

Friday, 13 March 2020

HARBOUR COMMITTEE

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

Monday, 23 March 2020

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

Councillor Amil
Councillor Barrand
Councillor Bye
Councillor Carter

Councillor Dudley
Councillor O'Dwyer
Councillor Ellery
Councillor Mills

External Advisors

Mr Blazeby, 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 - 6)
To confirm as a correct record the Minutes of the meeting of the Committee held on 16 December 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. **Appointment of External Advisor** (Verbal Report)
To approve the recommendation for appointment of an External Advisor to the Harbour Committee.
6. **Tor Bay Harbour Authority Budget Monitoring 2019/20** (Pages 7 - 13)
To note a report that updates members with income and expenditure projections for 2019/20.
7. **Review of the Tor Bay Harbour Authority Asset Management Plan** (Pages 14 - 21)
To approve the updated Asset Management Plan.
8. **Tor Bay Harbour Business Plan 2020-21** (Pages 22 - 38)
To consider a report that seeks approval of the Tor Bay Harbour

Business Plan 2020-21.

9. **Tor Bay Harbour: Operational Moorings and Facilities Policy** (Pages 39 - 63)
To consider a report that seeks approval of the Operational Moorings and Facilities Policy.
10. **Tor Bay Harbour Arts Policy** (Pages 64 - 72)
To consider a report that seeks approval of the Harbour Arts Policy.
11. **Review of Harbour Master's Delegated Powers** (Pages 73 - 76)
To review the delegated powers of the Torbay Harbour Master.
12. **Harbour Committee Work Programme 2020/2021** (Page 77)
To review and approve the Harbour Committee's work programme for the forthcoming Municipal Year.
13. **Port Marine Safety Code** (Page 78)
For Members to note the latest accident statistics for the Harbour Authority's operational area.
14. **Torquay/Paignton and Brixham Harbour Liaison Forums** (To Follow)
To note the minutes of the above Harbour Liaison Forums.



Minutes of the Harbour Committee

16 December 2019

-: Present :-

Councillor Amil (Chairwoman)

Councillors Barrand, Bye, Carter, Dudley, O'Dwyer, Ellery and Mills

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

76. Apologies

Apologies for absence were received from Councillor Dart and External Advisor Mr Day.

77. Minutes

The Minutes of the meeting of the Harbour Committee held on 24 September 2019 were confirmed as a correct record and signed by the Chairwoman.

At the request of the Chairwoman, the Tor Bay Harbour Master provided updates in relation to minutes 70, 71 and 74.

78. CCTV upgrade for Brixham Harbour

The Committee considered a report that sought authorisation to upgrade Brixham Harbour's CCTV system to address concerns raised by the Health and Safety Executive and Environment Agency officers during recent inspections.

The Tor Bay Harbour Master informed Members that the Council has an ongoing CCTV replacement project, having engaged with the lead project officer an appropriate cost-effective engineering solution for Brixham Harbour has been established. The benefits of joining the Council's CCTV replacement project were set out in the submitted report.

Resolved:

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.

79. Use of Harbour Reserves to undertake Health and Safety Improvements

Members considered a report that sought authorisation to undertake a number of necessary infrastructure improvements in order to deliver health, safety and environmental improvements.

The Tor Bay Harbour Master informed Members that a number of the improvements detailed in the report had been delayed due to the moratorium on spending implemented during the last few years, however these improvements were now essential in order to ensure the safety of users and operation of the Harbours.

Resolved:

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.

80. Port Marine Safety Code - Results of Annual Compliance Audit

The Harbour Committee noted a report that detailed the annual Port Marine Safety Code (the code) compliance audit. The code is not mandatory and does not create any new legal duties, 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.

Members noted that the Devon Audit Partnership, the appointed 'Designated Person' had provided the opinion that Tor Bay Harbour Authority was compliant with the requirements of the code. The Tor Bay Harbour Master drew Members attention to the action plan in particular recommendation 1.6.2 and 1.6.6, actions that were 'not agreed' by the Tor Bay Harbour Master. The Tor Bay Harbour Master provided Members a full explanation on the reasons for not agreeing with the two recommendations.

81. Tor Bay Harbour Authority Budget Monitoring 2019/2020

Members noted a report that provided details of projections of income and expenditure for the year 2019/20 compared with approved budgets. The report identified the overall budgetary position as at the end of November 2019 to enable appropriate action to contain expenditure and maintain reserves at appropriate levels.

The Tor Bay Harbour Master highlighted to Members that the level of Harbour Reserve would close the financial year considerably lower than at the start of the financial year.

82. Tor Bay Harbour Authority - Edge Protection Policy

Members considered the Edge Protection Policy which had undergone an annual review. Members felt the reference to consumption of alcohol needed to be strengthened given the vibrant night time economy in very close proximity of the Harbour estate.

Resolved:

That subject to consumption of alcohol being referenced, the Edge Protection Policy be approved.

83. Port Marine Safety Code

The Tor Bay Harbour Master provided a verbal update on the incidents and accidents that had occurred since September 2019.

84. Torquay/Paignton and Brixham Harbour Liaison Forums

Members noted the Torquay and Paignton Liaison Forum Minutes. The Tor Bay Harbour Master advised that the last Brixham Liaison Forum was a tour of Brixham Harbour rather than a formal meeting.

Chairwoman



Meeting: Harbour Committee

Date: 23 March 2020

Wards Affected: All

Report Title: Tor Bay Harbour Budget Monitoring 2019-20

Is the decision a key decision? No

When does the decision need to be implemented? N/A

Cabinet Member Contact Details: Not a Cabinet function

Supporting Officer Contact Details:

Adam Parnell, Harbour Master, 01803 853321, adam.parnell@torbay.gov.uk

Pete Truman, Principal Accountant, 01803 207302, pete.truman@torbay.gov.uk

1. Proposal and Introduction

1.1 This report identifies the overall budgetary position for Tor Bay Harbour Authority as at February 2020 compared with approved budgets.

2. Reason for Proposal and associated financial commitment

2.1 The 2019/20 Tor Bay Harbour Authority budget was approved by the Harbour Committee on 17th December 2018 and a report such as this is presented to each Harbour Committee meeting to enable appropriate action to contain expenditure and maintain reserves at appropriate levels.

3. Recommendation(s) / Proposed Decision

3.1 The Committee is asked to note:

- a. the amended outturn projections of the harbour accounts and adjustments to the Reserve Funds shown in Appendix 1;
- b. that harbour reserves are forecast to be depleted to £0 by 2022.
- c. the Head of Torbay Harbour Authority's use of delegated powers to make decisions in relation to the harbour budget;
- d. the Harbour Master's use of delegated powers to waive certain harbour charges which to date amounts to £5,614;
- e. that the loan made in November 2014 of £86,000 from Harbour Committee reserves to another Council department, which was due to be repaid between 2017 – 2019, remains outstanding;

Appendices

Appendix 1: Harbour Revenue Accounts 2019-20.

Background Documents

DfT [Ports Good Governance Guidance](#)

Report Clearance

Report clearance:	Reviewed & approved by:	Date:
Chief Executive	Steve Parrock	
Monitoring Officer	Anne-Marie Bond	
Chief Finance Officer	Martin Phillips	
Director Place	Kevin Mowat	

Section 1: Background Information																										
1.	<p>What is the proposal / issue?</p> <p>The 2019/20 Tor Bay Harbour Authority budget was approved by the Harbour Committee on 17th December 2018 and a report such as this is presented to each Harbour Committee meeting to enable appropriate action to contain expenditure and maintain reserves at appropriate levels.</p>																									
2.	<p>What is the current situation?</p> <p>Significant expenditure has been used to increase security arrangements at Brixham harbour and to effect infrastructure safety improvements in all three enclosed harbours. There has also been significant cost pressures from additional waste and insurance costs.</p> <p>However, despite buoyant fish tolls and a focus on maximising other income streams, there is insufficient to deliver the originally budgeted 'gain share' to the General Fund. This is unfortunate since this was built into the overall Council budget approved by full council and thus is an additional cost pressure on the overall harbour budget position.</p> <p>The consequence is that the harbour is most likely to be in a deficit position at year end. The performance against budget is:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">Total Budget</th> <th style="text-align: center;">Actual to Date (including prior years)</th> <th style="text-align: center;">Projected Outturn</th> <th style="text-align: center;">Notes</th> </tr> <tr> <th></th> <th style="text-align: center;">£000</th> <th style="text-align: center;">£000</th> <th style="text-align: center;">£000</th> <th></th> </tr> </thead> <tbody> <tr> <td>Oxen Cove Jetty</td> <td style="text-align: center;">2,500</td> <td style="text-align: center;">2,482</td> <td style="text-align: center;">2,527</td> <td style="text-align: center;">(i)</td> </tr> <tr> <td>North Quay Brixham Fendering</td> <td style="text-align: center;">300</td> <td style="text-align: center;">306</td> <td style="text-align: center;">306</td> <td style="text-align: center;">(ii)</td> </tr> <tr> <td>Victoria Breakwater</td> <td style="text-align: center;">3,853</td> <td style="text-align: center;">3,744</td> <td style="text-align: center;">3,864</td> <td style="text-align: center;">(iii)</td> </tr> </tbody> </table>		Total Budget	Actual to Date (including prior years)	Projected Outturn	Notes		£000	£000	£000		Oxen Cove Jetty	2,500	2,482	2,527	(i)	North Quay Brixham Fendering	300	306	306	(ii)	Victoria Breakwater	3,853	3,744	3,864	(iii)
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Victoria Breakwater	3,853	3,744	3,864	(iii)																						

Harbour Light Restaurant Redevelopment	600	717	800	(iv)
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(i) The approved budget for this scheme has increased to £2.5m following formal negotiations surrounding Compensation Event Notices issued by main contractor. The MMO is providing a maximum EMFF grant of £1.6m and it is now anticipated that the Council borrowing for the scheme will be no more than £1m.

(ii) Project fees have increased the total cost of the scheme.

(iii) Project fees have increased the total cost of the scheme.

(iv) Works are complete, on budget and the restaurant opened in March.

Prudential borrowing

The harbour's liability for prudential borrowing is:

Capital Scheme	Amount Borrowed	Start of Repayments	£ 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

Debt position

The debt position is:

	Corporate Debtor System		Harbour Charges	
	< 60 days	> 60 days	< 60 days	> 60 days
Debt outstanding	£15k	£53k	£21k	£14k
Bad Debt Provision	£23k			

Reserves

In 2011 the Harbour Committee set a reserve target of 20% of budgeted turn-over. This has been missed for a number of consecutive years and it is now very likely that these will be depleted by 2022.

3.

What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?

A safe, efficient and self-financing harbour positively contributes to the following priorities:

	<ul style="list-style-type: none"> • A Thriving Economy • A Council Fit for the Future
5.	<p>How does this proposal/issue contribute towards the Council's responsibilities as corporate parents?</p> <p>N/A</p>
6.	<p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p> <p>Tor Bay harbour is a regional focus for maritime-related employment: it is a thriving maritime recreational and leisure hub of national renown and also accommodates the largest fishing port in England and Wales by value of catch landed.</p> <p>A healthy, safe and efficient Bay is also a key driver for non-maritime sectors such as tourism, environment, R&D etc</p>
7.	<p>How does the proposal/issue impact on people with learning disabilities?</p> <p>No discernible impact</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?</p> <p>All harbour stakeholders, including maritime and non- maritime businesses are affected.</p> <p>Consultation is effected through regular harbour stakeholder liaison forums who are empowered to provide feedback via the Harbour Committee to the Council</p>

Section 2: Implications and Impact Assessment

9.	<p>What are the financial and legal implications?</p> <p>The Harbour account for 2019-20 is highly likely to be in a deficit position at year-end due to the size of contribution to the General Fund.</p> <p>The Harbour finances are currently not been run in accordance with the DfT's Ports Good Governance Guidance (March 2018). While not a statutory publication this is considered national 'best practice' for the ports industry.</p>
10.	<p>What are the risks?</p> <p>There is a risk that harbour reserves will be depleted by 2022 and thereafter there is a risk that the Harbour will require a General Fund precept to retain a balanced budget.</p> <p>If quayside facilities and services do not remained aligned with user need/requirements then there is a risk that incomes will decline.</p>

11.	<p>Public Services Value (Social Value) Act 2012</p> <p>N/A</p>
12.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>Feedback from harbour users and liaison forums Feedback from Committee members Feedback from fishing industry leaders Previous Harbour Committee reports</p>
13.	<p>What are key findings from the consultation you have carried out?</p> <p>There is disquiet amongst harbour stakeholders that despite high revenue incomes the harbour budget is likely to be in deficit at year end</p>
14.	<p>Amendments to Proposal / Mitigating Actions</p> <p>None</p>

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	601	591	1
Premises Costs:-				
Repairs and Maintenance	319	453	315	2
Energy & Water	189	189	253	3
Cleaning & Waste	92	129	125	4
Other Premises & Insurance costs	86	125	130	5
Operational Costs:-				
Security Services including CCTV	87	133	133	6
Professional Services	54	94	101	7
Equipment and V&P	39	74	91	
Other Services	108	108	108	
General & administration expenses	72	66	70	
Internal Support Services	175	181	181	
User Charges Concessions	11	14	14	
Capital Charges	498	498	498	
Contribution to General Fund - EHO	25	25	25	
Contribution to General Fund	802	802	802	
	3,187	3,492	3,437	

	2019/20 Original Budget £ ,000	2019/20 Current Budget £ ,000	2019/20 Projected Outturn £ ,000	Notes
Expenditure brought forward	3,187	3,492	3,437	
Income				
Rents and Rights :-				
Property and Other Rents/Rights	549	566	569	
Marina Rental	442	463	462	
Operating Income :-				
Harbour Dues	151	149	172	8
Visitor and Slipway	64	64	68	
Mooring fees	203	218	213	9
Pontoon Berths	588	588	588	
Fish Toll Income	978	925	984	10
Recharged Services	103	111	150	11
Harbour Facilities charges	85	80	88	
Licences & Contractor passes	28	28	31	
Reserved Car Parking	37	37	36	
Miscellaneous & Administration charges	27	29	45	
Contributions from Reserve	0	205	40	12
	3,255	3,463	3,446	
Operating Surplus /(Deficit)	67	(29)	9	
Gain share contribution to General Fund	(42)	0	(9)	
Gain share Contribution to Harbour Reserve	(25)	0	0	
Shortfall in Council budget contribution			(41)	13
Net Surplus /(Deficit)	0	(29)	(41)	

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.

