



Monday, 5 December 2016

HARBOUR COMMITTEE

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

Tuesday, 13 December 2016

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 Bye

Councillor Amil
Councillor Bye
Councillor Carter
Councillor Ellery
Councillor O'Dwyer

Councillor Robson
Councillor Stringer
Councillor Sykes
Councillor Manning

External Advisors

Mr Buckpitt, Mr Ellis, Capt Lloyd and Mr Stewart

A prosperous and healthy Torbay

For information relating to this meeting or to request a copy in another format or language please contact:

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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 - 8)
To confirm as a correct record the Minutes of the meeting of the Committee held on 27 June 2016.
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. **Tor Bay Harbour Authority Budget 2017/2018** (Pages 9 - 37)
To consider the Tor Bay Harbour Authority Budget and setting of Harbour charges for 2017/2018.
6. **Port Marine Safety Code - Annual Compliance Audit** (Pages 38 - 90)
To note the contents of the annual compliance audit of the Port Marine Safety Code.
7. **Tor Bay Harbour Authority Budget Monitoring 2016/2017** (Pages 91 - 99)
To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report.

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|------------|---|----------------------|
| 8. | Internal Audit Report - Harbour Authority Income
To note the submitted Audit report on Harbour Authority income. | (Pages 100 -
108) |
| 9. | Torquay Town Dock Capital Repairs
To consider the submitted report seeking approval for capital repair work to be carried out on the Town Dock. | (Pages 109 -
113) |
| 10. | Notice of Motion Protecting Devon Dolphins
To consider the attached notice of motion on the above referred to the Harbour Committee by the Mayor. | (Pages 114 -
117) |
| 11. | Tor Bay Harbour - Local Port Services Policy Statement
To approve the Tor Bay Harbour policy statement for Local Port Services. | (Pages 118 -
123) |
| 12. | Tor Bay Harbour - Environmental Policy Statement
To approve the Tor Bay Harbour Environmental Policy Statement. | (Pages 124 -
128) |
| 13. | Torquay/Paignton and Brixham Harbour Liaison Forums
To note the minutes of the above Harbour Liaison Forums. | (To Follow) |



Minutes of the Harbour Committee

27 June 2016

-: Present :-

Councillors Bye, Amil, Carter, Ellery, O'Dwyer, Robson, Stringer, Manning and Tyerman

External Advisors: Mr Buckpitt, Mr Ellis and Mr Stewart

1. Election of Chairman/woman

Councillor Bye was elected Chairman of the Harbour Committee for the 2016/2017 Municipal Year.

Councillor Bye in the Chair

2. Apologies

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

3. Minutes

The Minutes of the meeting of the Harbour Committee held on 23 March 2016 were confirmed as a correct record and signed by the Chairman.

4. Appointment of Vice-Chairman/woman

Councillor Ellery was appointed as Vice-Chairman of the Committee for the ensuing Municipal Year.

5. Harbour Committee Terms of Reference

The Committee considered the current Terms of Reference for the Harbour Committee and the amendments suggested by the Executive Head of Business Services.

Resolved:

That the Harbour Committee Terms of Reference be updated as set out in the submitted report and the Monitoring Officer be recommended to update the Constitution to reflect the minor changes.

6. Harbour Appointments Sub-Committee

The Committee considered the submitted report on the appointment of the Harbour Appointments Sub-Committee which considers applications for External Advisors to the Harbour Committees and makes recommendations to the Committee on suitable appointments to those positions. It was noted that the Committee had resolved in 2015 for the Sub-Committee to comprise of five members of the Harbour Committee.

Resolved:

That the Harbour Appointments Sub-Committee be appointed to comprise five Members of the Harbour Committee (The Chairman, Vice-Chairman and Councillors Amil, Carter and Stringer) with the following Terms of Reference:

To consider ad hoc applications for external advisor positions on the Harbour Committee and recommend to the Harbour Committee the persons who should be appointed to those posts as and when vacancies arise. And to determine the rolling programme for advisors tenure.

7. Harbour Asset Review Working Party

The Committee considered the submitted report on the appointment of the Harbour Asset Review Working Party which provides strategic direction in relation to assets within the Tor Bay Harbour and the harbour estate that are managed by the Tor Bay Harbour Authority.

Resolved:

That the Harbour Asset Review Working Party be appointed to comprise four members of the Harbour Committee (The Chairman and Councillors, Amil, Carter and Robson) and two of the External Advisors to the Committee (Mr Stewart and Capt. Lloyd) with the following Terms of Reference:

- a) to review all assets within Tor Bay Harbour and the Harbour Estate;
- b) to establish how each asset is performing; and
- c) to identify any assets that are surplus.

8. Harbour Budget Review Working Party

The Committee considered the submitted report on the appointment of the Harbour Budget Review Working Party which assists the Committee in the management of all the Harbour's financial matters in accordance with approved financial procedures.

Resolved:

That a Harbour Budget Review Working Party comprising four members of the Harbour Committee (the Chairman and Councillors Amil, O'Dwyer and Stringer) and two of the External Advisors to the Committee (Mr Stewart and Mr Ellis) be appointed to scrutinise the draft Tor Bay Harbour Authority budget prior to presentation to the Harbour Committee and to review the full range of harbour

charges. Also, to assist Officers to monitor and review the budget ahead of each quarterly Harbour Committee meeting.

9. Pilotage Review Working Party

The Committee received the submitted report on the appointment of a Pilotage Review Working Party which reviews the Pilotage arrangements for Tor Bay Harbour.

Resolved:

That a Pilotage Review Working Party, comprising two of the External Advisors (Capt. Lloyd and Mr Buckpitt), be appointed to work alongside Officers to review the Pilotage arrangements for Tor Bay Harbour and to recommend to the Harbour Committee any amendments to the Pilotage Directions as and when appropriate.

10. Brixham Express Ferry Update

Members noted the submitted report which provided an update on the Brixham Express Ferry Service. The Executive Head of Business Services advised Members that since the publication of the report the Brixham Express vessel had arrived and was undergoing checks with the Maritime and Coastguard Agency with an expectation that the vessel would be carrying passengers from the middle of July. The challenge was to encourage the use of the ferry in order to see a sustainable change in the mode of transport used by people travelling Brixham and Torquay.

11. Revenue Budget Outturn 2015/2016

Members noted the submitted report which set out details of the Tor Bay Harbour Authority's final expenditure and income figures against the budget targets for 2015/2016.

The Committee congratulated the Executive Head of Business Services and his team as the budget outturn reflects the effort every team member and stakeholder has made to ensure that every area of income generation had been exceeded.

12. Revenue Budget Monitoring 2016/2017 Quarter 1

The Committee received and noted the submitted report which provided Members with the projections of income and expenditure for the year 2016/2017 compared with the approved budgets.

Members noted the amended outturn projection of the harbour account and adjustments to the Reserve Fund as set out in Appendix 1 to the submitted report, which showed an anticipated deficit of £36,000. Members were advised this deficit was as a result of reinstating 24 hour security cover at Brixham Harbour, this will ensure all fish tolls are captured as well as providing improved security for the harbour estate.

13. Annual Performance Report 2015/2016

The Committee noted the submitted report which detailed the year end 2015/2016 performance position of Tor Bay Harbour Authority.

14. Tor Bay Harbour Authority Enforcement and Prosecution Policy

The Committee considered the submitted report on a review of the Tor Bay Harbour Authority Enforcement and Prosecution Policy which is reviewed every two years to ensure that customers benefit from a clear and concise policy.

Resolved:

That the Enforcement and Prosecution Policy set out at Appendix 1 to the submitted report be approved.

15. Quarterly Accident and Incident Data for Tor Bay Harbour

The Committee received and noted a report which provided a quarterly update of the current accident statistics for the Harbour Authority up to June 2016. Members noted there had been 24 recordable events, with reporting of events being actively encouraged.

