of the five large ports, most simply gave a figure of how much they are charged by the Local Authority for services provided, whilst one described the typical central support services as above.

4.4.5.4. 39% of the ports who returned a questionnaire did not say whether they felt that the LA charges were value for money. 54% of ports thought that they were value for money (88% of all ports who answered this question). One large port thought they were value for money and one did not. The remaining three large ports did not respond.

4.4.5.5. However, in contrast, only a small proportion of those charged with the running of the port thought that the LA charges were value for money, with two port managers commenting that these charges added up to 25% of the port's turnover, and were unsustainable.

4.4.5.6. Most ports, 48%, (and four out of five large ports) find that their losses and surpluses are absorbed by council funds. In many cases losses are subsidised from the council's general fund or reserves. One port explained that any surplus goes into the central fund, but losses have to be bid for as growth items.

4.4.5.7. 19% of ports however run their own annual budgets, to the extent that any profits or losses are part of the harbour reserves. One port commented that they have to meet their budget target each year at net cost.

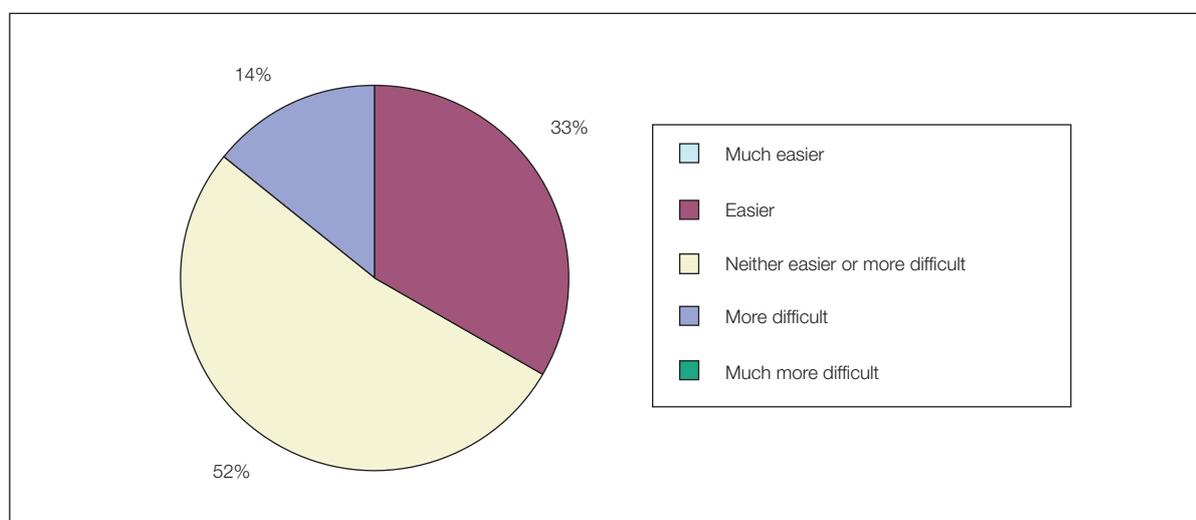
4.4.5.8. Four ports specified that surpluses and losses are dealt with through discussions with the Lifelong Learning Unit's management team, or through applications to the council board.

4.4.5.9. The remaining large port stated "any surplus is currently distributed following a formula", though was concerned that this method will not be sustainable in the long-term.

4.4.6. The Prudential System

4.4.6.1. Ports were asked to rate how much easier or more difficult they thought the prudential system would make it for them to obtain funding approvals. Figure 22 below shows the range of responses from the 21 ports that answered this question.

Figure 22: Proportion of Ports who Believe the Prudential System will make it Easier or More Difficult to Obtain Funding Approvals

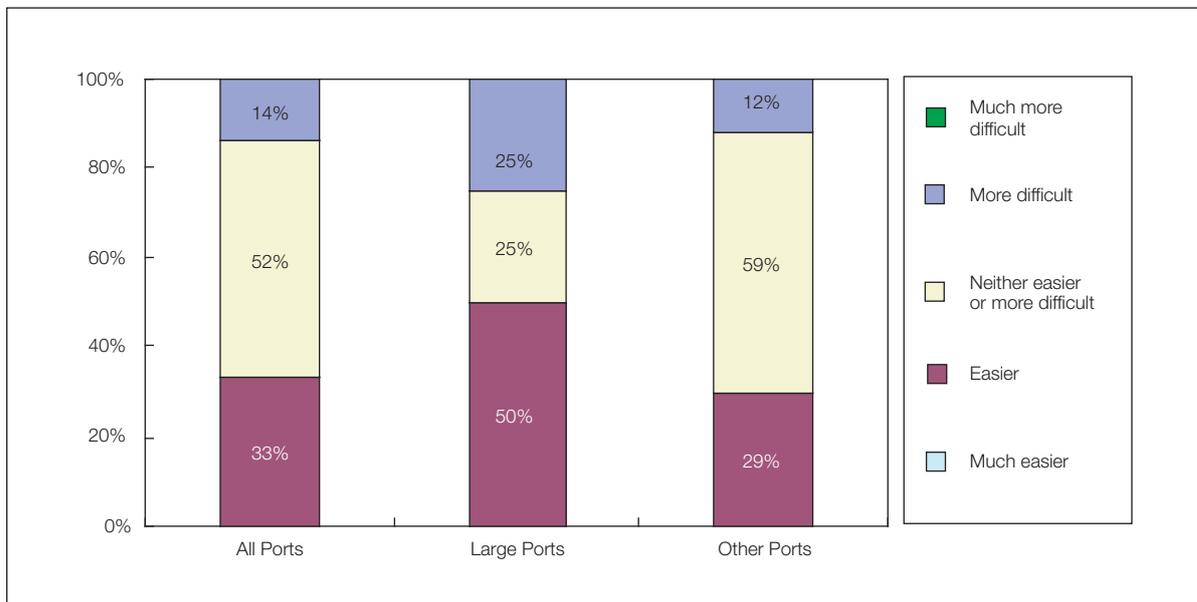


4.4.6.2. As the chart shows, the majority of ports (52%) felt that the prudential system would make it *neither easier or more difficult* for the port to obtain funding approvals. A larger proportion of ports thought it would be *easier* to obtain funding approvals than thought it would be *more difficult* (33% compared to 14%).

4.4.6.3. These results were mirrored by the views of those responsible for the running of the port. When asked, two thirds of port managers felt that the prudential system would make it *neither easier or more difficult* to obtain funding approvals.

4.4.6.4. Figure 23 below compares the responses when split according to port size. This chart shows a difference between large ports and other ports, as two large ports think it will be easier to obtain funding approvals (50% of the those answering) compared to 29% of other ports, whose distribution is very similar to that for all ports.

Figure 23: Proportion of Ports who believe the Prudential System will make it Easier or More Difficult to Obtain Funding Approvals by Port Size



4.4.7. Local Authority Commitment to Maintaining Ports’ Infrastructure

4.4.7.1. Ports were asked whether, with the ending of SCAs for essential safety and maintenance works, they felt that there was sufficient commitment in Local Authorities to support continued maintenance of the port’s infrastructure. Only 17 ports answered this question, and of these 59% agreed that there was sufficient commitment. This corresponds to 67% (two out of three who responded) of large ports and 57% of others.

4.4.7.2. Those ports that disagreed that there was sufficient commitment from LAs generally acknowledged the problem of other services competing for council funds.

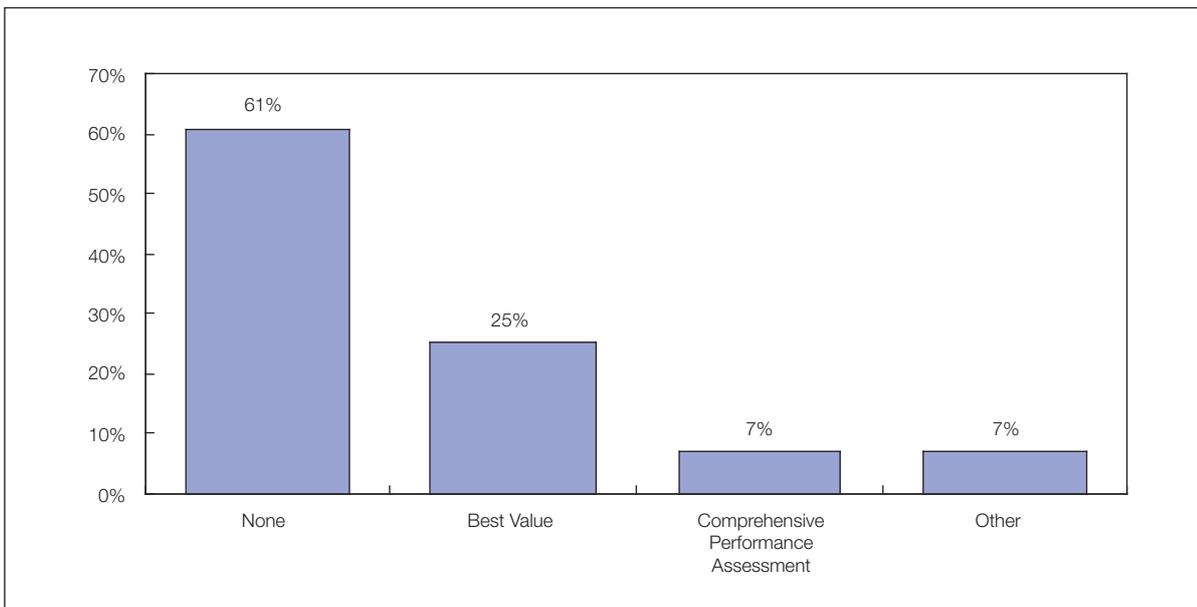
4.4.7.3. However, when asked, over three-quarters of those charged with the running of the port disagreed that there was sufficient commitment from the LA to support continued maintenance.

