

## Appendix 7 to Report 173/2010

### 1. Executive Summary

#### The reasons behind this review

1.1 Work on the Trust Port Review clearly indicated that many of the issues raised by that review around accountability, governance and finance were shared with the municipal sector. This view was reinforced by feedback from the annual exercise to allocate Supplementary Credit Approvals aimed to support essential safety and maintenance works in the municipal sector.

1.2 Government's commitment towards this review of the role, status and constitution of municipal ports was contained in "*Modern Ports – a UK Policy*" published in November 2000. In delivering this review the Department worked closely with the British Ports Association (BPA) and the Department for Communities and Local Government (DCLG).

#### The methodology employed

1.3 The conclusions of this review are derived from the results of a questionnaire sent out to 61 municipal ports in England and Wales and their owning authorities supported by a closer scrutiny of a representative cross section of visits involving discussions with the port managers, portfolio holders, chief executives, the owning authorities and some MP's. The entire review process has been closely supported by a working group of municipal port managers and the BPA.

### Key findings

#### ***Accountability and decision making***

1.4 As a direct result of the '*Modernising Local Government*' initiative many ports now report to a small committee, portfolio holder or cabinet member.

1.5 This has led to concerns from some of the consultees about the capacity and capability of harbour management. There is a perception that in some cases authorities' management structures are failing to provide appropriate accountability, there is insufficient stakeholder involvement, and that some portfolio holders are not seen as accountable to the full council for the decisions they make.

#### ***Strategy and business planning***

1.6 Concerns have been expressed that many local authorities are pitching dues at a level designed to maximise income from lucrative visitor leisure traffic. Such a policy could be in danger of excluding local stakeholders who have traditionally used the harbour facilities for business and domestic pleasure purposes.

1.7 Local authorities need to have a clear idea of what they want to achieve from ownership of a commercial/industrial port as opposed to a leisure/ tourist harbour.

#### ***Management and performance review***

1.8 Like trust ports, municipal ports are operated for the benefit of stakeholders including the local community but, unlike trusts, they are not in general governed by an independent, bespoke, expert and directly accountable body. Instead municipal ports generally form an integral part of the local authority and are treated the same way as any other service.

## ***Municipal port finances***

1.9 Some consultees felt that local authority accounting methods were not well suited to the needs of a commercial body. Failure to separate port accounts from those of the owning authorities has also hindered systematic provision for maintenance and development and prevented sensible commercial business planning.

## ***The way forward***

1.10 Canterbury City Council conducted a best value review of Whitstable. This was carried out by an independent consultant. This review concluded that a (new style trust) harbour management committee ( "HMC") structure (incorporating some elements of the trust port management structure) was the best option. They consider that this has since been borne out in practice. **In view of our analysis of the data collected, the report makes the following recommendations. We invite local authorities to consider the circumstances of their ports in the light of these recommendations.**

## ***Accountability and decision making***

1.11 Each authority should already have in place a mechanism to review and scrutinize decisions and actions by the executive in relation to its port. Overview and scrutiny committees should be used to question authorities' discharge of their functions in managing their ports.

1.12 Each authority, where ports are a responsibility of the executive, should keep under review the effectiveness of its existing systems for the delegation of functions, so it is clear what level of decision can be taken by the executive member, by the cabinet as a group and by the full council.

1.13 Local authorities must accommodate underlying statutory requirements (both in local government legislation and in any specific local harbours legislation) in their approach to management of municipal ports. They should also seek to address stakeholder requirements and take full account of the commercial realities of municipal port operations.

1.14 Adoption of the structures recommended in *Modernising Trust Ports: a Guide to Good Governance* ([www.dft.gov.uk/stellent/groups/dft\\_shipping/documents/page/dft\\_shipping\\_505328.pdf](http://www.dft.gov.uk/stellent/groups/dft_shipping/documents/page/dft_shipping_505328.pdf)) could assist in addressing the reported concerns that relevant stakeholders and those with relevant expertise have in practice been excluded from the decision-making process in some ports, to the detriment of important issues such as commercial viability, environment, health and safety.

## ***Strategy and business planning***

1.15 Municipal ports are in the main a local asset. Local authorities are strongly advised to carefully consider, and to consult on, the impact of their policies on the communities the ports serve.

1.16 Municipal ports should consider producing a business plan that looks at the future prospects of the port and how it will meet the requirements of the stakeholders, *who should be involved in its development*. The plan should review the strategy of the port and present measurable objectives.

1.17 A local authority's overview and scrutiny committee may wish to consider making a specific inquiry into the role and status, including any statutory basis, of the municipal port and whether this is compatible with the overarching objectives of the local authorities. The committee may subsequently wish to review the circumstances of, and decisions taken on, that port on a regular basis, e.g. by including port business as a permanent agenda item for every overview and scrutiny meeting.

## ***Management and performance review***

1.18 Local authorities or municipal ports should undertake an audit of their current status, benchmark themselves against the *Modernising Trust Ports: a Guide to Good Governance* and adapt their structures accordingly.

1.19 When a local authority undertakes a review of its municipal port, the review should be tailored to examine the port as a commercial operation, which allows the port management the appropriate level of independence and flexibility.

1.20 Municipal ports may see benefits in assessing, on a regular basis, their level of compliance with the benchmarks of good and accountable practice set out *Modernising Trust Ports: a Guide to Good Governance*. Each port should set out an implementation schedule for review. Ideally this should allow six months to formulate a plan and two years for implementation.

## ***Municipal port finances***

1.21 We feel that municipal ports would benefit from the introduction of ‘assured accounts’. We believe that any rental levy imposed on a municipal port by the owning authority should be set within the memorandum of understanding between the port managing body and the owning authority.

1.22 Where a municipal port is in receipt of an operational subsidy the owning authority should explore, as a priority, the feasibility of adopting a strategy for delivering a commercially viable port for the benefit of all stakeholders.

1.23 We believe that prudent and adequate provision should be made for capital asset replacement and future development.

1.24 Local authorities should allow ports to undertake capital expenditure financed by unsupported borrowing where the port can show that it can afford to service the debt.

## ***The way forward***

1.25 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.

1.26 We recommend that all local authorities carefully consider whether the experience of Canterbury City Council (Whitstable) and Cumbria County Council (Workington) (detailed in Section 4) could bring similar benefits to their own ports.

1.27 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.

1.28 The Municipal ports sector should consider establishing a similar scheme to run in parallel with the beacon scheme that has been established by DPM. This would provide recognition of ports that have adopted the recommendations made within this review.

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