16. Torquay/Paignton and Brixham Harbour Liaison Forums

The Committee received the Minutes of the latest Torquay and Paignton Harbour Liaison Forum and the Brixham Harbour Liaison Forum and noted the contents.

17. Exclusion of the Press and Public

Prior to consideration of the item in Minute 18 the press and public were formally excluded from the meeting on the grounds that the item involved the likely disclosure of exempt information as defined in paragraphs 1 and 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

18. Paignton Harbour Development Opportunity

Further to Minute 42/3/16, Members received an exempt report which provided an update in respect of the business case for the potential redevelopment of the Harbour Light Restaurant building at Paignton Harbour.

Resolved:

- (i) that the Harbour Committee note the findings of the Business Case for the redevelopment of the Harbour Light building into a first floor family friendly restaurant and the ground floor for cafes and refreshments, as set out in Appendix 1 to the submitted report;
- (ii) that, the principal of a phased redevelopment in line with the Port Masterplan be agreed and the Executive Head of Business Services in consultation with

the Chairman of the Harbour Committee and the Torbay Development Agency, be asked to undertake a business case for a phased approach to the development and to carry out an internal inspection and structural survey; and

- (iii) that the tenants of the Harbour Light Restaurant building continue to be consulted and kept informed as to the proposals that might affect the future use of the building.

Chairman



Meeting: Harbour Committee

Date: 13 December 2016

Wards Affected: All wards in Torbay

Report Title: Tor Bay Harbour Authority Budget and Harbour Charges 2017/18

Executive Lead Contact Details: Non-Executive Function

Supporting Officer Contact Details: Kevin Mowat

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Tor Bay Harbour Master**

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Principal Accountant

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1. Purpose

- 1.1 This report provides Members with the opportunity to consider the level of harbour charges to be levied by Tor Bay Harbour Authority, on behalf of the Council as the Harbour Authority, in the next financial year and to consider the Tor Bay Harbour Authority budget for 2017/18. This is being considered at this time to enable implementation and payment to be made in advance of the granting of facilities for the coming financial year.
- 1.2 The Committee is required to approve the level of harbour charges for Tor Bay Harbour for 2017/18, having considered the budgetary implications set out in this report.
- 1.3 The Committee is further asked to approve the 2017/18 budget for Tor Bay Harbour Authority.

2. Proposed Decision

- 2.1 **That, having had regard to the opinions expressed by the Harbour Liaison Forums, Members consider the recommendation from the Harbour Committee's Budget Review Working Party, to increase the harbour charges for 2017/18, by a representative average of 3.0% and approve the schedule of harbour charges set out in Appendix 1 to the submitted report.**

- 2.2 That an additional contribution be made to the Council’s General Fund from the Tor Bay Harbour Authority accounts, to the equivalent value of £50,000 for 2017/18 as set out in the submitted report.**
- 2.3 That, the Tor Bay Harbour Authority budget for 2017/18, based on a 3.0% representative average increase in harbour charges (as set out in Appendix 2, to the submitted report) be approved.**
- 2.4 That, during 2017/18 the Tor Bay Harbour Budget Review Working Party should continue to review the full range of harbour charges, monitor the revenue budget, and recommend a budget for 2018/19.**

3. Summary

- 3.1 The provisional Harbour Estimates for 2017/18 and subsequent two years, together with the Original Approved Estimate for 2016/17 and Projected Outturn for 2016/17 are attached at Appendix 2 and reflect the likely operating position for the consolidated harbour account for next year assuming a representative average increase of 3.0% in Harbour Charges.
- 3.2 It will be noted from Appendix 2 that the consolidated Harbour Account has been budgeted to break even for 2017/18 and subsequent years.
- 3.3 As an indication of how much revenue can be generated by an increase in harbour charges, the following table shows how much additional annual income is derived from a 1% increase.

	1% increase in charges
Torquay and Paignton Harbours	£8k
Brixham Harbour	£3k

- 3.4 The Harbour Committee’s Budget Review Working Party held meetings on the 14th September, 13th October and 25th November 2016 and this report represents some of the findings and recommendations of that group. The Budget Review Working Party is recommending that Harbour Charges be increased, on average, by 3.0% as shown at Appendix 1.
- 3.5 A continued outcome of the Budget Review Working Party is the recommendation that the harbour reserve fund could be used to make additional repayments against capital financing costs (subject to agreement by the Council’s s.151 Officer) to reduce interest charges over the longer term, provided always that the minimum reserve fund level is maintained.
- 3.6 Furthermore, the Budget Review Working Party decided to continue to recommend to the Harbour Committee that the harbour reserve fund should be split into two with one part ring-fenced to meet any deficit in the revenue budget, or winter storm damage, and the other part set aside for harbour capital projects.

Supporting Information

4 Introduction and history

- 4.1 The Harbour Committee's Budget Review Working Party has met on several occasions since it was appointed in June 2015. It has scrutinised the approved Tor Bay Harbour Authority budget for 2016/17 and has made recommendations for a proposed budget for 2017/18. Membership of the Budget Review Working Party includes Councillors Bye, Amil and Stringer with External Advisors Mr Stewart and Mr Ellis, supported by relevant officers.
- 4.2 Torbay Council's General Fund budget continues to face significant pressures with a shortfall of some £21.5m by 2020. All council business units have been asked to make further savings and/or look at income opportunities to help reduce the corporate deficit. Consequently, the Executive Head of Business Services and the Chair of the Harbour Committee have held discussions with the Chief Executive, Assistant Director of Corporate & Commercial Services, Chief Finance Officer and the Mayor to consider what was expected of the Tor Bay Harbour Authority service area and what could be achieved. As a result of this process, it was agreed that a number of recommendations would be made to the Harbour Committee's Budget Review Working Party and to the Harbour Committee itself.
- 4.3 Over recent years the Harbour Committee has agreed to make annual contributions to the Council's General Fund building to a total of £607,000 by 2016/17. The Committee understood that the recommendation relating to the cash contribution should then be reviewed.
- 4.4 With further pressure placed on the Council's overall budget position the Executive Head of Business Services and the Chair of the Harbour Committee were asked to consider a further contribution to the Council's General Fund totalling £276,000 over the period 2017/18 to 2019/20.
- 4.5 The Budget Review Working Party met three times between September and November 2016 to review and consider the commitments and proposals set out in 4.3 and 4.4 above. The Working Party were reminded that when the budget for 2013/14 was agreed on the 17th December 2012 the Harbour Committee resolved *"that the level of the cash dividend to the Council's general fund be capped at a maximum of 6% of harbour income in future years and that the Executive Head of Financial Services be asked to review the level of support costs to the harbour account to reflect the ongoing reduction in central resources"*. Members of the Working Party were reminded that the additional cash contribution agreed in December 2013 had been described as an asset rental fee. A range of other measures were also discussed with the Working Party, including the feedback received from consultation with the harbour users groups and other stakeholders. The Working Party also considered an appropriate increase in the level of harbour

charges for 2017/18 and after considering the responses from consultation with the Torquay Harbour Users, the Working Party elected to recommend a 3.0% increase across the board.