4.5. Section 5: Performance

4.5.1. Performance Reviews

4.5.1.1. 11 of the 28 municipal ports (39%) responding to the questionnaire have been subject to a performance review. Figure 24 below shows the type of performance review that ports have been subject to. The most common type of review was a *best value* review, which accounted for 64% of the reviews that were undertaken.

Figure 24: Type of Performance Review, if Any

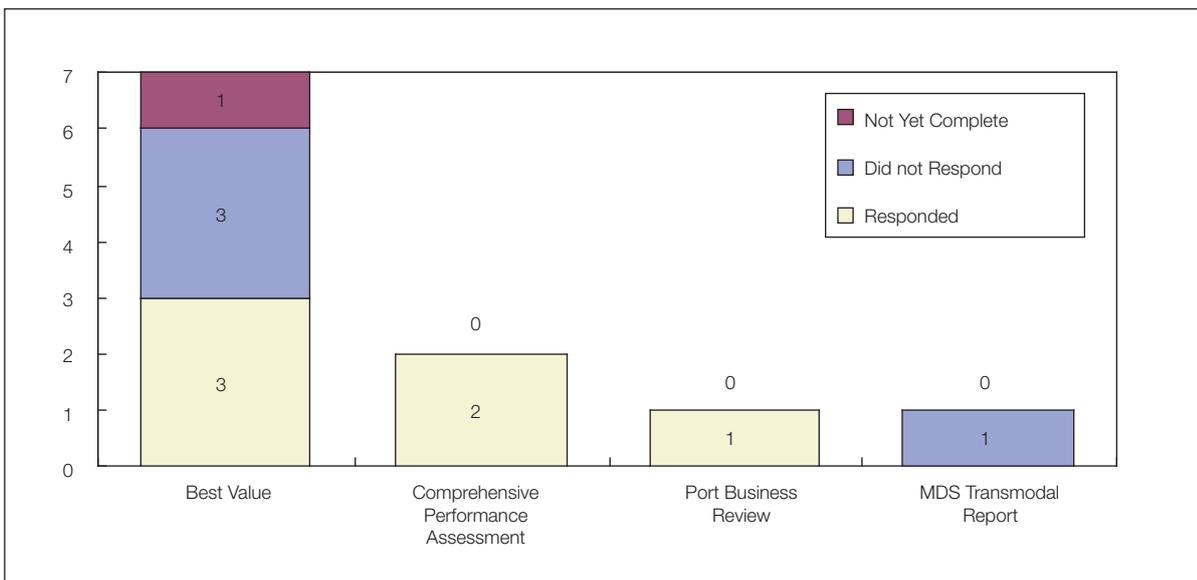


4.5.1.2. 18% (two) of the reviews were described as ‘other’ – neither *Comprehensive Performance Assessment* or *best value* reviews. One of these reviews was a “Port Business Review” which was undertaken as part of a comprehensive technical engineering and market study. The other was an “MDS Transmodal Report”.

4.5.2. Review Recommendations

4.5.2.1. Of the 11 ports that have been subject to a performance review, one is not yet complete and so no recommendations were reported. Another four ports did not respond to this question leaving six responses for analysis. The numbers of ports that did and did not summarise the recommendations of their review in their questionnaire response are shown in Figure 25.

Figure 25: Number of Municipal Ports Who Reported Review Recommendations



4.5.2.2. Numerous recommendations from these performance reviews were specified in the questionnaire responses. The recommendations reported for the various types of review are summarised in the following paragraphs.

4.5.2.3. Recommendations which arose from the *best value* performance reviews include further reviews into operations and financial structure. Recommendations from one report suggested a need for performance monitoring and benchmarking, a change of governance and redevelopment of passenger facilities. Other reviews recommended externalising leisure services to an independent trust and investing capital into a harbour and visitor upgrade.

4.5.2.4. One of the *Comprehensive Performance Assessment (CPA)* reviews made recommendations which are service cross cutting, and will be included in business plans. The other CPA review made no specific recommendations for the municipal port.

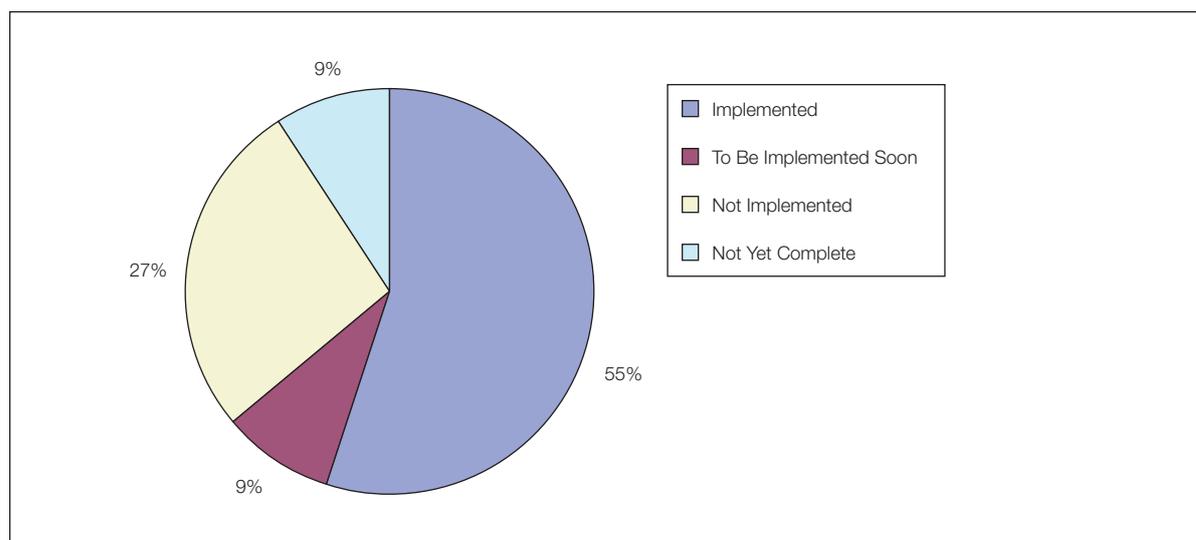
4.5.2.5. The ‘Port Business Review’ recommended consolidating and retaining the commercial port, regenerating the non-operational areas that were identified in the review, and seeking strategic partners.

4.5.2.6. When asked, one port manager stated that the performance review inspectors showed no interest in the harbour activities, the final report made no reference to Maritime Services, and the recommendations from the review did not relate to the port and harbour activities. He also commented that port operations do not sit comfortably within the council structure, and that the inspectors were very surprised to find that such a business existed in the ownership of the council.

4.5.3. Implementation of Recommendations

4.5.3.1. Figure 26 shows the proportion of ports that were subject to a performance review, split by whether or not the recommendations have been implemented.

Figure 26: Implementation of Recommendations from Performance Review



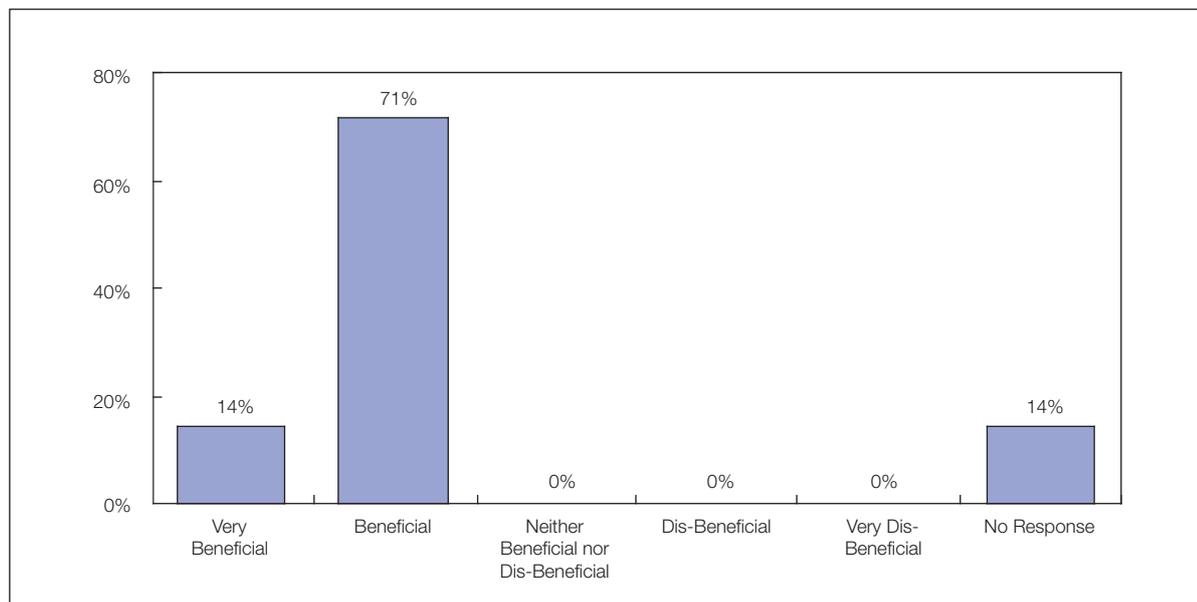
4.5.3.2. For those ports where the recommendations have been implemented, the questionnaire asked the ports to describe any beneficial or dis-beneficial impacts these have had on port operation. 83% of ports described some benefits and 67% of ports some dis-benefits from the implementation of any recommendations.