RESERVE FUND	
Opening Balance as at 1st April	741
Interest Receivable (estimated)	7
Net Surplus / (Deficit) from Revenue Account	(41)
Capital Funding	(490)
Expected Closing Balance as at 31st March	217

	741	
	7	
	(41)	
	(490)	14
	217	

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 to be funded from the Harbour Reserve. These works have now been reclassified and transferred to the Council's capital accounts.
- 3 Energy costs have increased and are being investigated. Both energy and water costs are recharged where possible to harbour users (see note 11).
- 4 Additional waste costs from the Fish Market have been incurred and as well as costs of fully cleaning a contaminated oil tank.
- 5 Additional pressures have arisen from NNDR liabilities and rising insurance premiums.
- 6 The Head of Torbay Harbour Authority has implemented an increase in the level of external security to provide 24 hour cover.
Harbour Committee approved expenditure of up to £40k Northern Arm feasibility studies to be funded from Reserve.
- 7 Various items have been required during the year including a replacement CCTV camera and new kayak racks.
- 8 Income from commercial vessels has exceeded expectations.
- 9 Income from private and passenger craft are slightly below revised target levels due to dropping of facilities at Brixham.
- 10 Fish toll income has been buoyant during the winter months and the revised budget target remains feasible.
- 11 This heading includes the recharging of energy and water to harbour users (see note 3).
- 12 Reserve funding for Brixham Improvement Scheme feasibility costs. The previously reported funding of £165k for Health & Safety works per note 2 has now been transferred to capital funding.
- 13 The financial performance is unlikely to generate sufficient surplus for a significant gain share contribution to the General Fund as originally budgeted. However, the General Fund budget approved by full Council includes an additional £50k from the Harbour Account which will be required. The balance of this contribution is shown separately and will impact the Harbour Reserve.
- 14 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 funding 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 have been approved for an enhanced CCTV facility and a replacement forklift at Brixham (total £108,000).



Meeting: Harbour Committee

Date: 23 March 2020

Wards Affected: All

Report Title: Review of the Tor Bay Harbour Authority Asset Management Plan

Is the decision a key decision? No

When does the decision need to be implemented? N/A

Cabinet Member Contact Details: Not a Cabinet function

Supporting Officer Contact Details: Adam Parnell, Harbour Master, 01803 853321, adam.parnell@torbay.gov.uk

1. Proposal and Introduction

1.1 The Tor Bay Harbour Act 1970 empowers the Council to inter alia allot 'lands buildings and property of every description, and of whatever nature [to the] harbour authority ... for the purpose of the undertaking'.

1.2 The harbour authority operates a Harbour Asset Management Plan (AMP) to ensure that such 'lands, buildings and property' are effectively and efficiently employed to further the aims of both the harbour authority as an undertaking and the wider aims of the Council.

2. Reason for Proposal and associated financial commitment

2.1 The AMP is the means by which the harbour committee meets its obligations to provide strategic direction for those assets that it manages.

2.2 An appropriate AMP helps the Harbour Asset Review working party to: monitor the harbour estate; identify inefficient assets or those which require maintenance or disposal; and provide strategic advice in respect of such assets.

2.3 The harbour's asset maintenance programme is reviewed annually, and prioritised against the results of condition surveys, which are customarily held on the Council's asset register.

2.4 There are no new financial commitments associated with the adoption of this plan.

3. Recommendation(s) / Proposed Decision

3.1 That the Harbour Committee approve and adopt the updated Asset Management Plan.

Appendices

Appendix 1: The Tor Bay Harbour Authority Asset Management Plan 2020/21.

Background Documents

None

Section 1: Background Information

1. What is the proposal / issue?

1.1 The Council 'from time to time' vests a number of assets to the harbour authority to ensure that the undertaking remains a safe and sustainable place to serve the needs of our communities; improve the lives of those who live and work in the Bay; and assist in regenerating Torbay.

1.2 The Harbour Committee annually adopts and implements an Asset Management Plan (AMP) as the means by which it meets its obligations to provide strategic direction for those assets within the harbour and the harbour estate.

2. What is the current situation?

2.1 The assets currently managed by the harbour authority on behalf of the Council are governed by the harbour committee. Many are critical to the safe operation of the harbour, and others are essential in generating revenue.

2.2 The 'harbour estate' means the piers, wharves, quays, berths, roads, sheds and other works and conveniences, and the lands, buildings and property of every description, and of whatever nature, which are for the time being vested in or occupied by the Corporation (Council) as harbour authority and used for the purpose of the harbour undertaking. (Tor Bay Harbour Act 1970).

2.3 The estate may be varied from time to time by the Council, having taken full consideration of the operational requirements of the harbour authority and the Council's policy to deliver a self-funding, financially sustainable harbour service.

2.4 The harbour committee annually nominates an Asset Review Working Party to advise whether harbour assets are required, fit for purpose and provide value for money. It also provides strategic direction in relation to these assets regarding their retention or disposal. This is in line with the harbour committee's Terms of Reference set out in the Council's constitution.

2.5 The Asset Review Working Party met on the 10th September 2019 and 25th February 2020 who were supported by both the Harbour Master and TDA. All assets were reviewed and the Working Party was satisfied that they could broadly establish how each asset was performing. No assets were identified as being surplus to the requirement.

2.6 The Council is the freehold owner of the harbour estate. Under the Tor Bay Harbour Acts 1970 and 1983, the Council is also the harbour authority and has a duty to maintain and improve the harbour and the services and the facilities in it.

<p>3.</p>	<p>What options have been considered?</p> <p>The following options have been considered:</p> <ul style="list-style-type: none"> - Forego the use of an AMP and respond reactively to emergent maintenance requirements. This would likely place short-notice and unplanned pressures on the revenue maintenance budget and is not recommended. - Outsource asset management and repair to a third party. This would increase overall costs as their overheads would have to be included in the overall maintenance budget and is thus not recommended. - Reduce the extent of the harbour estate by handing back properties and land to the Council. This is broadly neutral as it reduces both income and maintenance liabilities in equal measure. However it complicates the administration of harbour-side issues and is thus not recommended at this juncture.
<p>4.</p>	<p>What is the relationship with the priorities within the Partnership Memorandum and the Council’s Principles?</p> <p>This project directly contributes to the following objectives:</p> <ul style="list-style-type: none"> • A Thriving Economy. That the harbour estate supports viable and sustainable marine businesses. • Thriving People and Communities. That the harbour authority discharges its statutory duty of care to provide a safe environment and its duty to conserve the environment.
<p>5.</p>	<p>How does this proposal contribute towards the Council’s responsibilities as corporate parents?</p> <p>No significant effect.</p>
<p>6.</p>	<p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p> <p>No significant effect.</p>
<p>7.</p>	<p>How does this proposal tackle inequalities?</p> <p>No significant effect.</p>
<p>8.</p>	<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?</p> <p>Consultation is proactively undertaken through dialogue with the harbour forums.</p>

Section 2: Implications and Impact Assessment

9.	<p>What are the financial and legal implications?</p> <p>Legal</p> <p>The Council, as the nominated Statutory Harbour Authority in the Tor Bay Harbour Act 1970, has <i>inter alia</i> a duty to ensure the following:</p> <ul style="list-style-type: none">• To provide, conserve, maintain and improve the harbour and services and facilities afforded therein [s6 Tor Bay Harbour Act 1970];• To see that the harbour is in a fit condition for a vessel to utilise it safely [Harbour Docks & Piers Clauses Act 1847];• A general duty to exercise its functions with regard to nature conservation and other environmental considerations [s48A Harbours Act 1964]. <p>The key provisions in local legislation regarding to the Authority's works powers are:</p> <ul style="list-style-type: none">• Tor Bay Harbour Act 1970 S13: works in the harbour; <p>Financial</p> <p>The costs of routine maintenance have already been incorporated into the revenue budget, thus there are no new financial commitments arising as a result of this report</p>
10.	<p>What are the risks?</p> <p>Without an Asset Management Plan there is a risk that the material condition of the harbour estate declines to the point that lease revenues are depressed, personal safety is put at risk and that the Authority's reputation is traduced.</p> <p>Adoption and implementation of an Asset Management Plan will mitigate all of these risks.</p>
11.	<p>Public Services Value (Social Value) Act 2012</p> <p>Not applicable</p>
12.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <ul style="list-style-type: none">• Analysis of historic spending norms on routine and reactive maintenance requirements;• Asset rental returns;• Inspection reports;

	<ul style="list-style-type: none"> • Stakeholder consultation feedback; • Asset registers.
13.	<p>What are key findings from the consultation you have carried out?</p> <ul style="list-style-type: none"> • The current strategy of managing assets through a proactive Asset Management Plan is the most cost effective approach and should be continued.
14.	<p>Amendments to Proposal / Mitigating Actions</p> <p>None.</p>

Tor Bay Harbour Authority - Asset Management Plan 2020/21

1. Service Background and Outcomes

Tor Bay Harbour has existed as a successful, efficient and economical statutory entity since 1970. It is committed to improving the service provided by the Harbour Authority and to support the local economy as a focus both for the local community and visitors to the Bay.

The '*harbour estate*' means the piers, wharves, quays, berths, roads, sheds and other works and conveniences, and the lands, buildings and property of every description, and of whatever nature, which are for the time being vested in or occupied by the Corporation (Council) as Harbour Authority and used for the purpose of the harbour undertaking. (Tor Bay Harbour Act 1970).

The harbour committee governs all of the assets managed by the harbour authority service on behalf of the Council. Many are critical to the safe operation of the harbour and others are essential in terms of revenue. The extent of the harbour estate is determined by the Council and may be varied from time to time with full consideration of the operational requirements of the harbour authority and the Council's policy to deliver a self-funding, financially sustainable harbour service. Routine maintenance costs for harbour assets are met from the harbour accounts as per Council policy.

The harbour committee's terms of reference require it to provide strategic direction in relation to the assets within the harbour estate that are managed by the Tor Bay Harbour Authority service. The Harbour Committee annually appoints an Asset Review Working Party comprising four members of the harbour committee and two external advisors to: review all assets within harbour estate; establish how each asset is performing; and identify any assets that are surplus to requirements.

2. Scope

This Asset Management Plan covers all assets managed and occupied by the Tor Bay Harbour Authority service. The list of harbour assets shows the current asset/property portfolio under the harbour authority's purview. Portfolio management is informed by strategic advice and direction from the harbour committee. The Asset Review Working Party, described in section 1 above, reports its findings to the harbour committee on how each asset is performing and identifying any that are surplus. This advice includes options and actions that might be required to implement proposed changes.

3. Outcomes

The Harbour Asset Review Working Party concluded that:

- all assets within Tor Bay Harbour and the harbour estate had been successfully reviewed;
- they were satisfied that they could broadly establish how each asset was performing;
- no assets were identified as being surplus to requirements;
- the Brixham fuel jetty has dilapidated to the point of danger; the Harbour Master was directed to seek specialist H&S advice to further improve pedestrian and vessel anti-access measures.

The Working Party has been updated on the pressing need to enlarge Brixham fish market through land reclamation, and the continuing deterioration of the derelict fuel jetty on the Brixham breakwater.

4. Audit & Review

The following have been identified as requiring an ongoing review and/or action.

Asset Name	Action	Timeline
Old Fuel Jetty	Obtain specialist H&S advice to further improve pedestrian and vessel anti-access measures.	By end March



Meeting: Harbour Committee

Date: 23 March 2020

Wards Affected: All

Report Title: Tor Bay Harbour Business Plan 2020-21

Is the decision a key decision? No

When does the decision need to be implemented? N/A

Cabinet Member Contact Details: Not a Cabinet function

Supporting Officer Contact Details: Adam Parnell, Harbour Master, 01803 853321, adam.parnell@torbay.gov.uk

1. Proposal and Introduction

1.1 This report presents a proposed harbour business plan for 2020/21.

2. Reason for Proposal and associated financial commitment

2.1 The DfT recommends that harbour authorities publish a business plan to ensure their long-term sustainability. The proposed business plan for 2020/21 (Appendix 1) is predicated on the budget agreed by the Harbour Committee on 24th September 2019; there are no new budgetary commitments as a result of this report.

3. Recommendation(s) / Proposed Decision

3.1 That the Harbour Committee approve the Harbour Business Plan as set out in Appendix 1 to the submitted report.

Appendices

Appendix 1: Harbour Business Plan 2020/21.

