



Report No: **63/2009** Public Agenda Item: **Yes**

Title: **Constitution of the Harbour Liaison Forums**

Wards Affected: **All Wards in Torbay**

To: **Harbour Committee** On: **23 March 2009**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

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1. What we are trying to achieve and the impact on our customers

- 1.1 To draw up and agree a Constitution for the two Harbour Liaison Forums.
- 1.2 Harbour customers and the wider community would expect the Liaison Forums to be properly constituted.
- 1.3 If the Harbour Liaison Forums agree to a formal constitution they will become more fit for purpose and this will have a positive impact on our customers.

2. Recommendation(s) for decision

- 2.1 That the Harbour Liaison Forum Constitution as set out in Appendix 1 be approved.**

3. Key points and reasons for recommendations

- 3.1 A draft Harbour Liaison Forum Constitution was approved by the Harbour Committee on 29 September 2008. Consultation has taken place with the Brixham Harbour Liaison Forum and the Torquay/Paignton Harbour Liaison Forum regarding the draft constitution.
- 3.2 The Municipal Ports Review recommends that the management of local authority owned ports and harbours should properly involve stakeholders so as to remain open and accountable.
- 3.3 Report 28/2007 to the Harbour Committee, dated 8 February 2007, set out the recommendations of the Municipal Ports Review Working Party. The report also set out the way forward for the governance arrangements of Tor Bay Harbour.

- 3.4 Annex 4 of Report 28/2007 contained a Municipal Ports Review – Implementation Schedule. The Schedule indicates that the Harbour Committee should recommend the format and composition of the Harbour Liaison Forums by December 2007.
- 3.5 The layout and content of the Harbour Liaison Forums Constitution as set out in Appendix 1 follows the format used for the Community Partnerships and reflects the guidelines of the Municipal Ports Review, which makes reference to ‘*Modernising Trust Ports: A Guide to Good Governance*’.
- 3.6 In ‘*Modernising Trust Ports: A Guide to Good Governance*’, Section 21, ‘Consultation’, states that consultation groups should operate in a rational and systematic manner, complying with the key principles of accountability, objectivity and openness.
- 3.7 In the Harbour Committee’s Terms of Reference contained within the Council’s Constitution it states that the Committee will “recommend the format, composition and governance of the Harbour Liaison Forums and keep the arrangements under review”.
- 3.8 Elsewhere in the Council’s Constitution the Protocol for Harbour Committee Members includes the following reference :-

Role of the Harbour Liaison Forums and relationship with the Harbour Committee

- (a) *Two Harbour Liaison Forums have been established namely Torquay/Paignton Harbour Liaison Forum (covering Torquay and Paignton Harbours) and Brixham Harbour Liaison Forum (covering Brixham Harbour). The membership of the Forums includes a full range of stakeholders such as harbour users and others who derive direct benefit from Marine Services, together with those who derive an indirect benefit.*
- (b) *The role and remit of the Forums is to provide a method of consultation on day to day management and operational issues in relation to the three enclosed harbours. They are also used for consultation on strategic matters.*
- (c) *The Harbour Committee will have regard to the views expressed by the Harbour Liaisons Forums by receiving the minutes of Forum meetings. Further details of consultation are set out in paragraph 10 below.*
- (d) *As part of the Harbour Committee’s terms of reference, it will recommend the format, composition and governance of the Harbour Liaison Forums and keep the arrangements under review. The Harbour Committee will seek to encourage openness and transparency in the Forums’ selection of their membership.*

For more detailed information on this proposal please refer to the supporting information attached.

