

TOR BAY HARBOUR AUTHORITY

HARBOUR AND MARINE SERVICES - ENFORCEMENT POLICY

The Harbour Authority has statutory powers to regulate the conduct of vessels in the harbour's jurisdiction and to assist in managing the risks of marine operations. To these ends, enforcement action will sometimes be appropriate.

The Harbour Authority recognises that most harbour users want to comply with the law. Therefore, where it can, the Harbour Authority will help users to meet their legal obligations without unnecessary expense, while taking firm action – including prosecution where appropriate – against those who flout the law or act irresponsibly.

The Harbour Authority will provide information and advice in plain language on the rules that apply and will disseminate it as widely as possible. Also, the Harbour Authority will provide encouragement and support to ensure that their legal powers are used appropriately to improve and safeguard public health, public safety and the environment. The purpose of any enforcement action is to protect the safety of residents, harbour users and visitors to Tor Bay Harbour. The Harbour Authority has the options of negotiation, education and persuasion and, where a criminal offence has occurred, of cautioning or prosecuting the offender.

The Harbour Authority will minimise the costs of compliance for users by ensuring that any action it takes is proportionate to the risks. As far as the law allows, the Harbour Authority will take account of the circumstances of the case and the operator's attitude when considering action.

The Harbour Authority will carry out its duties in a fair, equitable and consistent manner. It will seek to be clear, open and helpful in its approach to enforcement. The Harbour Authority will seek to target enforcement resources where they are most needed and will be informed by its other Policies, Aims and Objectives. It will liaise with other authorities and enforcement bodies as appropriate.

Clear Standards & Consistency

- The Harbour Authority will distinguish in written correspondence those matters which the law requires must be dealt with from recommendations which provide advice on good practice but do not require compliance (notwithstanding that failure to comply may prejudice any defence which may be available should prosecution ensue).
- Where there is a shared enforcement role, such as with the Maritime and Coastguard Agency or other statutory bodies, the Harbour Authority will ensure that liaison takes place at an early stage to promote a consistent approach.

Openness & Helpfulness

- We will provide information and advice in plain language.
- We will be open about how we set about our work, including any charges that may be set.
- We will consult with harbour users, other consumers and workforce representatives in our endeavours to be open and clear in our approach.

- We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.
- We will offer you the opportunity to put your point of view forward before action is taken against you, unless immediate action is necessary.
- We will provide a courteous and efficient service and our staff will identify themselves by name.
- We will provide a contact point and a telephone number for further dealings with us and we will encourage harbour users to seek advice/information from us.
- We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

Targeting & Proportionality

- We will always make ourselves available to advise whenever our other priorities permit.
- We recognise that there are sometimes different satisfactory solutions to some problems and we will refrain from being over-prescriptive whenever we can.
- We support the principles of BATNEEC (Best Available Technology Not Entailing Excessive Costs) and recognise that our actions should be in the public interest.

Procedures and Appeals and Complaints against Harbour and Marine Services

- Whenever possible we will make clear what the next action, if any, will be, for example a further warning or a notice of prosecution.
- In cases where immediate enforcement action is considered necessary then we will provide you with a written explanation as to why enforcement action has been taken against you. We will ensure that advice from an Officer is put clearly and simply and this will be confirmed in writing on request, and where remedial work is required, will explain why it is necessary.
- Where action is taken by another agency this may not preclude the Harbour Authority from pursuing its own action.
- Where statutory provisions exist for you to appeal against any action taken we will inform you of those provisions.
- If you are dissatisfied about the action taken by the Harbour Authority/Harbour and Marine Services or where the Harbour Authority/Harbour and Marine Services has not taken any action and you want a further response, a Corporate Complaints Procedure is available to you. Contact Torbay Council, Town Hall, Castle Circus, Torquay, Devon. TQ1 3DR. Telephone – 01803 201201.

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HARBOUR AND MARINE SERVICES - PROSECUTION POLICY

The Harbour Authority has statutory powers to enforce relevant legislation and in some circumstances prosecution will be appropriate. Prosecution is a serious step and must be regarded as the ultimate sanction. A prosecution will only be initiated when the alleged conduct has been such that the Harbour Authority cannot impose an appropriate sanction itself and the matter therefore deserves the attention of the Court.

The Harbour Authority is committed to assisting other enforcement agencies, including the Police, to pursue their statutory duties. The Harbour Authority will liaise with any enforcement agency that may also have an interest in any matter being considered for prosecution.

Officers will always explain the purpose of their visit or interview. Each case will be considered on its individual merits and a prosecution will only be initiated in accordance with this Policy together with the Harbour Authority's Enforcement Policy. Having duly considered the Harbour Authority's internal policies due regard will be given to the Code for Crown Prosecutors. Any decision to initiate a prosecution will be recorded in writing and the reasons for initiating the prosecution will be given.

Any investigation carried out by the Harbour Authority will be conducted pursuant to the Police and Criminal Evidence Act 1984 with due regard to the applicable Codes of Practice. In addition, where applicable, best practice will be observed as set out in national guidance issued by bodies such as the Department for Transport (Ports Policy) and/or Maritime and Coastguard Agency.

The Harbour Authority recognises that once a prosecution has been commenced control of the matter is ceded to the Courts and the Criminal Justice System.

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