



Report No: **28/2007**

Public Agenda Item: **Yes**

Title: **Municipal Ports Review**

Wards Affected: **All Wards in Torbay**

To: **Harbour Committee**

On: **8 February 2007**

Key Decision: **No**

Date Decision
Effective:

Change to Budget: **No**

Change to Policy Framework: **No**

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1. What we are trying to achieve

- 1.1 To report back the recommendations of the Municipal Ports Review Working Party and to consider the way forward for the governance arrangements of Tor Bay Harbour.

2. Recommendation(s) for decision

2.1 That the Constitution Working Party be recommended to:

accept the main findings of the Municipal Ports Review Working Party (as set out at Annex 5) and as a result consider the consequent amendments to the Constitution as set out below:

- (a) a decision-making Committee (to be known as the Harbour Committee) to be established with non-Councillor co-optees or advisors, to become the effective managers of Tor Bay Harbour;
- (b) that the relationship between the Council as the owning authority and the Harbour Committee as the managing body be determined by detailed Terms of Reference and a Protocol, which will form part of the Council's Constitution;
- (c) that the recommended changes are implemented in line with Schedule detailed in Annex 4.

2.2 That the Director of Marine Services and Director of Law and Support be requested to prepare detailed terms and reference and a protocol (as outlined in

Annex 1) for consideration by the Constitution Working Party.

3. Key points and reasons for recommendations

- 3.1 The Municipal Ports Review Working Party has met on several occasions to thoroughly review the Government's publication 'Opportunities for Ports in Local Authority Ownership; A review of municipal ports in England and Wales'. An Executive Summary of this document can be found in Annex 2.
- 3.2 Having completed its work the Municipal Ports Review Working Party has set out its recommendations to the Harbour Committee within this report. The detailed findings of the Working Party can be found in Annex 5.
- 3.3 Consideration and partial adoption of the Trust Ports Guide to Good Governance and setting up a bespoke Harbour Committee, working to more detailed Terms of Reference, would increase expertise and improve responsiveness in the decision making process. It will involve a wider range of people, with selected expertise, in decision-making and offer more support to the Harbour Masters.
- 3.4 The Trust Ports Guide to Good Governance will be used to help determine the composition, appointments, performance and accountability of a new Harbour Committee. Co-opted Committee members/advisors will be selected based on a definition of skills that should be brought to the Harbour Committee.
- 3.5 Stakeholder involvement in the Harbour can be improved by formalising the status of the existing Harbour Liaison Forums. The Forums should be properly constituted to allow a wide range of stakeholders the opportunity to be consulted on day to day harbour operations. These groups should continue to have direct involvement from the Harbour Masters and Harbour Committee members.
- 3.6 This report makes recommendations that offer a real opportunity for the Council to provide Tor Bay Harbour with an accountable, expert and more responsive form of governance. It would also provide harbour management with the appropriate level of independence and flexibility.
- 3.7 The recommendations contained in this report do not impact on the Community Plan and should help the Council to deliver its Corporate Plan.

For more detailed information on this proposal please refer to Appendix A.

**Cllr Gordon Jennings
Chairman, Municipal Ports Review Working Party**

Appendix A – Supporting information to Report 28/2007

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

The considered way forward stated in the document was:

'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.

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.

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.

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.

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

- 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 has now 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. Draft outline Terms of Reference/Protocol for such a Committee are attached as Annex 1.
- A1.7 It was agreed by 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 setting up of a new Harbour Committee has been agreed by full Council there will be a need to undertake a considerable amount of work in order to put a Harbour Committee in place. A suggested Implementation Schedule is attached as Annex 4.
- A1.9 The Municipal Ports Review (May 2006) states that there should be six months to formulate a plan and two years for implementation.
- A1.10 Once full Council agrees the recommendations to set up a new Harbour Committee then the process can begin with the implementation. i.e. setting up the requirements to advertise and select co-optees/advisors, train new Committee members, produce the detailed Terms of Reference, properly constitute the Harbour Liaison Forums and lead into the first meeting of the Committee and newly constituted Liaison Forums.
- A1.11 It is recommended by the Working Party that all members of the Harbour Committee, voting and non-voting, should be required to undertake appropriate training. This training should cover port operation, statutory and regulatory obligations, the role of the Duty Holder under the Port Marine Safety Code and governance issues.
- A1.12 The Working Party agreed that the relationship between the Council and the Harbour Committee should be set out in revised and more detailed Terms of Reference which would perform the same function as the Memorandum of Understanding, as recommended by the Municipal Ports Review document.
- A1.13 There will also be a need to ensure greater stakeholder participation and this will be addressed by creating a proper constitution for the existing and successful Harbour Liaison Forums.
- A1.14 Finally, it should be remembered that the whole debate about the Municipal Port Review is really one about the management of the harbour. It is not a question of ownership as the Council will still be 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 a fit for purpose Committee, considered to be best practice under the municipal ports review. The Harbour Committee will have the responsibility as the Duty Holder under the Port Marine Safety Code and the Council will still retain ownership of the ports. If the new governance arrangements are not implemented 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 will become 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.

A2.3 Remaining risks

The only remaining risk is that the Council could be criticised for not adopting all the recommendations of the Municipal Ports Review such as voting rights for co-optees/advisors and officers. However, although these recommendations were not in line with the Council's current Constitution, the Working Party considered that there could be scope for the proposals to be developed in future years. This would also depend on the success of the new governance arrangements for Tor Bay Harbour.

(Note: A full risk assessment of the proposals is available from the report author.)

A3. Other Options

A3.1 The Department for Transport and the Department for Communities and Local Government believes 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 offers a real opportunity to provide municipal ports with an accountable, expert and more responsive form of governance.

A3.2 They 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.

A3.3 Municipal Ports should 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 Therefore the Constitution Working Party could decide not to accept the recommendations of the Municipal Ports Review Working Party and investigate the possibility of pursuing alternative options as described in the Municipal Ports Review document.

A4. Summary of resource implications

- A4.1 There are no additional resources implications. The existing Harbour Committee is already supported by the Director of Marine Services and Democratic Services and this same level of support would continue with the new committee. All members of the Committee will receive appropriate induction training which can be delivered by Council employees.

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

- A5.1 The new Committee will improve community relations as co-optees/advisors will be involved at the heart of the strategic decision-making process for Tor Bay Harbour.

A6. Consultation and Customer Focus

- A6.1 Representatives of the users of Torquay, Paignton and Brixham Harbours have assisted the Municipal Ports Review Working Party and attended its meetings.
- A6.2 The Municipal Ports Review document and the work of the Municipal Ports Review Working Party has also been discussed with both the Torquay/Paignton and Brixham Harbour Liaison Forums in September 2006.

A7. Are there any implications for other Business Units?

- A7.1 No.

Annexes

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| Annex 1 | Draft outline Terms of Reference/Protocol – new Harbour Committee |
| Annex 2 | 'Opportunities for Ports in Local Authority Ownership; A review of municipal ports in England and Wales' - Executive Summary |
| Annex 3 | Structure diagram showing the Recommended Harbour Committee |
| Annex 4 | Recommended Municipal Ports Review Implementation Schedule |
| Annex 5 | Table with extracts of Review Recommendations & Proposed Action/Comment from the Municipal Ports Working Party |

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)