4.5.3.3. Benefits included recognising that a port has long term potential and that resources can be suitable for many groups of people in addition to those who mainly use them. Other ports reported that the business now had a clear direction and that the review had been a useful tool to ensure that the port was meeting the needs of its customers. Another port benefited from the establishment of a harbour board.

4.5.3.4. Dis-benefits were mostly concerned about the length of time required to implement the recommendations in terms of management time and the difficulty in agreeing exactly what issues need to be tackled. For example, one port reported that “some issues, such as charging, remain controversial and are repeatedly challenged”.

4.5.3.5. The ports were then asked to rate the overall impact of the implemented recommendations on port operation. Of the seven ports that have implemented the recommendations, one port did not respond to this question. Figure 27 shows the ratings given by the seven ports.

Figure 27: Ratings by Municipal Ports on the Benefit of Implementing the Review Recommendations



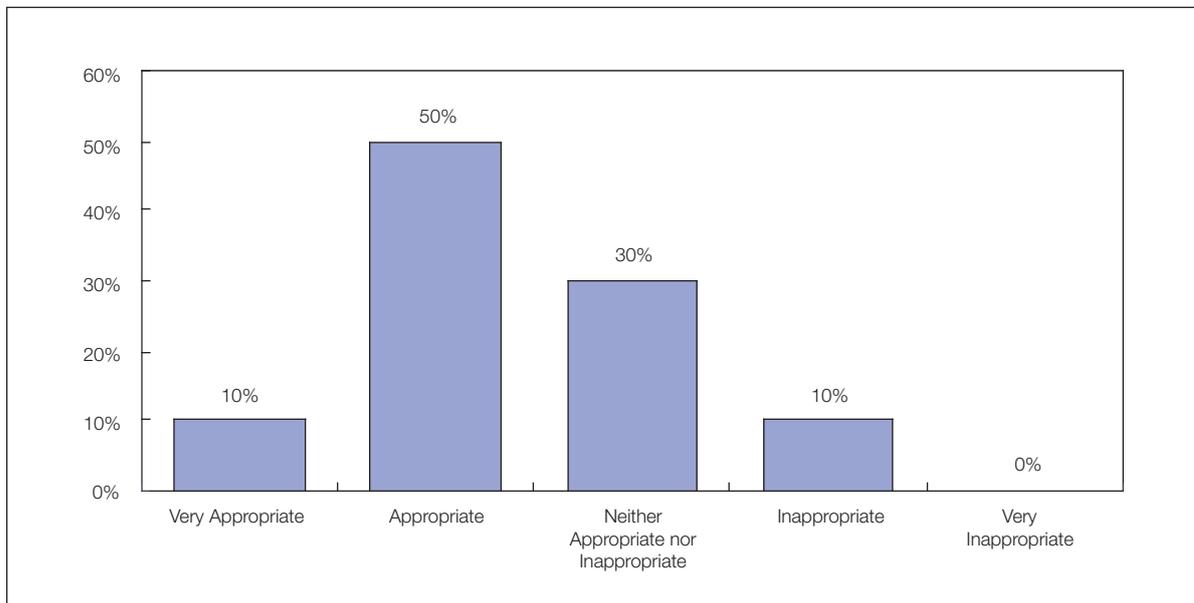
4.5.3.6. All responses were positive although one port (14%) did not answer. The majority of ports (71%) found that implementing the recommendations had a *beneficial* impact on port operations and 14% found it *very beneficial*.

4.5.4. Performance Review Procedures

4.5.4.1. Of the 11 ports that have been subject to a performance review, one is not yet complete and so has been excluded from this section.

4.5.4.2. Figure 28 below shows how appropriate the ports felt the performance review procedures were to the assessment of a port operation.

Figure 28: Appropriateness of Performance Review Procedures to Port Operations



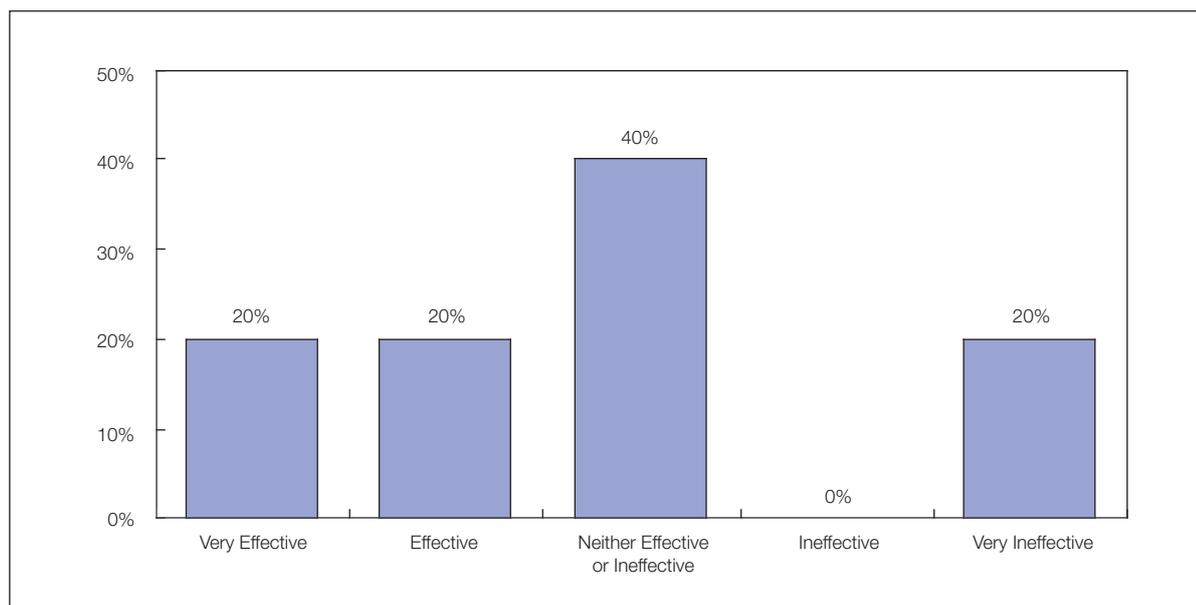
4.5.4.3. The chart shows that 50% of ports felt that the procedures were *appropriate* and 10% felt they were *very appropriate*. The comments given suggested that the reviews contained widespread consultation and highlighted a range of strategic options for future consideration.

4.5.4.4. Only 10% of ports gave a negative response saying the procedures were *inappropriate*, but did not explain their reason. The remaining 30% of ports found the procedures *neither appropriate nor inappropriate* suggesting that the review was not specific enough to the port.

4.5.5. Effectiveness of Performance Reviews

4.5.5.1. Ports were asked to rate how effective the performance review has been in moving municipal ports towards accountability and openness on a par with Government guidelines for the trust sector. Figure 29 below shows the responses from the ports.

Figure 29: Effectiveness of Performance Review in Moving Municipal Ports Towards Accountability and Openness



4.5.5.2. The responses are spread over the full range of effectiveness from *very ineffective* to *very effective*, with the most common response being that 40% ports felt the review was *neither effective nor ineffective*.

4.5.5.3. Comments given by those who found the performance review *very ineffective* in terms of openness and accountability suggest that the review was not directly relevant to the port.

4.5.5.4. Comments given by those charged with the running of the port suggest that municipal ports are not high priority businesses for their councils. One port manager commented that the performance review was very ineffective as the council is content with the current governance arrangements, whilst another stated that CPA had forced the council to focus its priorities on other areas, to the detriment of the port.