- 4.6 The Working Party initially considered a schedule of budget reductions/income generating proposals by the Executive Head of Business Services to achieve the corporate General Fund contribution target of an additional £276,000 over 2017/18 to 2019/20. While the Working Party continued to be generally supportive of the viability of income generating proposals it was maintained that high-risk budget cuts would threaten the operation of the Harbour function and its ability to raise income. These specific proposals were rejected and a revised additional contribution of £203,000 was offered back to the corporate centre with £30,000 to be applied from 2017/18.
- 4.7 Following developments in the Council's overall budget exercise the corporate centre made a counter request that increased the 2017/18 contribution from £30,000 to £50,000. A revised schedule of budget reductions/income generating proposals was prepared by Officers to achieve the new target, which was accepted by the Working Party at the November meeting.
- 4.8 The recommendation of the Working Party is therefore that the Harbour Account makes an additional contribution to the general fund of £50,000 in 2017/18 with subsequent additional contributions of £78,000 and £95,000 in 2018/19 and 2019/20 respectively. These proposals, if approved will bring the overall contribution to the general fund to £830,000 by 2019/20.
- 4.9 The Executive Head of Business Services has continued to indicate that the delivery of a fully commissioned harbour authority service could reduce some of the existing support & fixed costs and that such cost reduction and efficiency gains, if they were achieved, would place the harbour authority in a better position to potentially continue paying a cash dividend and asset rental in future years. i.e. beyond the current financial crisis.
- 4.10 In 2007 Torbay Council decided to accept the main findings of the Municipal Ports Review and the concept of paying a dividend and/or an asset rental fee to the "owning authority" is clearly mentioned within this review. However, the total contribution of £607k for 2016/17 has and will continue to put considerable pressure on the harbour authority budget.
- 4.11 At the most recent meeting of the Harbour Committee's Budget Review Working Party, held on 25th November 2016, the Working Party's financial guidelines, issued in 2009, were reviewed. The revised guidelines recommended at this meeting are :-
- that the Harbour Committee should establish a set of accounting principles;
 - that the annual Budget Report should include details of planned capital spending;

- that details should be provided, in pie-chart format, showing the breakdown of internal support service charges;
- that the annual Budget Report should clearly indicate which budget lines are under pressure and more likely to be at risk to variation, complete with the reasons why.
- that any inflationary increase in harbour charges should use the April CPI (consumer price index) figure from the previous year.

4.12 Before charges are reviewed Provisional Estimates indicate that the balances of the Harbour Reserve Funds as at 31 March 2017 could be in the region of :-

	Revenue Deficit Reserve (minimum level)	Projects Reserve	Total Reserve
Harbour Reserve	£530,000	£130,000	£660,000

A list of proposed reserve-funded projects is regularly reported to the Harbour Committee through the budget monitoring process. The proposed schemes for the short term, if applied, are forecast to use up the Projects elements of the Reserve during 2017/18.

4.13 There is uncertainty over future levels of income and expenditure as outlined in paragraph 8.4 below and this could put significant pressure on the Harbour account over the coming years. It is therefore important that as well as keeping pace with rising costs, income levels from user charges, rent and other sources, are sufficient to mitigate these pressures and provide the ability to maintain the appropriate reserve levels.

4.14 The table below indicates the increase in charges in recent years, compared with the consumer price index (CPI) taken at the April point of the previous year. In the last five years increases of 2.5%, 2.0%, 3.0%, 2.8%, and 4.0 % have been applied. The table further illustrates the balance of the combined reserves at 1 April of the charges year.

Charges Year	Overall Increase	Actual CPI	Reserve Levels
2016/17	2.5%	1.60%	£719,930
2015/16	2.0%	1.80%	£687,596
2014/15	3.0%	2.40%	£859,683
2013/14	2.8%	3.00%	£1,144,654
2012/13	4.0%	4.50%	£1,164,624

4.15 Capital Plan/Budget

The items identified in the table below are currently in the Council's Capital Investment Plan/Budget relating to the Harbour Authority.

Capital Item	Project Year	Total Budget £000	Actual to Date (including prior years) £000	Projected Outturn £000
Environment Agency grant funding for Torquay Harbour – Haldon & Princess Piers	2011	1,272	853	1,272
Brixham Various Repairs	2016	123	110	123
New Harbour Workboat	2016	45	10	45

4.16 Harbour Accounts – Financial Principles

The Harbour Committee are asked to note the following recommended financial principles for the harbour accounts:-

- the harbour account and harbour reserve fund should be ring-fenced (assured);
- any operating surplus will pass to the harbour reserve fund;
- operating deficit will be met from the harbour reserve fund;
- the approved budget should not be in deficit;
- the harbour reserve fund level should aim to be at least the minimum target level recommended by the Review of Reserves approved by Council each year;
- all budget lines are properly risk assessed prior to recommendation to the Harbour Committee;
- the Harbour Authority should seek to maximise external funding opportunities;
- the cost of borrowing should be monitored so that the harbour account is not over extended.

4.17 Significant variations to harbour charges

This report recommends that Harbour Charges be increased, on average, by 3.0%. However, certain charges have not increased and others are subject to a more significant variation. The key variations are set out below :-

- Some charges have been rounded up or down (around 3.0%) for ease of collection.

- A specific set of charges now apply to vessels owned by Registered Charities, charitable organisations, bona fide youth groups/clubs or persons under the age of 18 who are members of bona fide youth groups/clubs, that are recognised as youth training organisations. This specific charge replaces a previous concession.
- Alongside berthing charges for the use of the Princess Pier Pontoon are significantly lower than the Town Dock for what is considered an equivalent facility. This is not an equitable arrangement and it is proposed to move these charges to the same level as the Town Dock over a five year phase in period.
- At Brixham the 50% concession on winter storage charges for passenger boats has been removed.
- A new storage charge has been introduced for Oxen Cove.
- Labour and Equipment hire charges have not been increased other than the towing charge for outside the enclosed harbour, which has been increased to a cost recovery level.
- A new waste skip requirement and charge has been introduced for fishing vessels undergoing refit work.
- A new, banded, fresh water charge has been introduced for fishing vessels that take water into an on board holding tank. In the future it may be possible to provide water meters but the introduction of a banded charging system reflects the approach adopted by other fishing ports.
- The following charges have not been increased on the advice of the harbour management team :-
 - Visiting leisure craft – daily & weekly
 - Slipway launch/recovery – daily & annual
 - Trailer parking – daily, weekly & annual
 - Personal watercraft – daily, weekly, annual & registration fee
 - Cruise ship passenger dues
 - Electricity cards
 - Use of a mobile crane on the harbour estate
 - Fish tolls
 - Bunkering
 - Pilotage Exemption Certificate

4.18 In 2009, the Harbour Committee agreed that private vessel harbour dues at Paignton/Brixham should be increased to the same level as private vessel harbour dues at Torquay and that the increase should be staged between April 2010 and April 2012. However, in 2011 the Harbour Committee's Budget Review Working Party recommended that the staged increase should be halted and that officers should consult further with stakeholders at Brixham and Paignton harbours. This consultation should aim to determine and agree the differences between the three enclosed harbours, in respect of harbour dues, and identify a factor to be applied in future years. The Harbour Committee's Budget Review Working Party has asked officers to work and consult with harbour users to provide a clear proposal for Paignton/Brixham private vessel harbour dues, so that it is seen to be fair in

comparison to the level set for private vessel harbour dues at Torquay. Any subsequent change could be implemented over a 10-year period. Due to the current economic climate, this work has been postponed.

5 Possibilities and Options

- 5.1 Increase Harbour Charges in 2017/18 by an average inflationary increase of 3.0% and increase the overall contribution to the General Fund as per recommendations in section 2 and as outlined in paragraphs 4.3 to 4.8.
- 5.2 Make no change to the level of harbour charges and accept increased operational deficits for 2017/18 and future years in contradiction of the Harbour Accounts – Financial Principles (see Para 4.16).
- 5.3 Do not agree to the recommended contribution to the Council’s General Fund and therefore do not contribute to reducing the Council’s overall budget deficit.

6 Preferred Solution/Option

- 6.1 See the recommendations in section 2.

