



Friday, 6 December 2019

HARBOUR COMMITTEE

A meeting of **Harbour Committee** will be held on

Monday, 16 December 2019

commencing at **5.30 pm**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Committee

Councillor Amil

Councillor Barrand

Councillor Bye

Councillor Carter

Councillor Dart

Councillor Dudley

Councillor O'Dwyer

Councillor Ellery

Councillor Mills

External Advisors

Mr Blazeby, Mr Buckpitt, Mr Day, Mr Ellis and Mr Stewart

A prosperous and healthy Torbay

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Lisa Antrobus, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

HARBOUR COMMITTEE AGENDA

1. **Apologies**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 4 - 7)
To confirm as a correct record the Minutes of the meeting of the Committee held on 24 September 2019.
3. **Declarations of interest**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
4. **Urgent items**
To consider any other items that the Chairman decides are urgent.
5. **CCTV upgrade for Brixham Harbour** (Pages 8 - 11)
To consider a report that seeks the upgrade of Brixham Harbour's CCTV system.
6. **Use of Harbour Reserves to undertake Health and Safety Improvements** (Pages 12 - 17)
To consider a report that seeks authorisation to undertake infrastructure improvements.
7. **Port Marine Safety Code - Results of Annual Compliance Audit** (Pages 18 - 72)
To note the submitted report.
8. **Tor Bay Harbour Authority Budget Monitoring 2019/2020** (Pages 73 -

- To note a report that provides Members with projections of income and expenditure for the year 2019/20 compared with approved budgets. 78)
9. **Tor Bay Harbour Authority - Edge Protection Policy** (Pages 79 - 86)
To review and approve the updated Tor Bay Harbour Authority – Edge Protection Policy.
10. **Port Marine Safety Code** (To Follow)
For Members to note the latest accident statistics for the Harbour Authority’s operational area.
11. **Torquay/Paignton and Brixham Harbour Liaison Forums** (Pages 87 - 89)
To note the minutes of the above Harbour Liaison Forums.



Minutes of the Harbour Committee

24 September 2019

-: Present :-

Councillor Amil (Chairwoman)

Councillors Barrand, Bye, Carter, Dudley, Morey, Ellery and Mills

External Advisors: Mr Blazeby, Mr Buckpitt, Mr Day, Mr Ellis and Mr Stewart

67. Apologies

An apology for absence was received from Councillor O'Dwyer.

It was reported that, in accordance with the wishes of the Partnership Group, the membership of the Committee had been amended for this meeting by including Councillor Morey instead of Councillor Dart.

68. Minutes

The Minutes of the meeting of the Harbour Committee held on 1 July 2019 were confirmed as a correct record and signed by the Chairwoman.

69. Communications

The Interim Director of Place gave the Committee an update on a Change Paper which had been prepared in August 2019 as a result of updates to staffing structures and the relocation of the Harbour Master to Brixham Harbour. It was also noted that three additional posts had been created – Assistant Harbour Master; Marine, Leisure and Beach Services Manager; and Beaches and Harbour Assistant.

The Committee welcomed the verbal update sought clarification on Health and Safety matters.

70. Port Masterplan Addendum 2019-2024

The Head of Tor Bay Harbour Authority presented the submitted report which had been developed following public consultation and explained that the Port Masterplan (Addendum) set out a practical and realistic strategy for Tor Bay Harbour from 2019 to 2024.

Resolved

That Cabinet be recommended to propose the Port Masterplan (Addendum) to Council for approval.

71. Approach by FUGRO

The Committee considered a report advising them the Harbour Authority has been approached by a company wishing to 'lay-up' vessels in Brixham Harbour. The Committee was advised that this would generate revenue but could be contentious given their size. The Committee was recommended to approve the request on a trial basis until the end of the financial year and to gauge public reaction before committing on a longer term basis.

Resolved:

- (i) that the 'laying up' within Brixham Harbour of one of these vessels on a trial basis for short periods of time until 1 April 2020 be approved to gauge opinion prior to a longer term decision being made; and
- (ii) that any comments, positive or negative, be logged and provided to the Committee if a longer term decision is required.

72. Tor Bay Harbour Authority Budget Monitoring 2019/20

The Head of Torbay Harbour Authority provided members with an update on the overall budgetary position for Tor Bay Harbour Authority as at the end of August 2019. Projected income and expenditure for 2019/20 was outlined and compared with approved budgets.

Resolved:

- (i) That the report be noted; and
- (ii) that a letter be sent to the Cabinet and Senior Leadership Team from the Chairman of the Harbour Committee raising the Committee's concerns in respect of the level of Harbour reserves and summarising the points raised at the meeting. In particular that the Committee does not support any increased payments to the Council's general fund.

73. Harbour Budget 2020/21 and Schedule of Fees and Charges

The Committee considered the submitted report which provided members with the opportunity to review the level of harbour charges to be levied by Tor Bay Harbour Authority on behalf of the Council as the Harbour Authority, in the next financial year and to consider the Tor Bay Harbour Authority budget for 2019/20.

Resolved:

- (i) That the recommendation made by the Budget Review Working Party to increase harbour fees and charges by an representative average of 2.0%, as set out in Appendix 1 to the submitted report, be approved;
- (ii) That the proposed Harbour Authority budget for 2020/21, as set out in Appendix 2 to the submitted report, be approved;
- (iii) that the Budget Review Working Party continue to monitor the revenue budget and to recommend a budget for 2021/22; and
- (iv) that the charges for transshipping be set at 1.5% for both highway and sea transfer.

74. Port Marine Safety Code

The Head of the Tor Bay Harbour Authority presented the submitted report which updated the Committee on topical Port Marine Safety Code matters including accident or incident data. The Committee noted Brixham Harbour had recently been visited by Maritime and Coastguard Agency representatives who conducted a health check as undisclosed safety concerns had been raised in relation to Brixham Harbour. The safety visit was conducted on 22 and 23 August 2019 and a draft report highlighting several items for consideration was issued on 29 August 2019, as set out in Appendix 1 to the submitted Report.

Resolved:

- (i) That the draft Maritime and Coastguard Agency Port Marine Safety Code Health Check report, as set out in Appendix 1 to the submitted Report, be noted;
- (ii) that the Head of the Tor Bay Harbour Authority, in consultation with the Interim Director of Place, be requested to formulate a response to the draft Health Check report addressing the points raised;
- (iii) that a Marine Safety Sub-Committee be established with the with the following Terms of Reference:

‘To ensure appropriate insight and understanding of the organisations marine safety management system and supporting systems and when necessary make recommendations to the Harbour Committee regarding health and safety related matters.’

That the Marine Safety Sub-Committee be politically balanced on the basis of:

2 Conservative Members,
2 Liberal Democrat Group Members; and

1 Independent Group Member

- (iv) that the MarNIS report, as set out in Appendix 2 to the submitted Report be noted; and
- (v) that the Head of Tor Bay Harbour Authority be requested to investigate CCTV improvement options at Brixham Harbour and make recommendations, together with an options appraisal regarding upgrades to the December Harbour Committee meeting.

75. Torquay/Paignton and Brixham Harbour Liaison Forums

The minutes of the Torquay, Paignton and Brixham Harbour Liaison Forums were noted.

Chairman



Meeting: Harbour Committee

Date: 16 December 2019

Wards Affected: All wards in Torbay

Report Title: CCTV upgrade for Brixham Harbour

Is the decision a key decision? Yes

When does the decision need to be implemented? 16 December 2019

Cabinet Member Contact Details: Not a Cabinet Function

Supporting Officer Contact Details: Adam Parnell

Head of Tor Bay Harbour Authority

☎ Telephone: 01803 292429 (Ext 2724)

✉ Email: adam.parnell@torbay.gov.uk

1. Proposal and Introduction

- 1.1 This report seeks authorisation to upgrade Brixham Harbour's CCTV system to address concerns raised by Health and Safety Executive (HSE) and Environment Agency (EA) officers during recent inspections.

2. Reason for Proposal and associated financial commitments

- 2.1 HSE and EA reports concerning Brixham Harbour have all independently raised concerns about the quality, coverage and reliability of the existing CCTV system. They noted that access control cannot adequately be maintained due to blind-spots and that the quality was insufficient to identify persons committing byelaw offences eg fly-tipping.
- 2.2 Since their reports were written the system has further deteriorated and a number of cameras no longer work correctly. Furthermore, it no longer integrates with the larger Council CCTV system since the latter was upgraded.
- 2.3 As a result of these issues the Harbour Committee, at their 24 September meeting, resolved that

The Head of the Tor Bay Harbour Authority be requested to investigate CCTV improvement options at Brixham Harbour and make recommendations, together with an options appraisal regarding upgrades to the December Harbour Committee meeting.

2.4 Because Torbay Council has an ongoing CCTV replacement project via openreach, the procurement of which included an options appraisal, the Head of Tor Bay Harbour Authority engaged directly with the project's officers and with openreach to collegiately prepare an appropriate cost-effective engineering solution for Brixham Harbour (Appendix A). This solution has been refined to provide sufficient coverage of the key areas of the harbour estate at the minimum cost.

2.5 The use of openreach offers several additional non-financial advantages:

- guaranteed system interoperability
- economies of scale (especially regarding the service and maintenance contract)
- the ability for harbour staff to employ appropriate non-harbour cameras (eg waterfront cameras) to ensure operational maritime safety
- the ability for each harbour to be monitored from another, thereby ensuring Bay-wide situational awareness at weekends or during ongoing incidents.

2.5 This proposal commits the Harbour Authority to expenditure of up to £86,000 from Harbour Revenue Reserves.

Recommendation(s) / Proposed Decision

3.1 That the Director of Place be recommended to approve up to £86,000 expenditure from the Harbour Revenue Reserve for the replacement of Brixham Harbour's CCTV system.

Appendices

None

Background Documents

Minutes of the Harbour Committee meeting 24 September, item 74

Section 1: Background Information

1.	<p>What is the proposal / issue? To upgrade the CCTV system on the Brixham Harbour Estate</p>
2.	<p>What is the current situation? The current system is failing (several cameras are not working and only 2 can be remotely controlled; all the others have seized). The harbour has been recently inspected by a number of regulatory bodies who have all noted that the CCTV is not sufficient for the Harbour Authority to be compliant with its regulatory undertakings in that individuals cannot be identified.</p>
3.	<p>What options have been considered? Not to upgrade or replace the current system but this would perpetuate current regulatory non-compliance. Alternatively to procure a system independently of the overall Council CCTV system but this would likely cost more and be non-interoperable. Neither of these options have been taken forward</p>
4.	<p>What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles? This supports a safe and healthy Torbay and contributes to a thriving economy</p>
5.	<p>How does this proposal/issue contribute towards the Council's responsibilities as corporate parents? Not applicable</p>
6.	<p>How does this proposal/issue tackle poverty, deprivation and vulnerability? Not applicable</p>
7.	<p>How does the proposal/issue impact on people with learning disabilities? Not applicable</p>
8.	<p>Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community? The upgrades have been sought by the stakeholders who attend the Brixham Harbour Users forum and additionally the Commercial Fishers' forum. Delivering this project would empower the community.</p>

Section 2: Implications and Impact Assessment

9.	What are the financial and legal implications? Approval will result in up to £30,000 of expenditure from the Harbour's Revenue Reserves.
10.	What are the risks? If replacement is not approved then then the Harbour Authority will perpetuate regulatory non-compliance and control & enforcement of harbour activities and byelaws will be extremely difficult.
11.	Public Services Value (Social Value) Act 2012 Not applicable.
12.	What evidence / data / research have you gathered in relation to this proposal? Discussions with the Council's Community Safety team and with openreach.
13.	What are key findings from the consultation you have carried out? The recommended approach of 'buying into' the existing openreach contract is the cheapest and most expeditious route.
14.	Amendments to Proposal / Mitigating Actions None.



Meeting: Harbour Committee

Date: 16th December 2019

Wards Affected: All wards in Torbay

Report Title: Use of Harbour Authority Reserves to undertake Health and Safety Improvements

Is the decision a key decision? Yes

When does the decision need to be implemented? 16 December 2019

Cabinet Member Contact Details: Not a Cabinet Function

Supporting Officer Contact Details: Adam Parnell

Head of Tor Bay Harbour Authority

☎ Telephone: 01803 292429 (Ext 2724)

✉ Email: adam.parnell@torbay.gov.uk

1. Proposal and Introduction

1.1 This report seeks authorisation to undertake a number of necessary infrastructure improvements in this and the next financial year to deliver Health, Safety and Environmental improvements. These improvements to be financed from the Harbour Authority Revenue Reserves.

2. Reason for Proposal and associated financial commitments

2.1 HSE and EA reports concerning Brixham Harbour have all independently raised concerns about aspects of harbour infrastructure, particularly some fenders, bollards and ladders. This report seeks funding to undertake repairs. In particular:

- Replace worn mooring bollards around the MFV basin, Brixham
- Install additional mooring bollards on Middle Pier, Brixham as more are needed to berth safely
- Repair (or replace) 2 sections of pontoon walkway in Torquay harbour which is damaged
- Repair and upgrade quay-wall ladders around Brixham harbour which require lengthened hand-rails to improve safe accessibility
- Repair or replace worn, damaged or missing wooden fenders on quay walls around Brixham harbour to improve safe berthing and protect infrastructure.

2.2 Likely costs for these repairs are as follows:

Town Dock Pontoon Joints	£30,000
Ladders (Brixham)	£12,000
Replace fenders (Brixham)	£30,000
Extra Fendering (Brixham)	£30,000
Bollards (Brixham)	£15,000
Torquay Town Dock repairs	£10,000
Replacement of Fenders (Torquay)	£15,000
Safety Repairs New Fish Quay/East Quay - step treads/cablings	£7,000
Safety Repairs New Fish Quay/East Quay	£8,000
Safety repairs to South Pier Plinth	£3,000
Fume extraction equipment	£5,000

2.3 This proposal commits the Harbour Authority to expenditure of up to £165,000 from the Harbour Revenue Reserves.

Recommendation(s) / Proposed Decision

3.1 That the Director of Place be recommended to approve the allocation of £165,000 from Harbour Revenue Reserves to implement necessary Health and Safety related infrastructure improvements.

Appendices

None

Background Documents

Section 1: Background Information	
1.	What is the proposal / issue? To undertake necessary infrastructure improvements in Tor Bay's enclosed ports.
2.	What is the current situation? A number of ladders, bollards, fenders and pontoons have either reached the end of their safe working lives, or been damaged through use, or are in need or repair. Given the current focus on safety and environmental issues in ports and harbours it is considered necessary to undertake a concerted programme of improvements to ensure that Tor Bay remains compliant
3.	What options have been considered? Not to upgrade or replace the worn or missing items but this would put the Harbour Authority at risk of regulatory or statutory non-compliance. This is not recommended.
4.	What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles? This supports a safe and healthy Torbay and contributes to a thriving economy.
5.	How does this proposal/issue contribute towards the Council's responsibilities as corporate parents? Not applicable.
6.	How does this proposal/issue tackle poverty, deprivation and vulnerability? Not applicable.
7.	How does the proposal/issue impact on people with learning disabilities? Not applicable.
8.	Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community? The upgrades have been sought by the stakeholders who attend the Brixham Harbour Users forum and additionally the Commercial Fishers' forum. Delivering this project would empower the community.

Section 2: Implications and Impact Assessment

9.	What are the financial and legal implications? Approval will result in up to £165,000 of expenditure from the Harbour's Revenue Reserves.
10.	What are the risks? If replacement is not approved then then the Harbour Authority is at risk of regulatory non-compliance. There is also the risk of reputational damage among harbour stakeholders.
11.	Public Services Value (Social Value) Act 2012 Not applicable.
12.	What evidence / data / research have you gathered in relation to this proposal? HSE inspection reports EA inspection reports SSG inspection reports Council H&S inspection reports TDA infrastructure inspection reports
13.	What are key findings from the consultation you have carried out? To undertake necessary improvements.
14.	Amendments to Proposal / Mitigating Actions None

Equality Impacts

15.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	Better health and safety environment on the harbour estate		
	People with caring Responsibilities	Better health and safety environment on the harbour estate		
	People with a disability	Better health and safety environment on the harbour estate		
	Women or men	Better health and safety environment on the harbour estate		
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>	Better health and safety environment on the harbour estate		
	Religion or belief (including lack of belief)	Better health and safety environment on the harbour estate		
	People who are lesbian, gay or bisexual	Better health and safety environment on the harbour estate		
	People who are transgendered	Better health and safety environment on the harbour estate		
	People who are in a marriage or civil partnership	Better health and safety environment on the harbour estate		
	Women who are pregnant / on maternity leave	Better health and safety environment on the harbour estate		

	Socio-economic impacts (Including impact on child poverty issues and deprivation)	Better health and safety environment on the harbour estate	
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	Better health and safety environment on the harbour estate	
16.	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	No effect	
17.	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	No effect	



Meeting: Harbour Committee

Date: 16th December 2019

Wards Affected: All wards in Torbay

Report Title: Port Marine Safety Code – Results of Annual Compliance Audit

Is the decision a key decision? No

When does the decision need to be implemented?