Background Documents

DfT [Ports Good Governance Guidance](#)

Section 1: Background Information

1.	<p>What is the proposal / issue?</p> <p>1.1 The Tor Bay Harbour Authority adheres to the recommendation made in the Department for Transport's 'Ports Good Governance Guidance' document that it publish an annual business report to ensure the long-term viability of the harbour undertaking. This is updated and adopted annually by the harbour committee.</p>
2.	<p>What is the current situation?</p> <p>2.1 In 2013 the harbour authority published its Port Masterplan, setting out its long-term strategic vision for the future direction of Tor Bay Harbour. In 2019 this was brought up to date with the publication of the Port Masterplan Addendum, which considered the next 5 years in greater depth.</p> <p>2.2 The Harbour Business Plan for 2020-21 articulates how the <i>Addendum's</i> objectives will be progressed over the next 12 months. Where the <i>Masterplan</i> and the <i>Addendum</i> are strategic in nature, the Business Plan focuses on the operational actionable detail.</p>
3.	<p>What options have been considered?</p> <p>The following options have been considered:</p> <ul style="list-style-type: none">- Not to publish an annual Business Plan and instead use the strategic guidance encapsulated in the <i>Addendum</i>. This does not provide sufficient actionable detail and is thus not recommended.
4.	<p>What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?</p> <p>This project directly contributes to the following objectives:</p> <ul style="list-style-type: none">• A Thriving Economy.• Thriving People and Communities.• A Climate Fit for the Future <p>It also ensures that the harbour authority:</p> <ul style="list-style-type: none">• Uses reducing resources to best effect• Reduces demand through prevention and innovation• Employs an integrated and joined-up approach with the wider Council and external bodies
5.	<p>How does this proposal contribute towards the Council's responsibilities as corporate parents?</p> <p>No significant effect.</p>

6.	<p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p> <p>No significant effect.</p>
7.	<p>How does this proposal tackle inequalities?</p> <p>No significant effect.</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?</p> <p>Consultation is proactively undertaken through dialogue with the harbour forums.</p>

Section 2: Implications and Impact Assessment	
9.	<p>What are the financial and legal implications?</p> <p>There are no financial or legal implications arising as a result of this report</p>
10.	<p>What are the risks?</p> <p>Without a business plan there is a risk that coherence of activities is sub-optimal, resulting in the published objectives not being met</p>
11.	<p>Public Services Value (Social Value) Act 2012</p> <p>Not applicable</p>
12.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>The harbour liaison forums have been consulted on this report</p>
13.	<p>What are key findings from the consultation you have carried out?</p> <p>No significant changes</p>

14.	Amendments to Proposal / Mitigating Actions None
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Business Plan 2020/21

1. Executive Summary
 2. Introduction
 3. SWOT Analysis
 4. Compliance with the Ports Good Governance Guidance
 5. Strategic Objectives and Core Values
 6. Priorities, Outcomes and Actions
 7. Budget and Financial Planning
 8. Targets and Performance Indicators
 9. Business Plan Acceptance Statement
- Appendix 1 - Plan of Tor Bay Harbour

1. Executive Summary

Torbay Council, as the statutory Harbour Authority, manages Tor Bay harbour through its harbour committee, which is a committee of the full council. It oversees the strategic management of the harbour and ensures the safe and efficient operation of the harbour estate.

In particular it sets the harbour's budget, its fees and charges, and fulfils the *duty holder* role for the purposes of the Port Marine Safety Code. This is undertaken within the framework of council policy with special attention being given to the aspirations set out within the *Port Masterplan*.

There is a strong commitment to continually improve its services to its stakeholders, to develop its role in supporting the local economy and as a focus both for the local community and visitors to the Bay.

2. Introduction

In operational terms the harbour authority controls over 22 miles of coastline and 16 square miles of open sea. Appendix 1 show the limits of Tor Bay Harbour.

Bay-wide harbour controls permit the regulation of shipping, control over pollution risks, management of the harbour estate and zoning of small craft activity. Marine operations regularly dovetail effortlessly with beach, coast and environmental issues, often with a common aim.

Torbay, as a single harbour entity which encapsulates its 3 enclosed ports, is well suited to best serve the needs of all the relevant stakeholders.

Vision - *'To ensure safe and efficient harbour operations within an improving commercial and natural environment'*.

"Better Services – Safer Harbour – Enhanced Environment"

Mission Statement – *'to provide high quality facilities and services that improve the physical safety and natural environment of Tor Bay Harbour'*.

To deliver this vision, the harbour authority continuously challenges the way it delivers its services to ensure that the most cost effective and efficient approach is adopted. Wherever possible the harbour authority works with the private sector, external agencies and other organisations to deliver coherent high quality services. A well-trained, motivated and well-equipped harbour and beaches team is central to the delivery of these objectives.

Facilities within the harbour are provided for residents, tourists, day visitors, clubs, organisations and businesses throughout Torbay. The extent to which individual facilities serve different user groups and individuals is dependent upon the facility type and operation. The service is responsive to the unique make up of Torbay's resident and visiting population.

Our main customers and stakeholders include:

- Resident and visiting commercial fishing vessels and their crews;

- Brixham Trawler Agents, fish merchants & fish processors;
- Visiting commercial vessels;
- Owners and users of private pleasure and recreational vessels;
- Owners, skippers and crew of certified passenger carrying pleasure craft, including chartered angling vessels, dive boats, heritage boats, etc;
- Residents, tourists and visitors;
- Commercial marina operators;
- Emergency services including the Royal National Lifeboat Institution (RNLI);
- Regulatory bodies such as:
 - Marine Management Organisation (MMO);
 - Devon & Severn Inshore Fisheries & Conservation Authority (IFCA);
 - Maritime & Coastguard Agency (MCA);
 - UK Hydrographic Office (UKHO);
- Organisations involved in waterborne sports and activities (e.g. Yacht and sailing clubs, training organisations, Scouts, Sea Cadets, divers, rowing clubs, youth groups etc);
- Marine & Towage Services Group (contracted pilotage service provider);
- Businesses and charitable organisations, including various individuals and groups providing entertainment and events on the harbour estate;

3. SWOT Analysis

Strengths	Weaknesses
<ul style="list-style-type: none"> Harbour is a recognised port of refuge and provides shelter from prevailing conditions, with good anchorages for ships 4th largest fishing port in UK with excellent reputation for quality The harbour is a developing cruise vessel destination Outstanding natural environment with variety of designations eg UNESCO geo-park A vibrant and commercially viable harbour estate abutting the waterfront A single governance regime encompassing the 3 enclosed harbours and the Bay Comprehensive provision of leisure and recreational boating facilities, including a number of active yacht clubs Financial self-sufficiency of harbour 	<ul style="list-style-type: none"> Lean harbour staffing levels limit services offered (eg patrol boat) Lack of waterfront space hampering further harbour business growth, particularly commercial fishing industry Aging critical infrastructure eg piers, quays, mooring ground chains, slipways etc Harbour infrastructure is vulnerable to effects of climate change Infrastructure & water depth are insufficient to accept cargo/ cruise vessels alongside Lack of vessel repair and lift-out facilities Road network congestion in high season No rail connections to the enclosed ports Paucity of car parking Shortage of maritime skills
Opportunities	Threats
<ul style="list-style-type: none"> Future UK-EU trade deal may provide opportunities eg additional landing quota/TAC and greater numbers of MFV fish landings Rising political interest in the fishing industry The Bay has potential to be an aquaculture 'centre of excellence' Growth in the cruising and 'green' tourism sectors Feasibility study into installation of a floating breakwater in Brixham Potential for multi-storey parking in Brixham Links to regional Higher and Further Education establishments External development funding opportunities 	<ul style="list-style-type: none"> Increasing size of financial contribution to council's General Fund effectively prohibits harbour authority ability to fund harbour development projects Climate change and coastal erosion Unknown consequences of Brexit on fishing and tourism industries Increasingly onerous legislative and regulatory environment could stifle development Competition from other harbours/ fishing ports/ cruise destinations Change in fishing patterns Unpredictability of fish toll income post BREXIT implementation period

Note: unusually, BREXIT appears as an opportunity and a threat because there is presently insufficient detail to identify the risks and opportunities that the future UK-EU trade deal (or lack of) may occasion.

4. Compliance with the Ports Good Governance Guidance

The Ports Good Governance Guidance (DfT, 2018) applies to all statutory harbour authorities in England. While not legally binding, DfT expects harbour authorities to implement its principles, *inter alia*:

- the need for port businesses to be headed by an effective board which is collectively responsible for long-term success of the business;
- effective stakeholder engagement to improve understanding of the harbour;
- operating in an open, transparent and accountable way, making a range of information available to stakeholders about their organisation and activities;
- ensuring marine safety;
- environmental conservancy

The harbour authority complies with these principles through its harbour committee, which manages and governs the harbour and its enclosed ports within the limits articulated in the council's policy framework, including the setting of the harbour's budget, fees and charges, and capital expenditure.

The relationship between the council (the owning authority) and the harbour committee (the managing body) is detailed in published terms of reference and the Council's constitution. In effect, the Tor Bay Harbour Authority is an internally commissioned service.

The harbour committee is also the Port Marine Safety Code '*duty holder*'.

Two stakeholder fora (the Brixham harbour liaison forum, and the Torquay/Paignton harbour liaison forum) give advice on operational matters and provide a conduit on such matters to the harbour committee. Both meet prior to each committee meeting where their meeting minutes are discussed.

The government may provide further policy advice to municipal ports in future years but for now Torbay Council has created an accountable, expert and responsive form of governance and the harbour management has an appropriate level of independence and flexibility.

5. Strategic Objectives and Core Values

Tor Bay Harbour Strategic Objectives

To maintain, protect and enhance the harbour whilst at the same time deriving the full range of sustainable environmental, economic and social benefits outlined in the Tor Bay Harbour Port Masterplan.

Harbour Authority Priorities

1. Maintain safety
2. Improve harbour infrastructure
3. Improve customer experience
4. Stewardship of the harbour's built and natural environment
5. Engage with the community and harbour users
6. Encourage local prosperity

Links to Corporate and priorities

This plan contributes directly and indirectly to the targeted actions set out in the Council's *Partnership Memorandum*:

- **Thriving people and communities**
- **A thriving economy**
- **A climate fit for the future**

6. Priorities, Outcomes and Actions

Council Ambitions – Thriving people and communities

Priority 1: Maintain Safety

Outcomes sought:

- Fulfil the council's statutory obligations as a Competent Harbour Authority
- Manage safety of navigation, and overall harbour safety, through the enforcement of applicable byelaws and appropriate legislation
- Comply with the Port Marine Safety Code through the use of a robust Marine Safety Management System

ACTIONS	Timescale	Who
Pass annual audit / inspection from Trinity House and file quarterly reports	Quarterly	Harbour Master
Review and exercise the Tor Bay Harbour Emergency Response Plan	April	Harbour Master
Issue local Notices to Mariners and enforce Harbour Byelaws	As required	DHM
Manage a seasonal beach / harbour response craft	May to September	DHM Torquay
Operate the Safety Management System Improvement Plan	November	All
Audit the Safety Management System and agree an Improvement Plan	December	Harbour Master

Priority 2: Improve Harbour Infrastructure

Outcomes sought:

- Investment to fund infrastructure improvement projects
- Limit or reverse consequences of infrastructure aging

ACTIONS	Timescale	Who
Develop robust business case for Brixham fish market expansion and northern arm breakwater and seek central government support if possible	March-May	Harbour Master, Business Manager
Undertake limited dredging campaign on approaches to Brixham MFV basin	May-July	Harbour Master
Improve fendering on MFV berths	September	AHM Brixham
Engage with TDA and EA to secure funding guarantees for pier and quay wall repairs	Ongoing	Harbour Committee, Harbour Master

Priority 3: Improve Customer Experience

Outcomes sought:

- Maintain and improve the quality of service that we provide to our customers
- Tailored services that meet the changing needs of our customers
- Marine and harbour facilities made available to as many users as possible
- Delivery of a professional and caring service, that is fit for purpose
- Courteous and fair treatment of our customers
- Undertake our duties in a fair and equitable manner
- Ensure equality and diversity in service delivery together with equality of opportunity

ACTIONS	Timescale	Who
Continue benchmarking via the British Ports Association, UK Harbour Masters Association, RYA, BMF & SW Regional Ports Association	Ongoing	Harbour Master
Review the Tor Bay Harbour Operational Moorings Policy	March	Business Manager
Monitor and support staff through induction and appraisal reviews (RADARs)	March/April	All Managers
Complete Equality Impact Assessments	November	HM Paignton
Implement Equality Impact Assessment Improvement Plans	November	All Managers

Priority 4: Stewardship of the Harbour's Built And Natural Environment

Outcomes sought:

- A sustainable approach to harbour management in recognition of climate change
- Increase public awareness of the maritime environment as a valuable environmental, economic and social asset
- Minimal environmental impact of harbour activities
- Improving quality of life by creating a clean and attractive environment that is valued by residents and visitors

ACTIONS	Timescale	Who
Work with partners to help deliver the English Riviera Destination Management Plan	2017 ~ 2021	Harbour Committee, all Managers
In partnership with S&D IFCA, develop a Tor Bay aquaculture strategy	May-Jun	Harbour Master
Seek external funding for climate change counter-measures eg sea/flood defences	Ongoing	Harbour Committee,

Priority 5: Engage With the Community and Harbour Users

Outcomes sought:

- To consult with all relevant user groups and stakeholders
- To provide an open, accountable and transparent management of Tor Bay Harbour
- A higher percentage of people who feel they can influence harbour management decisions
- Influence, respond and contribute to the economic, voluntary, community, cultural and environmental agendas