**Captain Kevin Mowat
Executive Head, Harbour & Marine Services**

Supporting information to Report 63/2009

A1. Introduction and history

- A1.1 In November 2000, in '**Modern Ports – A UK Policy**', the Department for Transport 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.
- A1.2 In May 2006 the Department for Communities and Local Government and Department for Transport jointly published '**Opportunities for Ports in Local Authority Ownership; A review of municipal ports in England and Wales**'.
- A1.3 In this report they have stated that within the current framework for decision-making in local government there is scope for responsive and dynamic management of municipal ports. The key findings identified in the Executive Summary (Annex 2) concerned:-
- 1 Accountability and decision making
 - 2 Strategy and Business Planning
 - 3 Management and Performance Review
 - 4 Municipal Port Finances
- A1.4 Furthermore the Review document states that decisions relating to the Harbour are based on advice from officers who have a clear understanding of the special requirements of the Harbour.
- A1.5 Following a report to the Harbour Committee in June 2006 it was resolved that a Municipal Ports Review Working Party be established to prepare an implementation schedule for review in relation to the review of Municipal Ports.
- A1.6 This Working Party met on five occasions with the last meeting being held on 22 January 2007. The Working Party agreed and recommended that the best way forward to meet the requirements of the Municipal Ports Review is to have a fit for purpose Harbour Committee working for Tor Bay Harbour under new and more detailed Terms of Reference and a Protocol set by the Council, making it effectively a decision-making committee of the Council. Later in 2007 the Council adopted the Working Party's recommendations.
- A1.7 It was a recommendation of the Working Party that the new Committee should be protected against short-term thinking and be subject to a coherent and consistent treatment by the Council. Furthermore they believed the Committee should be apolitical.
- A1.8 Once the principle of a Harbour Committee was established it was agreed by full Council that there would be a need to undertake a considerable amount of work in order to put the Harbour Committee in place. This work included the recruitment and appointment of the advisors and the training of all members of the Committee. A suggested Implementation Schedule was agreed in 2007 and this included the need for the Harbour Committee recommend the format and

composition of the Harbour Liaison Forums by December 2007.

- A1.9 In summary the Municipal Port Review is all about the management of the harbour. It is not a question of ownership as the Council is the owning authority. It is a matter of what delivers the most appropriate and fit for purpose form of governance that will work best for any particular municipal port.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

There is likely to be a reduction in risk by having properly constituted Harbour Liaison Forums in place. If the new governance arrangements did not include properly constituted Harbour Liaison Forums there will be a significant risk that the Council will not have a fit for purpose form of governance that reflects national best practice.

- A2.2 Although the Harbour Committee is a decision-making body, the risks associated with the Committee making decisions is minimal as the powers given to it can be revoked at any time by a revision of the Council's Constitution. However, this would be an extreme option as it would go against national best practice.

A2.3 Remaining risks

The only remaining risk is that the Council could be criticised for not adopting proper constitutional arrangements for the Harbour Liaison Forums as recommended by the Municipal Ports Review. This could damage the Council's reputation, especially as the Council has received "Leading Lights" status *'in recognition of successful implementation of the Municipal Ports Review and its recommendations for best practice in decision making and accountability, strategy and business planning, and review of performance and finance'*.

A3. Other Options

- A3.1 Not to accept the recommended Harbour Liaison Forums Constitution.
- A3.2 To recommend an alternative layout for the Harbour Liaison Forums Constitution with alternative content.
- A3.3 Municipal Ports are expected to consider adopting and adapting the recommendations made in *'Modernising Trust Ports: A Guide to Good Governance'*. This sets out the benchmarks in terms of Board composition, appointment, performance and accountability.
- A3.4 In Section 21 of the Guide to Good Governance, under the heading 'Consultation', it states that consultation groups should operate in a rational and systematic manner, complying with the key principles of accountability, objectivity and openness.

A4. Summary of resource implications

- A4.1 There are no additional resources implications.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 The Harbour Committee, along with properly constituted Harbour Liaison Forums, will improve community relations because the advisors and stakeholders will be involved at the heart of harbour management, with a direct influence over the strategic decision-making process for Tor Bay Harbour.

A6. Consultation and Customer Focus

A6.1 There are a number of stakeholder groups which are used to consult on the quality and performance of the harbour service but the main groups are the Brixham Harbour Liaison Forum and the Torquay/Paignton Harbour Liaison Forum. Other stakeholder groups are also consulted from time to time, including the various Community Partnerships, individual Harbour User Groups and the community wide Viewpoint Panel.

A6.2 Both of the Harbour Liaison Forums have been consulted on the content of the Harbour Liaison Forum Constitution.

A7. Are there any implications for other Business Units?

A7.1 No.

Appendices

Appendix 1 Harbour Liaison Forum Constitution

Documents available in member's rooms

None

Background Papers:

The following documents/files were used to compile this report:

Opportunities for Ports in Local Authority Ownership: A Review of Municipal Ports in England and Wales – Dept. for Communities & Local Government/Dept. for Transport (May 2006)

Modernising Trust Ports: A Guide to Good Governance – Dept. of the Environment, Transport and the Regions (Jan 2000)

Torbay Council Constitution