Cabinet Member Contact Details: Not a Cabinet Function

Supporting Officer Contact Details: Adam Parnell

Head of Tor Bay Harbour Authority

☎ Telephone: 01803 292429 (Ext 2724)

✉ Email: adam.parnell@torbay.gov.uk

1. Proposal and Introduction

1.1 This report updates Members on the annual Port Marine Safety Code (PMSC) compliance audit undertaken for the Council, as the Harbour Authority, by the Devon Audit Partnership.

1.2 The Harbour Committee, on behalf of the Council, is the *Duty Holder* and the Devon Audit Partnership are the appointed *Designated Person*.

2. Reason for Proposal and associated financial commitments

2.1 Torbay Council, as the Statutory Harbour Authority, has implemented the requirements of the PMSC which offers a national standard for port safety in the UK with the aim to "improve safety for those who use or work in ports, their ships, passengers and cargoes, and the environment".

2.2 The PMSC is not mandatory and does not create any new legal duties. Failure to comply is not an offence, however, the Code represents good practice as recognised by a wide range of industry stakeholders and a failure to adhere to good practice may be indicative of a harbour authority being in breach of certain legal duties.

2.3 The Duty Holder has recently conducted an annual appraisal of Compliance and the resulting report is at Appendix 1. The associated Action Plan to address recommendations is at Appendix 2 and the latest version of the Safety and Environmental Management Plan (v 16.2) is at Appendix 3.

2.5 This proposal does not commit the Harbour Authority to expenditure not already approved.

Recommendation(s) / Proposed Decision

3.1 That the submitted report, and appendices, be noted.

Appendices

1. Port Marine Safety Code Annual Compliance Report
2. Safety Action Plan

Background Documents

The Port Marine Safety Code – November 2016 (DfT & MCA)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/564723/port-marine-safety-code.pdf

A Guide to Good Practice on Port Marine Operations – April 2018 (DfT & MCA)

<https://www.gov.uk/government/publications/a-guide-to-good-practice-on-port-marine-operations>

Report Clearance

Report clearance:	This report has been reviewed and approved by:	Date:
Chief Executive	Steve Parrock	
Monitoring Officer	Anne-Marie Bond	
Chief Finance Officer	Martin Phillips	
Director of Place	Kevin Mowat	



Internal Audit Report

Port Marine Safety Code

Tor Bay Harbour Authority

November 2019

Official



Support, Assurance & Innovation

Devon Audit Partnership

Devon Audit Partnership has been formed under a joint committee arrangement comprising of Plymouth, Torbay, Devon, Torridge and Mid-Devon councils and we aim to be recognised as a high quality public sector service provider.

We work with our partners by providing professional internal audit and assurance services that will assist them in meeting their challenges, managing their risks and achieving their goals. In carrying out our work we are required to comply with the Public Sector Internal Audit Standards (PSIAS) along with other best practice and professional standards.

The Partnership is committed to providing high quality, professional customer services to all; if you have any comments or suggestions on our service, processes or standards, the Head of Partnership would be pleased to receive them at robert.hutchins@devonaudit.gov.uk.

Confidentiality and Disclosure Clause

This report is protectively marked in accordance with the National Protective Marking Scheme. Its contents are confidential and, whilst it is accepted that issues raised may well need to be discussed with other officers within the organisation, the report itself should only be copied/circulated/disclosed to anyone outside of the organisation in line with the organisation's disclosure policies.

This report is prepared for the organisation's use. We can take no responsibility to any third party for any reliance they might place upon it.

1 Introduction

The 'Port Marine Safety Code (PMSC)' establishes a national standard for every aspect of port marine safety and aims to enhance safety for those who use or work in ports, their ships, passengers and the environment. The code applies to all harbour authorities in the UK that have statutory powers and duties.

The Devon Audit Partnership is the appointed 'Designated Person' for the Tor Bay Harbour Authority for 2019/20.

2 Audit Opinion

Based upon progress made against previous recommendations and agreed actions, and the findings of this year's Audit against the revised code requirements, in our opinion the Tor Bay Harbour Authority is compliant with the requirements of the Port Marine Safety Code.

3 Executive Summary

We have examined a restricted sample of records relating to the Tor Bay Harbour Authority and its compliance with the requirements of the Port Marine Safety Code and obtained such explanations and carried out such tests as we consider necessary.

To the best of our knowledge and belief, having carried out appropriate checks and considered responses provided to us by relevant Harbour staff, in our opinion the Tor Bay Harbour Authority is currently compliant with the Port Marine Safety Code. There remain concerns in relation to land-based Health and Safety (H&S), however these are outside of the scope of the Code and we understand are being investigated, managed and resolved through the Council's Health and Safety Team in conjunction with the Tor Bay Harbour Authority.

We have noted areas where action is required (refer to Appendix A).

For completeness we have also attached a summary of the current status of the previous audit report and any arising land-based issues (please refer to Appendix B).

The detailed findings and recommendations regarding these issues and less important matters are described in the Appendices. Recommendations have been categorised to aid prioritisation. Definitions of the priority categories and the assurance opinion ratings are also given (please refer to Appendix C).

4 Added Value

Compliance against the requirements of the Port Marine Safety code.

5 Assurance Opinion on Specific Sections

The following table summarises our assurance opinions on each of the areas covered during the audit. These combine to provide the overall assurance opinion at Section 2. Definitions of the assurance opinion ratings can be found in the Appendices.

	Risk Covered	Level of Assurance
1	Non-Compliance with Port Marine Safety Code	Compliant with the requirements of the Port Marine Safety Code

The findings and recommendations in relation to each of these areas are discussed in the "Detailed Audit Observations and Action Plan" appendix. This appendix records the action plan agreed by management to enhance the internal control framework and mitigate identified risks where agreed.

6 Issues for the Annual Governance Statement

The evidence obtained in internal audit reviews can identify issues in respect of risk management, systems and controls that may be relevant to the Annual Governance Statement.

Following our review, we would suggest that the ongoing Health and Safety issues, although not relevant to Port Marine Safety code compliance, warrant inclusion within the Annual Governance Statement.

7 Scope and Objectives

Devon Audit Partnership as Designates Persons undertook a review and assessment of the Tor Bay Harbour Authority against the requirements as specified in the Department for Transport's Port Marine Safety Code, and the associated Port Marine Safety Code Guide to Good Practice.

8 Inherent Limitations

The opinions and recommendations contained within this report are based on our examination of restricted samples of transactions / records and our discussions with officers responsible for the processes reviewed.

9 Acknowledgements

We would like to express our thanks and appreciation to all those who provided support and assistance during the course of this audit.

Robert Hutchins
Head of Partnership

Appendix A

Detailed Audit Observations and Action Plan

Risk Covered: Non-Compliance with Port Marine Safety Code	Level of Assurance
<p>Opinion Statement:</p> <p>Port details are recorded and published along with respective activities, usage and aspects which vary significantly between the three harbours. Of note, Paignton Harbour dries out at low tide and is well known for having an unconventional fairway approach. Unlike most harbours in Great Britain, the approach to Paignton is made on the port side of the fairway and not the starboard side. This unusual and interesting feature is marked by a 'N' or negative seasonal buoy and provides for a much safer harbour approach.</p> <p>The Maritime and Coastguard Agency (MCA) have recently undertaken a review / health check against the requirements of the Port Marine Safety Code, and we understand that an action plan has been agreed and is being progressed separately to this annual review. We would however suggest that this progression be monitored by and reported to the Harbour Committee.</p> <p>As a Designated Person (DP), although outside of the direct remit of the Port Marine Safety Code, we have previously identified and reported upon several serious land-based H&S incidents. In addition, following several further land-based H&S issues and incidents, the HSE and the Council's Corporate H&S Team have undertaken further reviews, and again, resulting actions are being managed and progressed outside of this review.</p> <p>The Harbour Committee act as the 'Duty Holder' for the purposes of the Port Marine Safety Code. Board members and the associated structure and commitment to the code are clearly defined and published, with commitment being set out in the Safety Management System, which covers all necessary aspects of the code. A statement of PMSC compliance has been issued to MCA as required. However, the Committee terms of reference would benefit from an update regarding restrictions around delegation of authority. In addition to executive responsibilities, operational responsibilities for marine safety are clearly assigned.</p> <p>As detailed within the constitution under the scheme of delegation, the Harbour Authority has the power to make directions. The terms of reference for the harbour committee state that the power of directions will be reviewed annually with changes referred to council, however due to local elections and the resultant impact on the Committee membership this review was delayed and is yet to be completed. The Harbour Authority has kept under review their powers and the extent of their jurisdiction. Special and general rules of navigation have been subject to consultation and publication. The Harbour Authority have established and published byelaws.</p> <p>The Harbour Committee (Duty Holders) appoint the 'Designated Person' to undertake the PMSC audit. Within the MCA review we understand that comment was made in relation to an opportunity to increase the current DP's marine knowledge, and that agreement was made for the Harbour Master to pursue support from another Harbour Authority, although this is yet to occur.</p> <p>Consultation and communication with harbour users, employees and contractors is effective, with various methods being employed,</p>	<p>Compliant with the requirements of the Port Marine Safety Code</p>

ranging from structured forum meetings, physical displays (e.g. time times and hydrographic charts) to information sharing and notices being communicated via the internet and social media (for example, face book and twitter). Users also have the provision to request subscription to newsletters via the Harbour websites. Warnings to harbour users are issued, however as previously noted, the harbour user may not sign the form to confirm that the warning has been received by them, as in some cases, these are posted to the user. We accept that physical signature may not be possible in all cases.

Aids to navigation have been subject to the annual audit, and hydrographic surveys undertaken. The PMSC refers to the need for a VTS (Vessel Traffic Service) being established through a risk assessment. We understand that, although there is no formal risk assessment, the Tor Bay Harbour Master considers that the current activity would not warrant such a system.

Given the level of activity and traffic in and out of respective Harbours, collision avoidance could be better managed through the active use of the automatic identification system (AIS) which is available but not currently used. This would provide annual vessel movements.

MarNIS remains the port risk assessment system, holding risk assessments, accidents/incidents and training, and identifies those accidents/incidents that require manual reporting to the MAIB. MarNIS holds a number of the Harbour Authority's risk assessments, with land-based risk assessments held externally. Risk assessments should be subject to an annual review, however risk workshops with APBmer have been undertaken within which a review of all current risk assessments / causes, and controls was undertaken, along with identification of new / emerging risks. We understand that APBmer are currently formulating these into risk assessments which they will return to Tor Bay Harbour Authority. We have been advised that the internal review / update of risk assessments will be delayed until the output from the workshops has been received. Following this an associated update to SOP's will be required.

Harbour staff across all 3 harbours have undertaken various training courses and all details are logged in a training matrix however we noted that some elements of training required review and update.

Pilotage/Tug provision is not directly provided by the Harbour Authority, it remains contracted to MTS.

No.	Observation and implications		
1.1	AIS (automatic identification system) is available to the harbours however it is not currently used to determine the level of vessel movements on a annual basis.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.1.1	Given that vessel traffic is on the increase and the 3 ports are especially busy in the summer months it would be beneficial to have statistics relating to the level of vessel movements. This information could be used to determine if any action is required to minimise the risk of collision especially between vessels and people.	Medium	AIS is available to various Harbour staff. Greater use will be made of AIS as a vessel identification tool, especially vessel monitoring via a more frequent review of it. However meaningful statistical analysis will be problematic as the requirement to have it is based on factors such as vessel

			tonnage and as such many recreational vessels are not required to have AIS fitted (and thus do not) AIS cannot be used for collision avoidance, in addition to which collision avoidance responsibility lies with the individual vessels.
No.	Observation and implications		
1.2	As per the MCA Health check the Harbour Master was to arrange involvement of the Dartmouth Harbour Master in order to support Devon Audit Partnership in fulfilling the marine based aspects of their Designated Person role, however at the time of our review this remains outstanding.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.2.1	Tor Bay Harbour Master to pursue this support prior to the next PMSC compliance review.	Medium	Dart Harbour Master has agreed to this and their contact details have been passed to the DP
No.	Observation and implications		
1.3	Within the Duty Holders terms of reference, the PMSC requires a statement regarding the Duty Holders accountability in that they cannot re assign or delegate their accountability. This is currently not detailed.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.3.1	Update Duty Holders terms of reference to include the statement that 'Duty Holders cannot re-assign or delegate their responsibilities in relation to PMSC'.	Low	Will be incorporated at the next published change - AP
No.	Observation and implications		
1.4	The Harbour Authority has the power to make directions, this is detailed within the constitution under scheme of delegations. The terms of reference for the harbour committee states that once a year these will be reviewed with any changes referred to Council however this review has not been undertaken for the current year. The last review was undertaken in March 2018 where no changes were made. The next annual review would have therefore been due in March 2019 however at that time the Committee were awaiting the outcome of local elections prior to restructuring. We understand that the MCA have made some recommendations in relation to Powers of Direction within their report, which forms part of an overall action plan.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.4.1	As per the Harbour Committee terms of reference, the power of directions should be reviewed and logged and changes referred to Council.	Low	Will be incorporated at the next published change in March 2020 - AP

No.	Observation and implications		
1.5	A risk workshop was held with APBmer to review all current risk assessments, the causes and controls along with identifying a number of new / emerging risks. APBmer have taken these away to formulate then into completed risk assessments which they will then be returned to Harbours. It was agreed that the review / update of risk assessments would not be undertaken until the output from the workshops had been received from APBmer. As this process will have identified new/emerging risks and potentially updated existing risks, the supporting SOP's will also require further review and associated update or formulation.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.5.1	Once the new / reviewed risk assessments have been received and input into MarNIS, then the corresponding SOP's should be reviewed to ensure they align with them. Additionally, for any new risk assessments new SOP's should be drawn up where applicable	Medium	Will be actioned once feedback from APBMer received – AP/SP
1.5.2	We recommend that a risk assessment of the need for a Vessel Traffic Service be undertaken to support the current decision that one is not required and that AIS is sufficient.	Medium	Risk Assessment for VTS will be completed by end Dec 2019 - AP
Page 27	Observation and implications		
	A SOP has been established for 'Pilotage and Defective Vessel Notification' however this does not include details of reporting to MCA should there be a defective vessel. It was also noted that there is no risk assessment for defective vessels (injurious vessel) within the harbour limits, this was identified at the workshop and a new RA is being formulated which APBmer.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.6.1	Once the new risk assessment has been received and put into MarNIS it should be determined if a new SOP should be drawn up or the existing one amended. As a minimum the existing SOP will require updating to include reporting procedures.	Medium	Noted Will be actioned once feedback from APBMer received – AP/SP
No.	Observation and implications		
1.7	Harbour staff across all 3 harbours have undertaken various training courses and all details are logged in a training matrix. It was noted that whilst a number of staff had received training in manual handling / working at heights etc, however these were completed several years ago.H&S have confirmed that best practice is for this training to be refreshed every 3 years. It was also noted that the SOP for lone working states that staff are trained, and that refresher training should be undertaken at regular intervals. In addition, the training should be logged in the training matrix. Our review found that this was not undertaken or recorded.		