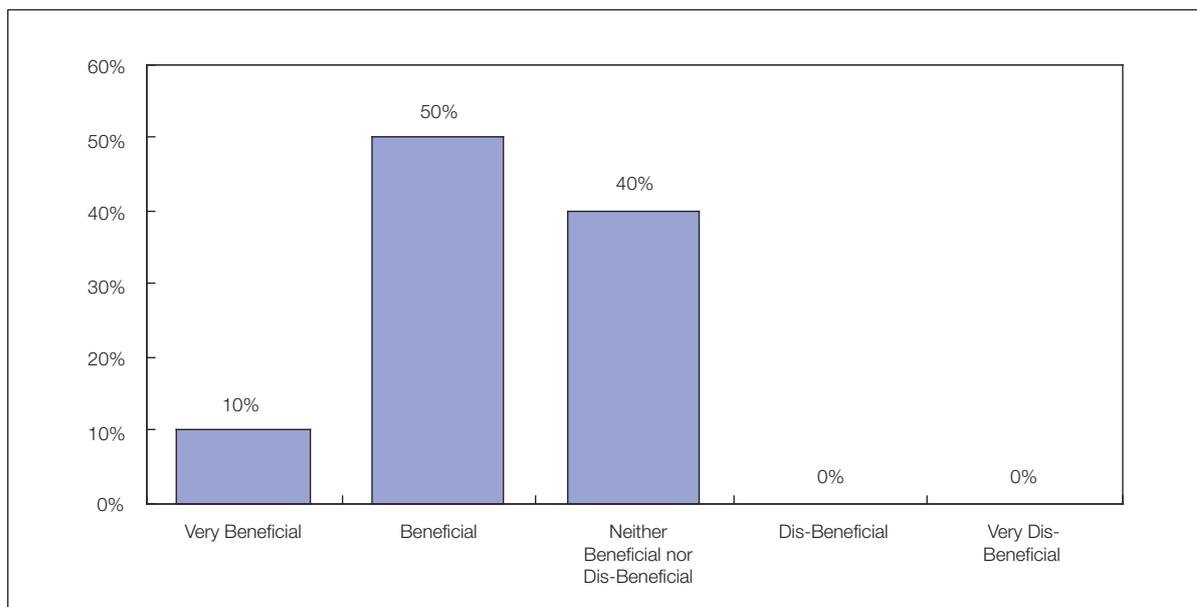
4.5.6. Overall Impact of Performance Reviews

4.5.6.1. The ports were asked to give their opinion on what the overall benefits and/or dis-benefits had been from the review. 70% of ports described beneficial impacts of the review such as the extensive consultations which took place with independent assessments to agree future business plans. One port benefited from an increase in staff morale and others reported having a raised awareness of port issues and priorities.

4.5.6.2. 40% of ports stated dis-beneficial impacts. One port noted that the recommendations were not implemented and another is now awaiting the outcome of another review before moving forward.

4.5.6.3. Figure 30 below shows how municipal ports rated the impact of the performance review overall. Not a single port felt that the review had been *dis-beneficial* though 40% gave a neutral response.

Figure 30: Overall Rating of Performance Review



4.6. Section 6: Future Plans

4.6.1.1. One port did not complete Section 6 of the questionnaire, so the following analysis is based on responses from 27 municipal ports.

4.6.2. Principal Short and Medium Term Challenges

4.6.2.1. Municipal ports reported several issues that they are facing in the short to medium term. The most frequently identified issues related to areas such as finance, facility upgrades, attracting business, governance and management.

4.6.2.2. Financial issues are the main challenge being faced by two-thirds of ports. The most common challenge is securing funding for port development, capital projects and modernisation. Other ports are challenged to meet the costs of maintaining the port and costs associated to complying with new legislation. Another financial challenge is to capitalise on recent improvements made to the port and to achieve financial self-sufficiency.

4.6.2.3. In terms of facility upgrades and attracting more business, 44% of ports expressed challenges in this area. A number of ports have identified that they must attract more business in order to increase port activity and hence income. 26% of ports have specified that they are faced with the challenge of needing to upgrade their current facilities. One port is aware that it must urgently address the increasing leisure market in the area.

4.6.2.4. The final main challenge relates to governance and management issues, affecting 26% of ports. These ports are considering what would be the most appropriate style of governance in order to meet expectations of the community and stakeholders. Others believe that they need to improve the current management, while one port is considering establishing a Whitstable style harbour board.

4.6.2.5. In order to resolve the challenges that ports are facing, a third of ports identified the availability of funding as an issue that will need to be overcome. Specifically, these ports referred to the prudential borrowing system, capital funds support or making bids to source alternative external funds.

4.6.2.6. Several ports (15%) also identified the need to increase publicity or improve their marketing strategy in order to attract new customers or business.

4.6.2.7. 22% of ports made reference to particular reviews. Around half of these ports are in the process of undertaking an independent review or are awaiting the outcome of a current review, before identifying further courses of action to resolve their challenges. The remaining ports are waiting for the outcomes of the Municipal Ports Review.

4.6.2.8. 15% of ports did not identify any steps that they are taking to resolve their short and medium term challenges.

4.6.2.9. In addition to the challenges identified by ports, some further challenges were identified by port managers when asked. One stated that they do not have adequate personnel resources, another identified the difficulty in securing support for a regeneration programme, whilst another felt that a disproportionate amount of time and effort is spent trying to work through the council's red tape to achieve the harbour objectives.

4.6.3. *Development Plans*

4.6.3.1. 78% of ports identified that they are planning some development in the future. Ports were asked to identify whether they were intending to fund potential development through *public/private partnerships* (PPP), *private finance initiatives* (PFI), or some other means. 14% specified that they were going to fund future development through PPP, while the remaining 86% of ports who are planning some development stated that they would be funding this through *other* means.

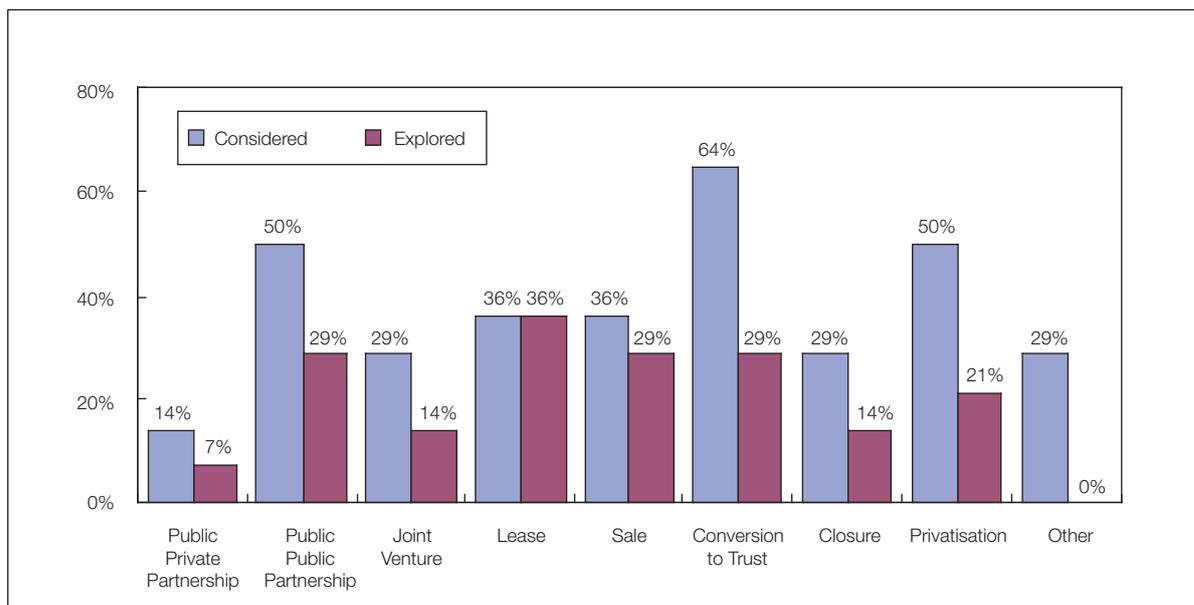
4.6.3.2. Of the ports who are planning development, but are not intending to fund this exclusively through PPP or PFI, many identified more than one method they are planning to use for funding. 38% of ports planning development are intending to fund this by drawing on their council's resources, while 19% mentioned funding development through grants. A further 19% also mentioned the provident code.

4.6.4. *Development Options*

4.6.4.1. Ports were asked to describe any future plans they may have. 13 ports did not identify any of the stated options as something they were considering or had explored. Of these, one port explained that these issues will be explored as part of the port's best value review, while another stated that the intention to consider alternative status arrangements will be reconvened following the Municipal Ports Review.

4.6.4.2. Figure 31 below is based on the 13 ports that identified some options that they had *considered* or *explored*, and shows the proportion considering or exploring each option. The chart shows that as a general trend, about half of the ports which initially consider an option will explore the idea in more detail.

Figure 31: Possible Future Plans



4.6.4.3. The most common option considered by 64% of ports was *conversion to trust*, but less than half of these have gone on to explore this idea any further.

4.6.4.4. *Public/public partnerships* and *privatisation* were also common options that had been considered by 50% of ports in each case, although again a much smaller proportion had explored these options further (29% and 21% of ports respectively).

4.6.4.5. 36% of ports have considered a lease and all of these have explored this further, making this the most commonly explored option for the future.

4.6.4.6. 29% of ports stated that they had considered another option to those listed on the questionnaire. However, none of these have explored the possibility any further, and several stated that the options have not been considered fully.

5. Conclusions

5.1. Introduction

5.1.1. Responses to the Local Authority questionnaire were received from only 28 of the 61 municipal ports in England and Wales, giving a response rate of 46%. Because of this it is not possible to draw conclusions about the entire municipal ports sector, only to present a picture of those 28 ports that responded.

5.1.2. The main findings from each of the six sections of the questionnaire are presented in the following sections.

5.2. Section 1: Profile of Port

5.2.1. The most common activities that municipal ports handle are *leisure* (96% of ports) and *fishing* (89%). Nearly two-thirds of ports are involved with two or three activities.

5.2.2. The majority of municipal ports have 50 or fewer actual employees, while a significant proportion have no people employed in indirect or induced jobs (43% and 68% respectively).

5.2.3. 69% of municipal ports do not operate under any sort of memorandum of understanding with their Local Authority.

5.3. Section 2: Organisational Structure

5.3.1. 93% of municipal ports are owned by a Local Authority that has adopted an *executive with leader elected by council/leader and cabinet* style of governance. The remaining ports are governed by *District Council with committee system/alternative arrangements*.