7 Consultation

- 7.1 Consultation with the Brixham Harbour Liaison Forum and the Torquay/Paignton Harbour Liaison Forum commenced in September 2016 and continued in November/December 2016. The responses from both the Torquay/Paignton Harbour Liaison Forum and the Brixham Harbour Liaison Forum will be circulated prior to the meeting in the form of minutes of the meetings. A meeting was also held with the Torquay Harbour Users Association. Concerns were raised over the recommended 3.0% increase in harbour charges and at their meeting a counter proposal was made of a 2.0% increase.
- 7.2 The Executive Head of Business Services has benchmarked with some other Harbour Authorities and the results are displayed in the table below:-

Harbour Authority	2016/17 - % Increase	2017/18 - Proposed % Increase
Chichester	1.0	Approx. 8.0 **
Teignmouth	2.5	3.0
Tor Bay	2.5	3.0
Dartmouth	1.5	1.7 ~ 2.0
Salcombe	2.0	3.0
Poole	RPI + 5.0	RPI + 5.0
Fowey	Zero	2.5
Langstone	No information	1.0

** Major pricing restructure, away from bands to charge per linear metre.

8 Risks

- 8.1 The major risk associated with this report is not presenting a realistic budget resulting in major operational deficits to be funded from the Harbour Reserve. Depletion of this Reserve would eventually require support from the Council's Revenue Fund to meet any operational deficits. Accordingly, the Executive Head of Business Services has recommended a budget that will meet the operational requirements of the Harbour for the forthcoming year in line with realistic expectations for income.
- 8.2 There is a potential risk of customer resistance to increasing Harbour Charges resulting in a shortfall in targeted income. The Executive Head of Business Services has evaluated this risk in line with demand levels for services and the need for harbour income to keep pace with costs. The level of risk is further mitigated by the consultation process with the Torquay Harbour Users Association and both of the Harbour Liaison Forums.
- 8.3 If the Council continues to request a significant contribution to the General Fund in the form of a cash dividend and asset rental fee there is a significant risk that the Harbour Authority will be unable to remain self-funding. In that situation, the Harbour Authority would require a precept from the General Fund and this scenario would be contrary to government best practice for the financial management of municipal ports.
- 8.4 Specific risks and budget line pressures relating to 2017/18 are explained in the table below when read in conjunction with Appendix 2.

Key	Risk and/or pressure to budget line
A	The salary budgets reflect some amendments to the staffing structure and reinstate a provision for take up of pension arrangements by all staff.
B	New security and insurance arrangement have been put in place.
C	Financing costs are recharged to the Harbour Account based on Torbay Council's prevailing low average borrowing rate (currently 4.39%) and fixed over the life of the borrowing period. Flexibility exists for the Harbour Account to make additional repayments without penalty, subject to s.151 Officer approval.
D	The Executive Head of Business Services has agreed to part fund an Environmental Health Officer post to reflect the benefit to the fish market operation.
E	An increase in the contribution to the General Fund is being recommended as outlined in section 4.3 to 4.8 of this report.
F	New rental streams are being pursued.
G	Additional income levels are expected from the rationalisation of mooring spaces.
H	Mussel farm landings have the potential to significantly increase the level of fish toll income. These will be reported as a combined figure for all fish tolls in future reports. Future levels of all fish toll income remain at risk from external factors such as the Common Fisheries Policy, Brexit, quota allowances, market prices, etc.

J	New income streams will be generated from 2017/18.
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Appendices

- Appendix 1 Schedule of Tor Bay Harbour Charges 2017/18 showing a representative average increase of 3.0%.
- Appendix 2 Provisional Harbour Estimates for 2017/18 and Subsequent Years with an average 3.0% increase in Harbour Charges.
- Appendix 3 Estimated Support Service Charges 2017/18.

Additional Information

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

Schedule of Tor Bay Harbour Charges 2016/17

Tor Bay Harbour Act 1970

Tor Bay Harbour (Torquay Marina Act &c.) Act 1983

Minutes of Torquay & Paignton Liaison Forum – September & November 2016

Minutes of Brixham Harbour Liaison Forum – September & December 2016

TOR BAY HARBOUR AUTHORITY



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Brixham Tel: 01803 853321

Paignton Tel: 01803 557812

Email: harbourauthority@torbay.gov.uk

Website: www.tor-bay-harbour.co.uk

SCHEDULE OF CHARGES, DUES & FEES 2017 – 2018

VAT Registration No. GB 142 2082 11

For the period commencing 1st April 2017
until 31st March 2018

REFERENCES

- Harbour Docks and Piers Clauses Act 1847
- Harbours Act 1964
- Pilotage Act 1987
- Tor Bay Harbour Act 1970
- Tor Bay Harbour (Torquay Marina &c.) Act 1983

PUBLICATIONS

- Tor Bay Harbour Act 1970**
Price - £5.00 By Post - £5.50
- Tor Bay Harbour Byelaws 1994**
Price - £3.00 By Post - £3.50

CONTENTS

PART 1	Introduction	Page 1 - 4
PART 2	Harbour Dues	Page 5 - 7
PART 3	Visitor Charges	Page 8 - 9
PART 4	Tor Bay Harbour Authority Moorings Berths & Facilities	Page 10 - 13
PART 5	Tor Bay Harbour Authority Services and Other Charges	Page 13 - 16
PART 6	Pilotage	Page 17

Part 1 – Introduction

1.1 General

- 1.1.1 All charges, dues and fees are subject to the appropriate rate of Value Added Tax (20%) which is included in the price, except as indicated.
- 1.1.2 Annual charges relate to the period 1st April to 31st March following and any part thereof. Certain charges may be levied at either 75% or 50% of the annual rate if no latent demand exists for the facility and three or six months of the annual charging period has elapsed.
- 1.1.3 Seasonal charges, only where applicable, relate to the periods:
- | | | |
|-----------------------------|---|--------|
| 1st April to 30th September | - | Summer |
| 1st October to 31st March | - | Winter |
- 1.1.4 All accounts are to be paid promptly and within the time specified. Payment of the charges listed may be required in advance of the service being taken up. Credit and debit card facilities are available for payments made at the Harbour Offices or via telephone.
- 1.1.5 Penalty for evading payment of charges – Section 30 Tor Bay Harbour Act, 1970
“The owner of any vessel or goods or any other person who eludes or evades or attempts to elude or evade payment of, or refuses to pay, a charge payable by such owner or person to the harbour authority at the time when the same becomes due and payable shall be liable to pay to the harbour authority, in addition to the charge, a sum equal to the amount thereof, which sum shall be a debt due to the harbour authority and shall be recoverable by them in any court of competent jurisdiction.”
- 1.1.6 Failure to notify the harbour office of arrival, or departing the harbour without paying harbour charges, will be taken as an attempt to evade the payment of harbour charges.
- 1.1.7 Visiting vessels of special interest and/or vessels owned by Registered Charities to be eligible for a 50% concession on applicable Harbour Charges at the discretion of the Harbour Master.
- 1.1.8 Any person claiming the return of the whole or part of any charges paid to the Authority shall make such claim and produce all documents and give all information required by the Authority in proof of such claim within twenty four months from the time of payment and, in default thereof, the claim shall cease to be enforceable. (Section 31 Torbay Harbour Act 1970). Refunds would normally only apply in exceptional circumstances and will incur an administration charge (see 5.7)
- 1.1.9 All lengths referred to are overall lengths which in the context of these charges includes bowsprit, pushpit, stern davit, and/or bumpkin etc. etc. as determined by the Harbour Master if required.
- 1.1.10 Any person who without reasonable cause fails to provide information which is reasonably required for the purpose of the harbour undertaking shall be liable on summary conviction to a fine not exceeding level three on the standard scale. (Section 18 Tor Bay Harbour (Torquay Marina &c.) Act 1983).
- 1.1.11 Application for and acceptance of a mooring, quay berth, boat park space, pontoon berth or other facility, implies acceptance of the rate of charge currently in force and of the conditions of issue including that the Authority and its staff are indemnified against any claims arising from or in connection with such berth or facility, save only as the Authority may be liable under the Unfair Contracts Terms Act 1977.
- 1.1.12 Vessels directed into the harbour by the Secretary of State’s Representative (SOSREP) or by any other person legally entitled to direct vessels into a harbour are required to pay one month’s harbour dues in advance as a condition of entry. If using a mooring facility, they will also be required to pay one month’s mooring fees in advance as a condition of entry. These charges are in addition to any charges incurred for pilotage, tugs, berthing the vessel or for the provision of any other service supplied by the Authority.