	Recommendation	Priority	Management response and action plan including responsible officer
1.7.1	A full review should be undertaken to see what training / refresher training is required for all staff. Additionally, lone working training should be provided to and undertaken by all applicable staff, and the training matrix updated accordingly.	Medium	This is 'business as usual' and reviewed annually Individual training undertaken should be added as completed, with an annual review and consolidation exercise undertaken. The next review is due shortly – KA - end Dec 2019

Appendix B

Action Plan – status against 2018-19 actions and recommendations and any arising land-based issues in 2019-20**Previous Years (2018-19) Re-reports**

No.	Recommendation	Priority	Management response / action plan / responsible officer
1.6.2	Further to the original recommendation regarding the forklift usage SOP and risk assessment, there is no mention of the limitations / restrictions on fork lift use. We recommend that the SOP and risk assessment are updated accordingly to include any restrictions in relation to use.	Medium	NOT AGREED – the risk assessment is activity based rather than for an individual item of plant. As the staff might have occasion to use different FLT's, and acquaint themselves with the limitations of each FLT on first and subsequent use. This information would be contained in the Operators manual, indications and limitations as signed on each FLT. This checking by the driver is not recorded.
No.	Recommendation	Priority	Management response / action plan / responsible officer
1.6.6	The Edge Protection Policy includes a risk assessment. We would recommend that the assessment be put into a standard risk assessment format to enable monitoring, evidence actions needed / undertaken and define responsibility	Low	NOT AGREED – the existing risk assessment does not easily fit into the standard template and there is a significant risk that vital information will be lost during reformatting. The Policy itself is taken from the ACoP and the Edge Audit spreadsheet provides assessment at multiple locations with the risks being different for each, which would then require multiple risk assessments to address each. The Edge Protection Policy is going back to committee in December 2019.
No.	Recommendation	Priority	Management response / action plan / responsible officer
1.9.2	As best practice, for completeness and ease, we would recommend that the Business Continuity Plan (BCP) contain a link to the physical and shared drive location of the Emergency Plan, as this is referenced frequently within the BCP.	Opportunity	Agreed – plan to be updated – LS/AP Nov 19
No.	Recommendation	Priority	Management response / action plan / responsible officer
1.12.1	As previously reported the MarNIS system used to record all risk assessments / accidents / incidents / training etc. has no system controls linked to access i.e. all staff have the same access. Tor Bay Harbour Authority should either continue to accept the risks (with the upgrade audit trail provision) or progress the modification to provide full system access controls	Medium	Risk accepted by management due to cost to update system

Arising Land Based Issues 2019-20

No.	Original observation and implications		
1.10	As previously noted, a Health and Safety (H&S) review of Tor Bay Harbours has been undertaken by the Council's H&S Team, and we understand that any arising issues are being progressed and managed separately. However, during our review of the Harbour's accident / incidents records as part of the PMSC Audit we noted that a drowning incident had occurred which instigated a subsequent review of practices. Measures had been put in place to reduce the risk of an occurrence and warnings had been issued and displayed to highlight the danger of alcohol consumption in conjunction with Harbour use. We are pleased to see that in this instance lessons have been learnt and steps taken to reduce the risk of further occurrence.		
	Recommendation	Priority	Management response / action plan / responsible officer
1.10.1	It is recommended that any supporting policies (both user and internal) related to trips and falls be updated to reflect any changes in Health and Safety practices.	Medium	Noted – this is a given that all related policies will be updated to cover H&S practices in relation to the hazards associated with trips and falls - AP

Definitions of Audit Assurance Opinion Levels

Assurance	Definition
High Standard.	The system and controls in place adequately mitigate exposure to the risks identified. The system is being adhered to and substantial reliance can be placed upon the procedures in place. We have made only minor recommendations aimed at further enhancing already sound procedures.
Good Standard.	The systems and controls generally mitigate the risk identified but a few weaknesses have been identified and / or mitigating controls may not be fully applied. There are no significant matters arising from the audit and the recommendations made serve to strengthen what are mainly reliable procedures.
Improvements required.	In our opinion there are a number of instances where controls and procedures do not adequately mitigate the risks identified. Existing procedures need to be improved in order to ensure that they are fully reliable. Recommendations have been made to ensure that organisational objectives are not put at risk.
Fundamental Weaknesses Identified.	The risks identified are not being controlled and there is an increased likelihood that risks could occur. The matters arising from the audit are sufficiently significant to place doubt on the reliability of the procedures reviewed, to an extent that the objectives and / or resources of the Council may be at risk, and the ability to deliver the service may be adversely affected. Implementation of the recommendations made is a priority.

Definition of Recommendation Priority

Priority	Definitions
High	A significant finding. A key control is absent or is being compromised; if not acted upon this could result in high exposure to risk. Failure to address could result in internal or external responsibilities and obligations not being met.
Medium	Control arrangements not operating as required resulting in a moderate exposure to risk. This could result in minor disruption of service, undetected errors or inefficiencies in service provision. Important recommendations made to improve internal control arrangements and manage identified risks.
Low	Low risk issues, minor system compliance concerns or process inefficiencies where benefit would be gained from improving arrangements. Management should review, make changes if considered necessary or formally agree to accept the risks. These issues may be dealt with outside of the formal report during the course of the audit.
Opportunity	A recommendation to drive operational improvement which may enable efficiency savings to be realised, capacity to be created, support opportunity for commercialisation / income generation or improve customer experience. These recommendations do not feed into the assurance control environment.

Confidentiality under the National Protective Marking Scheme

Marking	Definitions
Official	The majority of information that is created or processed by the public sector. This includes routine business operations and services, some of which could have damaging consequences if lost, stolen or published in the media, but are not subject to a heightened threat profile.
Official: Sensitive	A limited subset of OFFICIAL information could have more damaging consequences if it were lost, stolen or published in the media. This subset of information should still be managed within the 'OFFICIAL' classification tier, but may attract additional measures to reinforce the 'need to know'. In such cases where there is a clear and justifiable requirement to reinforce the 'need to know', assets should be conspicuously marked: 'OFFICIAL-SENSITIVE'. All documents marked OFFICIAL: SENSITIVE must be handled appropriately and with extra care, to ensure the information is not accessed by unauthorised people.



Marine Safety Management System (SMS)

Version 16.0 dated Nov 2018

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Record of amendments

Amendment	Date	Description of changes
16.1	Nov 19	Updates date of annual review in section 4.3 from November to March

Document control

This is a controlled document which will be subject to periodic review and amendment. Major amendments will be issued as version numbers eg v1, v2 etc with minor amendments annotated by a decimal point eg minor amendments to v2 will be v2.1, v2.2 etc.

Proposals for amendments should be sent to the Harbour Master using one of the following means:

By phone: 01803 853321

By email: brixham.harbour@torbay.gov.uk

By post: Brixham Harbour Office, New Fish Quay, Brixham, TQ5 8AJ

Review procedures

This plan will be reviewed at least annually by the Harbour Committee. Occasions for review include following an incident or exercise which highlights shortcomings in the Safety Management System. It will also be audited by the Designated Person at least annually.

Review and Audit record

Date	Review (R) or Audit (A)	Description	Reviewer/ Auditor
22 Feb 19	R	HM quarterly review	AP
31 May 19	R	HM quarterly review	AP
30 Aug 19	R	HM quarterly review	AP
06 Nov 19	R	HM quarterly review, incorporating post PMSC annual audit points	AP
19Nov 19	A	Annual audit by Designated Person	VB

Part 0 - Tor Bay Harbour Committee

The Tor Bay Harbour Committee (in alphabetical order by surname) are:

Councillor Nicole Amil (Chair)

Councillor Nick Bye

Councillor Christine Carter

Councillor Vic Ellery

Councillor Jack Dart

Councillor James O'Dwyer

Councillor John Dudley

Councillor Judith Mills

Councillor Andrew Barrand

Advisors

Mr Nigel Blazeby

Mr David Buckpitt

Captain Mark Day

Mr Michael Ellis

Mr Michael Stewart

Officers

Captain Adam Parnell Harbour Master

Mr Nick Burns Deputy Harbour Master

Mr Simon Pinder Marine Leisure & Beach Services Manager

Miss Karen Annis Business Manager

Designated Person

Verna Barnes Devon Audit Partnership

Definitions

ALARP	A term indicating that, after mitigation measures have been implemented, the residual risk is as low as reasonably practicable ie the cost or resources involved in reducing it further would be grossly disproportionate to the benefit gained.
Admiralty List of Radio Signals	A catalogue which provides comprehensive information on marine radio communications.
Area of Outstanding Natural Beauty (AONB)	An area of countryside which has been designated for conservation due to its significant landscape value
Auditor	Person with the competence to conduct an audit
Competent Harbour Authority	A Harbour Authority which has been given statutory power relating to the provision of pilotage in their waters.
Continual improvement	Recurring process of enhancing the safety management system in order to achieve improvements in overall safety performance consistent with the organisation's Health and Safety policy.
Corrective action	Action to eliminate the cause of a detected nonconformity.
Document	Information and its supporting media
Environment	Surroundings in which an organisation operates, including air, water, land, natural resources, flora, fauna, humans, and their interrelation.
Environmental aspect (EA)	Elements of an organisation's activities, products or services that can interact with the environment.
Environmental impact	Any change to the environment, whether adverse or beneficial, wholly or partially resulting from an organisation's environmental aspects.
Environmental policy	Overall intentions and directions of an organisation related to its environmental performance as formally expressed by top management.
Environmental target	Detailed performance requirement applicable to the organisation or parts thereof, that arises from the environmental objectives and that needs to be set and met in order to achieve those objectives.

European Sea Port Organisation	The representative body of EU member states' port authorities. Inter alia it grants the status of eco-port to qualifying ports and harbours
General Lighthouse Authority	The agency primarily responsible for aids to navigation. In the UK this is Trinity House.
Gross Registered Tonnage	A ship's total internal volume expressed in 'register tons' each of which equals 2.83m ³
Internal audit	Systematic, independent and documented process for obtaining audit evidence and evaluating it objectively to determine the extent to which the environmental management system audit criteria set by the organization are fulfilled.
International Ship and Port facility Security code (ISPS)	An amendment to the Safety of Life at Sea Convention on minimum security arrangements for ships, ports and government agencies.
Local Lighthouse Authority (LLA)	Ports, harbours or other parties providing navigational aids in a locality as part of its facilities. These must adhere to the General Lighthouse Authority's policy on the correct provision and maintenance of such equipment.
Maritime and Coastguard Agency (MCA)	A UK government agency working to prevent loss of lives at sea and responsible for implementing British and international maritime law.
Maritime Conservation Zone (MCZ)	An area designated under the Marine and Coastal Access Act 2009 for the purposes of conserving marine flora, fauna, habitats or features of geological or geomorphological interest
Nonconformity	Non-fulfilment of a requirement.
Organisation	Tor Bay Harbour Authority
Port Marine Safety Code (PMSC)	The national standard for port safety within the UK.
Preventive action	Action to eliminate the cause of a potential nonconformity.
Prevention of pollution	Use of processes, practices, techniques, materials, products, services or energy to avoid, reduce or control (separately or in combination) the creation, emission or discharge of any type of

	pollutants or waste, in order to reduce adverse environmental impacts.
Procedure	Specified way to carry out an activity or a process.
Record	Document stating results achieved or providing evidence of activities performed.
Safety management system (SMS)	Part of an organisation's management system used to develop and implement its Health and Safety policy and manage its risks and hazards to people
Safety and Environmental Management System (SMS)	Part of an organisation's management system used to develop and implement its Health and Safety policy and manage its risks and hazards to people, the environment and infrastructure
Safety objective	Overall safety goal, consistent with the Health and Safety policy, that an organisation sets itself to achieve.
Safety performance	Measurable results of an organisation's management of its environmental aspects.
Tor Bay Harbour Committee	The management committee responsible for the management of safety within Tor Bay Harbour
Secretary of State's Representative	The nominated individual empowered by the Secretary of State to be the ultimate decision maker during maritime salvage and pollution incidents.
Site of Special Scientific Interest	A site within the UK considered to be of special interest by virtue of its fauna, flora, geographical or physiological features.

Part 1 – The Manual

1. Introduction

In its role as Statutory Harbour Authority, Torbay Council is charged with managing, maintaining and improving Tor Bay Harbour within its nominated limits, and has a number of duties which include (but are not limited to):

- a. A duty to keep the port open for shipping and unshipping of goods and embarking and landing of passengers (on payment of rates) – also known as ‘open port duty’ [s33 HDPC Act 1847].
- b. A general duty to exercise its functions with regard to nature conservation and other environmental considerations (including facilities for visiting archaeological, architectural and historic features [s48A of the Harbours Act 1964].
- c. Lighting and buoying responsibilities as a Local Lighthouse Authority [Part VIII Merchant Shipping Act 1995].
- c. A duty of reasonable care to see that the harbour is in a fit condition for a vessel to utilise it safely (this includes surveying navigable channels, placing navigation marks and keeping proper hydrographic and hydrological records) and a common law duty to conserve the harbour so that it is reasonably fit for use as a port.
- d. Environmental Protection legislation including the Environmental Protection Act 1990.

Torbay Harbour Authority has a number of ambitious objectives including reducing its resource consumption, raising environmental awareness among harbour users and protecting and enhancing the harbour’s natural habitats.

1.1 Overview of Tor Bay Harbour

Torbay is a natural harbour, which encapsulates the enclosed ports of Brixham, Paignton and Torquay to the west of Lyme Bay. Its orientation protects it from the prevailing south west winds and seas, and it has traditionally been used as a port of refuge for vessels seeking shelter in adverse weather conditions. It is used for many recreational activities and become quite congested in the ‘high’ season however is primarily a year-round ‘working’ harbour: it accommodates merchant ships, cruise liners, naval vessels, tugs and towed barges. It also hosts the largest fishing harbour in England and Wales by value of catch landed (Brixham). Additionally, fishing vessels also work from Torquay and Paignton, and both Brixham and Torquay host large marinas operated by third parties.

A number of marine services are available within Tor Bay light engineering and maintenance, including fuel from Torquay and Brixham.

Tor Bay harbour is also an important area environmentally because of the high level of biodiversity which supports a rich array of marine wildlife: part of its coastline is within the South Devon Area of Outstanding Natural Beauty (AONB) while other parts are designated as Sites of Special Scientific Interest (SSSI), and the Torbay MCZ extends from the coastline to between 1-2.5km to sea and encompasses Hope's Nose and Berry Head.

The UK has obligations under SOLAS to provide shelter for maritime casualties which may require use of waters within a port as a place of refuge. The MCA and SOSREP are responsible for discharging this obligation and Tor Bay harbour may be tasked to accommodate a vessel subject to the limitations of the Harbour facilities described above. The limiting factor in this instance is the lack of dry dock facilities, the nearest of which are Galmpton or Plymouth.

1.2 Safety Management System

As a means of achieving the overarching objectives described above, we developed and implemented a marine Safety Management System (SMS) which has been designed to:

- Provide an understanding of our risks and their potential consequences to people, the environment and equipment through a baseline review and subsequent monitoring;
- Establish processes and procedures to reduce our most significant health and safety risks, and environmental aspects;
- Ensure compliance with relevant legislation; and
- Raise awareness of health and safety and environmental issues amongst staff and Harbour Users through effective communication and training.

1.3 Aim and Objectives of the Safety Management System

The aim of the SMS is to identify, quantify and manage significant marine risks associated with the waters and harbour activities of Tor Bay. This will ensure:

- Proper control of vessel movements within the harbour;
- Personal safety is properly controlled;
- Suitable plans for emergencies are maintained and regularly exercised;
- That all activities are carried out with regard to their possible environmental impact;
- Byelaws and other powers are correctly exercised;
- Compliance with the national standards of the Port Marine Safety Code.

1.4 Scope of the SMS

The SMS covers all operations and activities undertaken by the Tor Bay Harbour Authority in, on or near the Harbour. In addition it also covers:

- Third party marine operations within the Harbour;
- Marine leisure and sports activities; and

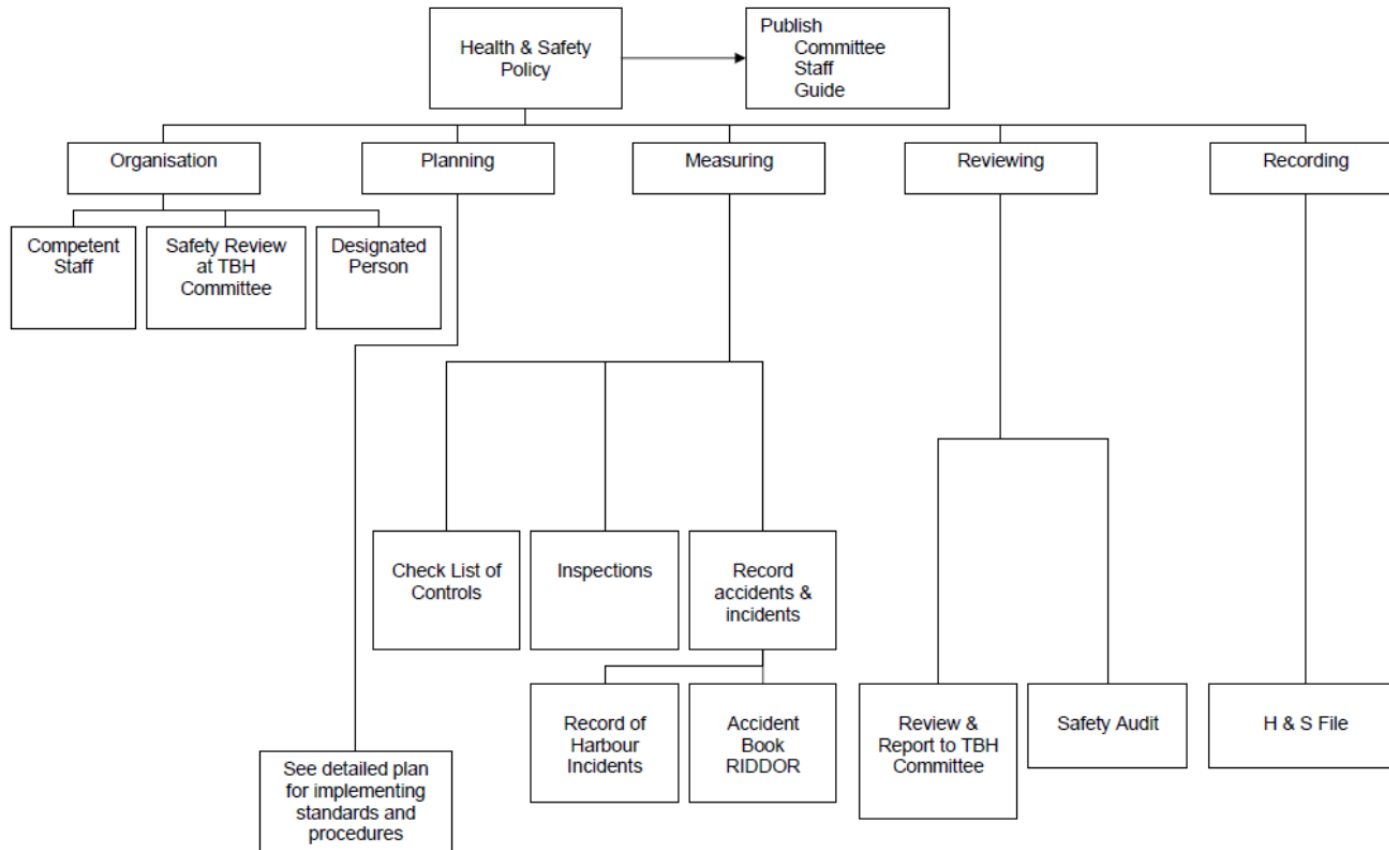
- Marine operations undertaken by any support or service organisation, including marine services such as dredging, surveying and diving.