5.3.2. 57% of ports report to a *committee* of elected representatives, whilst 52% report to a *portfolio holder* (there exists a subset of ports that report to both).

5.3.3. 80% of larger ports report to a portfolio holder only, compared to only 13% of other ports.

5.3.4. The most common Local Authority departments/officers for municipal ports to report to are 'Operational Services/Strategic Director' and 'Head of Lifelong Education Services' (13% of ports each).

5.3.5. In 28% of ports, the key day-to-day operational decisions are made by the Harbour Master.

5.3.6. 64% of ports made some reference to the council, cabinet, executive or specific elected members being their key decision makers, although this was often in conjunction with Harbour Forums or Harbour Committees.

5.3.7. The majority of ports (54%) believe that the arrangements currently in place are an advance on the situation prior to the improvement of modernisation of Local Government initiatives.

5.3.8. Only 14% of ports believe that the existing structure of governance is *unfit for purpose* in terms of the standards of openness and accountability recommended in 'Modernising Trust Ports', whilst half felt that it was *fit for purpose*.

5.3.9. 93% of municipal ports have at least one advisory group or stakeholder forum. 65% of ports felt that the level of influence held by these groups was *neither strong nor weak*, with most ports explaining that the groups were purely advisory.

5.3.10. 81% of ports felt that advisory groups have a *beneficial* or *very beneficial* impact on the accountability and effectiveness of port operation.

5.3.11. Of the larger ports, 50% felt that advisory groups have a beneficial impact on accountability and effectiveness, compared to 87% of other ports who felt that the groups were *beneficial* or *very beneficial*.

5.4. Section 3: Business Planning

5.4.1. 85% of ports, including all the larger ports, have a port business plan that feeds into the Local Authority corporate or strategic plan, and reflects the council's objectives and priorities.

5.4.2. Relative port priorities are decided in relation to other Local Authority priorities and available budgets. A third of ports stated that priorities are decided by the council. This included two of the five larger ports.

5.4.3. 76% of ports agreed that the commercial status of the port, and its commercial needs are adequately taken into account in the overall business planning process. However, at the port it was felt that the council does not truly appreciate the commercial needs of the port. Only two of the four larger ports responding to this question agreed that the commercial status of the port is adequately taken into account.

5.4.4. Only 36% of ports felt that they were able to participate in commercial planning on a par with private sector ports, and when asked port managers did not feel that they were able to. Two of the larger ports felt they were able to do so.

5.5. Section 4: Financial Structure

5.5.1. 19% of ports have accounts that are fully ring-fenced, and 44% have accounts that are partly ring-fenced. The majority of ports (54%) do not have ring-fenced reserves.

5.5.2. 80% of large ports do not have ring-fenced accounts, and 60% do not have ring-fenced reserves. This is in comparison to 27% and 52% respectively of other ports.

5.5.3. 73% of all ports said that they were in favour of ring-fencing accounts and/or reserves, whilst 60% of large ports are in favour.

5.5.4. 87% of ports felt that municipal accounting arrangements were suitable for the effective management of a commercial port. However, when asked, only a third of those charged with the running of the port agreed with this.

5.5.5. 60% of large ports felt that municipal accounting arrangements were suitable, compared to 94% of other ports.

5.5.6. Local Authorities levy a variety of charges on ports for services provided, many relating to central services such as IT and HR/payroll. 88% of ports that specified a view thought that these services provided value for money, in contrast to a small proportion of port managers.

5.5.7. 52% of ports felt that the prudential system would make it *neither easier or more difficult* for the port to obtain funding approvals.

5.5.8. 50% of large ports responding to this question felt that the prudential system would make it *easier* to obtain funding, compared to 29% of other ports.

5.5.9. 56% of ports felt that there was sufficient commitment in Local Authorities to support continued maintenance of the ports infrastructure, in comparison to only a sixth of those charged with the running of the port.

5.6. Section 5: Performance

5.6.1. 39% of municipal ports who returned a questionnaire have been subject to a performance review, with the most common type being a *best value* review (64% of reviews).

5.6.2. The majority of ports (85%) who have been subject to review and have implemented the review's recommendations thought that this had had a *beneficial* impact on port operations.

5.6.3. 50% of ports felt that the performance review procedures were appropriate to the assessment of a port operation.

5.6.4. 40% of ports thought that the review was *neither effective or ineffective* in moving municipal ports towards accountability and openness on a par with Government guidelines for the trust sector.

5.6.5. When rating the impact of the performance review overall, none of the ports felt that the review had had a negative impact, although 40% gave a neutral response.

5.7. Section 6: Future Plans

5.7.1. The most frequently identified short and medium term challenges to municipal ports were issues relating to finance, facility upgrades, attracting business, governance and management.

5.7.2. In order to resolve these challenges, a third of ports identified the availability of funding as an issue that will need to be overcome.

5.7.3. 71% of ports identified that they are planning some development in the future, and 86% of these ports stated that they would be funding this through means other than *PPP* or *PFI*.

5.7.4. When asked what options had been *considered* and *explored*, the most common answer was *conversion to trust*, identified by 64% of ports. However, whilst this had been considered by many ports, less than half had explored this idea further.

5.7.5. *Public/public partnerships* and *privatisation* had also each been considered by 50% of ports.

5.7.6. 36% of ports had *considered* and *explored* the *lease* option, making this the most commonly explored option for the future.

Annex 1

MUNICIPAL PORTS REVIEW

LOCAL AUTHORITY QUESTIONNAIRE

Thank you for taking the time to complete this questionnaire. If you have any queries when filling it in please contact Ruth Adamson on 020 7944 2639. Please return completed forms to Ruth in the pre-paid envelope enclosed with this survey, by the end of June 2004.

Please supply the name of your port _____

Section 1: Profile of port

1. Who is your owning authority? _____

General cargo		Fishing	Leisure	Ferry		Other
Dry	Liquid			Passenger	Freight	

Please specify other _____

3. What is your annual volume of traffic of the categories specified above over the last five years?

4. How many people are employed by the port (*please give estimated figures if actuals are not known*)?

Actual (jobs created by port and shipping facilities activities and services, could include processing of raw materials)	
Indirect (jobs created by suppliers of goods and services to port and shipping operators)	
Induced (jobs created by local services purchased by workers)	

5. Which local Act do you derive your port powers from? (*please can we have a copy*)

6. A) Do you have a Harbour Revision Order in the planning or application stages with the Department for Transport?

Yes	No
-----	----

B) If yes, please name it: _____

7. A) Do you operate under a formal or informal memorandum of understanding with the Local Authority defining your areas of competence and responsibilities?

Yes – formal	Yes – informal	No
--------------	----------------	----

B) Please give details: _____

8. Does the port have ownership of all operational or potentially operational facilities and infrastructure? (if yes, please go to question 11)

Yes	No
-----	----

9. A) If the answer to question 9 is no, how important is further consolidation in terms of development and effective management of the harbour?

Very important	Important	Not important
----------------	-----------	---------------

B) Please explain and specify any barriers to achieving consolidation: _____

10. Please provide a brief summary of your financial position.

If you are able to provide a copy of your most recent annual reports and accounts, please do so.

11. Please give your views on whether your current financial position is likely to change significantly in the foreseeable future.

Section 2: Organisational structure

12. Who are the specified duty holders? _____

13. What style of governance has been adopted by your Local Authority?

Executive with Elected Mayor	Executive, with Leader elected by Council/Leader and Cabinet	Executive – Elected Mayor and Council Manager	District Council with Committee System/ Alternative arrangements	Local choice (please specify below)
------------------------------	--	---	--	-------------------------------------

14. Reporting lines – please can you supply an organisational chart showing linkages to the Local Authority, council members, stakeholder groups.

15. Which elected representatives do you report to?

Portfolio holder	Committee	Full Council	Other
------------------	-----------	--------------	-------

Please specify portfolio holder _____

Please specify committee _____

16. Which Local Authority Department/Officers do you report to? (*please specify*)

17. Please explain the decision making process including all delegations resting with you and other Local Authority officers.

18. Who are the key decision makers for your port? (*please specify*)

19. A) Do you have any problems in accessing the decision makers to obtain decisions?

Yes	No
-----	----

B) If yes, please give details: _____

20. A) In your opinion, are the arrangements currently in place an advance on the situation before the improvement of modernisation of Local Government initiatives?

Yes	No
-----	----

B) Please explain your views in terms of accountability, efficiency and effectiveness:

21. A) Do you believe that the existing structure of governance in the port meets the standards of openness and accountability recommended in “Modernising Trust Ports – A guide to good governance according to Government guidelines”?

Very fit for purpose	Fit for purpose	Neither fit or unfit for purpose	Unfit for purpose	Very unfit for purpose
----------------------	-----------------	----------------------------------	-------------------	------------------------

B) Please explain your views _____

22. A) Do you have any advisory groups/stakeholder forums? (if no, please go to question 23)

Yes	No
-----	----

B) If yes, please describe how they are constituted _____

C) How frequently do they meet? _____

D) What level of delegation or influence do they have?

Please give details _____

E) How beneficial are they to the accountability and effectiveness of port operation?