ACTIONS	Timescale	Who
Support and engage with the local Coastal Partnerships	Ongoing	Harbour Master, DHMs
Hold quarterly meetings with harbour users & stakeholders (Liaison Forums)	Quarterly	Harbour Master

Priority No. 6: Encourage Local Prosperity

Outcomes sought:

- Capitalise on Torbay's maritime setting
- Support for the local economy and economic growth
- Regeneration of the enclosed harbours of Brixham, Paignton and Torquay
- Enable a strong and sustainable Fishing Industry

ACTIONS	Timescale	Who
Contribute to tourism by working to support event organisers	Ongoing	All Harbour Staff
Work collaboratively with the English Riviera BID Company, especially in respect of marketing and promoting Tor Bay Harbour	Ongoing	Harbour Masters & ERBC
Engage with TDA, the LEP the Mayor and the Council to maximise the potential benefits of marine/waterfront projects	Ongoing	Executive Head & Harbour Committee
Identify potential grant funding opportunities, including any new European funding programmes and Environment Agency flood defence options	Ongoing	Harbour Master & TDA
Work with the Economic Development Company (TDA) and the Local Enterprise Partnership (LEP) to help deliver the Marine Economy Action Plan, including projects like the Fish Processing Park and marine related development at Oxen Cove	Ongoing	Executive Head & Harbour Committee
Contribute to tourism by providing visitor mooring facilities	May ~ Oct	Harbour Masters

7. Budget and Financial Planning

Expenditure	2019/20	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
	Base Budget £ ,000	Projected Outturn £ ,000	Provisional Budget £ ,000	Provisional Budget £ ,000	Provisional Budget £ ,000	Provisional Budget £ ,000	Provisional Budget £ ,000
Harbour Employee Costs	630	601	651	668	685	703	721
Operations and Maintenance :-							
Repairs and Maintenance	319	453	322	343	290	290	290
Rent Concessions	11	14	14	14	14	14	14
Other Operating Costs	585	784	689	703	713	723	737
Management and Administration :-							
Internal Support Services	175	181	185	188	192	196	200
External Support Services	47	47	48	49	50	51	52
Other Administration Costs	95	87	85	87	88	89	90
Capital Charges	498	498	536	536	536	536	536
Contribution to General Fund - EHO	25	25	25	25	25	25	25
Contbn to General Fund (Asset Rental)	802	802	802	802	802	802	802
	3,187	3,492	3,356	3,415	3,395	3,429	3,467
Income							
Rents and Rights :-							
Property and Other Rents/Rights	549	566	607	607	607	607	603
Marina Rental	442	463	463	472	482	491	501
Operating Income :-							
Harbour Dues	151	149	154	157	160	163	167
Visitor and Slipway	64	64	65	66	67	68	69
Mooring fees	203	218	207	211	215	219	223
Pontoon Berths	588	588	599	611	623	636	649
Fish Tolls	978	925	925	925	925	925	925
Recharged Services	103	111	136	139	141	144	147
Boat and Trailer parking	44	44	45	46	47	48	49
Harbour Facilities charges	41	36	37	37	38	39	40
Licences & Contractor passes	28	28	29	29	30	30	31
Reserved Car Parking	37	37	38	38	39	40	41
Miscellaneous & Administration charges	27	29	30	30	31	31	32
Contributions from Reserve		205					
	3,254	3,463	3,334	3,370	3,406	3,443	3,476
Operating Surplus /(Deficit)	67	(29)	(22)	(45)	11	14	9
Gain share contribution to General Fund	(42)	0	0	0	(11)	(14)	(9)
Gain share contribution to Harbour Reserve	(25)	0	0	0	0	0	0
Net (Deficit)	0	(29)	(22)	(45)	0	0	0
RESERVE FUND							
Estimated Opening Balance as at 1st April		741	229	62	23	28	33
Interest Receivable		7	6	6	5	5	5
Net Surplus / (Deficit) from Revenue Account		(29)	(22)	(45)	0	0	0
Withdrawals - Harbour Schemes		(490)	(150)	0	0	0	0
Expected Closing Balance as at 31st March		229	62	23	28	33	38

Contribution to the General Fund and Reserves

The size of the contribution to the Council's General fund via an asset rental has been stabilized at £802,000 pa (23% of turn-over) following an agreement in 2018 that the council and harbour authority would employ a 'gain share' arrangements of any trading surplus over this figure instead of continually raising the size of the contribution which placed too great a financial risk to the harbour authority's ability to remain financially self-sustaining should revenues not meet budgeted incomes.

The harbour reserve, which stood at £741,000 on 1st April 2019 has been reduced to £229,000 to fund a number of investment and schemes which have included:

Harbour Light (Paignton) redevelopment:	£27,000
Installation of water meters (Brixham):	£110,000
Study into northern breakwater feasibility:	£40,000
Remedial infrastructure repairs:	£165,000
Replacement CCTV system (Brixham)	£75,000
Replacement forklift truck (Brixham)	£33,000

In 2020/21 the reserve will again be used to fund a limited dredging campaign (£150,000).

Note that the 2020/21 budget forecasts a £29,000 deficit but this is predicated on a conservative level of fish toll income; if these are exceeded then the overall budget is likely to return to a balanced position.

8. Targets and Performance Indicators

The following are a selection of targets and performances indicators that are tracked on the Council's corporate performance management system – SPAR.NET.

Brixham Harbour Fish Tolls

Year	Target	Actual	Status
2017/18	£571,000	£1.05m	Well above target
2018/19	£960,000	£960,000	On target
2019/20	£925,000		On target

Navigation Lights Availability

Year	Target	Actual	Status
2017/18	95%	98.4%	Well above target
2018/19	95%	97.87%	Above target
2019/20	95%	97%	Above target


Harbour estate lettings occupancy

Year	Target	Actual	Status
2017/18	98%	100%	On target
2018/19	98%	98%	On target
2019/20	98%	98%	On target

9. Business Plan Acceptance Statement

Business Plan Acceptance

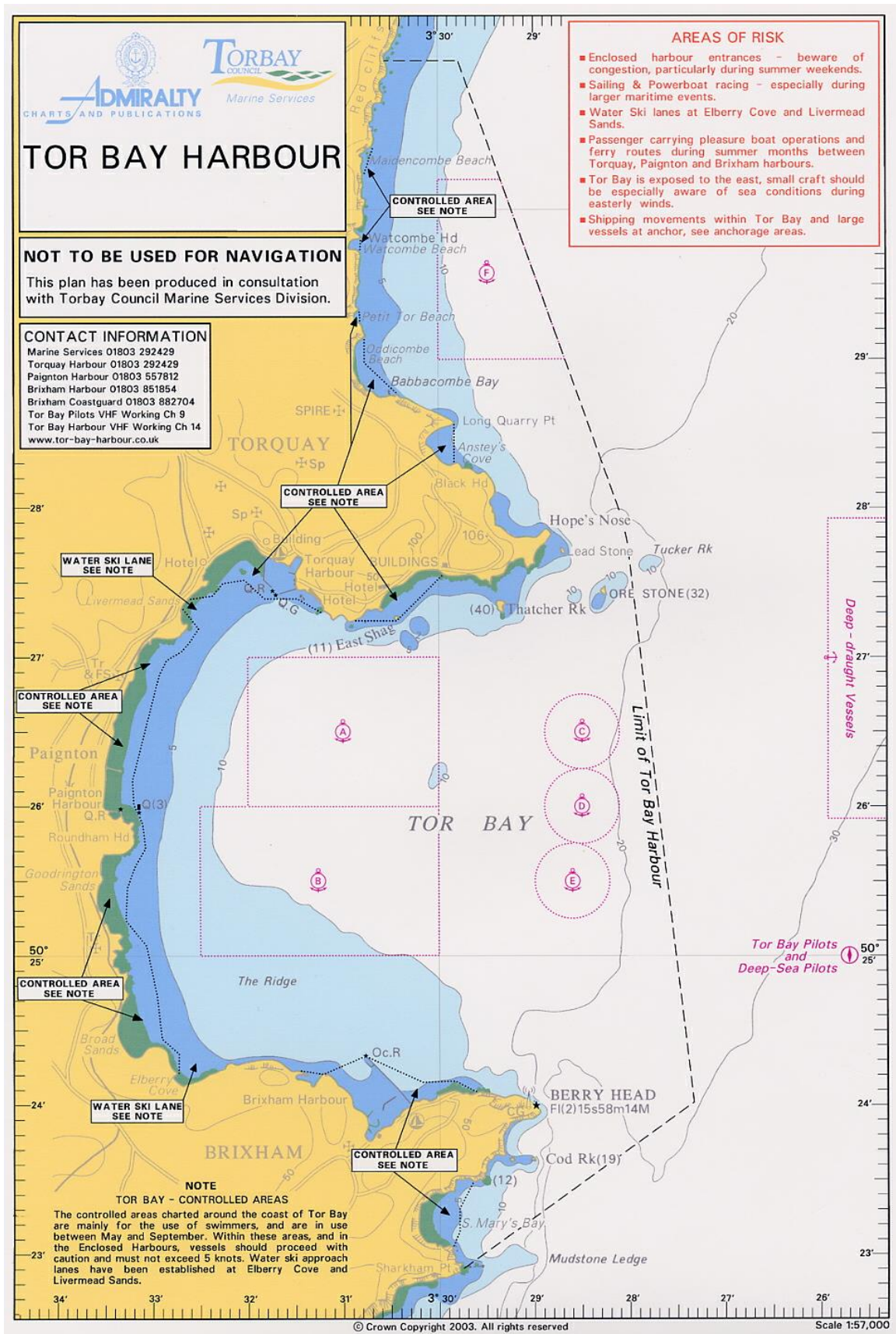
Service Area - Tor Bay Harbour Authority	Business Plan 20/21
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Signed and accepted by Head of Tor Bay Harbour Authority & Tor Bay Harbour Master	<i>Print and Sign</i>  Captain Adam Parnell
Date	March 2020

Signed and accepted by Harbour Committee Chairman	<i>Print and sign</i> Councillor Nicole Amil
Date	March 2020

APPENDIX 1

Plan of Tor Bay Harbour



TOR BAY HARBOUR AUTHORITY

OPERATIONAL MOORINGS AND FACILITIES
POLICY



Version 16

Tor Bay Harbour Authority Operational Moorings and Facilities Policy

Introduction

Tor Bay Harbour is a strategic asset of the Bay and of fundamental importance to the economic and cultural wellbeing of the area. Torbay Council is the Statutory Harbour Authority which discharges the duties and responsibilities detailed in the Tor Bay Harbour Act 1970. This Act is in turn based upon the Harbours, Docks and Piers Clauses Act 1847, which confers certain powers upon the Harbour Master concerning management of the Harbour.

The provision and management of mooring facilities within Tor Bay is one of the Harbour Authority's core activities.

The purpose of this policy is to guide the management of the Harbour Authority whenever it takes decisions on issues relating to the provision of mooring or berthing facilities within Tor Bay. It also ensures that a consistent, fair and equitable approach is applied to new, existing and potential facility users in Tor Bay and upon the harbour estate. The policy does not form part of Torbay Council's strategic policy framework.

Every decision regarding mooring facilities will be based upon a number of factors, the principal factors being:

- Safety and efficiency;
- The requirements of safe navigation;
- Conservation of the environment.

This policy is not a legal document and the Harbour Authority reserves the right to exercise its absolute discretion over any decision and reserves the right to amend and or republish the conditions at any time.

Subject to the Council's Port Masterplan, nothing within this policy shall interfere with the Harbour Master's overall ability to allocate or regulate the number, location, size and type of facilities being used at any time within Tor Bay Harbour. It supplements the Tor Bay Harbour Act 1970 (and subsequent amending legislation), the associated harbour bye- laws, and the facility agreement conditions.

We have tried to include all situations and circumstances, however if an issue arises that has not been considered I will undertake to ensure that an open, fair and just resolution is sought.



Captain Adam Parnell AFNI
Tor Bay Harbour Master
Head of Tor Bay Harbour Authority

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Definitions (extracts from the Tor Bay Harbour Act 1970 & Harbour Byelaws)

1. “Harbour” means the limits of Tor Bay Harbour as comprised in the areas in Part I and Part II in the Schedule of Byelaws. “Enclosed Harbours” means at Torquay the area of water enclosed by an imaginary line drawn from the western end of Haldon Pier to the south eastern end of Princess Pier; at Paignton the area of water enclosed by an imaginary line drawn from the eastern end of North Quay to the northern end of Eastern Quay; and at Brixham the area of water enclosed by the Breakwater, an imaginary line from the northern end of the Breakwater to Battery Point and the shore.
2. “Harbour Estate” means the piers, wharves, quays, jetties, stages, berths, slipways, roads, sheds, and other works and conveniences and the lands, buildings and property of every description and of whatever nature which are for the time being vested in or occupied by the Harbour Authority and used for the purpose of the Harbour undertaking.
3. “Harbour Master” means the Harbour Master appointed by the Council and includes his authorised deputies, assistants and any other person authorised by the Council to act in that capacity.
4. “Inner part of Brixham Enclosed Harbour” means the area of water enclosed by an imaginary line drawn from the eastern end of New Pier to Kings Quay.
5. “Quays” means any quay, wharf, jetty, dolphin, landing stage or structure used for berthing or mooring vessels, and includes any pier, bridge, roadway or footway immediately adjacent and affording access thereto adjoining the Enclosed Harbours.
6. “Master” when used in relation to any vessel, means any person having the command, charge or management of the vessel for the time being.
7. “Vessel” means every description of water craft however propelled or moved including non-displacement craft and everything constructed or used to carry persons or goods by water.
8. “Council” means Torbay Council.
9. “Authority” means the Tor Bay Harbour Authority.
10. “Facility” means any mooring, berth, boat-park space, tender rack, locker, store etc.
11. “Facility holder” means the person or persons allocated the use of a facility subject to the conditions of use written on the appropriate Facility Agreement Form.
12. “Loss, injury or damage” means any loss, injury or damage, which may occur to any person, vessel, vehicle or their contents, or to any other goods or things.
13. “Facility Form Agreement and conditions” shown in Appendix 1.