1.5 System components

An SMS which manages the hazards and risks, along with any preparations for emergencies, must be developed, implemented and maintained. This should be operated effectively and revised periodically. Its components include (see over):

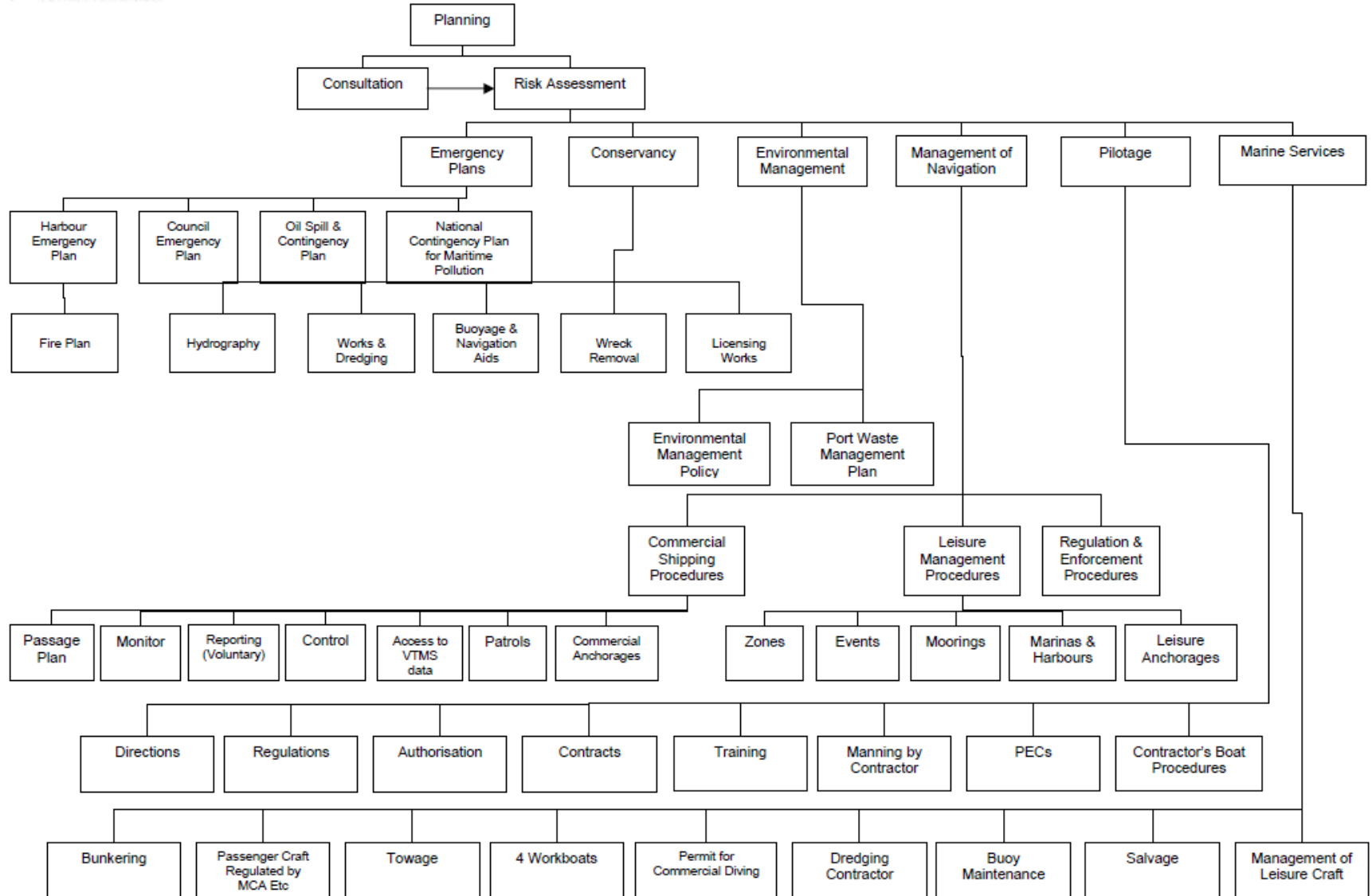


TOR BAY PMSC SAFETY MANAGEMENT SYSTEM



OUTLINE CHART OF SAFETY MANAGEMENT SYSTEM

TOR BAY HARBOUR PLANNING FOR PMSC



2. Policy

2.1 Statements of commitment

2.1.1 Torbay Council (the Tor Bay Harbour Authority)

Torbay Council's commitment to Health and Safety is set out in the Health and Safety Policy which has been signed by the Mayor and Executive Director of Operations and Finance.

All employees are made aware of the policy during induction and a copy is available on the Tor Bay intranet. The policy is also displayed on notice boards in the Harbour Offices and Workshops.

Related Documentation:

Torbay Council Health and Safety Policy

2.1.2 Tor Bay Harbour Committee

The Tor Bay Harbour Committee (TBHC) has adopted a health and safety management system in compliance with the principles set out in the Port Marine Safety Code. The health and safety management system includes policies for emergency plans, conservancy and environment, management of navigation, pilotage and marine services.

THBC will within the limits of their jurisdiction provide a safe harbour which is open to the public for recreation and the transportation of passengers and goods. It will ensure the safety of Tor Bay by exercising its statutory functions to a high standard.

TBHC will regulate the use of the harbour by maintaining appropriate byelaws and ensuring that these and other statutory regulations are enforced. The TBHC will ensure such marine services as are required for the safe use of their harbour are available and are well maintained and operated, including the availability of an efficient pilotage service and a regular review and maintenance of pilotage directions. THBC will ensure that up to date plans are available to deal with emergency situations and that the resources required to implement these plans are maintained and exercised.

Existing powers shall be reviewed on a periodic basis, to avoid a failure in discharging duties or risk exceeding powers.

The Policy incorporates input from officers, from staff and from harbour users as high standards of safety can only be achieved through dialogue and co-operation. Plans and reports will be published as a means of improving the transparency and accountability of the harbour authority, as well as providing reassurance to the harbour users. TBHC will consider past events and incidents so as to recognise potential dangers and identify the means of avoiding them.

2.2 Marine safety

The Marine Safety Policy augments the Health and Safety Policy. The Harbour Authority is committed to:

- Complying with all legal requirements.

- Managing its assets safely and efficiently.
- Maintaining relevant harbour equipment to agreed industry standards.
- Recruiting and training operational staff to nationally agreed competence levels (National Occupational Standards).
- Ensuring that the staff is properly trained for emergencies and contingencies.

In making these commitments the Harbour Authority has appointed the Harbour Master to fulfil the role of Marine Operations Safety officer responsible for:

- Ensuring that the Harbour Authority complies with the Port Marine Safety Code.
- Ensuring that all risks are assessed and eliminated or reduced to as low as reasonably practical (ALARP) in accordance with best practice.
- Carrying out routine safety inspections on marine operations and re-assessing risks dynamically as appropriate.
- Reporting, investigating and recording all incidents and accidents, and ensuring that ‘lessons learned’ are widely disseminated to all appropriate persons, bodies and institutions.

2.3 Environmental policy

Our commitment to the environment is set out in our Environmental Policy Statement which has been signed by the Chair of the Harbour Board.

All employees are made aware of the policy during induction and a copy is available on the Tor Bay Harbour website. The policy is also displayed on notice boards in the Harbour Office and Workshop.

Related Documentation:

Environmental Policy Statement

2.4 Beach and water safety

The Council recognises that the beaches of Tor Bay provide a valuable resource for the health, enjoyment and well-being of residents and visitors which underpins the prosperity of the tourism economy. It has published its Beach and Water Safety Policy on its website but these are not currently under the purview of the TBHC and thus do not form part of this SMS.

Related Documentation:

Beach Management Policy

3. Organisation and responsibilities

3.1 Resources, roles, responsibility and authority

3.1.1 Tor Bay Harbour Authority (TBHA)

Torbay Council is the Statutory Harbour Authority for Tor Bay Harbour and has a range of important statutory and non-statutory duties relating to the safety of people who work at or use

the Harbour, and to the wellbeing of the port marine environment and community. In particular:

- Taking reasonable care that all who may choose to navigate in it may do so without danger to their lives or property.
- An environmental duty to exercise its functions with regard to nature conservation and other environmental considerations.
- Conserving and promoting the safe use of the harbour and prevent loss or injury through the organisation's negligence.
- Have regard to the efficiency, economy and safety of operation as respects the services and facilities provided.
- Taking such action that is necessary or desirable for the maintenance, operation, improvement or conservancy of the harbour.

They are also responsible for developing a formal marine safety management system to ensure that all risks are identified and controlled; they should either be eliminated or kept As Low As Reasonably Practicable (ALARP).

The Torbay Harbour Authority is a Competent Harbour Authority under the Pilotage Act 1987.

Related Documentation:

Tor Bay Harbour Act 1970
Merchant Shipping Act 1995
Health and Safety at Work Act 1974
Port Marine Safety Code

3.1.2 Tor Bay Harbour Committee (TBHC)

The strategy and performance of the Harbour is managed by the TBHC which is a committee of Full Council. It comprises 9 members of Council and up to 5 external non-voting advisors appointed by the Council following an open competition. The Harbour Committee is also the Duty Holder (see below). The Committee is responsible for ensuring that the Harbour Authority complies with the PMSC and is accountable for safe and efficient marine operations. In particular:

- The development and proper operation of a marine safety management system;
- The appointment of a designated person (see below) to monitor and report the effectiveness of the safety management system and provide independent advice on marine safety;
- Assessing the fitness and competence of all persons appointed to positions with responsibility for safe navigation including marine pilots.

Related Documentation:

Port Marine Safety Code

THBC considers that current legislation gives them adequate authority to exercise their responsibilities as described in this document and in accordance with the PMSC. The organisation is bound by a number of harbour-related statutes, safety regulations and codes including:

- The Harbour, Docks and Piers Clauses Act 1847;
- The Harbours Act 1964;
- The Tor Bay Harbour Act 1970;
- The Health and Safety at Work Act 1974;
- The Workplace (Health, Safety and Welfare) Regulations 1992;
- The Tor Bay Harbour (Torquay Marina &c) Act 1983;
- The Port Marine Safety Code

Related Documentation:

Register of Legislation

3.1.3 Harbour Master

The Harbour Master, appointed by the TBHA, is responsible for the day-to-day management of the safe operation of navigation and other marine activities in the Harbour, and for its compliance with all legislation concerning health and safety, marine safety, and the environment. The Harbour Master is responsible for:

- As the nominated **Health and Safety Officer**: ensuring compliance with all applicable health and safety, and marine safety, legislation and associated policies including the Port Marine Safety Code;
- As the nominated **Environmental Manager**: ensuring that the Environmental Policy is implemented and environmental objectives and targets are monitored and met;
- As the principal **officer holding delegated responsibilities for safety**: attending Duty Holder meetings;
- As the Harbour's **Chief Executive**: overseeing the implantation of Harbour Authority policies and decisions and having overall executive responsibility for the safety of operations and staff;
- Reporting on the performance of the SMS to the Harbour Board for review and as a basis for continual improvement of the system;
- Preparing an annual report evaluating the health, safety and environmental aspects of the Harbour's activities;
- Nominating a DHM to deputise for him in his absence.

3.1.4 Duty Holder

The nominated Duty Holder as defined in the PMSC is the TBHC who are collectively and individually publically accountable for marine safety under the Port Marine Safety Code. They are also, on behalf of the Harbour Authority, accountable for managing operations within the Harbour safely and efficiently.

The role of Duty Holder includes:

- Maintaining strategic oversight and direction of all aspects of the Harbour operation, including marine safety;

- Responsibility for the development of policies, plans, systems and procedures for safe navigation;
- Ensuring that assessments and reviews are undertaken as required to maintain and improve marine safety;
- Ensuring that the Harbour Authority seeks and adopts appropriate powers for the effective enforcement of their regulations, and for setting dues at a level which adequately funds the discharge of all their duties.

The Duty Holder is to be familiar with the content of the PMSC, and aware of its responsibilities in responding to it. Tor Bay Harbour has a SMS to fulfil the Duty Holder's obligations set out in the PMSC, and has delegated the day to day operation to the Harbour Master.

All members of TBHC are required to sign to the effect that they understand their responsibilities under the PMSC, against which they are held to account during Harbour Committee meetings.

3.1.5 Designated Person

The Designated Person provides independent assurance directly to the Duty Holder that the SMS, for which the Duty Holder is responsible, is working effectively. The main responsibility of the Designated Person is to determine, through inspection, assessment and audit, the effectiveness of the SMS in ensuring compliance with the PMSC.

The Board has appointed Vernal Barnes of the Devon Audit Partnership as their Designated Person.

3.1.6 Deputy Harbour Masters (DHMs)

The DHMs are nominated **Safety Managers** and responsible for ensuring that the SMS is being followed and to take preventative or corrective action should breaches be identified. In particular they are responsible for:

- When so nominated, deputising for the Harbour Master in his absence;
- Supervising tasks with regard to compliance with the SMS;
- Reporting and if necessary investigating health and safety incidents to the Harbour Master;
- Ensuring that all safety equipment is in good condition;
- To be subject matter experts on moorings, maintenance and office safety as appropriate;
- Be responsible for scheduling of planned mooring, plant and fleet maintenance;
- Ensuring that contractors are aware of the Harbour's safety and environmental policies and explaining that they will be expected to adhere to these;
- Be the **Emergency Planning Officer** for their harbour(s);
- Be the officer responsible for the development, maintenance and regular exercising of the **Oil Spill Contingency Plan** for their harbour(s).

3.1.7 Harbour Staff

All Harbour staff are responsible for ensuring that the SMS is being followed on a day to day basis reporting actual or potential breaches of the SMS to their line manager as appropriate. In particular they are responsible for:

- Taking care of their own health and safety and that of other harbour users who might be affected by their own acts or omissions;
- Complying with all harbour safety procedures laid down by the TBHC;
- Ensuring that marine operations are undertaken in a safe manner;
- Reporting hazards, risks, incidents, accidents or near misses to their Safety Officer.

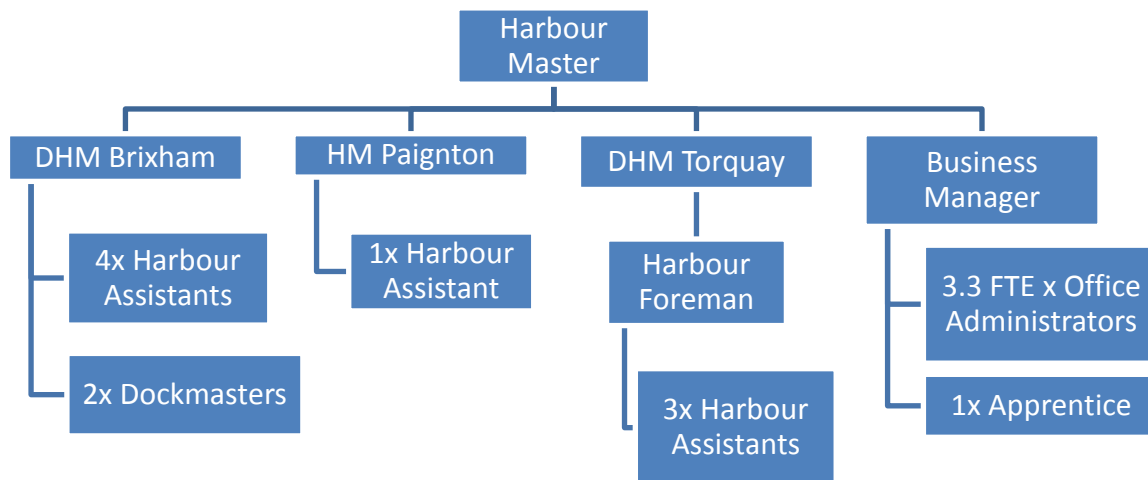


Figure 1: Tor Bay Harbour staff structure

3.1.7 Pilots

The contracted pilots (Marine and Towage Services Group Ltd) are responsible for the safe pilotage of large vessels within Tor Bay harbour and for reporting marine risks, incidents, accidents and near misses to the Harbour Master.