Very beneficial	Beneficial	Neither beneficial or detrimental	Detrimental	Very detrimental
-----------------	------------	-----------------------------------	-------------	------------------

Please give details _____

23. If you do not have any advisory groups/stakeholder forums, why not?

Section 3: Business planning

24. How is your business planning integrated into Local Authority plans?

25. How are relative port priorities decided in relation to overall Local Authority plans?

26. A) Do you believe that the commercial status of the port and its commercial needs are adequately taken into account in the overall business planning process?

Yes	No
-----	----

B) Please explain: _____

27. A) Ports need to make (and stick to) long term plans through the nature of their business. Does the new funding and governance structure for Local Authorities allow you to participate in commercial planning on a par with private sector ports?

Yes	No
-----	----

B) Please explain, giving examples if possible _____

Section 4: Financial Structure

28. A) Are your port accounts fully or part ring-fenced? *(if no, please go to question 29)*

Yes – fully	Yes – partly	No
-------------	--------------	----

B) If yes, please specify and explain mechanisms _____

29. A) Are your reserves fully or partly ring-fenced?

Yes – fully	Yes – partly	No
-------------	--------------	----

B) If yes, please specify and explain mechanisms _____

30. What benefits/dis-benefits accrue from ring-fencing port accounts and/or reserves?
Please explain:

Benefits: _____

Dis-benefits: _____

31. A) Are you in favour of ring-fenced accounts and/or reserves?

Yes	No
-----	----

B) If yes, in what terms? _____

32. A) Are municipal accounting arrangements suitable for the effective management of a commercial port operation?

Yes	No
-----	----

B) Please explain your views: _____

33. A) What charges does the Local Authority levy on the port for services provided?
Please provide details:

B) Do these provide value for money?

Yes	No
-----	----

34. How are any surpluses distributed or losses subsidised? Please explain:

35. A) Does the Local Authority make adequate provision for routine maintenance of port facilities?

Yes	No
-----	----

B) Please provide details: _____

36. How does the port raise capital for improvement and development work to the harbour?

37. A) Do you believe that the prudential system will make it easier or more difficult for the port to obtain funding approvals?

Very easier	Easier	Neither easier or more difficult	More difficult	Much more difficult
-------------	--------	----------------------------------	----------------	---------------------

B) Please explain: _____

38. A) Do you believe that with the ending of SCAs for essential safety and maintenance works, there is sufficient commitment in Local Authorities to support continued maintenance of the ports infrastructure?

Yes	No
-----	----

B) Please give details: _____

Section 5: Performance

39. Has your port been subject to a performance review? (if no, please go to question 47)

Yes	No
-----	----

40. If the answer to question 40 was yes, what type of performance review was it?

Best Value	Comprehensive Performance Assessment	Other
------------	--------------------------------------	-------

Other please specify _____

41. What was the outcome? And when was it carried out?

If you are able to provide a copy of any report, please do so.

42. Please summarise any recommendations: _____

43. A) Have these recommendations been implemented? (if no, please go to question 44)

Yes	No
-----	----

B) If yes, what beneficial and/or dis-beneficial impacts have they had on port operation?

Beneficial _____

Dis-beneficial _____

C) On balance, how would you rate the impact of the implemented recommendations on port operation?

Very beneficial	Beneficial	Neither beneficial or dis-beneficial	Dis-beneficial	Very dis-beneficial
-----------------	------------	--	----------------	------------------------

44. A) How appropriate do you feel the performance review procedures were to the assessment of a port operation?

Very appropriate	Appropriate	Neither appropriate or inappropriate	Inappropriate	Very inappropriate
------------------	-------------	--------------------------------------	---------------	--------------------

B) Please explain your views, giving examples if possible: _____

45. How effective has the performance review been in moving Municipal Ports towards accountability and openness on a par with Government guidelines for the Trust sector?

Very effective	Effective	Neither effective or ineffective	Ineffective	Very ineffective
----------------	-----------	----------------------------------	-------------	------------------

Please explain: _____

46. A) In your opinion what beneficial and/or dis-beneficial impacts has this review had overall? Please explain giving examples:

Beneficial: _____

Dis-beneficial _____

B) On balance, how would you rate the impact of the review overall?

Very beneficial	Beneficial	Neither beneficial or dis-beneficial	Dis-beneficial	Very dis-beneficial
-----------------	------------	--------------------------------------	----------------	---------------------

47. A) If you have not yet been reviewed, is it planned? *(if no, please go to question 48)*

Yes	No
-----	----

B) If yes, what type of review is planned? _____

C) Can we be associated in any way? _____

49. Do you consider open governance has an effect on the future operations of the business?

Yes	No
-----	----

Please explain: _____

Section 6: Future plans

50. A) What principal challenges are you facing in the short to medium term?

B) How will you resolve these? _____

51. A) Are you planning any development in the port? (if no please go to question 52)

Yes	No
-----	----

B) If yes, how are you intending to fund this?

If other please give details: _____

52. A) Have any of the following options been considered or explored
(please tick all that apply)?

	Considered	Explored
Public Private Partnership		
Public Public Partnership		
Joint Venture		
Lease		
Sale		
Conversion to Trust		
Closure		
Privatisation		
Other		

If other please give details: _____

B) Please elaborate and explain the outcome: _____

ANNEX C

Modernising Local Government

The objectives of the modernising local government initiative were to improve:

Efficiency – A small executive, or streamlined committee system, particularly where individuals have executive powers, can act more quickly, responsively and accurately to meet the needs and aspirations of the community.

Transparency – It should be clear to the public who is responsible for decisions. The scrutiny process will help clarify the reasons for decisions and the facts and analysis on which policy and actions are based.

Accountability – Increased transparency should enable people to measure the executive's actions against the policies on which it was elected. Councillors should no longer have to accept responsibility for decisions in which they took no part. That should in turn sharpen local political debate and increase interest in elections to the council

The Government decided to enable and encourage councils to move permanently to new political management structures, based on the separation of the executive role. All councils now have new constitutions. Most will have an executive structure, but smaller authorities may implement a streamlined version of the preceding committee structure.

The executive

The role of the executive is to exercise political leadership on behalf of the council and to represent the area and its community on the wider stage. It forms a clear focus for negotiations with potential partners and others such as the Government, national and international public bodies and businesses considering investing in the council's area.

The responsibilities of the executive are to:

- Translate the wishes of the community into action;
- Represent the authority and its community's interests to the outside world;
- Build coalitions and work in partnership with all sectors of the community, and bodies from outside the community, including the business and public sectors;
- Ensure effective delivery of the programme on which it was elected;
- Prepare policy plans and proposals; and
- Draw up the annual budget, including capital plans, for submission to the full council.

Role of councillors

The council as a whole is responsible for adopting the authority's constitution and code of conduct, and agreeing the authority's policy framework and budget. The whole council also takes decisions in respect of functions which are not the responsibility of the executive, and on executive functions where the decision is contrary to the council's policy framework.

Councils are required to establish scrutiny committees of backbench councillors. These councillors would be under an explicit duty to review and question the decisions and performance of the executive. They would also review the policies and direction of the council, proposing changes and submitting policy proposals to the executive.

All councillors remain responsible for representing the views of their constituents.

The New Constitutional Models

Authorities and their local population can now choose from three options (with a fourth available in addition to smaller authorities) on the constitution they would like to implement for their council. The process for deciding on any of the options is one of local choice as the decision must have been arrived at taking account of the outcome of consultation with the people of the area concerned. Also the electorate can call for a referendum on the way a council is managed where proposals involve a democratically elected mayor. This process is explained later.

The executive must act within the remit decided by the full council who remain the central decision making body. In short, the full council:

- Decides the new Constitution
- Decides the policy framework
- Decides the budget
- Appoints Chief Officers

The Executives

The three options that can be chosen for the executive are:

A directly elected mayor with a cabinet

The mayor is elected by the whole electorate. The mayor once elected selects a cabinet from among the councillors. The cabinet can be drawn from a single party or a coalition. These cabinet members have portfolios for which they take executive decisions acting alone. The mayor is the political leader for the community, proposing policy for approval by the council and steering implementation by the cabinet through council officers. The chief executive and chief officers are appointed by the full council. The chief executive has

particular responsibility for ensuring that both executive and backbench councillors receive all the facilities and officer support necessary to fulfil their respective roles. The office of directly elected mayor is separate from the traditional ceremonial mayor.

See figure 1.

Leader and cabinet

Under this option a leader is elected by the council and the cabinet is made up of councillors, either appointed by the leader or elected by the council. As with a directly elected mayor model, the cabinet can be drawn from a single party or a coalition. The model is very similar to the mayor and cabinet system except that the leader relies on the support of members of the council rather than the electorate for his or her authority and can be replaced by the council. While the leader could have similar executive powers to a directly elected mayor, in practice the leader's powers are less likely to be as broad as there is no direct mandate from the electorate for the leader's programme.

See figure 2

Mayor and Council Manager

The Mayor is directly elected to give a political lead to an officer or 'manager' to whom both strategic policy and day to day decision making are delegated. The Mayor's role is primarily one of influence, guidance and leadership rather than direct decision taking. The mayor is similar to a non-executive chairman of a company and the council manager is a more powerful chief executive. Again, this is separate from the traditional ceremonial mayor.

See figure 3

Alternative Arrangements

There is also a fourth option that can be chosen by those authorities with a population under 85,000.