Types of facility

“Swinging Mooring” – a means to secure a vessel to a heavy ground chain on the seabed, via a single riser chain. The arrangement allows the vessel to move so that it will head into the wind or the tide – whichever is the stronger.

“Trot Mooring” – a means to secure a vessel fore and aft via separate riser chains. This arrangement does not allow the craft to move freely with the wind/tide and this enables many more boats to be moored in the same area. The fore and aft element of the mooring is tied together, via a single pick-up buoy, even when the facility is unoccupied.

“Pontoon Mooring” – a means to secure a vessel fore and aft alongside a pontoon or a ‘finger pontoon’ secured thereto. Some pontoons are connected to the shore and are known as “walk ashore” pontoons.

“Running/Outhaul Moorings” - used to tether small craft (< 16ft) to a looped line running from the shore to a fixing, on a riser chain, secured to the harbour fundus. The boat can be pulled in and out using the running line.

“Tender rack” are racks into which small and light craft may be stored on end.

“Kayak rack” are racks into which canoes or kayaks can be securely stored.

“Boat Park Space” refers to an allocated quayside space for the dry storage of boats/dinghies on trolleys/trailers which are launched and/or recovered via a slipway.

“Berthing” means tying up against a harbour wall or pontoon.

Facility charges

All fees and charges can be found in the extant ‘Tor Bay Harbour Authority Schedule of Charges, Dues & Fees’.

Facilities allocation

Private facilities (non-commercial) waiting lists

A non-commercial mooring or facility can only be offered and allocated to the person whose name is next on the appropriate waiting list subject to the priority definitions below. A non-refundable registration fee is required to join a waiting list. Lists will be closed if they are over-subscribed, to prevent unduly lengthy waiting time for a facility. Waiting list procedures can be found in Appendix 2. Under normal circumstances the applicant will only be given one offer of a facility, and a second or third offer will only be made in exceptional circumstances. Any applicants that decline three offers of a harbour facility will have their name removed from waiting lists.

Waiting list priority

Allocation of facilities from the waiting lists adheres to the following priority, subject to the restrictions listed below:

- 1st Council tax payers whose main or principle residence is within the Torbay Council administrative area. Proof of such residence may be required eg current utility bill.
- 2nd Other Council tax payers within the Torbay Council administrative area (ie those with second homes)
- 3rd All others

Torquay Town Dock allocation restrictions

The Torquay Town Dock and Inner Dock Pontoon waiting lists are closed when 30 names are registered for each band of berth size and when they are re-opened, names will only be accepted from those with a primary address in the TQ1 to TQ5 postcode areas, on a first come first served basis, to be confirmed by a check of Council Tax records and/or Electoral Register information.

Town Dock and Torquay Inner Dock Pontoon berths will only be allocated to people outside the TQ1 to TQ5 postcode areas if no waiting list exists.

Mooring exchange scheme - Torquay Town & Inner Dock

Customers with existing 6 metre, 8 metre, 9.14 metre and 10 metre berths on the Town Dock or Inner Dock at Torquay, may be able to exchange their facility for an alternative sized berth. Further details including eligibility criteria can be found in Appendix 3.

Commercial moorings waiting lists

Waiting lists exist for a number of specified commercial moorings. Currently these can be split into specific numbers of facilities for passenger carrying craft and other moorings identified for commercial craft such as fishing vessels. To avoid over-capacity the Council has an established policy to restrict the number of annual moorings/berths for passenger carrying craft at each of the enclosed harbours. Restrictions also exist to limit the number of commercial and fishing vessel moorings at Torquay and Paignton harbours. These restrictions will be managed by the Harbour Master. This policy allows the transfer of use of a commercial mooring facility to the new owner of a commercial boat. i.e. where a commercial boat ceases to operate at any Harbour and the operator sells his/her business, the Harbour Master may transfer the mooring facilities to the new owner. This mooring transfer does not apply to all commercial moorings but would normally apply if the owner has already received the benefit of this transfer policy. A specific number of fishing vessel moorings exist at Torquay and Paignton harbours.

Entry onto a commercial moorings waiting list requires a non-refundable registration fee.

Given the obvious demand for this type of mooring and the significant contribution made by passenger carrying boats to the English Riviera tourism product, the Harbour Authority will operate a "use it or lose it" policy. If a commercial or passenger boat owner does not put a vessel on the allocated mooring facility for two consecutive years, or in the view of the Harbour Master the commercial vessel is only infrequently and irregularly operated, the mooring facility will be allocated to the next appropriate applicant on the waiting list. In this context, a commercial vessel

operated for fewer than 10 days in a year would be considered to be infrequently or irregularly operated.

Facilities for heritage vessels

A limited number of 'Heritage' vessels are permitted, with the Harbour Master's consent, to berth on the Town Pontoon in Brixham Harbour for the embarkation or disembarkation of passengers and at the Harbour Masters discretion, provided they have alternative mooring facilities within the harbour. The Council's agreed criteria against which vessels could be measured for inclusion within the "fleet" of heritage boats based at Brixham Harbour is as follows :-

"that a heritage boat in Torbay be defined as a vessel which is British built, 40 feet or more in length and built prior to 31st December 1935 and that, at the absolute discretion of the Council, is considered to have an historical relevance to Tor Bay and its operation and general activity is considered to be beneficial to the local community; and that compliance with the approved definition of a heritage boat should form the basic criteria against which vessels can be measured for inclusion within the "fleet".

Boat park spaces

Certain boat park spaces contain racking to permit more than one vessel to be stored in a single space. Racks provided by the Harbour Authority will be charged per rack in accordance with the extant 'Tor Bay Harbour Authority Schedule of Charges, Dues & Fees'. Recognised Youth Groups may apply to the Harbour Master for approval to erect their own racking and in these circumstances, if consent is granted; the charges will only apply to the quay space occupied by the racking.

Duration of facility agreement

These run for a maximum of 12 months commencing on the 1st of April and expiring on the 31st March of the following year. However, vacancies that arise after 1st April will be filled from the waiting list and run from the acceptance date up to the 31st March. The Harbour Master reserves the right to determine whether to renew an allocated facility and will review such allocation on an annual basis.

The Harbour Master may at any time designate to the facility holder an alternative location for such a facility, whereupon the applicant will move their vessel and/or any other possessions or chattels from the previous location to the appointed new location for such a facility forthwith.

Facility renewals

At the beginning of each calendar year the Harbour Authority may invite existing facility holders to retain their facility(ies) via an invoice detailing the appropriate fees and charges. Facilities that are not retained will be allocated to the next person on the appropriate waiting list.

Note that existing holders may not be invited to renew their facility if they:

- have failed to comply with harbour regulations
- have been abusive towards harbour staff
- have required repeated chasing for payment
- owe the Council or the Harbour Authority outstanding debts

- If the vessel is in a poor state of repair and therefore deemed (in the Harbour Master's opinion) to be injurious
- do not provide in-date insurance documents upon request
- have a discretionary facility that is being discontinued

Cancellation of Facility Form Agreement

The facility holder may request that their Facility Form Agreement is cancelled by giving 1 month written notice to the Council. If there are no monies outstanding when the request is received then the facility will be withdrawn immediately. However some customers (especially those who elect to pay by Direct Debit) may still owe money and will not have their request accepted until this money has been paid and the facility has been re-allocated. However, the fee already paid may be retained by the Council where no latent demand exists

The Council may terminate the Facility Form Agreement at any time by giving 1 months' notice in writing to the facility holders last known address. For the avoidance of doubt, the Harbour Master has delegated authority to terminate Facility Form Agreements on behalf of the Council. **A facility may be terminated and/or not renewed for a number of reasons and these may include but are not limited to; bad debt, failure to comply with harbour regulations, abuse towards harbour staff, injurious vessel, proof of insurance not provided and a discretionary facility being discontinued.**

Risk, Liability, Insurance Requirements and Recommendations **(Facility Agreement Conditions 1, 2, 3, 4 & 5)**

All reasonable care will be taken of the facility holder's property but whilst precautions will be taken to prevent loss and/or damage all vessels are berthed, moored, launched, moved and hauled out at the risk of the applicant. The applicant is therefore required to make sure that his/her vessel and property are adequately insured against all risks. Insurances shall be maintained and evidence that the vessel is insured shall be provided to Tor Bay Harbour upon request. Vessels found to be without insurance may have its allocated berth withdrawn.

If the vessel sinks at the mooring or within the harbour limits it will have to be recovered and removed from the harbour by the vessel's owner. Failure to remove such a vessel from the harbour in a period as shall be specified by the Harbour Master in his absolute discretion (including immediate notice) will result in the Council recovering and removing the vessel and the appropriate charges being passed on to the owner. Such charges shall be a debt due from the Facility Form Agreement holder to the Authority. It is therefore strongly recommended that your insurance policy includes a 'wreck removal' clause.

The facility holder shall indemnify the Council, their servants and agents against all actions, claims, costs and demands in respect of any injury or death of any person and any damage to any property which may arise out of the applicant's occupation and use of the harbour facilities including slipways, steps, jetties and staging and for this purpose shall maintain a Public Liability policy against such risks. Failure to maintain the appropriate insurance cover, evidence to be provided upon request by

Tor Bay Harbour Authority, will result in the withdrawal of the mooring, launching and other facilities.

All facility holders using any part of the harbour facilities including slipways, steps, jetties and staging, for whatever purpose in connection with this application and whether by the Council's invitation or not, are expected to have due regard for their own safety and do so at their own risk.

The facility holder shall at all times be responsible for the safety of his/her vessel and shall be liable for any damage occasioned to the Council's property, howsoever caused, during the navigation of any vessel by the applicant or his/her servant or agents, or whilst the applicant's vessel is berthed, moored, or launched, or by the vessel slipping her berth, mooring or being cast adrift and will pay to the Council on demand any claim for reasonable compensation in respect of such damage.

The Harbour Master and other authorised officers and servants, whilst acting in the course of their duty, shall not be responsible for any loss or damage which may occur as a result of compliance, or attempted compliance, with any lawful order or directions given by the Harbour Master, or such other officers or servants, nor shall the Council be liable for any loss or damage arising out of compliance, or attempted compliance, with the officers' lawful orders. The Council, its servants, agents or employees shall not be liable for injury to any person, except where such injury arises through the negligence of the Council.

This section applies equally to visitors and temporary users of the harbour and harbour estate, whether using a vessel, vehicle or trailer.

Vessels Injurious to the Amenity of the Harbour (see Section 23 – Tor Bay Harbour Act 1970)

If at any time the Harbour Authority are satisfied that a derelict vessel or structure moored in or lying in the water or on the foreshore of the harbour is in such a condition as to be seriously injurious to the amenity of that part of the harbour in which it is moored or lying, the Harbour Authority may by notice require the owner thereof within such time as may be specified in the notice (the period being not less than six weeks) to take such steps as may be necessary to abate the injury to amenity. A vessel may be considered to be injurious to the amenity of the harbour if it is badly dilapidated, seriously unkempt, unseaworthy and/or in danger of sinking, etc.)

For the avoidance of doubt, the Harbour Master is empowered, on behalf of the Harbour Authority, to determine whether a vessel is seriously injurious to the amenity of the harbour.

Failure to comply with such a notice issued by the Harbour Authority may result in the necessary action being taken directly by the Harbour Authority.

Prohibition on Assignment/Sub Letting of Facilities (Facility Agreement Conditions 12)

The facility is personal to facility holder and may not be shared, assigned, transferred, sub-let or otherwise used or made available to anyone other than the facility holder. In the event that it is discovered that a facility holder is sub-letting the facility will be withdrawn with immediate effect. (This includes the renting of beds/berths on board vessels whilst using harbour facilities. e.g. via websites such as www.bedsonboard.com and www.airbnb.co.uk)

The facility granted may not be loaned without prior notification to, and agreement of the Harbour Master in writing. Written notification must also be provided to the Harbour Master from both parties to the loan. If the Harbour Master's consent is obtained in no circumstances will this be given for a period greater than 12 months. In agreed loan circumstances the owner of the vessel borrowing the facility must confirm that he holds the necessary required insurance, confirm acceptance of all conditions and Byelaws and be liable for the appropriate level of harbour dues.

Any individual boat owner will only be permitted to borrow a facility for two consecutive years, assuming that two separate facility holders and the Harbour Master are agreeable to such an arrangement. i.e. the maximum stay without a properly allocated facility is 24 months.

Size of Vessel (Facility Agreement Conditions 17)

Facilities are allocated appropriate to the size of each vessel.

Facility holders may not place their vessel on another berth without the advance permission of the harbour office and they must not increase the size of their vessel without ascertaining whether or not their facility (or an available alternative) can safely accommodate the replacement vessel. Facilities may be withdrawn without notice if this rule is breached

A vessel will be charged based on overall length, which includes any bowsprit, pushpit, stern davit, bathing platform, outboard engine, bumpkin or any other extension.

