

**Appendix 1**  
**Review of Delegated Powers – Report 62/2010**

Description	Responsibility delegated by
<b>13. Delegations to the Executive Head of Harbour and Marine Services</b>	
13.1 To take any decisions (including any Key Decisions) and to exercise all legal powers relevant to the Harbour and Marine services and Harbour Master functions (including determining the terms and conditions of use of the harbour and its facilities).	Cabinet
13.2 This authorisation shall include (but not be limited to) any decisions in relation to the budget for and resources (including employees) allocated to the Harbour and Marine services functions.	
13.3 This authorisation shall also include (but not be limited to) the service or receipt of notices, the making of orders, the authorisation of any action or the institution, defence or conduct of proceedings and appeals and the authorisation of named employees to enforce specific powers.	
13.4 To retain contract staff or appoint consultants on matters related to their areas of responsibility.	
13.5 So far as is lawful, the Executive Head of Harbour and Marine Services may delegate (in writing) matters within the services and functions for which he/she is responsible to employees within the Harbour and Marine services or to any director. Any such delegations may be revoked, varied or subject to such limitations as the Executive Head of Harbour and Marine Services considers appropriate.	
13.6 The Executive Head of Harbour and Marine Services may agree with the relevant member their own criteria for triggering consultation in relation to the Executive Head of Harbour and Marine Services exercise of his/her delegated powers. These criteria will seek to strike an appropriate balance between the relevant member's "need to know" and the avoidance of an excessive volume of detailed information being passed to the relevant member. These criteria may be more or less onerous than outlined in the "Limitations on Delegations" set out in Part 2 of this Scheme of Delegation and may be varied or revoked.	

Description	Responsibility delegated by
<p>13.7 The Executive Head of Harbour and Marine Services may designate and issue authorisations in writing to officers of the Council to act under those powers delegated to them by all or some of the following legislation and any statutory amendment or replacement thereof having regard to the qualifications and experience of the officer:</p> <p>Docks Regulations 1988  Pilotage Act 1987  Dangerous Substances in Harbour Areas Regulations 1987  Aviation and Maritime Security Act 1990  Harbours, Docks and Piers Clauses Act 1847  Harbours Act 1964 (inserted by the Transport and Works Act 1992)  Conservation (Natural Habitats &amp;c.) Regulations 1994  Merchant Shipping Act 1995 (as amended)  Dangerous Vessels Act 1985  Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998  Merchant Shipping (Port State Control) Regulations 1995  Local Government Act 1972  Tor Bay Harbour Act 1970  Tor Bay Harbour (Torquay Marina &amp;c.) Act 1983  Tor Bay Harbour (Oxen Cove and Coastal Footpath, Brixham) Act 1988</p>	
<p>13.8 The following powers in this paragraph 13.8 are statutory powers which cannot be exercised by any officer other than the Executive Head of Harbour and Marine Services, his/her Deputy or appointed assistants (such appointments being specifically referred to in their job description). Likewise they cannot be withdrawn by the Chief Executive or any other officer.</p>	Statutory delegation
<p>13.8.1 To give general directions to regulate the movement and berthing of ships and the safety of navigation.</p>	
<p>13.8.2 To give directions prohibiting the entry into, or requiring the removal from, the Harbour of any dangerous vessels.</p>	
<p>13.8.3 To prohibit the entry into the Harbour, and to regulate the movement, of any vessel carrying dangerous substances and to control similarly the entry onto the Harbour estate of dangerous substances brought from inland.</p>	

Description	Responsibility delegated by
13.8.4 To detain a vessel, if the Executive Head of Harbour and Marine Services has reason to believe that it has committed an offence by discharging oil, or a mixture containing oil, into the waters of the Harbour.	
13.8.5 To regulate the time and manner of a ship's entry into, departure from and movement within the Harbour waters and related purposes.	
<p>13.9 To vary (by addition or waiver (in full or as to part)) the approved Schedule of Harbour Charges in such manner as the Executive Head of Harbour and Marine Services shall consider reasonable; including for example (without restricting the generality of this power) where:</p> <ul style="list-style-type: none"> <li>(i) the Executive Head of Harbour and Marine Services considers the variation to be in the best interest of the Harbour Authority and/or local people;</li> <li>(ii) the Executive Head of Harbour and Marine Services considers the variation would fairly reflect actual or part-year usage;</li> <li>(iii) the Executive Head of Harbour and Marine Services considers that it would be appropriate where a vessel owner/operator has made use of a facility as a result of what the Executive Head of Harbour and Marine Services considers to be extreme or unusual weather conditions, an accident at sea, or other emergency; and</li> <li>(iv) the Executive Head of Harbour and Marine Services considers it appropriate to levy a charge above or in addition to those matters contained within the approved Schedule of Charges for anything done or provided by (or on behalf of) the Harbour Authority in accordance with the Harbours Act 1964 and/or Section 24 of the Tor Bay Harbour Act 1970 or any amendments or re-enactments of those Acts.</li> </ul>	Council (as part of the budget)
<p>PROVIDED THAT the Executive Head of Harbour and Marine Services shall maintain a proper written record of all variations approved under this paragraph 13.9 and shall, at least twice a year, report to the Harbour Committee the total value of the additional charges levied and the total value of the charges waived under this paragraph.</p>	