- 1.1.13 The lawful orders or directions of the Council's Harbour Master and other authorised officers must always be obeyed promptly.
- 1.1.14 No facility granted may be shared, assigned or sub-let without the prior consent of the Harbour Master in writing and further charges may apply (Tor Bay Harbour Byelaw no 38 & 41).
- 1.1.15 The Council have the right to exercise a general lien upon any vessel, and/or her gear and equipment, 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 whether on account of storage or mooring charges or otherwise, shall be paid.
- 1.1.16 No person shall place a vessel on a mooring prescribed in the mooring scheme prepared by the Council for a vessel of a different size than that applied for, without the applicant obtaining the approval of the Harbour Master in writing (Tor Bay Harbour Byelaw no 40).
- 1.1.17 In the event of the applicant selling or otherwise disposing of the vessel authorised to use the mooring, the Harbour Master shall be notified in writing (Tor Bay Harbour Byelaw no 33).
- 1.1.18 These charges will be applied in a fair and equitable manner, to reflect, as reasonably as possible, the service provided. However, for the avoidance of doubt, the Harbour Master may interpret this Schedule in such a manner as to maximise income to the Council as the Harbour Authority.
- 1.1.19 The Harbour Master may vary these charges and/or levy additional charges in respect of anything done 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) and all powers delegated to the Harbour Master by Torbay Council.
- 1.1.20 The owner of any vessel using Tor Bay Harbour 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 owner's occupation and use of the harbour facilities including slipways, steps, jetties, pontoons and staging and for this purpose shall maintain a Public Liability policy against such risks. Failure to maintain the appropriate insurance cover will result in the withdrawal of mooring, launching or other facilities.

1.2 Definitions

1.2.1 Limits of the Harbour

The limits of the Harbour shall comprise the areas as set out in Parts I and II of Schedule 1 of the Tor Bay Harbour Act, 1970, and are as follows;

PART I

The area below the level of high water enclosed by an imaginary line drawn from the point at which the northern boundary of the borough meets the coast to a point one half of a nautical mile true east, thence to a point one half of one nautical mile true east of Hope's Nose, thence to a point one nautical mile true east of Berry Head and thence direct to Sharkham Point, but excluding the area referred to in Part II of this schedule.

PART II

The area below the level of high water enclosed by;

- (a) an imaginary line drawn from Shoalstone Point in the parish of Brixham extending in a west-north-westerly direction for a distance of 6,500 feet or thereabouts until it intersects the imaginary line next described;
- (b) an imaginary line drawn from the centre of Old Quarry at O.S. Ref. SX91445723 in a north-easterly direction for a distance of 3,000 feet or thereabouts until it intersects the imaginary line first described; and

(c) the land line of the coast from the centre of Old Quarry aforesaid to the said Shoalstone Point.

The description Enclosed Harbour means:

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.

Paignton - The area of water enclosed by an imaginary line from the eastern end of North Quay to the northern end of East Quay

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.

1.2.2 **Recreational Vessels**

Any vessel, less than 50m LOA, used solely for the purpose of recreation. All vessels owned and operated by a registered charity for the purpose of training people at sea for recreational purposes. Any vessel that meets the definition of a Passenger Vessel in 1.2.3 below shall not be considered a Recreational Vessel.

1.2.3 **Passenger Vessels**

An MCA Class V, VI or VIA vessel, or an MCA coded vessel, or, where applicable a vessel licensed by Torbay Council to carry fare-paying passengers. Any vessel that meets this definition shall not be considered a recreational vessel.

1.2.4 **Motor Fishing Vessels**

A registered Motor Fishing Vessel based in and working from a Tor Bay Harbour, the owner/master of which is engaged in commercial fishing, whose sole or main income is derived from selling fish on the Brixham Fish Market or landing fish for sale at Brixham, Torquay or Paignton Harbours and paying Fish Tolls to the Torbay Council. (Income from Fish Landings must total at least £10,000 in the previous year to meet the sole or main income test)

1.2.5 **Commercial Vessels**

Recreational vessels of 50m LOA and over and all other vessels, including naval vessels, workboats and pilot boats used for any purposes other than recreation with the exception of, licensed passenger vessels, fishing vessels, or training vessels as defined in 1.2.2, 1.2.3 and 1.2.4 above.

1.2.6 **Vessel**

Means every description of vessel however propelled or moved. Under Tor Bay Harbour byelaws a 'power boat' is defined as a small vessel propelled by machinery and which is ordinarily capable of a speed exceeding 17 knots.

1.2.7 **Passenger**

Any person carried that is not essential to the running of the vessel or any person who has paid to be transported, accommodated or trained on the vessel on which they are embarked.

1.2.8 **Work Within The Harbour**

The loading, discharging, transport, carriage, storing or accommodation of goods, cargo, dry, liquid or gaseous commodities, livestock or passengers. The carrying out of any project for any purpose including but not limited to photographic, film or other artistic work on or by any vessel. Capital dredging; diving support; pile driving or pile removal; laying or recovering an underwater cable or pipeline; laying, maintenance, survey or recovery of mooring anchors, ground tackle, risers or buoys; surveying, scientific research, water sampling or core sampling; and drilling into the river bed for any purpose. Any other project resulting in the construction or removal of any structure or the alteration of the harbour bed or infrastructure. Operations carried out by HM Customs, immigration officers, police and fisheries patrols but excluding fire fighting and search and rescue operations.

1.2.9 **Further Definitions**

Definitions contained within the Harbours Act 1964, the Tor Bay Harbour Act 1970, the Tor Bay Harbour (Torquay Marina &c.) Act 1983 and Tor Bay Harbour Byelaws are applicable where appropriate.

PART 2 – Harbour Dues

2.1 General

- 2.1.1 Harbour Dues are normally payable on all vessels entering, within or leaving the harbour. Harbour Dues relate to a particular vessel and are not transferable. No refunds or partial refunds are normally given.
- 2.1.2 Bona-fide tenders of up to 4.3m LOA, or of up to 6.0m LOA, for parent vessels of 10.0m LOA and over are covered by the payment of harbour dues on the parent vessel. Such tenders must be clearly and uniquely identifiable. If the parent vessel has paid the relevant annual harbour charges the associated tender must show the plaque issued at the time of payment and must be clearly marked 'Tender to (the main vessel's name)'. With the exception of commercial vessels of 50m LOA and over only one tender per vessel is covered in this way. Tenders can only be used for transport to and from the parent vessel and/or mooring. Craft which are not tenders to a larger vessel on a Council mooring will attract Harbour dues in addition to the tender rack charge. All tenders should be stored within appropriate tender racks unless other arrangements have been specifically agreed in written form with the Harbour Master, this would include alongside charges as appropriate.
- 2.1.3 Small vessels less than 3m LOA of which the only means of propulsion is either oars or paddles and which are not normally berthed within the harbour, single canoes of less than 4m LOA and sailboards and rowing skiffs are exempt from the payment harbour dues.
- 2.1.4 Safety and or rescue vessels may be exempted from Harbour Dues as agreed with the Harbour Master. Except that all RNLi vessels will be exempt from the payment of Harbour Dues and mooring fees.
- 2.1.5 HM Ships, Customs and Excise vessels and craft in the service of Trinity House may be exempt from the payment of Harbour charges except as may be otherwise agreed with the Harbour Authority (Section 35 Torbay Harbour Act 1970).
- 2.1.6 Harbour Charges may be offered at concessionary rates for vessels taking part in organised events within Harbour limits if permission is sought and granted in advance of the event and the names and lengths of the vessels involved are made available to the Harbour Master.