3.1.8 Harbour Users

Harbour users are responsible for their own health and safety and that of other harbour users who may be affected by their acts or omissions. They must comply with bylaws, directions and other regulations aimed at ensuring the safe use of the harbour.

3.1.9 Consultative forums

A well established and formal consultation mechanism which comprises a number of fora ensures that the TBHC has strong and direct links with both Harbour users, local communities and other external organisations which have interests in the estuary:

- The Torquay and Paignton Liaison Forum;
- The Brixham Liaison Forum;
- The Tor Bay Passenger Boat Operators Forum;

These fora provide valuable insight and information into customer requirements, and the safety and environmental wellbeing of the harbour. In particular, these forums seek consensus about safe navigation.

3.2 Training, awareness and competence

It is policy that all officers and staff are suitably trained, competent and qualified up to a minimum national standard to fulfil their roles within the organisation and can demonstrate competence in critical areas of harbour safety.

All staff need to fully understand the rationale behind the SMS and understand what is expected of them to maintain and improve the system. This will be achieved by initial all-staff meetings to explain the importance of the SMS and their responsibilities, and regular team briefings. Every year the training requirements of each member of staff will be assessed and a training programme initiated. All staff are appraised with respect to competence.

The training needs of all new members of staff will be assessed and a bespoke induction and training programme put into action. No member of staff will be expected to undertake any role or take on any responsibility for which they are not correctly trained or qualified. Mentoring and supervision will also be provided from within the Harbour staff.

Training will be scheduled into the programme and adequate records, including certificates or other documentation, maintained to provide an audit trail of qualification and competence. ‘On the job’ training and Continuous Professional Development (CPD) are also key elements of the training policy. All staff will receive training in emergency procedures.

Post	Training Responsibility
Deputy & Assistant Harbour Masters	Harbour Master
Assistant Harbour Master/Business Manager	Harbour Master
Harbour Master, Paignton	Harbour Master
Office Administrators	Business Manager
Business Administration Apprentices	Business Manager
Torquay Staff	Deputy Harbour Master, Torquay
Brixham Staff	Deputy Harbour Master, Brixham
Paignton Staff	Harbour Master, Paignton
Pilots, pilot boat crews & technical staff	Marine & Towage Services Group Ltd
Launch crews Technical staff	Marine & Towage Services Group Ltd

Related Documentation:

Training log

4. Legislation

4.1 Register of legislation and regulations

Compliance with statute is a fundamental requirement of any safety or environmental management system. The Harbour Master is responsible for ensuring that the Legislation Register remains up to date by annual review as well as relevant publications and bulletins etc. Appropriate action is then taken to ensure compliance; this may involve revision of operational procedures or training updates.

The British Ports Association, UK Harbour Masters' Association, British Marine Federation, Government Agencies and Departments such as Defra, Natural England, MMO, AONB and Maritime & Coastguard Agency (MCA) together with colleagues from within the Council are all sources of information regarding the introduction and subsequent updates to environmental legislation

Related Documentation:

SMS Legal Register

MCA M notices

BPA, UKHMA, MCA and other bulletins

4.2 Legislation compliance evaluation

The Harbour Master is responsible for maintaining and electronically recording the SMS Legal Register. He shall periodically evaluate compliance with relevant legislation via an audit process, interviews with relevant staff or by training and awareness events.

Where legal non-compliance is identified the Harbour Master shall raise a non-conformity report and seek proposals to address the non-compliance.

Legal compliance evaluation may also identify where practices do not comply with Environment Agency pollution prevention guidance (although not a strict legislative non-compliance. Where such situations are identified the Harbour Master may raise a preventative action and seek proposals to improve the practice.

The Harbour Master is responsible for maintaining this register and electronically recording the information in the SMS spreadsheet.

Related Documentation:

SMS Legal Register

Non conformity reports if applicable

4.3 Review of powers

Existing powers should be reviewed on a periodic basis to avoid a failure in discharging the Harbour Authority's duties or exceeding its powers. These will be formally reviewed annually during the March Board meeting, to ensure that they are fit for purpose. Such a review should include an examination of the Legal Register to identify all appropriate legislation and regulations, and an audit of all in-force Harbour byelaws, Harbour Directions and Special Directions. Where additions, amendments or deletions are required the appropriate procedure set out in the appropriate legislative act is to be followed.

Where Special Directions have been issued (either by the Harbour Master or the Moorings Officers, to whom such powers have been delegated) these are to be recorded in the Incident Log, along with a narrative explaining how that decision was reached.

The Harbour Master may give directions (Dangerous Vessel Directions) prohibiting the entry into, or requiring the removal from, the harbour of any vessel if in their opinion the condition of that vessel or anything it contains presents a grave and imminent danger to the safety of persons or property or prejudice the use of the harbour by other vessels. Such directions may be over-ridden by the Secretary of State's Representative (SOSREP) who may issue contrary directions in the interests of safety. The decisions of both Harbour Master and/or SOSREP are to be recorded in the Incident Log, along with a narrative explaining how that decision was reached.

Related Documentation:

SMS Legal Register
Local Government Act
Marine Navigation Act
Dangerous Vessels Act
Incident Log

4.4 Enforcement of compliance

The Harbour Authority has statutory powers, including Harbour Authority byelaws, Harbour Directions and Special Directions, 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 necessary to safeguard the safety of harbour users and the environment.

A copy of the Enforcement Policy, which has been signed by the TBHC Chair, is available from the Harbour Office and all employees are made aware of the policy during induction. Staff also receive enforcement training, including how to gather and process evidence in accordance with the Police and Criminal Evidence Act.

Related Documentation:

Harbour Authority byelaw enforcement policy
Training log

5. Risk Assessment

It is the policy of Torbay Council that its powers, policies and procedures will be based on a formal assessment of hazards and risks, and that it will have a formal safety management system.

5.1 Procedure

TBHC has commissioned formal risk assessments of its marine operations to identify and record all hazards associated with activities and operations which occur within the harbour, and identify and enact appropriate control measures to eliminate or reduce the risk to **ALARP**.

There are two types of assessment: the planned, formal assessments which provide the framework to describe how all risk assessments are carried out in practice; and dynamic assessments which helps the individual to assess a situation which is constantly changing. The risk assessments contained within this SMS are of necessity mainly concerned with the former, although a comprehensive working knowledge of these will assist in the 'on the spot' assessment of the latter type. Formal risk assessment involves 5 stages:

1. Identifying the problem (data gathering)
2. Hazard identification
3. Risk analysis
4. Assessing the efficacy of existing control measures
5. Identifying and adopting new control measures

A **hazard** is something with the potential to cause harm, loss or injury whereas a **risk** is a combination of frequency of occurrence (likelihood) and consequence (outcome).

5.2 ALARP defined

Guidance offered by the Health and Safety Executive (HSE) defines the concept of ALARP as being at the heart of the British health and safety system. 'Reasonably practicable' involves weighing a risk against the trouble, time and money needed to control it, thus ALARP describes the level to which workplace risks are expected to be controlled.

The Court of Appeal (in its judgement in *Edwards v National Coal Board* [1949]) defined "reasonably practicable" more narrowly than "physically possible" by introducing the concept of proportionality, judgement and flexibility in determining when a control results in a risk being 'as low as reasonably practicable'. Such determinations should consider the application of 'good practice' and discussion with stakeholders. Where there is a lack of 'good practice' then such determinations should be derived from first principles by applying common sense and/or exercising professional judgement or experience.

If for any reason the safety management system identifies a control measure that is not effective the activity is to cease until suitable control measures are in place and the risk mitigated to as low as reasonably practical.

5.3 Harbour Authority risk assessments

In line with Council policy, risk assessments are either reviewed as a new risk emerges or is identified, or following an incident in which our assessments have proven to be sub-optimal, or annually, whichever is the most frequent. The Harbour employs the MarNIS risk assessment matrix so that similar hazards are treated in a common manner.

5.3.1 MarNIS risk assessment matrix grid and calculation

The matrix grid allows the user to select a grid cell matching frequency and consequence descriptors:

Risk matrix for the consequences to PROPERTY resulting from a PORT EFFICIENCY incident						
Major (> €10,000,000)	Cat 4					
Serious (€500,000 - 10,000,000)	Cat 3					
Moderate (€50,000 - 500,000)	Cat 2					
Minor (€3000 - 50,000)	Cat 1					
Negligible (< €3000)	Cat 0					
Consequences		Once every 10 years	Every year	Every month	Every week	Every day
		Frequency				

Figure 2 MarNIS Matrix Grid

The following matrix values are loaded into the MarNIS software:

Category	People	Property	Planet	Port Business
0	None	Negligible (£0 - £2,000)	None	None
1	Minor (Single slight injury)	Minor (£2,000 - £10,000)	Tier 1 (No outside assistance, no Harbour Authority response necessary)	Minor (£0 - £2,000 - Little local publicity. Minor damage to reputation. Minor loss of revenue)
2	Moderate (Multiple slight or single major injury)	Moderate (£10,000 - £100,000)	Tier 1 (Limited outside assistance, oil spill manageable with own means)	Moderate (£2,000 - £20,000 - Negative local publicity. Moderate damage to reputation. Moderate loss of revenue)
3	Serious (Multiple major injuries)	Serious (£100,000 - £1,000,000)	Tier 2 (Regional assistance needed, large oil spill, several amenities impaired)	Serious (£20,000 - £200,000 - Negative national publicity. Serious damage to reputation. Serious loss of revenue)
4	Major (One or more fatalities)	Major (> £1,000,000)	Tier 3 (National disaster, massive oil spill, widespread and/or extensive damage to amenities)	Major (> £2,000,000 - Negative national and international publicity. Major damage to reputation. Major loss of revenue)

Using the matrix, values for Frequency of Occurrence and Consequence can be selected for each of the four groups in both the Worst Credible and Most Likely scenarios. Each group has three cells associated with it, the first shows the selected frequency of occurrence, the second shows the consequence and the third is the matrix score. The values from the matrix are then used to arrive at the Overall Risk Score.

The following calculation is used to determine the Overall Score.

- Matrix Score from Worst Credible: $\text{People} + \text{Property} + \text{Planet} + \text{Port} \div 4 = \text{Average Worst Credible Value}$;
- Matrix Score from Most Likely: $\text{People} + \text{Property} + \text{Planet} + \text{Port} \div 4 = \text{Average Most Likely Value}$;
- Maximum score from the Worst Credible Scenario;
- Maximum score from the Most Likely Scenario;
- $= \text{Average Worst Credible} + \text{Average Most Likely} + \text{Max Worst Credible} + \text{Max Most Likely} \div 4 = \text{Overall Score}$.

Arising out of the risk assessments and as part of the policy of continuous improvement, the following actions have commenced and/or are ongoing:

1. Promotion of safe seamanship: there is forever a need to maintain, refresh, improve and emphasise the advice already being given through notices, brochures, emails of Notices to Mariners, the website, in person by harbour staff and through sea schools.
2. Regularly review how IT developments can improve communications with customers. Consider ways to promote the identity of Tor Bay Harbour Authority, possibly by expanding the Tor Bay Harbour Visitor Guide and by using social media, by improving the web site and providing a clear link to the Safety Management System and compliance with the Port Marine Safety Code.
3. Review security measures in place at the Brixham Fish Market.
4. Structural improvement plans are in hand for Haldon Pier, Princess Pier and a Northern Arm Breakwater at Brixham
5. Review and update where necessary :-
Tor Bay Harbour Emergency Plan
Local Port Services Policy
Harbour Legislation
6. Investigate using Torbay Council's remote learning platform, 'i-Learn', to provide a link to the new Standard Operating Procedures currently being drafted.

Related Documentation:

Tor Bay Harbour Risk Assessments

5.4 External (third party) risk assessments

Third parties seeking to conduct marine-related activities or operations within the harbour must first submit a copy of their formal risk assessment to the Harbour Master.

5.5 Risk control measures

To minimize risks to ALARP, a 'layered defence' approach is employed:

- Eliminate or prevent risks or impacts – for example by not commencing the activity;
- Substituting risks or impacts – by following a different (less hazardous) process;
- Isolating risks or impacts- by putting a barrier between the person (or environment) and the risk;
- Reducing the risk or impact – through procedures or training; and
- Protecting against risk – by wearing suitable PPE.

5.6 Safety plan

The PMSC requires Authorities to publish a safety plan for marine operations. This is contained within the Harbour Authority's Port Masterplan which has been adopted by the Council. A copy is available on the Harbour website.

Related Documentation: **Port Masterplan**

6. Environment

Torbay Council has a general duty to exercise its functions with regard to nature conservation and other related environmental considerations.

6.1 Procedure

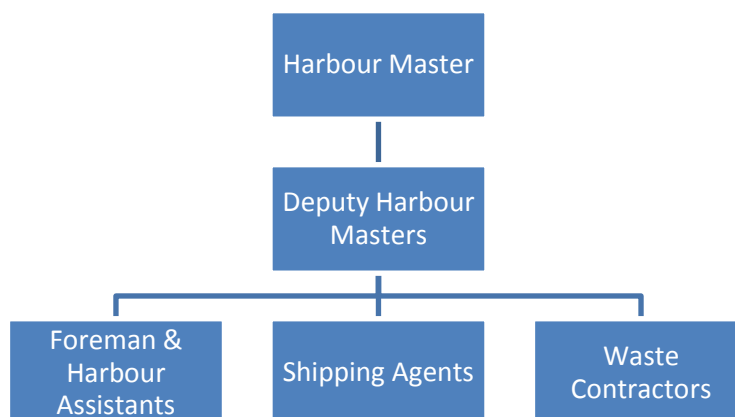


Figure 3 Environmental Organisation

The HM shall, as Environmental Manager, identify and record situations (normal; unusual or emergency) during which an environmental aspect may arise and indicate whether each is directly or indirectly responsible for a resultant environmental impact. Each aspect has also been categorised according to whether the Harbour Authority has direct control over it, or more limited influence. These are considered within the 'planet' element of each MarNIS risk assessment.

Significant Aspects are addressed in the Harbour's Objectives and Targets.

Related Documentation:

Tor Bay Environmental Policy Statement
Port Waste Management Plan
Standard Operating Procedures

6.2 Objectives and Targets

In order to ensure a structured approach towards achieving continual environmental improvement TBHC will annually establish environmental objectives and targets which are consistent with their Environmental Policy, the Aspects Register, the requirement for legislative compliance and the Harbour's strategic *Port Masterplan*. Our commitment to a wider sustainability and corporate social responsibility agenda is also considered.

Progress is monitored by the Environmental Manger who reports periodically to the Harbour Committee.

Related Documentation:

Environmental Objectives and Targets
Port Masterplan
Minutes of Harbour Committee meetings

The "ESPO Green Guide; towards excellence in port environmental management and sustainability" introduces a common framework for port authorities to respond to their environmental challenges under 5Es; Exemplify, Enable, Encourage, Engage and Enforce. Where appropriate this framework is applied to the tasks which contribute towards the agreed Tasks and Objectives.

7. Implementation and Operation

7.1 Procedure

The Harbour Master is responsible for the overall implementation of the SMS.

All staff are encouraged and expected to make positive contributions to improving safety and managing risks when delivering services. This may be through day to day activities, during team meetings or through specific improvements projects.

In particular all staff should:

- Ensure that they comply with safety procedures and that pollution or air, land and water does not occur as a result of their work;
- Consider the sustainability of the way in which services are delivered.

7.2 Standard Operating Procedures

Activities with significant risks or adverse impacts are subject to necessary controls and operating criteria. Where required, documented procedures will be prepared, implemented and maintained to define the operational controls necessary to minimise the potential for damage or harm to people or the environment.

Related Documentation:

Standard Operating Procedures

7.3 Routine operations

The Harbour Authority undertake a number of routine Harbour operations. They are broadly categorised as follows:

7.3.1 Conservancy: buoys and lights, surveys

TBHA has a duty to conserve the harbour so that it is fit for use as an 'open' port, and a duty of reasonable care to see that the harbour is in a fit condition for a vessel to use it.

Hydrographical surveys are regularly commissioned based on the results of routine inspections and evidence of siltation. Survey records are maintained by the Harbour Office; these are shared with the UKHO under a formal agreement, thereby ensuring that Admiralty Chart 26 is maintained up to date. In addition, the survey results are used to determine the necessity for, and timing & scope of, any potential maintenance dredging campaign.

The provision of aids to navigation is based on risk assessment. Trinity House has issued standards for reliability and maintenance of navigation aids and reserves the right to undertake inspections to ensure that these are met. PANAR reports are submitted quarterly.