Inheritance

The facility granted will be for one vessel only and is not transferable. Where a member of a family wishes to continue using the facility after the death or incapacity of the existing holder he/she must join the appropriate waiting list. The use of harbour facilities cannot be inherited other than by a legitimate 'partner' who meets the requirements of a partnership arrangement as set out elsewhere within this document.

Vessel Identification (Byelaw 35)

All boats, trailers and tenders used within the harbour must have their names and current Harbour Authority plaques displayed to the satisfaction of the Harbour Master. The facility holder should also ensure that the name of the vessel or mooring number is clearly displayed on any mooring buoy not provided by the Council.

Change of Vessel (Byelaw 33)

In the event of the facility holder selling or otherwise disposing of the vessel authorised to use the facility, the parties to the change shall ensure that immediate written notification is given to the Harbour Master.

Vessel Not On Facility

If the facility holder does not have his/her own vessel on the authorised facility for a period of one year then the facility will be forfeit and reassigned from the waiting list.

Partnerships

Partnerships must have been registered with the Harbour Authority when the facility was first allocated. Any subsequent changes of ownership or partnership buy out **will not be recognised** or count towards facility allocation. The Harbour Authority will not recognise shared ownership beyond one third. i.e. a maximum of three partners inclusive of the applicant. All partners must be over the age of 18 and meet the local residence requirements detailed in this policy with regard to facility allocation priority.

Use of Facilities

Facilities must only be used for the purposes stated in the original application. Vessels using facilities must not be used for residential purposes. i.e. no living on board is permitted, and boats must not serve as the sole or main residence of any individual or group. Customers are not expected to sleep on board their craft, whilst berthed in the harbour, unless that vessel has a suitable manufacturers holding tank for grey water and sewage. Facilities will be withdrawn from those customers who regularly breach this expectation. Customers are not permitted to rent any beds/berths on board their vessels. e.g. via websites such as www.bedsonboard.com and www.airbnb.co.uk. Such activity will be seen as sub-letting and facilities will be withdrawn from those customers who breach this condition.

The right to berth a vessel on a facility relates to a particular user and vessel. Tor Bay Harbour reserves the right to cancel an offer of berth if on inspection of the vessel it is considered unsuitable for berthing on the facility because of its dimensions, weight, method of construction, state of repair, type of fendering or other reason.

Privately owned vessels paying harbour charges as private craft must not operate their craft on a commercial basis. The number of available commercial moorings is restricted under this policy (please refer to the 'Facilities Allocation' section in this document under the heading 'Commercial Moorings – Waiting List'). Consequently any owner who changes the use of their craft from a private vessel to a commercial vessel (either by conversion or replacement) will have their facility agreement terminated.

Privately owned fenders **must not** be fixed to harbour authority property (other than by rope) without the prior consent of the harbour authority. Installation of owner's 'dock fenders' will normally be permitted, subject to prior approval. Any fixing that requires drilling into steel, stone or concrete **must be undertaken** by harbour authority staff.

Privately owned 'dock boxes' **must not** be fixed to harbour authority property without the prior consent of the harbour authority and a charge may be applicable.

The use of power cables on pontoons is permitted provided the cable is within a protective cover to prevent a trip hazard and is not seen as a permanent connection. Any cables presenting a hazard of any nature will be removed and the credit on the meter will be cleared. Cable covers are available from the Harbour Office.

Abandoned Vessels and Property

Tor Bay Harbour has the power to remove, dispose or sell vessels and property with reasonable notice given to the owner (to be determined on a case by case basis by the Harbour Master). If the owner is not known then Tor Bay Harbour can remove, dispose or sell the vessel or property after leaving written notice on the vessel or property for a reasonable period of time.

Fuel and Re fuelling

No fuel or combustible material is permitted to be kept on or within the allocated facility save in authorised storage tanks and containers.

Other than for small outboard engines, no petrol refuelling from cans or containers is permitted on the harbour side, pontoons, steps, slipways, or moorings. Petrol refuelling is permitted at a licensed marine fuel station or when using an approved siphoning/pumping device agreed specifically with the Harbour Master or at Paignton Harbour from cans onto moored vessels when the harbour has dried.

Any fuel spillage must be reported to the Harbour Master

Pollution (Byelaw 91 and Byelaw 102)

Facility holders must not pollute the harbour by spillage, dumping of waste, effluent, human waste, detergent and/or fuel or otherwise deposit refuse or scrap on the harbour estate, in the waters of the harbour or on the harbour bed.

Moorings and Vessel Protection

Fitting of Moorings (Facility Agreement Condition 16)

Any swivel, riser chain, mooring rope or buoy, not provided by the Council, shall comply with the Council's specification in that behalf and shall only be fitted by a person licensed by the Council to do such work or by the facility holder personally in respect of his/her allocated mooring. The Facility Holder shall as soon as any swivel, riser chain, mooring rope or buoy has become fitted, immediately notify the Harbour Master of the fact. The applicant shall also arrange for regular inspection and maintenance of such equipment not provided by the Council.

Buoyant Rope (Byelaw 98)

No person shall within any enclosed Harbour use buoyant pick-up ropes on moorings.

Removal of Moorings (Byelaw 100)

A mooring, buoy or similar tackle shall as soon as reasonably practicable be removed by its owner or any other person claiming possession of it if the Harbour Master so directs.

Vessel Monitoring

All vessels should be monitored by the owner or owner's agent, on a regular basis, particularly during periods of bad weather.

Propeller Covers (Facility Agreement Conditions 22)

When moored outboard engines in the raised or tilted position must have the propeller and skeg covered with a plastic bucket or other approved protective cover in order to prevent damage to other boats.

Provision of Proper Fenders (Byelaw 46)

The facility holder shall ensure that his/her vessel is provided with a sufficient number of fenders adequate for the size of the vessel, and when berthing or leaving, or lying at a quay or against other vessels, the master shall cause the vessel to be fendered off from that quay or those other vessels so as to prevent damage to that quay, those other vessels or other property

Mooring, Berthing, Anchoring in the Harbour

Vessels to be moored etc as directed

Masters of vessels in the harbour shall moor, anchor, berth and/or cease to moor, berth or anchor and be moved in accordance with directions given from time to time by the Harbour Master.

Vessels not to Anchor in a Fairway (Byelaws 11 & 18)

No person shall anchor so as to obstruct a fairway.

Vessels not to be made fast to unauthorised objects, Navigational Buoys or Seasonal 5 Knot Buoys (Byelaws 13 & 50)

The master of a vessel shall not make fast his/her vessel to or lie against any buoy, beacon or mark used for navigation. No person shall make a vessel fast to or interfere with any post, quay, ring, fender or any other thing or place not assigned for that purpose.

Vessels not to Obstruct Free Passage

The master of a vessel shall not cause or permit the vessel to manoeuvre, come to anchor or be moored or placed so as to intentionally obstruct in any manner whatsoever the passage of vessels in the harbour.

Vessels to be Properly Secured

No vessel shall be insecurely moored or improperly made fast within the harbour.

Vessels Not to Obstruct Steps, Slipways (Byelaw 26)

No person shall allow any vessel to obstruct any pontoons, steps or slipways or to lie at any pontoons steps or slipways without the permission of the Harbour Master.

Reckless Conduct and Disorderly Behaviour

The facility holder shall not use the mooring facility in a reckless manner so as to cause danger to other users of the Harbour or damage to their property.

The facility holder (including any persons on board a vessel on the harbour facility) shall not cause unreasonable noise, nuisance or annoyance to other users of the Harbour.

Compliance with Statute, Byelaws and Directions of the Harbour Master

The facility holder and all persons having control or having charge of or being aboard his/her vessel shall observe and perform all statutory and other obligations relating to the Harbour including all Byelaws and Regulations made by the Council and Directions given by the Harbour Master.

In the event of the holder of the Facility Form Agreement failing to comply with the conditions of the Facility Form Agreement the Council may give notice to remove the vessel. Should this notice not be complied with or the conditions of the Facility Form Agreement not met within fourteen days of the sending of the notice to the last known address of the facility holder the Authority may remove the vessel to any place where so ever. The facility holder shall pay the cost of such removal, storage, mooring or berthing and subsequent replacement to the Authority. Such charges shall be a debt due from the facility holder to the Authority.

Disabled Access

The Harbour Authority provide a range of moorings and other facilities, which by their very nature, have various forms of access. Consideration has been given to providing facilities for disabled persons, wherever this is reasonably practicable, in accordance with the Disability Discrimination Act 1995/2005 (DDA).

The Harbour Authority is obliged to make such adjustments as is reasonable to prevent disabled persons from being placed at a substantial disadvantage when compared to others. Anyone who has a disability should assess the most suitable facility that meets their needs and if necessary join the relevant waiting list.

The Harbour Authority staff can provide advice to anyone who is uncertain about which facility would be the most appropriate.

Young People

Young people are encouraged to use the harbour facilities and in certain circumstances will be eligible for a 50% discount on applicable harbour charges. Please see the current 'Tor Bay Harbour Authority Schedule of Charges, Dues & Fees' for details. Unfortunately it is not lawful for the Harbour Authority to enter into a contract with a minor (under 18 years of age) and the facility form agreement will therefore be in the name of a responsible adult. Please note that this discount is discretionary.

Visitor Moorings

To avoid the abuse of visitor moorings by local vessels, all craft using visitor mooring facilities are normally restricted to a maximum stay of three weeks (21 days) with no return within one week (7 days).

Appendix 1

GENERAL CONDITIONS - TOR BAY HARBOUR. DUES, TOLLS, LEVY RENTS, FEES AND OTHER CHARGES ARE ACCEPTED ONLY ON THE FOLLOWING CONDITIONS:

Definition: The phrases ‘loss, loss of, damage, injury or death’ in these conditions shall mean any loss and / or loss of and / or damage and / or injury and / or death, which may occur to any vessel, vehicle, property or any person(s). Words denoting the singular and plural shall be interchangeable.

1. The Council will not be responsible for any loss and / or damage as occasioned to the applicant’s vessel and / or property in the course of berthing, mooring, launching, moving or hauling out, unless as a direct consequence of the Council’s negligence.
2. The applicant is required to possess “all risks” insurance for their vessel, which must include adequate third party liability cover and evidence that the vessel is so insured shall be provided to Tor Bay Harbour upon request.
3. The applicant shall indemnify the Council, their servants and / or agents where they are at fault for any injury and / or death of any person(s) and / or any loss of or damage to any property, which may arise out of the applicant’s occupation or use of the harbour facilities.
4. All applicants using the harbour facilities, including but not limited to slipways, steps, jetties, pontoons and staging, for whatever purpose and whether or not by the Council’s invitation, are expected to have due regard for their own safety and utilise the facilities entirely at their own risk, unless negligence can be proven against the Council.
5. The applicant shall at all times be responsible for the safety of their vessel and shall be liable for any loss of and / or damage as occasioned to the Council’s and / or any third party’s property and / or injury to and / or death of any person(s), howsoever caused, during the navigation of any vessel by the applicant or their servant or agents, or including but not limited to, whilst the applicant’s vessel is being berthed, moored, launched, being slipped, being cast adrift or being worked upon and will indemnify the Council on demand any claim for compensation in respect of any such loss.
6. The Council’s Harbour Master and / or other authorised officers and /or servants, whilst acting in the course of their duty, shall not be responsible for any loss of or damage and / or injury and / or death which may occur as a result of or arising from compliance, or attempted compliance, with any lawful order or directions given by the Harbour Master, and / or such other officers and / or servants and / or agents, unless negligence can be proven against the Council.

7. The lawful orders and / or directions of the Council's Harbour Master and other authorised officers must always be obeyed promptly and at all times.
8. The Council may terminate this agreement at any time during the contract period, by giving one month's notice in writing to the applicant, at their last known address.
9. Following the termination of this agreement, the applicant shall forthwith remove their vessel and / or any other possessions from the Council's property.
10. The Council will, upon receipt of payment in accordance with this account, allocate a facility to the applicant as described in this account in a location in Tor Bay Harbour determined at the sole discretion of the Harbour Master and the Harbour Master may at any time re-designate the applicant to an alternative location for such a facility, whereupon the applicant will be required to move their vessel and / or any other possessions from the previous location to the appointed new location within a reasonable time period.
11. This facility as provided to the applicant is on the basis that the applicant agrees it will not be **shared, assigned, transferred, sublicensed or sub let** or otherwise used by or made available to anyone other than the applicant, unless with the prior written consent of the Harbour Master.
12. The facility as provided to the applicant shall not be used other than for the purpose described in the Schedule of Charges, Dues & Fees.
13. The Council has the right to exercise a general lien upon any vessel, and / or gear and / or equipment and / or property, whilst in or upon the harbour premises, or afloat, until such time as the monies due to the Council from the applicant in respect of such vessel and / or gear and / or equipment and / or property, whether on account of storage, mooring, berthing, slipping charges or otherwise, shall have been paid. Should these charges remain unpaid, the Council reserves the right to dispose of the applicant's vessel and / or gear and / or equipment and / or property and pay to the applicant the funds net of any charges as due.
14. The applicant shall also arrange for regular inspection(s) and maintenance of such mooring equipment.
15. The applicant shall not place a vessel on a mooring prescribed in the mooring scheme as prepared by the Council, which is of a different size than that for which the application was made, unless with the prior written consent of the Harbour Master.
16. The applicant must also ensure that the name of the vessel or a mooring number is clearly displayed on any mooring buoy not provided by the Council.
17. Any mooring position and type shall be subject to the Harbour Master's prior approval. Failure to obtain such approval will result in the vessel being moved at the owner(s) expense, to a suitable location and the latter shall be at the sole discretion of the Harbour Master.

