

# Nicholsons

Risk Management

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Capt K P Mowat  
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22 November 2010

Dear Kevin,

## **Port Marine Safety Code (PMSC) Compliance Audit**

Enclosed is the formal audit report.

While carrying out the audit the following issues were examined and noted.

### 1. Any changes in Tor Bay Harbour activities?

The new fish market has opened at Brixham and staff have just moved into their new Harbour Office. There is increased risk during the move, but this is being properly managed.

Haldon Pier has been strengthened on the seaward side. There are no new types of craft operating in Tor Bay. The mix of fishing, commercial, ferry and leisure activities in Tor Bay remains much as before.

### 2. What changes in standards expected or in legislation?

There have been few significant changes in standards or in legislation. Lord Young's Report, 'Common Sense, Common Safety' points out that the standing of health and safety in the eyes of the public has never been lower, and there is a growing fear among business owners of having to pay out for even the most unreasonable claims. However there is no proposed legislation that will reduce the liabilities of harbours such as Tor Bay.

In his report published on 15 October, Lord Young recommended that the Adventure Activities Licensing Authority (AALA) be abolished and the existing statutory licensing regime be replaced by a code of practice. This recommendation will take some time to implement but the likes of Tor Bay Harbour Authority will need to obtain confirmation that the new Code of Practice is being complied with.

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Parts of Tor Bay Harbour have been classified as a Special Area of Conservation (SAC), which will help to protect the sea caves and the reefs.

The European Union (EU), through a variety of EU Directives, has placed a requirement on Member States to work with the European Commission and co-operate on data exchange by implementing a system to capture data on vessel movements, dangerous cargoes, vessel safety, security information and the disposal of waste within European waters. The EU-wide system that is used to satisfy the above requirements is called SafeSeaNet and the Maritime & Coastguard Agency (MCA) system that reports to SafeSeaNet and the European Commission is CERS/SVD. UK port authorities are responsible for forwarding relevant information to MCA for capture in the Consolidated European Reporting System (CERS). An upgrade to this system is expected in 2011 and CERS2 may prove to be a further reporting burden for harbour authorities.

### 3. What accidents and incidents have there been?

The 62 accident and incident reports in the twelve months are not significantly different from the number in recent years. Each of these incidents was reviewed and in no case was the Harbour Authority found to be at fault. It is well nigh impossible to draw general conclusions from the statistics of these accident reports as they range, on the one hand, from reports of the most unfortunate case of a swimming fatality and of fishing vessels grounding on their return to port and, on the other, to stolen outboards and drunken visitors ashore.

There were two fatalities reported as relating to the harbour, a man who drowned trying to rescue his brother who was swimming back from a 5-knot buoy and the body of an elderly male was found on the seaward side of Princess Pier. Neither of these, though, related to navigation or to any safety standards that the Harbour Committee would be responsible for.

The reports of navigation incidents include a fishing vessel in collision with Brixham breakwater, but no damage to vessel, breakwater or crew. There was a second vessel that hit Brixham breakwater and the Harbour Authority are investigating this with the MCA, with the possibility of a prosecution if it is found that someone failed to keep a proper lookout.

A pleasure boat broke down after a day's skiing, was washed onto Paignton sands and was damaged beyond repair in the surf. A scallop dredger sailed through the middle of a sailing fleet.

A boat on a trailer being launched on Beacon Quay slipway ran down into the water and off the edge when the towing rope parted. Tor Bay Harbour Authority does post notices warning the public of the dangers involved in launching from trolleys. There were two incidents in Brixham of a boat not being safely moored before drying out on the tide. This has prompted the introduction of a procedure for staff to attend whenever a boat not accustomed to the harbour comes alongside preparatory to drying out.

The incident causing some concern is that of an elderly lady waiting in a queue to board a pleasure boat in Torquay who apparently felt faint and then fell into the outer harbour. She was taken to hospital, where she recovered. This incident raises the question of edge protection and the management of public access.

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4. Are there any new concerns that have been raised?

There was also a tripping accident was back in March 2006. This year a member of the public brought a “no win no fee” claim for this incident to court and the judge held Tor Bay Harbour Authority to be 60% liable.

Though a harbour does not need to have every quay fenced, as this would create as much risk for fishermen and others unloading as it would reduce the risk for passers by, there is a duty of care where trip hazards are beside public paths that pass near the harbour edge.

A comprehensive risk review is now under way examining harbour edges where there may be a conflict between the safety of pleasure boat passengers, tourists and pedestrians on public walkways and those involved in commercial activity on the quays they pass through. One outcome of the review may well be a specific policy for edge protection round the harbours.

A Pilotage Review Working Group has been set up to examine regulations and procedures. The pilotage contract is also up for review

Some anglers are being prosecuted for refusing to comply with Harbour Byelaws. There is recognition of the need to have anglers avoid congested areas of the harbour yet be made welcome on open areas of Tor Bay’s shoreline. No angling is permitted within the enclosed harbours without the Harbour Master’s permission.

While some of the older pieces of harbour infrastructure such as Haldon Pier, have seen the benefit of recent remedial works, there remains the general concern that further work is required in other areas like Brixham’s breakwater, Princess Pier, and Torquay’s Fish Quay.