As the Local Lighthouse Authority (LLA), Tor Bay Harbour Authority is responsible for the provision of a comprehensive and well-maintained system of Aids to Navigation (AtoN) in the Harbour. AtoN are monitored to ensure correct operation and defects rectified as soon as reasonably practicable. Availability statistics are provided annual to Trinity House, which is the General Lighthouse Authority (GLA) for the UK, and mariners warned of defects by means of Local Notices to Mariners. In addition, AtoN are inspected annually by Trinity House

Related Documentation: **PANAR records**

7.3.2 Salvage and wrecks

It is left to the owner to organise salvage of small craft except where safe navigation may be affected. In such cases TBHC may use its powers to take possession of a vessel and arrange salvage. For large commercial vessels which strand or sink within the harbour, recovery measures will be supervised and approved as necessary.

The harbour may be requested to accommodate vessels salvaged by others eg RNLI, or if directed to do so by the Secretary of States' Representative for Marine Salvage and Intervention (SOSREP). All requests to accommodate Salvaged vessels will only be considered after a dynamic risk assessment has been completed by the Harbour Master or his nominated deputy.

If there is a wreck within the Harbour limits that is likely to become an obstruction or danger to navigation, TBHA will take all necessary steps including ensuring that it is lit and buoyed as required and a Local Notice to Mariners issued until it is removed with the minimum environmental impact commensurate with the operational need. TBHA also has the power to remove wrecks if the owner does not take adequate steps once so directed.

Related Documentation: **Annual returns to Trinity House**
Trinity House Records of Inspection
Admiralty Chart 26 (as corrected)
Notices to Mariners (NtMs) and Local NtMs
Survey Records
Guidelines on the provision & maintenance of Local Aids to Navigation

7.3.3 Dredging

THBA undertakes maintenance dredging of areas within the estuary approximately when absolutely required to remove silt deposits which may pose a risk to the safety of navigation. TBHA does not hold a maintenance dredging disposal licence. Any capital or maintenance dredging that might take place is subject to MMO statutory consent.

Related Documentation: **Dredging Records**

7.3.4 Management of Navigation

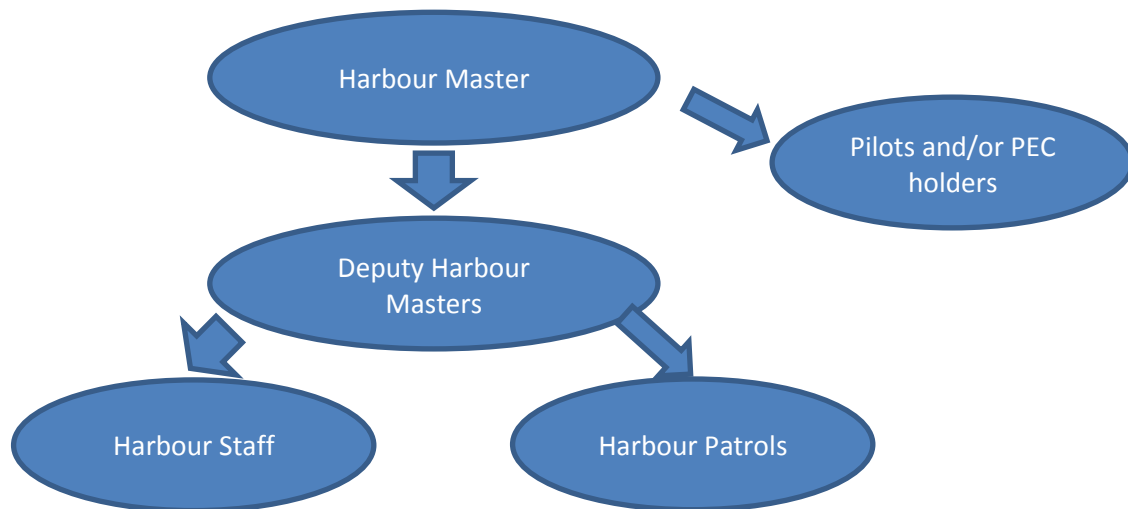


Figure 4 Management of Navigation

Torbay Council, through TBHC, has issued byelaws and other directions which every harbour user must obey as a condition of their right to use the harbour. The Council and its Harbour Master recognise their duty to assess risks and make proper use of powers to make byelaws and to issue directions (including pilotage directions) to regulate all vessel movements within harbour limits. These powers shall be exercised in support of policies and procedures developed in this SMS and should be used to manage vessel navigation.

Powers of direction shall be used to require the use of port passage plans in appropriate cases. THBC has clear policies on enforcement and should monitor compliance of issued directions and byelaws.

Passage plans are to be prepared on standard forms issued by the Pilot and agreed with the master of the vessel. A copy is to be filed at the offices of the shipping agents.

24-hour VHF radio cover is provided by the combined efforts of the Harbour Offices, Brixham security staff and the Pilot station. Reporting is mandatory as per Tor Bay Harbour Pilotage Directions.

TBHA does **not** provide a formal Vessel Traffic Service within the Harbour, instead choosing to provide a Local Port Service and provides information on request. This is **not** an INS Information Service as included within the IMO's definition of a VTS.

7.3.5 Pilotage

As the Competent Harbour Authority for Tor Bay harbour within the meaning of the Pilotage Act 1987, TBHA is the competent authority and accountable for the duty to provide a pilotage service. The necessity for the provision of a pilotage service is kept under regular review: the Harbour Board are annually requested to review the necessity to retain the status of Competent Harbour Authority.

THBC therefore exercise control over the provision of the service which is fully integrated with other harbour safety services under their control, including the use of pilotage directions, and employment & training of pilots. TBHC has contracted the services of Marine & Towage Services Group Ltd to provide a pilotage service.

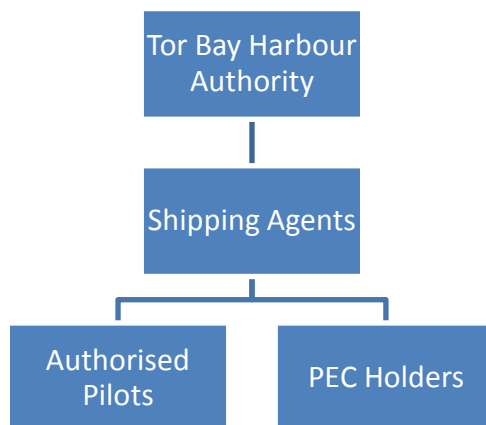


Figure 5 Pilotage Organisation

Pilotage requirements are detailed in the Tor Bay Harbour Pilotage Directions and Pilotage Manual. SOP 28 – Pilotage and Defective Vessel Notification also applies.

Anchorage are specified for large vessels.

Related Documentation:

- Tor Bay Harbour Emergency Plan**
- Tor Bay Harbour Pilotage Directions**
- Pilotage Manual**
- Standard Operating Procedures**

7.3.6 Towage

Towage within the harbour is provided by Marine & Towage Services Group Ltd. The staff operating pilot boats and harbour launches are experienced and suitably qualified to tow if necessary and towage guidelines have been published.

7.3.7 Bunkering and Cargo Transfer

Other than at an approved harbour fuel station, the Harbour Master’s approval is required before bunkering operations take place. The Harbour Authority issues procedures for bunkering. For any bunkering at anchor or cargo vessels alongside, or vessels taking bunkers direct from road tankers - there is a checklist.

The Harbour Authority has various procedures in the Oil Spill Response Plan to control any oil cargo transhipment, following submission of a risk assessment.

7.3.8 Diving

Bye-Laws prohibit diving in the Bay without the written permission of the Harbour Master, who operates a 'permit to dive' system. Diving Permits are issued on receipt of:

- A generic risk assessment
- A generic dive project plan
- Divers qualifications
- First aid qualification
- Medical supervisors qualifications
- Divers medical certificate

When the diving permit is completed for the specific dive, any amendment to the generic risk assessment and the diving project plan or qualifications of additional divers are to be produced for the Harbour's retention. For professional divers, HSE Commercial Diving standards must be followed.

Copies of completed Diving Permits are retained in the Harbour Office for one year.

Related Documentation:

Diving Log

7.3.9 Harbour Patrols

There are procedures for the safe operation of harbour launches based on the risk assessments. These can be found in the Standard Operating Procedures on the Harbour IT system. Maintenance documentation for each workboat is held in the Harbour Office(s).

Related Documentation:

Standard Operating Procedures

Workshop maintenance records and documentation

7.3.10 Leisure Management

Moorings are allocated by TBHC and all berthing and mooring facilities owned and provided by TBHA are inspected annually and maintained as required. Maintenance records are held in the Harbour Offices.

Anchorage are specified for larger vessels.

Controlled areas with a seasonal 5 knot speed limit are provided to safeguard swimmers. Water ski approach lanes have been established at Elberry Cove and Livermead Sands.

Local Notices to Mariners and special directions are issued for events as required

Related Documentation:

Mooring Maintenance records

Local Notices to Mariners

Harbour Byelaws

7.3.11 Security

Torquay Harbour is compliant with the International Ship and Port Facility Security (ISPS) Code to accommodate visiting cruise and other vessels greater than 500 GRT engaged in international voyages. A comprehensive Port Facility Security Plan has been developed and multi-agency exercises are held at least annually as required by the Code.

Each harbour benefits from a comprehensive and ICO-compliant recorded CCTV system which can be managed by both the harbour staff and the Council's CCTV team. Additionally 24-hour security is provided in Brixham harbour through a combination of Dockmaster staff and contracted security guards to deter and detect crime and other illegal activities.

Related Documentation: **Port Facility Security Plan**
CCTV records (electronic)
Incident Log

7.3.12 Workshop Operations

All workshop operations are subject to formal risk assessment and all activities should adhere to the Standard Operating Procedures on the Harbour IT system.

Related Documentation: **Standard Operating Procedures**

7.3.13 Fish Quay

Commercial shore-side fishing activities take place on the Fish Quay, which is designated a 'working area'. Access to the General Public is restricted and all operators must provide the Harbour Office with a comprehensive risk assessment for endorsement. These are held in the Harbour Master's office.

Related Documentation: **Third Party Risk Assessments and SOPs**

7.4 Contingency planning and emergency preparedness

The potential for accident and emergency situations is identified in the Risk Assessments. Procedures have been established to address our response to emergencies and are contained within the Emergency Logs held in each Harbour Office which provides staff with guidance on how to deal with a number of major incidents. These procedures have been designed to be compatible with Joint Emergency Services Interoperability Programme (JESIP) protocols

Each Safety Manager is responsible for:

- Ensuring that all accidents and incidents are investigated and recorded in MarNIS.
- Arranging emergency procedures to be exercised where practical

- Ensuring that the potential for incidents is reviewed annually.

Related Documentation:

Incident Log
Emergency File
Training Log

7.5 Incident and emergency response

7.5.1 Procedure

All Harbour users and staff, visitors and contractors should report all matters of safety – including accidents, incidents and near misses – promptly to the attention of the Harbour Master. Reports will be used to help in assessment of the effectiveness of the SMS.

In the event of an incident occurring it will be graded according to the nature of the incident, number of casualties, environmental impact and the likely disruption to harbour activities:

Minor incidents are those that can be managed and resolved using the Harbour’s organic capacity, resources and available staff, augmented as necessary by the Emergency Services eg ambulance.

Major incidents are those that are beyond the Harbour Staff’s and Emergency Services ordinary capacity to manage without extensive mobilisation of additional equipment or personnel. Examples include:

- Death or serious injury;
- Extensive damage or contamination to the environment;
- Extensive damage to vessels or harbour infrastructure; and
- Serious disruption to the routine operating of the Harbour.

TBHA is a designated Category 2 responder under the Civil Contingencies Act 2004 and has a duty to share information with Category 1 responders and with other Category 2 responders as appropriate. It also has a duty to prepare and exercise emergency preparedness and response plans for the Harbour; and example being The Oil Spill Contingency Plan. Torbay Council, as a Category 1 responder, also has a number of emergency plans, which the TBHA has a duty to support where appropriate.

Related Documentation:

Emergency File
Torbay Council Major Emergency Response Guide
Oil Spill Contingency Plan
Devon Coastal Oil Pollution Plan

7.5.2 Command and Control (C2)

Minor incidents will be controlled at the scene under the command of the senior person present in the Harbour Office. For major incidents, Initial C2 will be effected from the Harbour Office and

routine administrative functions will cease. If the situation is unlikely to be resolved within one working day then a decision regarding the re-location of command and control functions will be taken to allow Harbour Office functions to resume. The pre-identified secondary C2 site is the offices within the Harbour Workshop and the tertiary C2 site is at the Fish Quay, although this will require hosting facilities to be erected. Movement to either the secondary or tertiary site will be the subject of a dynamic risk assessment and will only be made at an appropriate time within the incident management lifecycle.

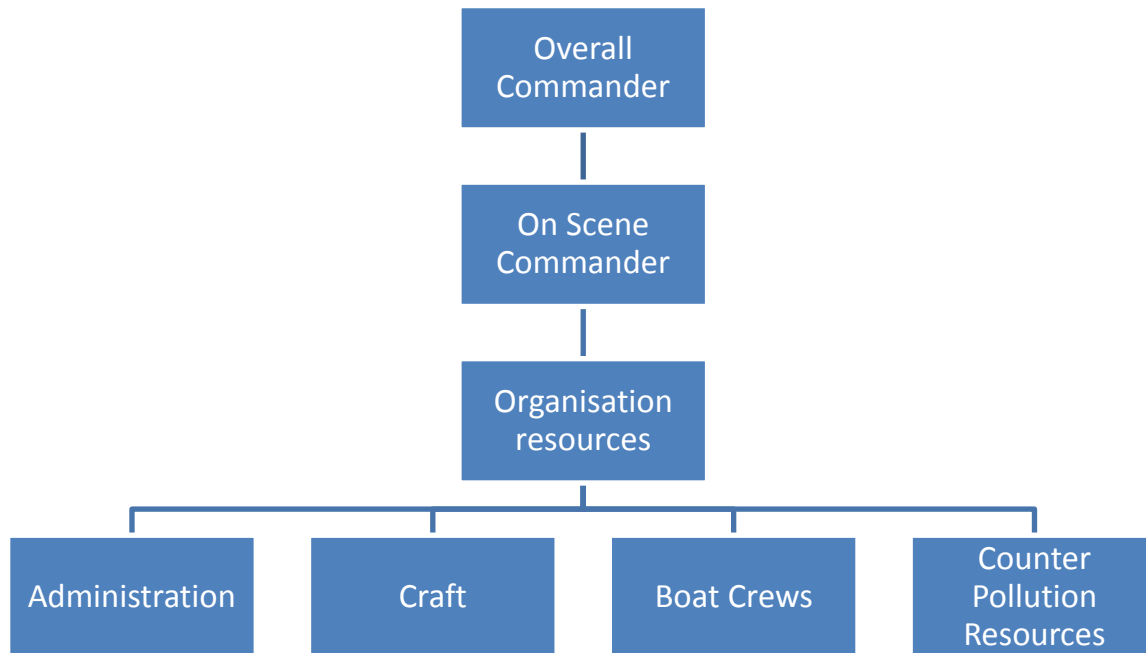


Figure 6 Emergency Organisation

7.5.3 Incident/Accident Investigation and Reporting Procedures

It is a statutory requirement that accidents involving or occurring on board any UK ship must be reported to the MAIB by the quickest possible means. However, accidents involving or occurring on board the following are exempt unless the accident involves explosion, fire, death, serious injury, capsize or serious pollution:

- a pleasure vessel
- a recreational craft hired on a bareboat basis
- any other craft (other than one carrying passengers) in commercial use in a harbour <8m in length

The quickest reporting method is via the accident reporting line 02380 232 527 and an Accident Report Form completed.

Related Documentation:

- MarNIS**
- Incident Log**
- Emergency File**
- Accident Report Form**

All accidents and incidents should be investigated by the Harbour Master or delegated to a member of the Harbour Staff to learn lessons to avoid future repetitions. The purpose of this investigation is not to apportion blame. For this reason, none of this evidence can be used in subsequent legal proceedings and this fact should be made clear to all witnesses so that they are not discouraged from coming forward.

If it appears that an offence has been committed then an entirely separate investigation will be conducted, under caution if required, but cannot refer to any of the evidence gathered in the former investigation. Evidence gathered during such an investigation must be collected, processed and preserved in accordance with the Police and Criminal Evidence Act 1984 (PACE) in order that it can be admissible in criminal court proceedings.

The Police will take primacy in any investigation involving death or crime. If someone dies in a work-related incident, a number of different organisations will require to work with the Police to ensure that the reasons for the death are understood. Different organisations have different but important roles in this process and good co-ordination is vital.

The legal framework for incident investigation is summarised in the *Memorandum of Understanding between the MCA, MAIB and HSE for health and safety enforcement activities* at the water margin and off-shore:

- The MCA is responsible for implementing the Government's maritime safety policy;
- The MAIB investigates accidents related to ships and crew;
- The HSE investigates land-based accidents,

8. Monitoring and Recording Standards

8.1 Procedure

To demonstrate the Authority's commitment to maritime safety and ensure the involvement of harbour users, the safety plan for marine operations shall be published every year at a TBHC meeting open to the press and the public and be available from the Harbour's web site.