2.2 Commercial Vessels

- 2.2.1 This section applies only to commercial vessels (as defined in 1.2.5) not normally moored within the harbour that are, have been or will be carrying out work within the harbour at any time except laid up vessels that will be charged as per 2.2.5. Prices are exclusive of VAT.
- 2.2.2 Charges in this section include mooring/quayside charges where applicable. (vessels over 50 metres only, otherwise see section 3.1)
- 2.2.3 **Vessels visiting an enclosed harbour for up to 7 days**
£3.25/m/LOA/day
- 2.2.4 **Vessels remaining in an enclosed harbour more than 7 days**
For every week or part thereof during which a vessel (not being a vessel to which paragraph 2.2.5 or 2.2.7 of this Part of the Schedule applies) remains in the Harbour after the expiration of seven days from the date of entry when arranged and agreed in advance.
£ 14.74/m/LOA/week

- 2.2.5 **Vessels laid up - Un-laden (and gas-free if applicable) and not working within the Harbour**
For every month or part thereof during which a vessel is laid up (in lieu of the rates mentioned in paragraphs 2.2.3 & 2.2.4 above when arranged and agreed in advance).
To be determined by the Harbour Master
- 2.2.6 **Vessels entering the enclosed harbours of Tor Bay to take on or discharge fuel oil or supplies**
For vessels which are not normally moored in the harbour (maximum stay 24 hours)
£1.36/M/LOA/Day
- 2.2.7 **Floating docks**
For every year or part thereof during which a floating dock remains in the Harbour (in addition to harbour dues applicable to each vessel docked)
To be determined by the Harbour Master
- 2.2.8 **Vessels at anchor in Tor Bay other than those seeking shelter**
£125.00 per day
- 2.2.9 **Vessels at anchor in Tor Bay for underwater survey, hull cleaning, repairs or associated activity**
£250.00 for first 48 hours or part (in addition to the above charge)
- 2.2.10 **Vessels undertaking fish and cargo transhipments**
For the transhipment of fish, cargo, personnel or other goods whether at anchor or underway within Tor Bay Harbour limits.
To be determined by the Harbour Master

2.3 Non Commercial Vessels

- 2.3.1 This section applies to Torquay, Paignton and Brixham harbours. Charges are levied per metre per annum or part thereof expiring 31st March following. Prices are inclusive of VAT, except where specified. For daily rates see part 3.
- 2.3.2 Payment of Annual Harbour Dues must be signified by the display of the Harbour Authority 'Plaque' which will be issued when payment is made. Failure to display a 'Plaque' may result in daily charges being applied as detailed in part 3. Tenders must be registered with the Harbour Authority to obtain their tender 'plaque'. The display of any 'Plaque' issued in respect of another vessel will be taken as an attempt to evade the payment of harbour dues. Such attempts may be subject to payment of twice the amount of set harbour dues (section 30 Tor Bay Harbour Act 1970) (see section 1.1.5).
- 2.3.3 Motor Fishing Vessel charges only apply to vessels bona fide engaged in fishing. Registered fishing vessels employed as pleasure craft and carrying passenger for reward are to pay the appropriate passenger vessel charge for the period so employed.
- 2.3.4 Vessels owned by charities or charitable organizations, including bona fide local youth organisations are eligible for a specific charge at the discretion of the Harbour Master.

Torquay Harbour Recreational Vessels, Commercial Vessels under 50m LOA not undertaking work within the harbour and Commercial Vessels normally moored within the harbour regardless of whether they are carrying out work or not (other than passenger vessels).	£58.49/m/LOA/year or part
Paignton & Brixham Harbour Recreational Vessels, Commercial Vessels under 50m LOA not undertaking work within the harbour and Commercial Vessels normally moored within the harbour regardless of whether they are carrying out work or not (other than passenger vessels).	£43.72/LOA/year or part
Paignton & Brixham Harbour Specific charge for certain vessel categories (see 2.3.4 for details)	£21.86/LOA/year or part
Passenger Vessels under 16.5m LOA or carrying 12 passengers or less	£59.05/m/LOA/year or part
Passenger Vessels over 16.5m LOA and carrying more than 12 passengers	£85.99/m/LOA/year or part
Motor Fishing Vessels based in and working from Tor Bay Harbour (Exclusive of VAT)	£9.08/m/LOA/year or part

2.4 Goods, Cargo and Passenger Dues

- 2.4.1 Goods dues are levied on all vessels (VAT exempt for vessels of over 15 GRT) per occasion as follows.
- 2.4.2 The payment of fish tolls includes alongside berthing charge at Brixham and electricity/water consumption where a recharge facility does not exist.

Goods (Exclusive of VAT)	
Fish (other than cured fish) but including shellfish, crabs etc., Brought into the Harbour or to any place within the limits of the Harbour by sea and sold, on the gross proceeds of fish (includes alongside berthing charge at Brixham and electricity/water consumption where a recharge facility does not exist)	£0.025 per £
Fish overlanded and sold on Brixham Fish Market, On the gross proceeds of the sale	£0.015 per £

Cargo Dues (Exclusive of VAT)	
General Cargo/Other Commodities	To be determined by the Harbour Master
General Ships Stores/Spares etc	£1.90 per tonne
Waste Bins (1,100 litres)	£2.50 per unit

Passenger Dues	
Cruise ship passenger landing fees, per passenger	£3.50 per passenger
For Passenger Vessel charges	See section 4.4

PART 3 – Visitor Charges

3.1 Launching and Recovery Fees and Visitor Charges

- 3.1.1. This section applies to Recreational Vessels, Passenger Vessels, Fishing Vessels and Commercial Vessels under 50m LOA not undertaking work within the harbour. These are applicable at each of the enclosed Harbours. No visitor charge is applicable to Recreational Vessels staying alongside for less than two hours (Not applicable to the Town Dock in Torquay during busy periods).
- 3.1.2 All charges quoted within this section are inclusive of VAT except where stated. These charges are combined charges that include harbour dues and mooring fees where applicable.
- 3.1.3 Visitor Pontoons are available, normally for Recreational Vessels during the summer months in Brixham and Torquay harbours.
- 3.1.4 Visitors staying more than 3 nights get one night free, only applicable for up to a three week stay (This offer is at the discretion of the Harbour Master for undeclared visits). Vessels may be required to double-up with other craft, and in such cases fendering will be the responsibility of the Masters of the craft involved. There is no reduction for doubling up.
- 3.1.5 Motor Fishing Vessel charges only apply to vessels bona fide engaged in fishing. Registered fishing vessels employed as pleasure craft and carrying passenger for reward to pay the appropriate passenger vessel charge for the period so employed.
- 3.1.6 To avoid the abuse of visitor moorings by local vessels, all craft using visitor mooring facilities will be charged as set out below and are normally restricted to a maximum stay of three weeks (21 days) with no return within one week 7 days.
- 3.1.7 Use of harbour facilities can and will be denied if boats are not adequately insured (see 1.1.20).

Daily Visitor Charges (per night or over 2 hours)	
Up to 4 metres (13ft)	£10.00 per day
Over 4 metres up to 5.5 metres (14ft-18ft)	£11.00 per day
Over 5.5 metres up to 7 metres (19ft-23ft)	£12.00 per day
Over 7 metres (23ft)	£1.94 m/per day
Motor Fishing Vessels not working regularly from Tor Bay Harbour up to 4 days (Exclusive of VAT)	£1.53 m/per day
Passenger vessels	£2.22 m/per day
Tri-Marans	£2.90 m/per day
Catamarans	£2.42 m/ per day

Weekly Visitor Charges	
Up to 4 metres (13ft)	£48.00 per week
Over 4 metres up to 5.5 metres (14ft-18ft (per day)	£53.00 per week
Over 5.5 metres up to 7 metres (19ft-23ft) (per day)	£58.00 per week
Motor Fishing Vessels not working regularly from Tor Bay Harbour over 4 days (Exclusive of VAT)	£6.38 per m/per week or part

Slipway Charges	
Up to 4 metres (13ft)	£10.00 per day
Over 4 metres up to 5.5 metres (14ft-18ft (per day)	£11.00 per day
Over 5.5 metres up to 7 metres (19ft-23ft) (per day)	£12.00 per day
Over 7 metres (23ft) up to 15 metres (50ft)	£1.94 m/per day
Canoes/Kayaks/Paddle-Boards	£5.00 per day

- 3.1.8 Annual launch and recovery passes are issued at the discretion of the Harbour Master and are subject to availability.
- 3.1.9 Annual launch and recovery passes do not include trailer parking charges.
- 3.1.10 Passenger vessels other than MCA Coded and MCA class V, VI, VIA Passenger Vessels and EU Classes to be charged as commercial vessels see section 2.2.