5. Are any additional risk assessments needed?

An amplified version of the assessment for areas of low risk, suggested in the Young report, is being tried to see if it is helpful in identifying risks and controls in the office and administration areas.

There are now new procedures for cold weather, lone working and man overboard. Generally, better use is being made of the existing risk controls and procedures available on the Council’s intranet site.

6. Is the policy statement clear and up to date?

The policy statement is included in full in the PMSC compliance document adopted by Tor Bay Harbour Committee (TBHC) and given to senior managers.

It covers the activities of the Harbour Authority, including the provision of pilotage services, anchorages, enclosed harbours, moorings and slipways, for fishing vessels, commercial shipping, recreational/leisure craft and certificated passenger boats/coded vessels. It also covers environmental issues such as fuel supply and oil spills.

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7. Is there an organisation fit to manage the safety of these activities?

The organisation is unchanged, but the pilotage service has been strengthened by the addition of two reserve pilots.

8. Review the implementation and record of implementation of each risk control. Remove ineffective or introduce new controls

In the last 12 months the controls in each of the risk assessments have been reviewed and amended where necessary by the employee allocated responsibility for that risk.

The introduction of parking controls on the approach road to the Paignton harbour East Quay slipway and a marked out loading area for trucks used by the Blue Seafood Company has reduced the number of vehicles and provided clear passage for two way traffic and this has reduced risk to the pedestrians.

As noted above, there is now a procedure to attend when a boat not accustomed to Brixham Harbour comes alongside preparatory to drying out against the quay wall. Each risk assessment was formally, reviewed, amended where necessary, approved and signed off by the Executive Head Tor Bay Harbour Authority in November 2010.

9. Are the “customers” requirements being satisfied?

The Harbour Authority continues to hold quarterly consultation meetings (Harbour Liaison Forums), has held a meeting with passenger boat (ferry) operators and a representative from the sailing clubs and it undertakes an annual users’ survey.

The 2010 survey found that over 93% (2009: 95%) of the respondents believed that harbour safety is properly managed by Tor Bay Harbour Authority.

10. Where actions were identified last year to bring the risks to As Low as Reasonably Practical [ALARP], what has been completed?

1. Structural Improvement.
  - Redevelop the Brixham Fishmarket site.
  - Reface the seaward side of Haldon Pier.
2. Manage the construction vehicles involved with the work on the site at Brixham so that quays and roads remain safe for pedestrians.
3. Use the decriminalised parking regulations to reduce the dangers caused by traffic congestion on the slipway at Paignton.
4. Find at least a second authorised Tor Bay Harbour pilot, to be on call when the one current pilot might be unavailable.
5. Make use of “Blackberry” technology for receiving and approving requests for pilotage out of harbour office hours.

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6. To improve the management and “ownership” of risk assessments each one has been allocated to an individual manager.
7. Mooring maintenance is formalised with a procedure to ensure safe working practice when staff are in the water maintaining moorings in the Inner Harbour at Torquay.
8. Fire drills/practices are held not only for shore side activities but for fires on boats within the harbours.
9. Town Dock
  - Alarms installed at the emergency stations on the pontoons, for use in the event of accident, injury, fire or someone falling in the water.
  - Notice displayed advising how to find a first-aider.

#### 11. Policy of continuous improvement.

The following actions have commenced and are ongoing: -

##### Structural Improvement

Further work on Haddon Pier may be funded by the Environment Agency on the basis that this structure is now being considered a flood defence.

##### The Slipway at Paignton.

The conflict of pedestrians (including children) and commercial vehicles (which include articulated lorries and forklift trucks) trying to share the same area remains a high risk. Finding a long term solution may involve redevelopment of the whole area.

##### Harbour Edge Protection

A review of harbour edges where there may be a conflict between the safety of pleasure boat passengers, tourists and pedestrians on public walkways and those involved in commercial activity on the quays they pass through.

Draw up a specific policy for edge protection round the harbours.

The following further actions are planned,

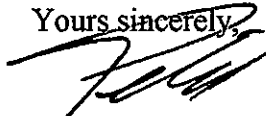
1. Draw up a file of Standard/Safe Operating Procedures. e.g. from the syllabus and course notes of training courses. Where appropriate adopt the procedures already written in the Council’s Health & Safety Manual. These procedures will serve as additional control measures for a range of risk assessments but in particular No. 41, Workshops.
2. Training records to be brought up to date and then expanded to include the dates when either external training or internal instruction was given. Make more effective use of the Training Matrix to help establish the need for a specific training programme for each member of staff.
3. Make sure that all accidents and incidents are properly and promptly reported and logged on the accident/incident database.
4. Complete the Brixham Harbour office move with the siting of fire extinguishers and the posting of fire notices. Tor Bay Harbour Authority Safety Policy, insurance certificate and the statutory safety poster.

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5. Informing Harbour users of Risks - commission a system for displaying actual weather on the World Wide Web, with links from the Council, Tor Bay Harbour and marina web sites.
6. Include the number of pollution incidents, if any, as a specific item in the annual summary of accidents and incidents.

Many thanks to you and your staff. You have all been most helpful to me, as always, while I have been undertaking this review.

Yours sincerely,



Peter Nicholson