The plan shall illustrate how the policies and procedures will be developed to satisfy the requirements under the Code. It shall commit the authority to undertake and regulate marine operations in a way that safeguards the harbour, its users, the public and the environment. It shall refer to commercial activities in the harbour; the efficient provision of specified services and the effective regulation of shipping. It shall also explain how commercial pressures would be managed without undermining the safe provision of services and the efficient discharge of its duties.

The duty holder will also publish an assessment of the Harbour Authority's performance against the plan. Information gathered from the monitoring and auditing of the marine safety management system, shall be used to support the analysis and conclusions.

8.2 Setting Standards

Standards will be set for operations in the following areas:

AREA	SET BY	REMARKS
Harbour Procedures & Operational Standards	Harbour Master	PMSC Guide to Good Practice refers Internal Procedures
Pilot Boat Operations	Pilotage Contract	MCA Code of Practice. Torbay & Brixham Shipping Agents are the current service provider.
Harbour Launch Operations	Harbour Master	MCA Code of Practice. Internal Procedures
Maintenance of Infrastructure	Harbour Master	Internal Procedures
Hydrographic Surveys	Harbour Master	UKHO
Procedures	TBHC	Part of Safety Management System
Financial Procedures	Torbay Council	Subject to Internal Audit

Performance indicators are to include the following:

AREA	SET BY	REMARKS
Navigation Lights Availability	Trinity House	PANAR SPAR.Net – reviewed annually
Reduce the number of reportable accidents including RIDDOR	Harbour Master	SPAR.Net - reviewed quarterly
Implement the SMS Improvement Plan	Harbour Committee	SPAR.Net – reviewed annually
Incident Investigation	Harbour Master	MarNIS – reviewed at each Committee meeting
Response to Complaints	Torbay Council	Corporate complaints procedure
Enforcement Activity	Harbour Master	Data recorded and details reviewed annually

8.3 Measuring Performance

A number of methods are employed to monitor performance. These include:

- Putting this and other documentation into the public domain so that our performance is subject to public scrutiny;
- Reporting against established Performance Indicators (PIs) at Harbour Committee meetings, to which the public are invited. Those pertinent to Safety and Environment include:

- Accidents (both public and staff)
- Incidents (speeding, crime, collisions, mooring failures, groundings)
- Pollution incidents
- Being subject to external assessment and report by:
 - The Designated Person (for Safety Management)
 - The MCA (for compliance with the PMSC, our oil spill contingency readiness and waste facility management)
 - Trinity House (as a General Lighthouse Authority)
 - The Environment Agency (for water quality and pollution incidents)
 - Natural England (for Blue Flag and Seaside Award status)
 - South West Water (for water quality during the bathing season)
- Proactive line management and oversight of activities

Related Documentation:

Harbour website
Reports to the Harbour Committee
Audit Reports
Reports from external agencies and organisations

9. Corrective Action

9.1 Evaluation of compliance

The Harbour Master is responsible for managing the evaluation of compliance with relevant legislation and other requirements as listed above. Such evaluation is carried out during internal audits and by routine monitoring and inspection of relevant activities and sites. Evidence of evaluation is recorded and maintained by the Harbour Master.

9.2 Non-conformity, preventative and corrective action

Whenever non-compliance or potential non-compliance of work instructions results in (or is likely to result in) an incident then the following procedures will be undertaken:

- a. The Harbour Master/appropriate DHM will initiate corrective and/or preventive action which may include cessation of the activity.
- b. If the activity results in a possible problem for a neighbouring authority/business then that authority/business shall be contacted by the person in (a) above to advise them of the situation and to inform them of the corrective action being undertaken.
- c. Where an activity requires corrective action the person in (1) above shall determine the cause, restore compliance and ensure no reoccurrence of the detrimental activity.

- d. Once the corrective action has been undertaken the Harbour Master will be required to assess any damage to equipment or the environment, calling upon specialist agencies if required.

If required, Standard Operating Procedures will be reviewed to ensure the incident does not reoccur.

10. Audit and Review

10.1 Procedure

TBHC will monitor, review and audit the efficacy of the SMS on a regular basis so that lessons are identified from relevant experience and are effectively applied.

Performance of the SMS will be assessed against internal performance indicators and where appropriate by benchmarking against other ports.

In light of these reports the Harbour Master and TBHC will review and where necessary amend working practices and make appropriate recommendations to Torbay Council.

The audit of the SMS is based on an annual cycle and is conducted by the Designated Person with additional staff as required. Performance of the system will be assessed against internal performance indicators and, where appropriate, by benchmarking against other ports that have adopted good practice. The review will be undertaken as follows:

- Quarterly internal checks by the Harbour Master;
- Annual external audit by the Designated Person, normally as part of the harbour inspection;
- Tri-annually the Duty Holder will report the harbour's compliance against the PMSC to the MCA.

The method used to collect the required information for the audit and review would be interview, consultation and SMS records. A synopsis of the audit results will be published in Harbour Committee meeting minutes.

10.2 Audit programme

10.2.1 The quarterly check by the Harbour Master ensures that policies and procedures are being correctly followed and compares the outcomes against standing performance indicators which have been set by the Duty Holder. The results are formally reported to the Harbour Board quarterly.

10.2.2 The annual external inspection by the Designated Person. The results of which are also reported formally to the Harbour Board, provide reassurance to the Duty Holder that a comprehensive and effective SMS is in place and being followed sufficient to meet our obligations under the Port Marine Safety Code.



Meeting: Harbour Committee

Date: 16th December 2019

Wards Affected: All wards in Torbay

Report Title: Tor Bay Harbour Authority Budget Monitoring 2019/20

Executive Lead Contact Details: Non-Executive Function

Supporting Officer Contact Details: Adam Parnell
Head of Torbay Harbour Authority
Tor Bay Harbour Master

 **Telephone: 01803 853321/851854**

 **E.mail: adam.parnell@torbay.gov.uk**

Pete Truman

Principal Accountant

 **Telephone: 10803 207302**

 **E.mail: pete.truman@torbay.gov.uk**

1. Purpose

- 1.1 This report provides Members with projections of income and expenditure for the year 2019/20 compared with approved budgets.
- 1.2 This report identifies the overall budgetary position for Tor Bay Harbour Authority as at end of November 2019 to enable appropriate action to contain expenditure and maintain reserves at appropriate levels.
- 1.3 The Committee is asked to note that the amended outturn projections of the harbour accounts and adjustments to the Reserve Funds shown in Appendix 1.
- 1.4 The Committee is asked to note the Head of Torbay Harbour Authority's use of delegated powers to make decisions in relation to the budget allocated to Tor Bay Harbour.
- 1.5 The Committee is asked to note the Harbour Master's use of delegated powers to waive certain harbour charges which to date amounts to £4,292.27

2. Summary

- 2.1 The Tor Bay Harbour Authority budget was approved by the Harbour Committee on 17th December 2018
- 2.2 This is the third budget monitoring report presented to the Harbour Committee for

the financial year 2019/20.

- 2.3 Buoyant fish toll levels in October/November indicate the revised budget target is achievable. Pressure on the Harbour account remains from additional waste costs, increased security arrangements and higher insurance premiums. It is proposed that a contribution from Reserve is made to fund significant health & safety works and reduce the burden on the revenue account.

Supporting Information

3. Position

- 3.1 The projected outturn at Appendix 1 reflects amendments to the budget made within the Head of Torbay Harbour Authority's delegated powers. Details of each amendment can be found in the associated note.
- 3.2 The performance against budget is summarised below:

	Original Budget £000	Revised Budget £000	Projected Outturn £000
Operational surplus/(deficit)	67	(90)	(29)
Gainshare* – General Fund	(42)	0	0
Gainshare* – Harbour Reserve	(25)	0	0
Net Surplus/(Deficit) 2019/20	0	(90)	(29)

* see paragraph 3.9

- 3.3 The current progress of Harbour capital schemes is detailed below:

	Total Budget £000	Actual to Date (including prior years) £000	Projected Outturn £000	Notes
Oxen Cove Jetty	1,967	2,255	1,967	(i)
North Quay Brixham Fendering	300	317	317	(ii)
Victoria Breakwater	3,853	3,889	3,892	(iii)
Harbour Light Restaurant Redevelopment	600	106	800	(iv)

- (i) Works are under way and nearing completion. The budget for this scheme is currently set at £1.7m but may increase to (worst case) £3.1m pending formal negotiations surrounding Compensation Event Notices issued by main contractor. The MMO is providing EMFF grant of £1.6m and it is now anticipated that the Council borrowing for the scheme may need to be £1.5m has increased from £1.97m to £3.1m following extra costs arising from unexpected ground conditions. The MMO is providing EMFF grant of £1.6m and it is now anticipated that the Council borrowing for the scheme may need to be £1.5m.
- (ii) Fenders have been delivered and installed. Project fees have increased the total cost of the scheme.
- (iii) Works have completed. Project fees have increased the total cost of the scheme.
- (iv) An increase to the project spend due to old lease surrenders and additional internal works has been approved by the Chief Executive. Works are underway and expected to complete this month.

3.4 The Harbour's liability for prudential borrowing is detailed in the following table.

Capital Scheme	Amount Borrowed	Start of Repayments	Principal outstanding
Town Dock (Torquay Harbour)	£1,140,000	2008/09	£538,680
Haldon Pier (Torquay Harbour)	£1,200,000	2010/11	£867,749
Brixham Harbour New Fish Quay Development	£4,750,000	2011/12	£3,785,534
Torquay Inner Harbour Pontoons (Inner Dock)	£800,000	2014/15	£680,506
	TOTAL		£5,872,469

3.5 The Tor Bay harbour Authority debt position (at end November 2019) is set out in the table below:-

	Corporate Debtor System		Harbour Charges	
	Unpaid by up to 60 days	Unpaid over 60 days	Unpaid by up to 60 days	Unpaid over 60 days
Debt outstanding	£305k	£38k	£28k	£26k
Bad Debt Provision	£23k			

The outstanding Harbour Charges debt largely reflects payment of user charges by instalments and the overall figure continues to reduce throughout the year. The significant short term corporate debt figure reflects an invoice for the turnover rent from Torquay and Brixham Marina's for 2018/19.

3.6 Under the Council's Scheme of Delegation the Harbour Master can vary (by addition or waiver (in full or as to part)) the approved Schedule of Harbour Charges in such manner as shall be considered reasonable. However, the Harbour Master shall maintain a proper written record of all variations approved using the delegated powers and shall, at least twice a year, report to the Harbour Committee the total value of the additional charges levied and the total value of the charges waived (see paragraph 1.5).

3.7 Harbour Committee minute 398 (5) from December 2011 states the following:-

"That, as recommended by the Harbour Committee's Budget Working Party, each harbour reserve fund is split with 20% of budgeted turnover ring-fenced to meet any deficit in the revenue budget or winter storm damage and the balance ring-fenced to fund harbour related capital projects."

Consequently Committee is asked to note the obvious ongoing need for healthy Harbour Reserve Funds.

3.8 There is a significant risk that the Harbour Authority will cease to be self-funding given the continuing forecast trend downwards of the Harbour Reserve. In that situation the Harbour Authority would require a precept from the General Fund and this scenario would be contrary to the government best practice for the management of municipal ports.

Appendices

Appendix 1 Harbour Revenue Accounts for 2019/20

Additional Information

None

HARBOUR REVENUE ACCOUNTS 2019/20 - BUDGET MONITORING

TOR BAY HARBOUR AUTHORITY

Expenditure	2019/20 Original Budget £ ,000	2019/20 Current Budget £ ,000	2019/20 Projected Outturn £ ,000	Notes
Harbour Employee Costs	630	589	601	1
Operations and Maintenance :-				
Repairs and Maintenance	319	342	453	2
Rent/User Charges Concessions	11	14	14	
Other Operating Costs	585	784	784	3
Management and Administration :-				
Internal Support Services	175	181	181	4
External Support Services	47	47	47	
Other Administration Costs	95	87	87	
Capital Charges	498	498	498	
Contribution to General Fund - EHO	25	25	25	
Contribution to General Fund	171	171	171	
Contribution to General Fund - Asset Rental	631	631	631	
	3,187	3,369	3,492	
Income				
Rents and Rights :-				
Property and Other Rents/Rights	549	566	566	
Marina Rental	442	444	463	
Operating Income :-				
Harbour Dues	151	149	149	
Visitor and Slipway	64	64	64	
Mooring fees	203	218	218	
Pontoon Berths	588	588	588	
Fish Toll Income	978	925	925	5
Recharged Services	103	111	111	
Boat and Trailer parking	44	44	44	
Harbour Facilities charges	41	36	36	
Licences & Contractor passes	28	28	28	
Reserved Car Parking	37	37	37	
Miscellaneous & Administration charges	27	29	29	
Contributions from Reserve	0	40	205	6
	3,255	3,279	3,463	
Operating Surplus /(Deficit)	67	(90)	(29)	
Gain share contribution to General Fund	(42)	0	0	
Gain share Contribution to Harbour Reserve	(25)	0	0	
Net Surplus /(Deficit)	0	(90)	(29)	

RESERVE FUND		
Opening Balance as at 1st April		741
Interest Receivable (estimated)		7
Net Surplus / (Deficit) from Revenue Account		(29)
Capital Funding		(490)
Expected Closing Balance as at 31st March		229

Note: In line with Harbour Committee minute 398 (5) December 2011 the minimum Reserve level at year end 2019/20 is £637k based on 20% of budgeted turnover to meet any deficit in the revenue budget or winter storm damage. The balance is earmarked for harbour related capital projects.

HARBOUR REVENUE ACCOUNTS 2019/20 - BUDGET MONITORING

NOTES

- 1 Savings in the current year will be achieved by vacancy management.
- 2 Significant Health & Safety works are required particularly at Brixham Harbour. Harbour Committee will be recommended to fund these works from the Reserve.
- 3 Additional waste costs from the Fish Market have been incurred. The Head of Torbay Harbour Authority has implemented an increase in the level of external security to provide 24 hour cover. Further pressures arise from NNDR liabilities and rising insurance premiums.
- 4 Central support costs have risen by 2% on the 2018/19 actual.
- 5 Fish toll income has been buoyant during October and November and the revised budget target remains feasible.
- 6 Reserve funding for Brixham Improvement Scheme feasibility costs and Health & Safety works.
- 7 Approved withdrawals for the balance of funding of Harbour Light redevelopment and installation of water meters at Brixham (total £137,000). Harbour Committee approved a withdrawal of £40,000 to fund initial feasibility costs of the Brixham Improvement Scheme and is recommended to fund Health & Safety revenue works in 2019/20 (estimated at £165,000) and capital spend on the Torquay Fuelling Station pontoon and access (£40,000), directly from the Reserve. Further withdrawals are proposed for an enhanced CCTV facility and a replacement forklift at Brixham (total £108,000).



Tor Bay Harbour Authority – Edge Protection Policy

Introduction

1. Harbour Authorities are obliged to take reasonably practicable measures to ensure the safety of those who visit and use the harbour (section 3 Health and Safety at Work Act 1974).
2. Many activities carried out in ports and harbours could lead to a fall from height (the biggest cause of work-related fatalities and major injuries). In docks, the added hazard of working near water means that a fall may lead to the risk of drowning. Typical falls from height hazards in docks include:
 - Access to and from vessels;
 - Loading and unloading some types of cargo;
 - Maintenance and unplanned work on or near the water's edge;
 - Working adjacent to open edges of docks, wharves etc; and mooring points.
3. This policy sets out the Harbour Authority's approach to edge protection and our obligations under Health and Safety regulations.

Regulation

4. Legislation which covers the need for edge protection inter alia includes:
 - Health & Safety at Work Act 1974
 - Management of Health & Safety at Work Regulations 1999
 - Work at Height Regulations 2005
 - Merchant Shipping (means of access) Regulations 1988
 - HSE Safety in Docks - Approved Code of Practice and guidance (April 2014)
 - Code of Practice on safety and health in ports (ILO152)
5. Guidance on edge protection is set out in sections 150 - 153 of the HSE's *Safety in Docks - Approved Code of Practice* (ACOP) dated 2014:

150 Except for straight and level quaysides, fencing should be provided at all dock, wharf, quay or jetty edges from which people may fall into water, and where they must pass within 1 m of the edge, or the configuration of the quay or the arrangement of walkways is such that they are more than ordinarily liable to fall over such an edge.

151 Fencing should be provided throughout every open side of narrow access ways, whether the fall would be into water or not.

152 These provisions do not apply to areas where there is no work activity being undertaken, subject to any foreseeable risk to members of the public.