The full council has an enhanced policy making role under alternative arrangements with all councillors acting together as the full council. The local authority will be able to delegate implementation of its policy to streamlined committees. Under alternative arrangements councillors will have the following roles:

- Adopting the new constitution and any subsequent changes to it.
- Adopting the local authority's code of conduct.
- Agreeing the local authority's policy framework and budget.
- Making appointments to committees.
- Making or confirming appointment of the chief executive.

Alternative arrangements must involve effective overview and scrutiny.

Local Choice in Constitutional Options

If an elected mayor is proposed, there must be a local referendum. The council must also draw up fall-back proposals, which are implemented if the electorate rejects the mayor option. The council can then choose from the leader and cabinet model or alternative arrangements option, whichever it has chosen as its fallback option.

A referendum to introduce an elected mayor can also be called if there is a petition supporting this signed by at least 5% of residents. If the referendum receives a majority of 'Yes' votes, the local authority will implement the proposals and an election to choose a mayor will be held.

Overview and Scrutiny Committees

All councils must have at least one of these. They are made up of councillors who are not members of the executive/cabinet and reflect the political balance of the authority. Scrutiny takes in a varied range of activities. These are:

- Review and development of the council's policies.
- Make policy and budget proposals to the council.
- Review of proposed executive decisions.
- Call in or review of decisions before they are implemented.
- Performance monitoring and review.
- Scrutiny of other local organisations, including health services.

Councils can choose whether to have scrutiny committees for particular services or themes, such as education or the environment, or whether to have only one scrutiny body. But there must be a scrutiny committee with a responsibility to have an overview of each service the council carries out.

Regulatory Committees

The executives in most cases replace the system of decision-making by committees, although committees which reflect the political membership of the council will continue for what are called quasi-judicial decisions. These are planning and licensing decisions, and includes granting planning permission, licensing certain premises, licensing taxis, etc.

Standards Committees

Each council in England and Wales must set up a standards committee, which has at least one independent or lay member with the function of promoting and maintaining high standards of conduct in the authority.

Area Committees

Area committees may cover a number of wards, or a similar geographically defined section within a local authority 's boundary.

Local Authorities are encouraged to adopt area consultative forums to bring decision making closer to the people and to help give people a say in the way in which their local authority works. Such committees may take many forms in a variety of roles. They may consist of councillors, representatives from other public, private and voluntary sector bodies in the area and members of the public, or they can be made up of councillors only. They can be solely consultative and advisory, or they may have delegated functions and budgets.

Key Decisions

A local authority is able to set different thresholds for different services and functions, bearing in mind the overall budget for those services and functions and the likely impact on communities of each service or function. A decision involving expenditure or saving above the limit for the service or function concerned would be a key decision. This should also apply to decisions likely to have a significant impact on two or more wards or other electoral division.

The need to take a key decision must be notified at least five clear days in advance.

