



Report No: **156/2007** Public Agenda Item: **Yes**

Title: **Tor Bay Harbour - Operational Moorings and Facilities Policy**

Wards Affected: **All Wards in Torbay**

To: **Harbour Committee** On: **18th June 2007**

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 This report is seeking to achieve the adoption of an operational moorings and facilities policy. The impact of such a policy is to ensure that a consistent, fair and equitable approach is applied to new, existing and potential facility customers that use Tor Bay Harbour and the harbour estate. It also aims to ensure that the policy and associated conditions are fully understood and recognised as being reasonable.

2. Recommendation(s) for decision

- 2.1 That the document set out in Appendix 1 be adopted as the Tor Bay Harbour Operational Moorings and Facilities Policy.

3. Key points and reasons for recommendations

- 3.1 Within Tor Bay Harbour a number of discretionary services are provided. Some of the most popular discretionary services are the provision of moorings, berths, boat park spaces, tender racks, storage lockers, etc. The annual use of these various Council owned harbour facilities is currently governed by a variety of controlling factors. These factors include local harbour legislation, harbour byelaws, the annual Facility Form Agreement terms and conditions, pre-existing Council policy and some unwritten matters covered simply by custom and practice.
- 3.2 The introduction of an operational policy statement will supplement the Tor Bay Harbour Act 1970 (and subsequent amending legislation), the associated

Harbour Bye- laws, and the facility agreement conditions. It will also incorporate a number of other issues that have not previously been clearly stated or are commonly misunderstood.

- 3.3 Waiting lists for facilities have existed for many years and local boat owners have been given preference when vacancies have arisen. The new Tor Bay Harbour operational moorings and facilities policy makes it clear how this system works and it sets out the order of priority for facility allocation.
- 3.4 An operational moorings and facilities policy is required to ensure that a consistent, fair and equitable approach is applied to new, existing and potential facility holders that use Tor Bay Harbour and the harbour estate. It also aims to ensure that the policy and associated conditions are fully understood and recognised as being reasonable. The proposed operational policy statement will serve as a management tool, agreed from time to time by the Harbour Committee and it will not therefore form part of the strategic policy framework set by Torbay Council.
- 3.5 There are no significant risks associated with the recommendation in this report. However, the absence of such a policy may attract criticism, especially if the Harbour Masters are expected to take operational decisions in the absence of clear guidelines.

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

Kevin Mowat
Director of Marine Services

Supporting information to Report 156/2007

A1. Introduction and history

A1.1 Certain issues relating to the allocation and management of harbour facilities have not previously been clearly stated or commonly misunderstood. These issues include the following areas :-

- the waiting list system and the order of priorities
- the allocation of commercial moorings
- heritage vessels
- inheritance
- partnerships or shared ownership

A1.2 Waiting lists for facilities have existed for many years and local boat owners have been given preference when vacancies have arisen. The new Tor Bay Harbour operational moorings and facilities policy makes it clear how this system works and it sets out the order of priority for facility allocation.

A1.3 A waiting list exists for a number of specified commercial moorings. Currently these can be split into specific numbers of facilities for passenger carrying pleasure craft and other moorings identified for commercial craft such as fishing vessels. The policy for the number of moorings available for passenger carrying pleasure craft was set out in minute 1275/4/78. At that time the Council agreed that no additional pleasure boat operating facilities at Paignton Harbour should be permitted until an existing operator ceases to operate. This existing policy remains in force. Furthermore this is the only policy that allows the transfer of use of a mooring facility; in this case to the new owner of a passenger boat. The policy states:-

“Where a pleasure boat ceases to operate at any Harbour and the operator sells his business, the Harbour Master is authorised to transfer the mooring facilities to the new owner”.

A1.4 The Council currently offers financial support to certain ‘heritage boats’ based in Brixham. Existing policy provides a definition of what the Council considers to be a ‘heritage boat’. This definition is included within the recommended operational moorings and facilities policy.

A1.5 It is always difficult for the Harbour Masters to deal with family members who wish to continue the use of a harbour facility after the allocated facility holder has passed away. This matter is clearly addressed within the recommended policy.

A1.6 Customers can often misunderstand the issues surrounding shared ownership of a boat and this applies to the allocation of a facility. For example someone might think they could buy a part-share of a boat, then eventually buy out the remaining shares with a view to obtaining use of a mooring. If this process were permitted then the waiting list system would be easily bypassed. This matter is clearly addressed within the recommended policy.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

A2.1.1 There are no key risks associated with taking this decision

A2.1.2 The adoption of a clearly stated moorings and facilities policy will enhance the Council's reputation for transparency and accountability in respect of its delivery of Marine Services.

A2.2 Remaining risks

A2.2.1 There are no remaining risks.

A3 Other Options

A3.1 To take no action and continue to provide Marine Services without a clearly stated moorings and facilities policy.

A4 Summary of resource implications

A4.1 There are no resource implications.

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

A5.1 Adoption of a new, clearly stated, moorings and facilities policy should promote equality of opportunity for people to access services provided by the Harbour Authority. Furthermore it should reduce or eliminate any unlawful discrimination, direct or indirect, regarding the allocation and use of moorings and facilities.

A6 Consultation and Customer Focus

A6.1 Much of the new moorings and facilities policy includes existing and well-established policy or terms and conditions of use. However, the document has been circulated to the membership of the two Harbour Liaison Forums, as well as staff within Marine Services. The two Forums met on the 5th and 7th of June and appropriate comments were incorporated into the final draft policy.

A7 Are there any implications for other Business Units?

A7.1 There should be no impact for other Business Units.

Appendices

Appendix 1 Tor Bay Harbour Mooring/Berthing/Boat Park & Facilities Operational Policy

Documents available in members' rooms

Background Papers:

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

Tor Bay Harbour Act 1970

Tor Bay Harbour Byelaws

Facility Form Agreement – Terms & Conditions of Use