153 Secure and adequate fencing should be provided where risk assessment has found this to be needed.

Edge Protection Risk Assessment

6. Tor Bay Harbour Authority has determined, through risk assessment at each of its three enclosed ports, the need for edge protection control measures to reduce the risk of falling from height at these locations to As Low As Reasonably Practicable (ALARP). It has determined the need for fencing or other control measures by employing the following principles:

- HSE advise that harbour authorities needs to consider whether the open sections are used for 'fishing' or 'dock', type operations, such as specific loading/unloading tasks. In areas where loading or dock processes are going on, the Loading and Unloading of Fishing Vessels Regulations 1988 and the HSE Safety in Docks – ACOP 2014 recognise the impracticability of protecting edges during certain operations. However, they do require fencing in other specified circumstances.
- In areas where other vessels are mooring alongside, the physical type of mooring arrangement may dictate the practicality (or otherwise) of edge protection. However, the advice is to start from a presumption towards protection, where there is a risk to the public/users.
- Access steps and the like (slipways) may not require a second handrail on the open edge, where this would create a risk to vessels by becoming a submerged hazard at full tide.
- If a working platform is at two metres from ground level or higher, then adequate double guardrails and toe-boards must be fitted.
- Suitable guardrails should be provided around the edge of harbour work boats and ships to prevent personnel and materials falling.
- In all other circumstances, where there is no practical reason against edge protection it is the risk assessment that will need guide what would be a reasonable control measure.
- There are particular areas of risk which need careful consideration such as:
 - where people are routinely walking in an area;
 - where vehicles are parking alongside the edge and it is foreseeable that they could be driven over, or that their occupants could fall once they get out of the vehicle;
 - where people are likely to use an area in a manner which could put them at risk (e.g. a bar or restaurant seating area on the harbour side).

Edge Protection Control Measures

7. The hierarchy of edge protection control measures employed by the Tor Bay Harbour Authority:

- a. **Eliminating or preventing risks** (not normally possible).
 - Barring unnecessary operations at edges from which there is a risk of falling eg where such activities can take place away from the edge such as by moving them. This is undertaken where practicable.
- b. **Isolating the risks.**
 - Controlling access to the edge eg through prohibiting access to non-authorized personnel (such as through 24/7 site security staff);
 - Installing adequate walls, fencing or guardrails at the edge;
 - Siting lifting equipment such that the operator does not need to approach the edge.

- c. **Reducing the risks.**
 - Operating a 'permit to work' scheme to regulate the frequency and timing of such activities;
 - Parking restrictions at/near harbour edges;
 - Controlling vehicular access and imposing speed limits.
 - Installing adequate lighting;
 - Safety signage;
 - Yellow and white lines along quay edge with words "Mind the Edge" between lines.
- d. **Protecting against the risks.**
 - Installing temporary fencing;
 - Wearing life jackets or buoyancy aids when working within 1m of the water's edge;
 - Consider wearing safety harnesses (not normally practicable).

Guidance

8. This section provides guidance as to best practice when implementing edge protection control measures:

- a. It would be best practice for any new fencing to be carried out at least to the standard defined in Building Regulations part K
- b. People should be protected from a distance likely to cause injury or falling into a substance which increases the risk of injury by a substantial barrier of 1100mm.
- c. At jetties and quay edges where the edges are unfenced, means should be provided to help people to rescue themselves from drowning, and also provision for other people to rescue those in danger without endangering themselves. The means should include:
 - Ladders on quay walls;
 - Life-saving equipment.
- d. At jetties or quays where the edges are fenced throughout, the provision of life-saving equipment alone is sufficient unless:
 - the public has access to the quay edge; or
 - the duty holder is made aware of a risk of people falling over a fenced edge that is comparable to the risk of people falling over an unfenced edge (whether or not by means of risk assessment).

In these situations additional measures will be required such as handholds and/or ladders.

- e. Take into account the risks to lone workers and to members of the public where public access is possible or foreseeable, even if there is no dock work activity being undertaken.

Edge Protection Policy

Appendix 1 – Tor Bay Harbour Authority Edge Protection Audit

Audit of Tor Bay Harbour facilities - Brixham Harbour

Location	Edge Protection	Control Measure (if unfenced)	Pedestrian Traffic Levels	Usage/Rationale
Breakwater - seaward	Sea wall	N/A	Low	Low risk of fall into water
Breakwater - inside	Unfenced	N/A	Low	Low risk of fall onto sloping rock armour
Old Oil Jetty	Unfenced	N/A	Zero	No public access. Locked access gates
Breakwater Hard Jetty	Unfenced	N/A	Low	Low risk of fall into water
Breakwater Hard Slipway	Unfenced	Safety signage	Moderate	Low risk of fall into water
Lifeboat Pontoon - access steps	Fenced	Security gate	Zero	No public access
Lifeboat Slipway	Unfenced	N/A	Low	Not used by the public for launching
Prince William Walkway	Sea wall	Chain link fence	Moderate	Risk of fall from significant height onto a hard surface
Grenville House Slipway	Unfenced	Safety signage	Moderate	Risk of fall into water on seaward edge of slipway
King's Quay	Chain fencing	N/A	High	Low risk of falling into the water
Southern quay	Chain fencing	N/A	High	Low risk of falling into the water or onto sea bed
The Quay	Fenced	N/A	High	Low risk of falling into water or onto sea bed
Middle Pier	Unfenced/ Anti-vehicle stops installed 2019 along edges	Yellow line painted along quay edge	Moderate	Medium risk of falling into water or sea bed
East Quay - passenger steps	Fenced	Yellow line painted along quay edge	Low	Passenger access via fenced steps – risk of fall onto a hard surface
MFV Basin	Unfenced	N/A	Moderate	Berths in use 24/7 by working fishing vessels but no public access
Fish Quay - north side & Ice Plant end	Unfenced	N/A	Moderate	Berths in use 24/7 by working fishing vessels but no public access
New Fish Market - east side	Unfenced	N/A	Moderate	Berths in use 24/7 by working fishing vessels but no public access
New Fish Market - north side	Unfenced	N/A	Moderate	Berths in use 24/7 by working fishing vessels but no public access
Oxen Cove Walkway - south of BYC Slipway	Unfenced	Safety signage	Low	Low risk of fall onto sloping rock armour
BYC Slipway	Gated	Safety signage	Low	Low risk of fall into water - private facility
Coastal Footpath - Oxen Cove	Unfenced	Safety signage	Low	Low risk of fall onto sloping rock armour
Oxen Cove Slipway	Unfenced	Safety signage & painted white line	Low	Low risk of fall onto sloping rock armour
Coastal Footpath - Freshwater Quarry & remainder	Fenced - in part	Yellow line painted along quay edge	Low	Risk of fall from height into water

Edge Protection Policy

Appendix 1 – Tor Bay Harbour Authority Edge Protection Audit

Audit of Tor Bay Harbour facilities - Torquay Harbour

Location	Edge Protection	Control Measure (if unfenced)	Pedestrian Traffic Levels	Usage/Rationale
Haldon Pier - end steps	Fenced	N/A	Low	Risk of fall from significant height onto a hard surface
Haldon Pier - western end	Unfenced	Signs regarding working quayside. Yellow & white lines along quay edge with words "Mind the Edge" between lines (pending)	Low	Low risk of fall into water
Haldon Pier - eastern end	Fenced	N/A	Medium	Risk of fall into the water or onto a hard surface. Temporary fencing during summer season when risk includes falling onto pontoons.
Haldon Pier - seaward	Sea wall	Signs stating Keep off the wall	Medium	Low risk of fall onto sloping rock armour
Beacon Quay Slipway	Unfenced	Restricted area for launching & recovery only	Low	Fencing would impede vessel access and present a danger to navigation
Beacon Quay	Fenced	N/A	High	Risk of fall into the water or onto a hard surface
D-Day Slipways	Fenced	N/A	Zero	No public access
South Pier - south side	Unfenced	Timber sleepers on edge. Signed as boat lifting areas	Low	Access needed for boat lifting. Not easily accessed by the public.
South Pier - north side	Fencing – vertical bars	N/A	High	Risk of fall into water or onto pontoons
South Pier - end	Unfenced	Yellow & white lines along quay edge with words "Mind the Edge" between lines (pending)	Low	Low pedestrian traffic - low risk of fall into water
Victoria Parade	Fenced	N/A	High	Risk of fall into water
Strand Quay	Fenced	N/A	High	Risk of fall into water
Inner Harbour Slipway	Unfenced	N/A	Low	Fencing would impede vessel access and present a danger to navigation
Vaughan Parade	Fenced	N/A	High	Risk of fall into water

North Quay - adjacent MDL car park	Fenced	N/A	Medium	Risk of fall into water
Fish Quay - eastern steps	Fenced	N/A	Medium	Risk of fall from significant height onto a hard surface
Fish Quay - main berth	Unfenced	Area restricted as working part of quayside	Low	Area used by commercial fishermen and roped off to members of public
Fish Quay - passenger steps	Fenced	N/A	Medium	Risk of fall from significant height onto a hard surface
Princess Pier - inner steps	Fenced	N/A	Medium	Risk of fall from significant height onto a hard surface
Princess Pier - middle steps	Fenced	N/A	Medium	Risk of fall from significant height onto a hard surface
Princess Pier - end steps	Fenced	N/A	Medium	Risk of fall from significant height onto a hard surface
Princess Pier - seaward	Fenced	N/A	Medium	Risk of fall into water. Steps no longer used and fenced off to public.
Princess Pier - inner berths	Unfenced	Yellow & white lines along quay edge with words "Mind the Edge" between lines	Medium	Berths in frequent use for a variety vessels
Princess Pier - decked promenade	Fenced	N/A	Medium	Risk of fall into water

Edge Protection Policy

Appendix 1 – Tor Bay Harbour Authority Edge Protection

Audit of Tor Bay Harbour facilities - Paignton

Location	Edge Protection	Control Measure (if unprotected)	Pedestrian Traffic Levels
North Quay	Inside = unfenced Outside = sea wall	Yellow & white lines along quay edge with words "Mind the Edge" between lines	Moderate
North Quay Steps	Fencing – vertical bars	N/A	Moderate
West Quay	Fencing – vertical bars	N/A	Moderate
West Quay Slipway	Unfenced	Safety signage	Low
Roundham Road cliff edge	Fencing – vertical bars	N/A	High
South Quay	Fencing – vertical bars	N/A	High
South Quay Slipway	Unfenced	Safety signage	Low
East Quay	Inside & end = fencing – vertical bars Outside = sea wall	N/A	Moderate

Protection Audit

Harbour

Usage/Rationale
Berths on inner wall in constant use by commercial vessels
Passenger access via fenced steps – risk of fall onto a hard surface
Little or no alongside berthing – risk of fall onto drying harbour bed
Fencing would impede vessel access and present a danger to navigation
Risk of fall from significant height onto a hard surface
Risk of fall from height onto a hard surface
Fencing would impede vessel access and present a danger to navigation
Berths on inner wall used occasionally – fencing stepped back with access gates for mooring rope access. Risk of fall onto a hard surface or drying harbour bed

Meeting Title	Torquay & Paignton Harbour Liaison Forum
Venue	Torquay Harbour Office
Date	21 st November 2019

Present	Capt. A Parnell (AP) Cllr N Amil (NA) Cllr J Mills (JM) Cllr J O'Dwyer (JO'D) Cllr A Barrand (AB) Cllr N Bye (NB) Mr S Pinder (SP)	Mr M Ellis (ME) Mr D Buckpitt (DB) Mr M Stewart (MS) Mr J Bond (JB) Mr John Clee (JC) Mr Marshall Ritchie (MR) Mr J Osborne (JO)	Mr A Lane (AL) Mr T Ekers (TE) Mr C Easterbrook (CE) Miss Lorraine Stewart (LS)

1. Apologies
2. Welcome
3. Minutes and matters arising from the last meeting – 4th September 2019
 - Update on Harbour light restaurant development
 - Hydrographic Survey at Torquay Harbour
 - South Pier, Torquay
 - Public Toilets cleaning
4. New organisational structure for Tor Bay Harbour Authority
5. Budget update
6. Maritime Events 2019/20
7. Quarterly Accident & Incident Data
8. Harbour Committee - Upcoming Agenda
9. Any other business

1.	Apologies for Absence Apologies were received from Tim Morris & Nick Burns	Action
2.	Welcome AP welcomed everyone to the meeting	Action
3.	Minutes and matters arising from the last meeting – 25th February 2019 Update on Harbour light restaurant – AP advised that the development is going well and is on track to complete works early December and hoping to open in February 2020. Hydrographic survey – AP advised that this has recently been completed for Torbay. South Pier – The fendering works have been authorised and order has been for South Pier.	Action

	Public Toilets Cleaning – AP advised that the public toilets are maintained by Healthmatic but there are issues over the cleaning of the shower facilities as these are not part of the contract so currently looking to find a solution to this issue. TE commented that there are issues with cleanliness of the Paignton public toilets by Healthmatic. AP advised complaints should be directed to Healthmatic directly but he will pass on comments to Torbay Council contract manager.	
4.	New organisational structure for Tor Bay Harbour Authority	Action
	AP provided an update of the new organisational structure for Tor Bay Harbour Authority. SP is now Marine, Leisure and Resort Services Manager who is responsible for Paignton & Torquay Harbours and Resort Services. AP will be based mainly at Brixham Harbour with an assistant Harbour Master working there instead of a Deputy Harbour Master.	
5.	Budget update	Action
	<p>AP advised the proposal for the Harbour charges for 2020/201 is increase of 2%. Due to the upcoming General Election, the Torbay Council budget has not yet been issued for public consultation. Due to this consultation proposed Harbour charges have not yet been confirmed.</p> <p>Dave Buckpitt announced to the forum that this would be his last meeting, as he is no longer continuing as an external advisor. DB & MS both advised that as advisors they do not feel any more further increases should be added to the charges and no more money should be contributed from Harbour reserves towards the Torbay Council budget.</p> <p>A long discussion was held over proposed budget. JO'D commented that it is very important to ensure that the reserve remains to keep the Harbours operating safely.</p> <p>AP advised that the fish tolls are on budget for this year and the next few months are imperative in the landings coming in to assist in achieving the income target set for fish tolls.</p> <p>TE raised issue of Paignton winter storage charges being raised last year by 25%, there was no consultation period carried out, and customers were not aware of this until invoices were received. AP commented that it was noted that the charges were very low so was increased to bring in line with other Harbours as at a lot of Harbours, customers are required to bring their boats out for Winter.</p>	
6.	Maritime Events 2019/2020	Action
	<p>AP advised that there was 8 cruise ships visits this season.</p> <p>AP advised that for 2020/2021 there would be charges introduced for Events happening on Harbour estate. SP read through the proposed charges for Events.</p> <p>SP advised that the first draft of events for 2020 will be uploaded next week on the website and asked if the list can be checked to ensure that all large events are on there. SP will send a copy to all.</p>	SP
7.	Quarterly Accident & Incident data 2019	Action
	<p>AP ran through the lists of the incidents recorded from September to date. AP advised that since the unfortunate incident in July that resulted in a death, there has been a HSE visit and investigation took place and are expecting a notice of improvement to be issued to Tor Bay Harbour Authority. Since the HSE inspection there have been a lot of measures and improvements introduced at all 3 Harbours. AP advised the forum that there will be spending taking place using the Harbour reserve for Health & Safety related issues.</p> <p>MS asked that the issue of listening on channel 14 on VHF for large vessels entering and exiting the Harbours be publicised to Marina customers as well.</p>	AP

8.	Harbour Committee – Upcoming Agenda	Action
	AP ran through the proposed agenda for the meeting including update on Port Marine Safety Code, budget including purchase of a new electric forklift and new CCTV for Brixham.	All to note
9.	Any Other Business	Action
	<p>AB asked for an update on a recent post on Twitter about recycling – AP advised that at Brixham Harbour they are trying to recycle all metal items that are recovered on quayside and from the sea. AP asked if anyone has any ideas for waste and recycling to contact him. JO'D advised that he has a contact at Exeter Council for assistance with recycling different types of materials.</p> <p>JO'D commented on climate change, that changes are happening at a fast rate, and whilst there is a reserve available, this should be used to invest in electric vehicles and ways to evolve with climate change.</p> <p>JO raised the issue of Anti-social behaviour on Harbour side including drinking and drug taking around the Harbour especially around the Inner Harbour, which their customers find intimidating. AP advised that the CCTV around the Harbour has increased. AP advised he will pass on the concerns raised to the Community Safety team and if there are logs kept by the Marina then to send through to him to be passed on.</p> <p>CE asked if the development at Paignton Harbour South Quay is still happening and what was happened about the empty property there? SP advised that TDA are marketing the empty property on a longer lease period. AP advised that there are no current plans to redevelop South Quay however, he confirmed it is still stated in the Port Master Plan.</p> <p>DB thanked the forum for their assistance throughout his time as a Harbour Advisor and NA passed on her thanks as Harbour Chair.</p> <p>SP provided an update from the last Sea Safety meeting that was held and a sub group regarding sea swimmers has been created.</p>	AP/JO

Future meetings

Torquay Harbour Office

Dates of Harbour Committee Meetings

16th December 2019

5.30pm (Torquay)