Figure 1: Directly Elected Mayor with Cabinet

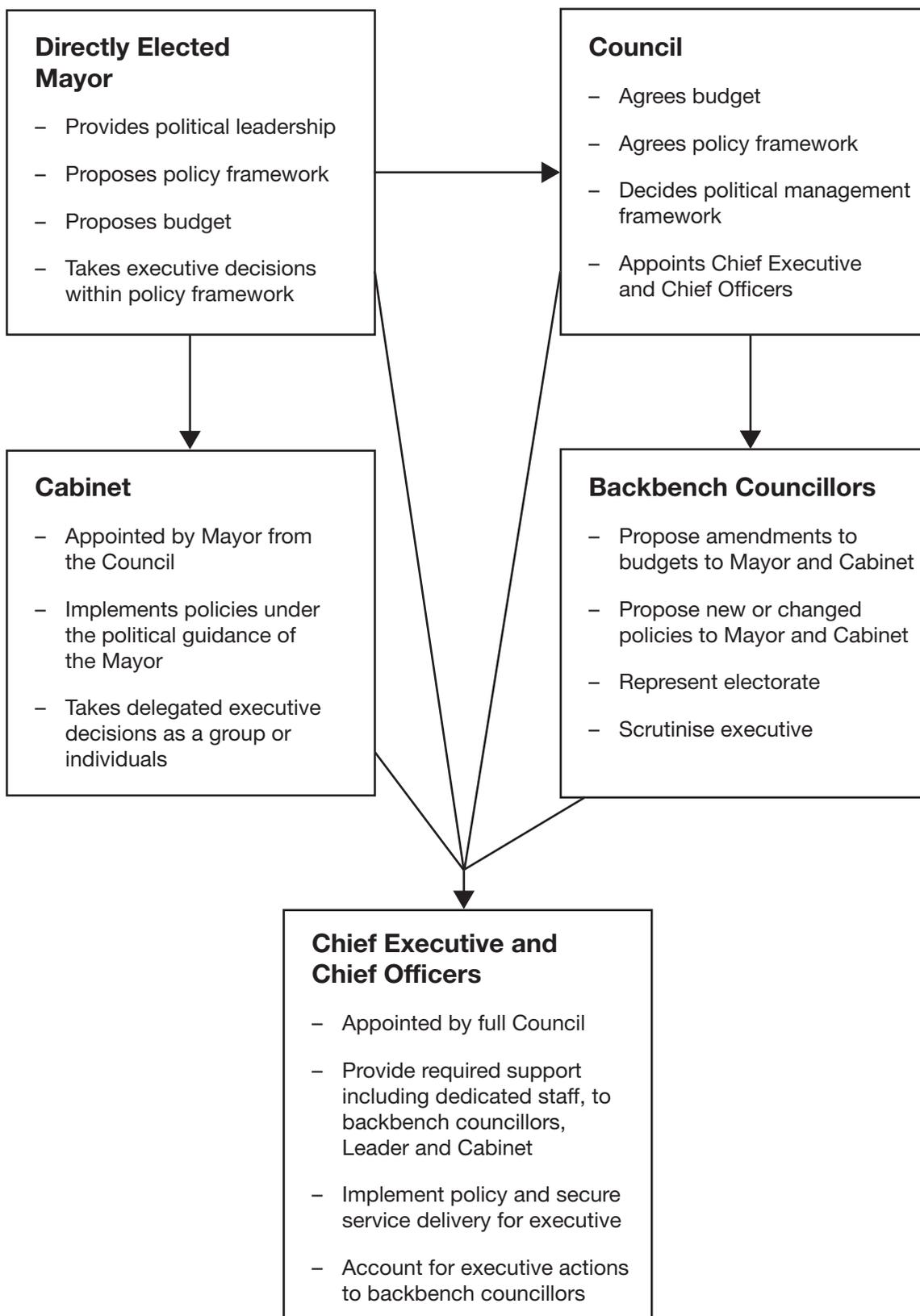


Figure 2: Leader with a Cabinet

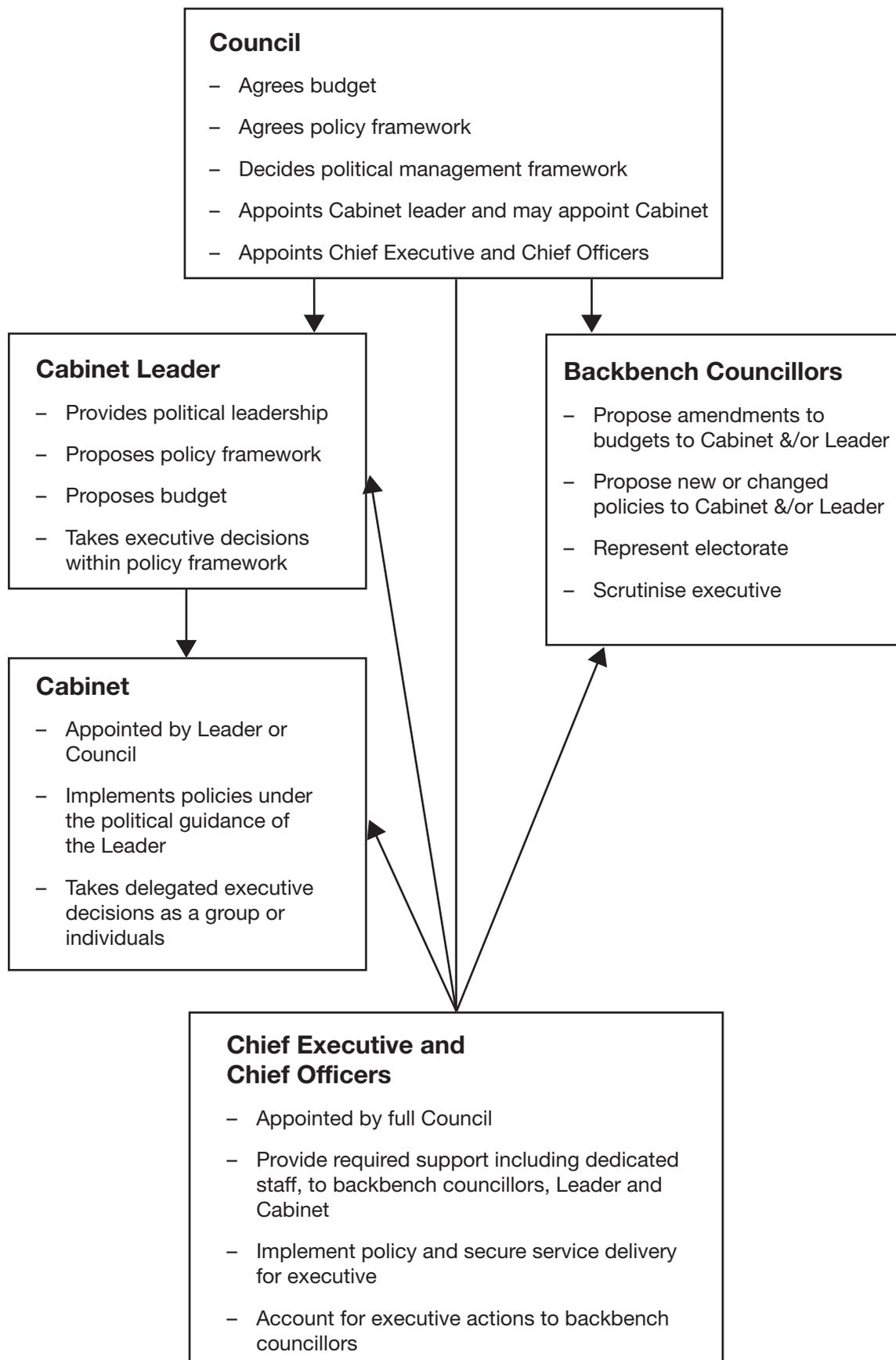
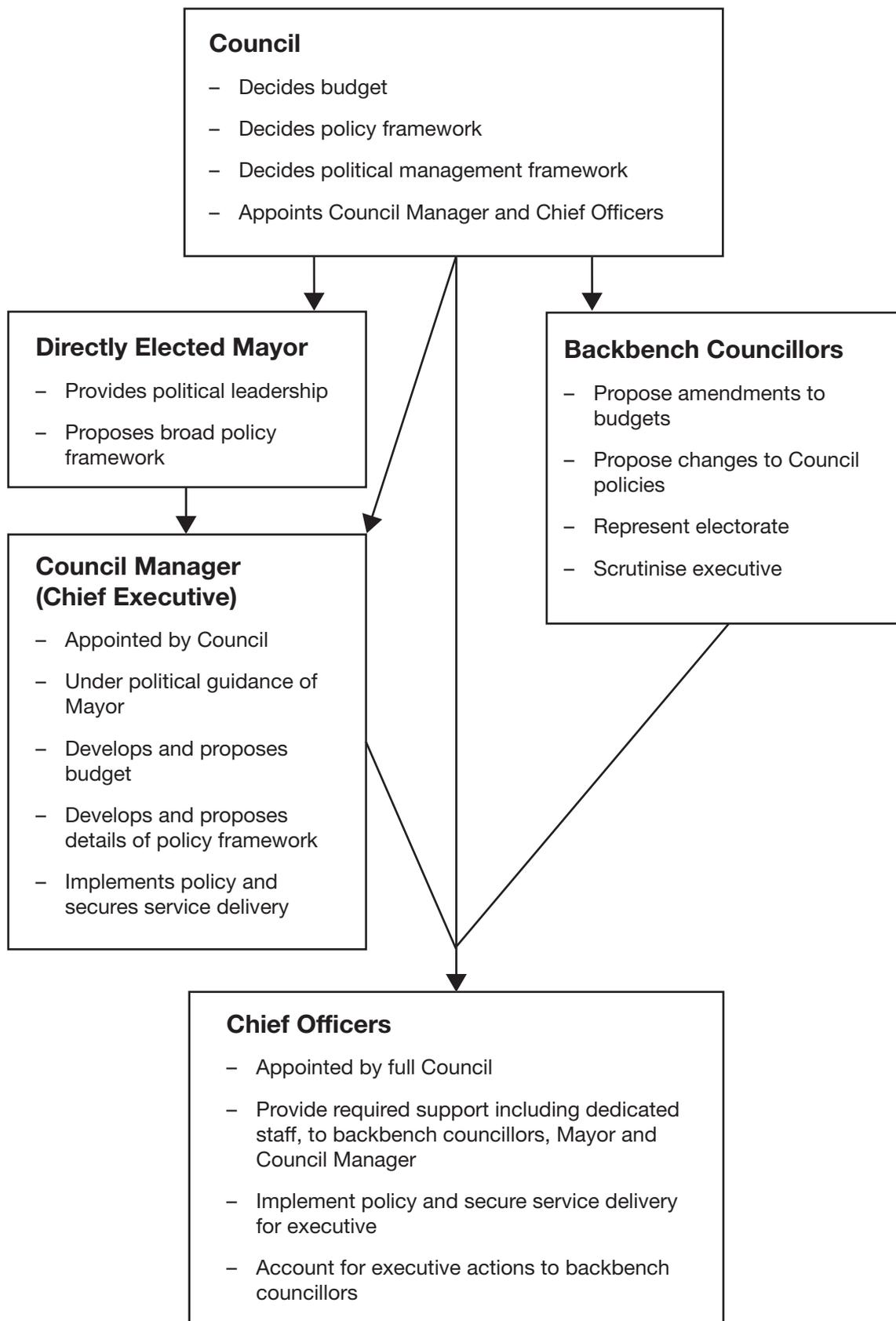


Figure 3: Directly Elected Mayor and Council Manager



ANNEX D

Prudential Capital Finance System

The new prudential capital finance system took effect in England on 1 April 2004. The powers are in the Local Government Act 2003 (Part 1).

Local Authorities are now free to borrow for capital projects without Government consent – provided they can afford to service the debt without extra Government support. There is similar flexibility to use leasing and other forms of credit to acquire capital assets.

The new system relies extensively on standard accounting principles and published codes of practice. Authorities' decisions on what they can afford to borrow are guided by the Prudential Code, specially produced by the independent accounting body CIPFA (the Chartered Institute of Public Finance and Accountancy). This does not lay down rigid rules and much is left to local discretion.

The Government still supports the major part of local authorities' capital programmes by means of grant. However, the new prudential system then allows authorities to undertake additional capital spending provided they can afford to fund it themselves.

The Government has a reserve power to impose national borrowing limits to protect the country's economic interests. There is also a reserve power to impose an individual limit on an authority to prevent it borrowing more than it can afford. The power would be used, for example, if an authority refused to set a proper borrowing limit.

The Government still contributes to authorities' revenue income by providing RSG on new borrowing in the same way as it did under the old system. Allocations were previously given as 'supported' credit approvals (credit approvals that attracted RSG) and are now given as Supported Capital Expenditure (Revenue) (SCE(R)), allocations. SCE(R) allocations represent a value of capital expenditure by the local authority towards which the Government is prepared to provide support through RSG. But, while supported credit approvals have been replaced by SCE(R)s under the new prudential system, unsupported credit approvals will not need to be replaced with another form of allocation.

ANNEX E

Responsibility of the duty holder (local authority)

Port Marine Safety Code

The Port Marine Safety Code introduced a national standard for every aspect of port marine safety. Its aim is to improve safety for those who use or work in ports, their ships, passengers and cargoes, and the environment. It establishes a measure by which harbour authorities can be accountable for the legal powers and duties which they have to run their harbours safely.

Public interest

Harbour authorities have been created to serve a public interest – there is a public right to use the harbour for the shipping and unshipping of goods and passengers. As a general rule there is also a public right of navigation.

Duties and powers

The duties of a harbour authority are of three kinds. Some are statutory duties, imposed either in the local legislation for that authority or in general legislation. There are, in addition, general common law and fiduciary duties. These include an obligation to conserve – and facilitate the safe use of – the harbour; and a duty of care against loss caused by the authority's negligence.

Marine operations

For the purposes of the Port Marine Safety Code, marine operations are those which facilitate the safe use of a harbour by vessels. They include the direction of shipping and the regulation of safety of navigation in a harbour, and the maintenance of aids to navigation within the jurisdiction of a harbour undertaking.

Accountability

The code is directed at harbour authorities; duties and powers rest upon harbour authorities corporately. Board members, directors, commissioners or trustees are collectively accountable and individually responsible for the proper exercise of their authority's statutory functions and legal duties. They are severally and collectively the 'duty holder'.

Each harbour authority is accountable for managing operations within the port safely and efficiently. Each harbour authority should make a clear published commitment to the code.

The code represents the national standard against which the policies, procedures and performance of harbour authorities are measured.

Harbour authorities appoint a “ designated person”, to provide independent assurance about the operation of their marine safety management systems, who has direct access to the board.

General duties and powers

Harbour authorities have these general duties:

To take reasonable care that all who may choose to navigate the harbour may do so without danger to their lives or property.

An obligation to conserve, and facilitate the safe use of, the harbour.

To have regard to efficiency, economy and safety of operation with respect to the services and facilities provided.

Authority’s typically have an express duty to take such action as the harbour authority think necessary for the maintenance, operation, improvement or conservancy of their harbour.

Dues

Harbour authorities have powers to raise dues to pay for the discharge of their legal obligations.

The right to use a harbour for the shipping and unshipping of goods, or the embarkation or disembarkation of passengers, is subject to the payment of dues.

Harbour authority boards must ensure that adequate resources are available to discharge marine safety obligations and set dues accordingly.

It is obligatory for the purposes of the code that measures are taken to reduce all risk associated with port marine operations as low as reasonably practicable.

It is not acceptable for dues to be set – and exceptions, special rates and waivers agreed – which compromise this obligation.

The power to levy dues is conferred to ensure that users pay for the discharge of an authority’s legal functions. It follows that each harbour authority has a duty to raise at least sufficient funds in dues to provide the resources needed fully to discharge these functions.