18. No attachment whatsoever is to be affixed to the mooring chain provided by the Council, without the prior approval of the Harbour Master.
19. Outboard engines must be in a raised position when vessel(s) are moored and have the propeller and skeg covered with a plastic bucket or other approved protective cover, in order to prevent damage to other boats.
20. The storage of petroleum spirit and / or flammable substances and / or toxic chemicals and / or corrosive substances and / or noxious substances in storage lockers, is strictly prohibited.

Failure to comply with any of these terms and conditions will result in the owner being required to remove their vessel and / or gear and / or equipment and / or property from the Council's property. The Council retains the right to remove such items, should the applicant not do so, at the applicant's expense. If any part of these terms and conditions shall be held to be illegal, invalid or unenforceable this will in no way affect the validity of the remaining parts of these Terms and Conditions.

Enquires, Arrangements to Pay & Failure to Pay

If you wish to speak to someone concerning this invoice or are unable to make payment in full please telephone the Harbour Office as detailed on the front of this invoice. If you fail to pay or arrange a monthly direct debit plan within 28 days and do not contact the Harbour Office, legal proceedings may be commenced, and the Council will claim a penalty for evading payment of charges equal to the debt due – See Section 30 of the Tor Bay Harbour Act 1970. Ultimately the Council may arrest your vessel under Section 30 of the Tor Bay Harbour Act 1970 and your boat may be sold to recover the debt. If you are experiencing financial difficulties, please contact your nearest Citizens Advice Bureau who offer free independent advice, or telephone the National Debtline on Freephone 0808 808 4000.

Fair Processing Notice

Information held by Torbay Council complies and is processed in accordance with the Data Protection Act 1998. The information you have provided here will be used to process your facility application and may be disclosed to other departments of the Council, their partner agencies or other Local Harbour Authorities for the purposes of verifying the vessel ownership details and in the pursuance of efficient harbour management.

Appendix 2

WAITING LISTS

TOR BAY HARBOUR

WAITING LIST PROCEDURE

- 1) The waiting list registration fee is **£25** for private berths and £50 for commercial berths. On receipt of the appropriate fee, your name will be placed on the relevant list. Please make cheques payable to 'Torbay Council'.
- 2) The waiting list entry will be dated the same day the fee is received.
- 3) The registration fee is **NOT REFUNDABLE OR TRANSFERABLE**.
- 4) Under normal circumstances the applicant will only be given one offer of a facility. A second or third offer will only be made in exceptional circumstances. All applicants will have their name removed from the list if they have declined three offers of a harbour facility.
- 5) When a facility is offered and accepted, it can only be allocated to the person whose name is on the waiting list. The facility is **NOT TRANSFERABLE**.
- 6) When a facility is offered and accepted and no boat is immediately available, then the applicant **must pay the full fee** for the size of facility applied for, and then has twelve months to place their craft on the facility.
- 7) Often a waiting list will be banded dependent on the size of the facility. It is therefore important that applicants are certain about the size of facility required. The length entered on the waiting list form will not be adjusted up at a later date and an adjustment down in size may result in a transfer to a new list with a new entry date.
- 8) Applicants who live locally will be given priority over those applicants who live outside the Torbay area. (see the Tor Bay Harbour Operational Moorings and Facility Policy)
- 9) Unfortunately applicants who have a disability do not have priority over other people on the waiting list.
- 10) From time to time applicants will be asked to provide written confirmation of their wish to stay on a particular waiting list. The applicant's details will be deleted from our records if written confirmation is **not** provided.
- 11) It is the applicant's responsibility to keep us advised of any change in the applicant's details, especially any **change of address**.
- 12) The terms and conditions of use of any facility are shown on the reverse side of any invoice/facility form agreement and are also found within the Tor Bay

Harbour Operational Moorings and Facility Policy.

- 13) Partnerships must have been registered with the Harbour Authority when the facility was first allocated. Any subsequent changes of ownership or partnership buy out **will not be recognised** or count towards facility allocation. The Harbour Authority will not recognise shared ownership beyond one third. i.e. a maximum of three partners inclusive of the applicant. All partners must be over the age of 18 and meet the local residence requirements detailed in this policy with regard to facility allocation priority.

Note

Torquay Town Dock & Inner Dock pontoons Priority

The Town Dock and Inner Dock Pontoon waiting lists are closed when 30 names are registered for each band of berth size and when they are re-opened, names will only be accepted from those people with a primary address in the TQ1 to TQ5 postcode areas, on a first come first served basis, to be confirmed by a check of Council Tax records and/or Electoral Register information.. Town Dock and Torquay Inner Dock Pontoon berths will only be allocated to people outside the TQ1 to TQ5 postcode areas if no waiting list exists.

Appendix 3

Mooring Exchange Scheme - Torquay Town Dock & Inner Dock

Customers with existing berths on the Town Dock or Inner Dock may be able to exchange their facility for an alternative sized berth.

Customers may be eligible to exchange their allocated berth, so long as they fulfil the following conditions of exchange.

The 12 metre berths will not feature in this scheme.

Exchanged vessels must be of a length appropriate for the alternative sized berth requested.

Original Partnerships recognised during first allotment will remain exactly the same and cannot be added to.

Exchanges may only occur when 'pairs' are authorised by the Harbour Office. Customers will be notified when an exchange can be made, followed by any account for adjustment.

Requests for exchanges will be treated on a first come first served basis and each exchange will be appraised by the Harbour Authority to ensure correct use of facility and compatibility of vessels features.

An administration charge of £50 will apply per applicant and will feature in the account adjustment, when the exchange has taken place.

The decision to approve or decline an exchange request will be based, among other things, on maximising income for the harbour authority and will be at the Harbour Master's complete discretion.

Step 1

Complete form for existing berth to *move from*

Step 2

Enter details of preferred facility to *move to* – e.g. 6m 8m 9.14m or 10m

Step 3

Submit form and wait until a suitable 'pair' is made, then await acknowledgement and further details from the Harbour Office

Step 4

Move your boat as directed by the Harbour Authority, then pay the balance or receive a refund for the new facility (subject to the inclusion of the administration charge).

The Harbour Authority will reserve any right to withhold an 'exchange' especially if customers have found to have been sub-letting, not conforming to the local TQ1-5 post code restriction or have a history of late payment.



Mooring Exchange Scheme – Application

(TOWN DOCK & INNER DOCK ONLY)

Name:

Boat Name:

LOA

Facility Pontoon..... Number.....

I wish to move to a :- (circle)

6m 8m 9.14m 10m berth.

Signature

Date

Please return completed form to the Harbour Office



Meeting: Harbour Committee

Date: 23 March 2020

Wards Affected: All

Report Title: Tor Bay Harbour: Operational Moorings and Facilities Policy

Is the decision a key decision? No

When does the decision need to be implemented? 01 April 2020

Cabinet Member Contact Details: Not a Cabinet function

Supporting Officer Contact Details: Adam Parnell, Harbour Master, 01803 853321, adam.parnell@torbay.gov.uk

1. Proposal and Introduction

1.1 This report proposes changes to the Operational Moorings and Facilities Policy.

2. Reason for Proposal and associated financial commitment

2.1 The use of moorings, berths, boat park spaces, tender racks and storage lockers etc is governed by a variety of controlling factors including: local harbour legislation; harbour byelaws and the annual Facility Agreement terms and conditions. These are codified in the Operational Moorings and Facilities Policy, which is subject to annual review. Version 14 was adopted by the Harbour Committee in March 2019.

2.2 The policy ensures that a consistent, fair and equitable approach is applied to new, existing and potential facility users. The existing operational policy statement serves as a management tool but does not form part of the strategic policy framework set by Torbay Council.

2.3 Minor amendments have been made:

- Customers must give 1 month's notice (previously 14 days) to cancel a facility;
- The Policy makes more explicit the fact that uninsured vessels, or those considered by the Harbour Master to be injurious, will have their facilities withdrawn;
- Vessel owners must furnish proof of in-date vessel insurance upon request or risk having their facility withdrawn;
- The

2.4 There are no new financial commitments associated with the adoption of this policy.

3. Recommendation(s) / Proposed Decision

3.1 That the Harbour Committee adopts the Operational Moorings and Facilities Policy version 15 as set out in Appendix 1 to the submitted report.

Appendices

Appendix 1: Operational Moorings and Facilities Policy version 15.

Background Documents

Operational Moorings and Facilities Policy version 14.



Meeting: Harbour Committee

Date: 23 March 2020

Wards Affected: All

Report Title: Tor Bay Harbour Arts Policy

Is the decision a key decision? No

When does the decision need to be implemented? N/A

Cabinet Member Contact Details: Not a Cabinet function

Supporting Officer Contact Details: Adam Parnell, Harbour Master, 01803 853321, adam.parnell@torbay.gov.uk

1. Proposal and Introduction

1.1 This report presents a proposed policy to deal with art installations around the harbour estate.

2. Reason for Proposal and associated financial commitment

2.1 At a previous harbour committee meeting the Harbour Master was directed to develop an arts policy to regulate future art installations around the harbour estate. A draft has now been developed in concert with the Planning department.

2.2 There is no financial commitment introduced by this report.

3. Recommendation(s) / Proposed Decision

3.1 That the Harbour Committee approve the Harbour Arts Policy as set out in Appendix 1 to the submitted report.

Appendices

Appendix 1: Tor Bay Harbour Public Art Guide

Appendix 2: Application form.

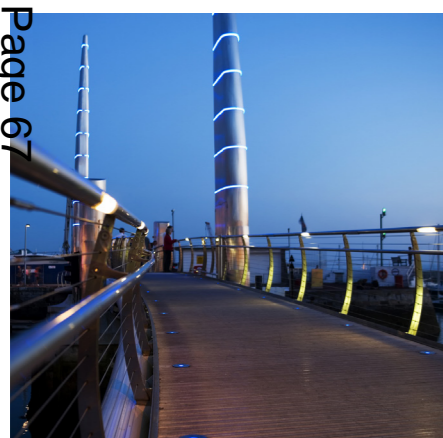
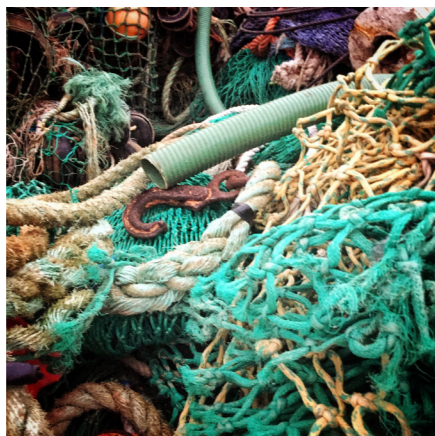
Background Documents

Section 1: Background Information	
1.	<p>What is the proposal / issue?</p> <p>1.1 The harbour authority regularly receives requests for temporary or art installations to be erected on or around the harbour estate. In line with other ports and harbours, it is considered prudent to publish an arts policy to regulate and administer such requests in order that decisions can be more coherent, agile and transparent</p>
2.	<p>What is the current situation?</p> <p>2.1 The Harbour Committee requested that an arts policy be developed to overcome the challenges mentioned above.</p>
3.	<p>What options have been considered?</p> <p>The following options have been considered:</p> <ul style="list-style-type: none"> - Not to introduce an arts policy and continue the existing ad hoc decision-making process. This is not recommended as it delivers neither transparency nor consistency.
4.	<p>What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?</p> <p>This project directly contributes to the following objectives:</p> <ul style="list-style-type: none"> • A Thriving Economy. • Thriving People and Communities. • A Climate Fit for the Future <p>It also ensures that the harbour authority:</p> <ul style="list-style-type: none"> • Uses reducing resources to best effect • Reduces demand through prevention and innovation • Employs an integrated and joined-up approach with the wider Council and external bodies
5.	<p>How does this proposal contribute towards the Council's responsibilities as corporate parents?</p> <p>No significant effect.</p>
6.	<p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p> <p>No significant effect.</p>
7.	<p>How does this proposal tackle inequalities?</p>

	No significant effect.
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?</p> <p>Consultation is proactively undertaken through dialogue with the harbour forums.</p>

Section 2: Implications and Impact Assessment	
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9.	<p>What are the financial and legal implications?</p> <p>There are no financial or legal implications arising as a result of this report</p>
10.	<p>What are the risks?</p> <p>If an arts policy is not developed there is a risk that either:</p> <ul style="list-style-type: none"> - Inappropriate art installations are sited on harbour estates - Appropriate art installations are denied the opportunity to be displayed <p>There is also a risk of continuing to receive requests in an inconsistent and inefficient manner.</p>
11.	<p>Public Services Value (Social Value) Act 2012</p> <p>Not applicable</p>
12.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>The harbour liaison forums have been consulted on this report</p>
13.	<p>What are key findings from the consultation you have carried out?</p> <p>No significant changes</p>
14.	<p>Amendments to Proposal / Mitigating Actions</p> <p>None</p>



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The Harbour Master is able to approve small and non-contentious projects e.g those which do not require planning permission and are of two months or less. Larger scale projects, those which require planning permission or those which will last longer than two months will require Harbour Committee approval.