Annual Charges	
Launching and recovery pass for private use of Tor Bay Harbour slipways.	£37.86 per m
Launching and recovery pass for commercial use of Tor Bay Harbour slipways.	£51.80 per m
MCA Coded and MCA class V, VI, VIA Passenger Vessels and EU classes visiting Tor Bay Harbour (combined charge)	£295.00

3.2 TRAILER PARKING

- 3.2.1 Trailer parking is subject to availability.
- 3.2.2 Annual trailer parking is only available when purchasing an annual launching and recovery pass.
- 3.2.3 Customers seeking continuous trailer storage should refer to Boat & Trailer parking in section 4.5; such facilities are subject to availability. The annual trailer parking identified in this section does not entitle constant use of the trailer parking area.

Daily trailer parking	£5.00 per day
Weekly trailer parking	£25.00 per week
Annual trailer parking (only available with private annual launch & recovery pass)	£60.00 per year or part

3.3 PERSONAL WATERCRAFT (JET SKIS)

- 3.3.1 All personal watercraft (jet skis) must be registered with the Harbour Authority and proof of insurance will be required.
- 3.3.2 The granting of launching/recovery facilities is at the discretion of the Harbour Master and subject to availability.
- 3.3.3 These launching/recovery charges do not include trailer parking.
- 3.3.4 “Qualified” means a person holding a recognised RYA Personal Watercraft Certificate – proof will be required on each occasion.

Personal Watercraft (Jet Skis) Launching & Recovering	Qualified	Unqualified
Daily charge	£13.00 per craft/day	£18.00 per craft/day
Weekly charge	£60.00 per craft /week	£80.00 per craft /week
Annual charge	£180.00 per craft /annum	£250.00 per craft /annum
Registration fee	£15.00	£15.00

Town Dock Jet Ski Pods (subject to availability)	
Daily charge	£16.50
Weekly charge	£72.00

PART 4 – Tor Bay Harbour Authority Moorings, Berths & Facilities

4.1 General

- 4.1.1. A waiting list exists for some Tor Bay Harbour moorings & facilities. The registration fee to join each waiting list is £25.00 the fee is not refundable or transferable. A non-refundable fee of £50 is required to join any of the commercial waiting lists.
- 4.1.2 Permanent moorings and berthing facilities are allocated on an annual basis, 1st April to the 31st of March following.
- 4.1.3 When vessels are moored, outboard engines in the raised 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.
- 4.1.4 Owners must ensure that the vessel is provided with a sufficient number of fenders adequate for the size of vessel, so as to prevent damage to other vessels, quays or other property (Tor Bay Harbour Byelaw 46).

4.2 Visiting Commercial Vessels

- 4.2.1 For vessels under 50m LOA not undertaking work within the harbour see section 3.1 (combined charge applicable.)
- 4.2.2 For all other commercial vessels see section 2.2 (combined charge applicable.)

4.3 Visiting Non Commercial Vessels

- 4.3.1 See section 3.1 (combined charge applicable)

4.4 Use of Tor Bay Harbour Authority Landing/Embarkation Facilities

- 4.4.1. These charges are inclusive of VAT and apply in relation to passengers embarking/landing at Brixham, Paignton and Torquay quays, piers, pontoons or any other fit for purpose harbour facility. Except those passengers embarked as trainees aboard vessels owned and operated by a registered charity for the purpose of training people at sea for recreational purposes.
- 4.4.2 For Cruise Ship Passenger Charges see section 2.4

Visiting Passenger Vessels	
MCA coded vessels and MCA Class V, VI, VIA vessels and EU classes	£2.72 per passenger per visit
MCA coded vessels and MCA Class V, VI, VIA vessels and EU classes – over 15grt (VAT Exempt)	£2.27 per passenger per visit
Other Passenger Vessels	To be determined by the Harbour Master

Passenger Vessels - Annual Compound Charges	
MCA coded vessels up to 24m LOA	£55.00 per annum
MCA class V, VI, VIA vessels, EU classes and coded vessels of 24m and over	£3.34 per passenger

4.5 Quayside Charges

- 4.5.1. This section applies to Non Commercial vessels and resident Commercial vessels and all charges are inclusive of VAT.
- 4.5.2 Grids are only available at Brixham Harbour.
- 4.5.3 Annual charges for MFV's lying alongside the quay in Brixham are covered by the payment of fish tolls as described under goods and passenger dues in section 2.4.
- 4.5.4 Torquay Inner Harbour pontoon charges are inclusive of harbour dues.
- 4.5.5 Torquay Outer Harbour Town Dock pontoon charges are inclusive of harbour dues.
- 4.5.6 Town Dock non commercial facilities are charged as per the allocated berth size and not the LOA.

Quayside Berth Daily Charges	
Vessels carrying out repairs inclusive of harbour dues (where a bookable facility exists)	£2.92 per m LOA/per day
Vessels carrying out repairs exclusive of harbour dues (where a bookable facility exists)	£2.82 per m LOA/per day
Resident vessels with moorings and paying harbour dues lying alongside the quays or each other (for pontoon use see visitors section 3.1).	£1.75 per m LOA/per day
Use of Grids inclusive of harbour dues	£3.50 per m LOA/per day
Use of Grids exclusive of harbour dues	£3.40 per m LOA/per day
Use of slipway/beach to dry out/repairs – Torquay and Paignton only	£3.45 per m LOA/per day
Annual Charges for Vessels Lying Alongside the Quay, Pontoon or Each Other.	
Torquay Harbour	£69.36 per m LOA
Paignton Harbour	£53.74 per m LOA
Brixham Harbour	£53.74 per m LOA
Use of Brixham Town Pontoon by Tenders (At the Harbour Masters discretion)	£53.74 per m LOA
Torquay Princess Pier Pontoon (does not include harbour dues)	£85.84 per m LOA
Torquay Inner Harbour South Pier Pontoon	£178.94 per m berth
Torquay Inner Dock	£178.94 per m berth
Torquay Inner Dock – Specific charge for certain vessel categories (see 2.3.4 for details)	£89.47 per m berth

Torquay Outer Harbour Town Dock	
Private Vessels - per year	£237.77 per m berth
Jet Ski Pods – per year	£730.00 per pod

- 4.5.8 Annual charges for boat and trailer parking on quays are inclusive of harbour dues. Charitable organisations, local yacht clubs, and bona fide local youth organisations are recognised as youth training organisations and invited, on an annual basis, to submit details of eligible young persons under the age of 18 years to be considered for a specific charge. Boat park charges will be based on the greater length of either the boat or trailer - if stored on a road trailer and not a launching trolley.
- 4.5.9 Charges for horizontal racks are inclusive of harbour dues.
- 4.5.10 Craft, which are not tenders to a larger vessel on a Council Mooring, will attract harbour dues in addition to the rack charge (see section 2.1.2).

- 4.5.11 Beacon Quay reserved car parking spaces are located under the public car park on Beacon Quay. Allocation of these spaces is on the understanding that they can be given up for up to 14 days per year to assist in accommodating maritime events.

