



Report No: **238/2010** Public Agenda Item: **Yes**

Title: **Tor Bay Harbour Pilotage Directions**

Wards Affected: **All wards in Torbay**

To: **Harbour Committee** On: **20 September 2010**

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 The Pilotage Directions for Tor Bay Harbour need to be updated as part of the Council's ongoing compliance with the Port Marine Safety Code.

2. Recommendation(s) for decision

2.1 **That the draft Tor Bay Harbour Pilotage Directions shown in Appendix 1 to this report be approved, subject to statutory consultation.**

2.2 **That the Executive Head of Tor Bay Harbour Authority be asked to consult with interested parties prior to the implementation of the Tor Bay Harbour Pilotage Directions.**

2.3 **That the Executive Head of Tor Bay Harbour Authority seek further approval from the Harbour Committee if the consultation exercise results in significant objections or suggested amendments.**

2.4 **That on implementation of the Tor Bay Harbour Pilotage Directions shown in Appendix 1, the previous Pilotage Direction for Tor Bay Harbour, attached as Appendix 2, be revoked.**

3. Key points and reasons for recommendations

3.1 Torbay Council, as the Tor Bay Harbour Authority, and the Competent Harbour Authority for the purposes of the Pilotage Act 1987, has powers under Section 7 of the Act to make Pilotage Directions. A pilotage service must be provided if required in the interests of safety.

- 3.2 Competent harbour authorities have specific powers under the Pilotage Act to enable them to discharge the duties imposed under that Act.
- 3.3 A competent harbour authority has specific powers and duties for marine pilotage and must issue pilotage directions if it decides, based on its assessment of the risks, that pilotage should be made compulsory. The directions must specify how and to which vessels they apply. Ship owners and any other interested parties who use the port on a regular basis, must be consulted before the directions are implemented. Current operational risk assessments indicate the need for compulsory pilotage for specific vessels in certain weather conditions.
- 3.4 Tor Bay Harbour Authority is committed to complying with its legal obligations and to complying with the Port Marine Safety Code. After a period of consultation and having considered all the relevant comments, the Authority is recommended to adopt the new Pilotage Direction and to publish the same in accordance with Section 7 (6) of the Act, so as to bring it to the notice of those persons likely to be interested.
- 3.5 It is therefore essential that Tor Bay Harbour Authority has Pilotage Directions that are fit for purpose. Keeping such Directions under regular review reflects national best practice.

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

**Kevin Mowat
Executive Head of Tor Bay Harbour Authority
Tor Bay Harbour Master**

Supporting information to Report 238/2010

A1. Introduction and history

- A1.1 On 30 March 2000 the Harbours Sub-Committee received a report on the newly published Port Marine Safety Code. The Committee resolved that the requirements of the Code be implemented, as specified, by the end of 2001. Consequently a Marine Safety Risk Review was undertaken for Tor Bay Harbour Authority by Willis (UK) Ltd. Willis identified the need for a formal review of the existing Pilotage Direction, including consultation with all relevant stakeholders. It was specifically stated that the issue of pilotage provision in bad weather should be addressed. Options for consideration included the withdrawal of compulsory pilotage, part withdrawal (zoning) of compulsory pilotage, reduction of the waters controlled by Tor Bay Harbour Authority, investment in a radar controlled system and pilotage resources to ensure diligent regulation of compulsory pilotage.
- A1.2 During the winter of 2002/03 further work was undertaken to review the Pilotage Directions with the Harbour Masters and consultants Marine Enforcement Limited. This work concluded with a consultation exercise on a new draft Pilotage Direction. Following the consultation period the existing Tor Bay Harbour Pilotage Directions (see Appendix 2) were approved in July 2003.
- A1.3 Each year the Harbour Committee receives a report with details of the annual Port Marine Safety Code compliance audit undertaken for the Council, as the Harbour Authority, by Nicholsons Risk Management Ltd.
- A1.4 The Harbour Committee, on behalf of the Council, is the 'Duty Holder' under the Port Marine Safety Code (PMSC) and Nicholsons Risk Management Ltd are the appointed 'Designated Person'.
- A1.5 Under the Port Marine Safety Code Authorities should determine, through risk assessment whether any and, if so, what pilotage services need to be provided to secure the safety of ships (including those carrying dangerous goods or harmful substances) navigating in or in the approaches to its harbour; and whether in the interests of safety, pilotage should be compulsory for ships navigating in any part of that harbour or its approaches and, if so, for which ships and in which circumstances and what pilotage services need to be provided for those ships.
- A1.6 Each competent harbour authority should provide such pilotage services as is necessary.
- A1.7 Authorities must grant a bona fide master or first mate of any vessel a 'pilotage exemption certificate', if they demonstrate they have sufficient skill, experience and local knowledge to pilot the vessel within the harbour. The requirements for granting an exemption must not exceed or be more onerous than those needed for an authorised pilot.
- A1.8 Each competent harbour authority may authorise suitably qualified pilots in its area. Authorisations may relate to ships of a particular description and to particular parts of the harbour. The authority determines the qualifications for authorisation in respect of medical fitness standards, time of service, local knowledge, skill, character and otherwise. It may also -after giving notice and

allowing a reasonable opportunity to make representations -suspend or revoke an authorisation if it appears to the authority that the authorised person is guilty of any incompetence or misconduct affecting his capability as a pilot, or has ceased to have the required qualifications -or failed to provide evidence that he still has them. An authorisation may also be suspended or revoked, on reasonable notice, if any contract or other arrangement under which the services of pilots are provided is terminated.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

A2.2 There are no key risks associated with taking this decision.

A2.3 The adoption of clearly stated Harbour Pilotage Directions will enhance the Harbour Committee's reputation for transparency and accountability in respect of its function as Tor Bay Harbour Authority, on behalf of Torbay Council.

A2.4 Remaining risks

A2.5 There are no remaining risks.

A3 Other Options

A3.1 To take no action and continue using the existing Tor Bay Harbour Pilotage Directions without any further review.

A3.2 Withdrawal of compulsory pilotage within Tor Bay would present unacceptable safety and environmental risks.

A3.3 The Harbour Committee will keep the Authority's pilotage responsibilities under review as part of the Council's ongoing statutory duty as a Competent Harbour authority and following its commitment to compliance with the requirements of the Port Marine Safety Code.

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 Failure to comply with a Pilotage Direction is a criminal offence. Adoption of clearly stated Pilotage Directions should help our community to understand our approach to harbour related crime. Furthermore it should reduce or eliminate any unlawful discrimination, direct or indirect, regarding enforcement and prosecution action undertaken by the harbour authority in relation to pilotage matters.

A6 Consultation and Customer Focus

A6.1 In accordance with Section 7 (4) of the Act, before making a Pilotage Direction a Competent Harbour Authority is obliged to consult with the owners of ships which customarily navigate in the area to which the proposed direction would

apply and to consult with any other persons who carry on harbour operations within the harbour of the authority, or, in either case, such persons as it considers to be representative of them. Views on the proposed new Directions will be sought from various consultees, including the Harbour Liaison Forums.

A7 Are there any implications for other Business Units?

A7.1 This policy should have no impact on other Business Units.

Appendices

Appendix 1	Proposed Tor Bay Harbour Pilotage Directions – September 2010
Appendix 2	Existing Tor Bay Harbour Pilotage Directions – July 2003

Documents available in members' rooms

None

Background Papers:

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

The Pilotage Act 1987

Port Marine Safety Code – October 2009

Tor Bay Harbour Authority – Port Marine Safety Code Safety Management System

The Tor Bay Harbour Act 1970