For further information please contact:

Head of Tor Bay Harbour Authority | Tor Bay Harbour Master
Tor Bay Harbour Authority
Brixham Harbour Office
New Fish Quay
Brixham TQ5 8AJ

Tel: (01803) 853321 / 851854
Fax: (01803) 852434



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A guide for artists in Torbay Harbours



Agenda Item 10
Appendix 1

Introduction

This guide is a new approach for the Harbours team - it responds to recent demand for artists to be involved in the harbours future. It has been informed by current policies and strategies, new opportunities and good practice working with artists in the harbour estate. It has been developed through discussions with Torbay Council, Torbay Culture and the Tor Bay Harbour Authority.

The aims of this guide are to:

- Set out a statement on public art.
- Provide local policy links.
- Set out a clear delivery process.

Who is this for?

This guide can be used by anyone involved in making public art projects happen in the harbours.

What is public art?

Public art has been defined as the principle of involving artists in the development and transformation of a place. It can be temporary or permanent, internal or external, standalone features or integrated into the public realm. Opportunities could include:

- Sculpture.
- Landmark.
- Interactive.
- Environmental.
- Water based.
- Lighting.
- Sensory.

What are the benefits?

The Harbour Authority endeavours to be supportive, recognising that in the right location, public art can enhance the public realm and act as a positive contribution to place. We know artists can make a significant contribution to the harbours and their identity. Public art can help create a vibrant waterfront and celebrate the cultural richness of the Bay. Benefits include:

- Providing local artists with opportunities.
- Reflecting and interpreting local references such as heritage, landscape and people.
- Attracting investment.
- Encouraging tourism.
- Improving wayfinding.
- Encouraging people to use spaces and bringing them together.
- Challenge and invite thought and discussion.



“Public art has been defined as the principle of involving artists in the development and transformation of a place.”



...celebrate the uniqueness of Torbay's cultural past, present and future.

Links to existing strategies and policies

This guide has been informed by a range of strategies and policies including:

- Tor Bay Harbour Port Masterplan [July 2013]
- Cultural Strategy [2014-2024]
- Torbay Local Plan [2012-2030]
- Local Transport Plan [2011-2026]
- Post examination Torquay, Paignton and Brixham Neighbourhood Plans.

Scope

This guide applies to all public works of art, other installations, exhibitions or static displays on the Harbour estate. It does not apply to religious or festive installations such as Christmas lights, trees or other traditional commemorative decorations.

General principles

The Harbour Authority will assess proposals against the following general principles:

- The works should not neither pose a Health and Safety risk to the public, nor pollute the environment, nor create an annoyance i.e not be unduly noisy or illuminate neighbouring properties.
- The works should be commemorative in nature, rather than memorial.
- They should not be commercial or for the primary purpose of raising money, or otherwise advertorial.
- They should neither impede safe passage around the estate nor hinder harbour operations.
- The Harbour Authority will generally not contribute to the works either financially or non-financially eg through the provision of materials or labour etc.
- The Harbour Authority will not financially underwrite projects.
- The Harbour Authority will generally not accept liability for upkeep or maintenance.
- Ownership of the works will remain with the exhibitor and not transfer to the Harbour Authority.

Permitted locations

There are no designated locations around the harbour estate for artworks however placement should not impinge upon or impair existing permanent works, such as Vanishing Point on Beacon Quay.

In general only one artwork or exhibition will be permitted in any one location. In exceptional circumstances a maximum of two may be hosted concurrently if it can be shown that each enhances and complements the other.

Duration of exhibitions

Exhibitions will ordinarily be of a temporary and seasonal nature and not ordinarily more than 6 to 8 months. Requests for permanent artworks may be considered, but these may require planning and other approvals before they are installed.

Quality, durability and construction

All works should be of high quality and durable with sustainability (e.g reduce, reuse, recycle) considered across all stages of its life cycle. The use of non-recyclable materials such as plastics should be minimised wherever possible and there should also have an identified disposal plan which ideally does not include land-fill.

Process

Organisations or individuals who wish to create public works of art, other installations, exhibitions or static displays on the Harbour estate should first liaise with the Harbour Master to agree the scope of their project and identify what documentation and permissions may be required. There is a two stage process:

Stage 1

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- The project's aim and objectives.
- Background including context, maps, plans.
- Scale, scope and duration.
- Desired location(s) and site description.
- Description of installation and medium (eg sculpture, photography, etc).
- Identifiable constraints/restraints and safety issues.
- Funding, ownership and maintenance responsibilities.

Should this first stage be successful, the Harbour Master will require the following additional information:

Stage 2

- Any necessary permissions e.g planning permission.
- A plan which covers the entire project life-cycle from installation to removal.
- A comprehensive risk assessment and intended control measures.
- Proof of Public Liability Insurance (if appropriate).
- Evidence of consultation (e.g Town Council, local communities and potentially neighbouring properties).
- A construction plan which includes the logistics from installation and removal.
- Proof of financial arrangements covering from concept to removal.



“
...reinforce the
strong identity
for being the
English Riviera.
”

TOR BAY HARBOUR

Public art application form



Applicant information

Name.....
Address.....
Telephone.....
Email address.....

Artist information [if different from above]

Name.....
Address.....
Telephone.....
Email address.....

Project information

Title.....
Site.....
Brief description.....
Scope, size.....
Estimated total budget.....

Stage 1 requirements

Please submit the following [please tick]:

- The project's aim and objectives.
- Background including context, maps, plans.
- Scale, scope and duration.
- Desired location(s) and site description.
- Description of installation and medium.
- Identifiable constraints/restraints and safety issues.
- Funding, ownership and maintenance responsibilities.

Stage 2 requirements

Should stage 1 be successful, we will require the following additional information: [please tick]:

- Any necessary permissions e.g planning permission.
- A plan which covers the entire project life-cycle from installation to removal.
- A comprehensive risk assessment and intended control measures.
- Proof of Public Liability Insurance (if appropriate).
- Evidence of consultation (e.g Town Council, local communities and neighbouring properties).
- A construction plan which includes the logistics from installation and removal.
- Proof of financial arrangements covering from concept to removal.

Please send to:

Head of Tor Bay Harbour Authority | Tor Bay Harbour Master

Tor Bay Harbour Authority

Brixham Harbour Office

New Fish Quay

Brixham TQ5 8AJ

Tel: (01803) 853321 / 851854

Fax: (01803) 852434





Meeting: Harbour Committee

Date: 23 March 2020

Wards Affected: All

Report Title: Review of Harbour Master's delegated powers

Is the decision a key decision? No

When does the decision need to be implemented? 23 March 2020

Cabinet Member Contact Details: Not a Cabinet function

Supporting Officer Contact Details: Adam Parnell
Harbour Master
Telephone 01803 292429
adam.parnell@torbay.gov.uk

1. Proposal and Introduction

1.1 To review the delegated powers transferred to the Harbour Master by the Council's Constitution.

2. Reason for Proposal and associated financial commitments

2.1 To fulfil the harbour authority's obligations under the Port Marine Safety Code the powers of the Harbour Master should be regularly reviewed to ensure that these are sufficient to undertake their statutory duties.

2.2 There are no new financial obligations introduced as a result of this report.

3. Proposed Decision

3.1 That Torbay Council's Monitoring Officer be recommended to amend paragraph 6.2.6 of Torbay Council's Constitution - Officer Scheme of Delegation as set out in Appendix 1 to the submitted report.

Appendices

Appendix 1: Officer Scheme of Delegation (Torbay Council) published 04 Feb 2020

Background Documents

None

6. Delegations to the Head of Tor bay Harbour Authority and Tor Bay Harbour Master

	Description	Responsibility delegated by
6.1	To serve or receive notices, make orders, authorise any action or the institution, defence or conduct of proceedings and appeals and authorise named employees to enforce specific powers in respect of Tor Bay Harbour Authority	Council
6.2	The following powers in this paragraph are statutory powers which cannot be exercised by any officer other than the Head of Tor bay Harbour Authority and Tor Bay Harbour Master, his/her Deputy or appointed assistants (such appointments being specifically referred to in their job description). Likewise they cannot be withdrawn by the Chief Executive or any other officer	Statutory Delegation
6.2.1	To give general directions to regulate the movement and berthing of ships and the safety of navigation.	
6.2.2	To give directions prohibiting the entry into, or requiring the removal from, the Harbour of any dangerous vessels.	
6.2.3	To prohibit the entry into the Harbour, and to regulate the movement, of any vessel carrying dangerous substances and to control similarly the entry onto the Harbour estate of dangerous substances brought from inland.	
6.2.4	To detain a vessel, if he/she has reason to believe that it has committed an offence by discharging oil, or a mixture containing oil, into the waters of the Harbour.	
6.2.5	Only in relation to property forming part of the Harbour Estate and always having first obtained the approval of a fellow or member of the Royal Institute of Charter Surveyors (RICS) as to the value and terms of such disposal:-	Cabinet

	<p>(a) to grant or enter into the terms of leases, sub leases, or licences where the consideration does not exceed £25,000 per annum on any single transaction (or series of linked transactions);</p> <p>(b) to grant or enter into easements, licences, agreements, restrictive covenants or other rights or obligations where the consideration does not exceed £20,000 on any single transaction (or series of linked transactions);</p> <p>(c) to effect freehold disposals of land not required for operational purposes up to £100,000 in value;</p> <p>(d) to renew leases (regardless of the level of rent payable), licences and undertake a review of rents and licence fees when necessary and to agree surrenders, sub-letting and approve assignments;</p> <p>(e) to approve variations to (including the release of) restrictive and other covenants.</p>	
6.2.6	To regulate the time and manner of a ship's entry into, departure from and movement within the Harbour waters and related purposes.	Council Statutory Delegation
6.3	<p>To vary (by addition or waiver (in full or as to part)) the approved Schedule of Harbour Charges in such manner as the Head of Tor bay Harbour Authority and Tor Bay Harbour Master shall consider reasonable; including for example (without restricting the generality of this power) where he/she considers:</p> <p>(i) the variation to be in the best interest of the Harbour Authority and/or local people;</p> <p>(ii) the variation would fairly reflect actual or part-year usage;</p> <p>(iii) that it would be appropriate where a vessel owner/operator has made use of a facility as a result of what the Head of Tor bay Harbour Authority and Tor Bay Harbour Master considers to be extreme or unusual weather conditions, an accident at sea, or other emergency; and</p> <p>(iv) it appropriate to levy a charge above or in addition to those matters contained within the approved Schedule of Charges for anything done</p>	Council (as part of the budget)

	<p>or provided by (or on behalf of) the Harbour Authority in accordance with the Harbours Act 1964 and/or Section 24 of the Tor Bay Harbour Act 1970 or any amendments or re-enactments of those Acts.</p> <p>PROVIDED THAT the Head of Tor bay Harbour Authority and Tor Bay Harbour Master shall maintain a proper written record of all variations approved under this paragraph 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 under this paragraph.</p>	
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Harbour Committee Work Programme – 2020/2021 v1

Meeting	Standing items to be considered	Type of Report
29 th Jun 2020	1. To elect a Chairman for the Municipal Year	Decision
	2. To appoint of Vice Chairman for the Municipal Year	Decision
	3. To review the Harbour Committee's Terms of Reference as per the Council's Constitution	Decision
	4. To appoint the: <ul style="list-style-type: none"> a. Harbour Appointments Sub-Committee b. Harbour Asset Review Working Party c. Harbour Budget Review Working Party d. Pilotage Review Working Party 	Decision
	5. To consider the Budget outturn for previous financial year	To note
	6. Port Marine Safety Code and Safety Issues	To note

Meeting	Standing items to be considered	Type of Report
21 st Sept 2020	1. Annual Performance Report of the Tor Bay Harbour Authority Business Unit (SPAR.Net)	To note
	2. To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report	To note
	3. Port Marine Safety Code and Safety Issues	To Note

Meeting	Standing items to be considered	Type of Report
21 st Dec 2020	1. To consider the Tor Bay Harbour Authority Budget and Setting of Harbour Charges	Decision
	2. To consider the Annual Compliance Audit of the Port Marine Safety Code	Decision
	3. To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report	To note
	4. Port Marine Safety Code and Safety Issues	To note

Meeting	Standing items to be considered	Type of Report
22 nd March 2021	1. To review the delegated powers of the Head of Tor Bay Harbour and Harbour Master	Decision
	2. To agree the Tor Bay Harbour Authority Business Plan 2020/21	Decision
	3. To review the Operational Moorings Policy	Decision
	4. To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report	To note
	5. To agree the Harbour Committee Work Programme for 2020/21	Decision
	6. To review and approve the Tor Bay Harbour Asset Management Plan 2021/22	Decision
	7. Port Marine Safety Code and Safety Issues	To note



Tor Bay Accident / Incident List

	Date	ID Code	Accident Category	Name			
	05/02/2020	TOR0878REP	Near miss	Bridge operation			
	23/12/2019	TOR0877CLO	Pollution - Water	MFV Bilge Discharge - Night			
	05/12/2019	TOR0875CLO	Other personnel or public safety item	Body found on Corbyns beach			
	01/12/2019	TOR0876INV	Drowned, asphyxiated or exposed to harmful substance	Body on St Marys beach			

Number of Accidents listed = 4

Incident report status as follows;

Reported = 1; Investigating = 1; Investigation Complete = 0; Actioned-Closed = 2

Key	
Symbol showing the record type:	Symbol showing the record status:
- Incident	- Reported
- Potential Incident	- Investigating
- Details not yet completed	- Investigation Complete
	- Actioned-Closed