Boat & Trailer Parking, Storage on Quays	
Boat parking (under 6m LOA) – single hull (includes racks at Torquay)	£68.66 per m LOA/per annum
Boat parking (under 6m LOA) – multi hull (occupying more than one space)	£88.61 per m LOA/per annum
Boat parking (under 6m LOA) – Specific charge (see 4.5.8)	£34.33 per m LOA/per annum
Boat parking (under 6m LOA) – Haldon Pier only (Summer season only)	£34.33 per m LOA/per season
Boat parking (under 6m LOA) – Haldon Pier only (Summer season only) - Specific charge (see 4.5.8)	£17.17 per m LOA/per season
Boat trailers only (subject to availability)	As per single hull boat parking
Boat storage on the Quay (on or off a trailer) (subject to availability)	£2.89 per m LOA/per day
Boat parking (6m LOA and over) (subject to availability)	£103.56 per m LOA/per annum
Commercial boat parking on Haldon Pier (subject to availability)	£136.00 per m LOA/per annum
Dinghy/tender rack	£37.00 per rack per year
Use of courtesy tenders, subject to availability	£37.00 per year
Paignton horizontal racks, subject to availability (max, length 3.7m)	£170.00 per rack/per year
Kayak/Canoe rack (only available at certain harbours)	£111.00 per year or part
Paignton Harbour West Quay Parking	£148.00 (April to Sept)
Paignton Harbour South Quay & West Quay Parking	£296.00 per year or part
Car parking permit for Beacon Quay (quayside level only)	£500.00 per year or part
Car parking permit for Brixham (New Fish Quay & MFV Basin only)	£260.00 per year or part

4.6 Annual Mooring Charges

- 4.6.1 Trot, Swinging and Outhaul Moorings – all prices inclusive of VAT
- 4.6.2 It is Torbay Council's policy to support the fishing industry and this is reflected in certain mooring charges at Brixham Harbour

Mooring Charges	
Brixham Inner Harbour trot mooring (no risers provided)	£51.12 per m loa /per annum
Brixham Outer Harbour swinging mooring	£91.00 per m loa /per annum
Paignton trot mooring (no risers provided)	£51.12 per m loa /per annum
Paignton trot mooring – Specific charge for certain vessel categories (see 2.3.4 for details)	£25.56 per m loa /per annum
Paignton outhaul mooring (not exceeding 4.88m) (no risers provided)	£21.07 per m loa /per annum
Mooring Licence Fee (Paignton Harbour only)	£5.00 per annum

4.7 Winter Storage

- 4.7.1 Winter storage is only available at Brixham & Paignton Harbours and is charged on length overall as detailed in 1.1.9
- 4.7.2 Vessels having annual facilities at Paignton Harbour will be entitled to a 50% concession.
- 4.7.3 Accommodation is let for the period 1st October to 31st March only, subject to availability. This charge applies for the whole or any part of the above period and no reduction will be allowed for any lesser period. Any craft that remains in storage after 31st March may attract a further charge of £2.89 per metre per day.

Winter Storage Charge	
Uncovered storage at Brixham or Paignton Harbours	£51.79 per m LOA
Lifting Charge (Brixham Harbour only)	£21.11 per m LOA/per lift

PART 5 – Tor Bay Harbour Authority Services and Other Charges

5.1 Utilities

- 5.1.1 Electricity cards for electricity only, are available in the following denominations for the respective price (prices listed are inclusive of 5% REDUCED RATE VAT)
- 5.1.2 These utility charges are applicable only where a recharging facility exists, e.g. card/token meters or sub meters. Also these charges are linked to the relevant energy prices at any given time (See 2.4.2 for MFV charges when paying fish tolls)

Electricity Charges	
Level 1 card (available only at Torquay & Paignton)	£1.00 each
Level 1 (10 KW card) (available only at Brixham)	£1.00 each
Level 5 (50 KW card) (available only at Brixham)	£5.00 each
Level 10 (100 KW card) (available only at Brixham)	£10.00 each
Smart Card (available at Torquay Inner Dock only)	To be determined by the Harbour Master
Brixham Harbour KW charge for MFVs	To be determined by the Harbour Master

- 5.1.3 For water taken by small leisure vessels in quantities of less than one tonne there is no charge other than where a recharge facility exists.
- 5.1.4 For water supplied from the Council's standpipes other than in 5.1.4 above the following charges apply.

Water Charges (Zero rated VAT)	
Up to 50 tonnes	£3.23 per tonne
50 tonnes and over	£2.59 per tonne
Fishing Vessels with fresh water tanks 0m ~ 8m LOA	£20.00 per annum
Fishing Vessels with fresh water tanks over 8m ~ 12m LOA	£40.00 per annum
Fishing Vessels with fresh water tanks over 12m ~ 20m LOA	£200.00 per annum
Fishing Vessels with fresh water tanks over 20m LOA	£250.00 per annum

5.2 Crane, Labour and Equipment Hire Charges

- 5.2.1 The Brixham Harbour crane has a safe working load of 4 tonnes maximum.
- 5.2.2 Use of mobile commercial cranes and/or other lifting appliances (including Hiabs) on Harbour Property/Estate is at the discretion of the Harbour Master and prior notification must be provided for each operation. Prior notification in respect of cranes on Beacon Quay must be provided 48 hours in advance.

Crane Charges	
Crane per lift (other than boat lifts) e.g. masts engines etc.	£82.00 per hour or part
Boat lift (minimum charge £82.00)	£10.65 per m
Lift out and re-launch same day before 1600 hours (Monday - Friday)	Charge as 1½ lifts
Block-up charge	£4.10 per m LOA
Block up charge, twin keel	£1.73 per m LOA
Storage on quay, per day or part per metre LOA (See 4.5)	£2.89 per day or part/m LOA
Site rental for mobile crane at Torquay Harbour	To be determined by the Harbour Master
Use of mobile commercial crane and/or Hiab on Harbour Property/Estate up to 4 hours. (Inclusive of Launch Fee)	£40.00 per crane
Use of mobile commercial crane and/or Hiab on Harbour Property/Estate over 4 hours. (Inclusive of Launch Fee)	£80.00 per crane/per day

- 5.2.3 Enhanced rates will be charged, out of ordinary working hours, where overtime is required to be worked. If staff have to be called out, a minimum of 2 hours overtime will be charged (per person).
- 5.2.4 Tor Bay Harbour Authority personnel and equipment (subject to availability) are charged out at the following rates all including VAT. Hire of these facilities are at the Harbour Masters discretion.
- 5.2.5 Towing and water taxi services are provided at the discretion of the Harbour Master.
- 5.2.6 Use of forklifts on harbour property/estate is at the discretion of the Harbour Master.
- 5.2.7 Fork lift truck services to Ship's Agents, includes labour up to 30 minutes and minimal storage up to 1 week. Storage charges (subject to capacity) after 1 week are at £2.00 per pallet per day. (Exclusive of VAT).
- 5.2.8 The boat pressure washing service includes the provision of an operative.

Labour and Equipment Hire Charges	
Labour charge (during normal working hours) per staff member	£25.00 per hour or part
Hire of workboat including skipper and crew	£150.00 per hour or part
Hire of workboat including skipper and crew	£700.00 per day, 0900-1700 hours
Water taxi service to or from vessel in enclosed Harbour, including crew	£12.75 per single trip or per round trip if no waiting
Towing within enclosed harbour	£25.00 per ½ hour or part
Towing outside enclosed harbour to nearest enclosed harbour within Tor Bay	£50.00 per ½ hour or part
Pumping out of vessels within the enclosed harbours	£50.00 per hour or part
Hire of fork lift truck without driver (Requires qualified driver)	£100.00 per half day
Hire of fork lift truck with driver	£50.00 per hour or part
Fork lift truck services to Ship's Agents (Exclusive of VAT)	£18.00 per pallet
Boat pressure washing service (minimum charge £45.00)	£10.36 per metre LOA

5.3 Storage Space

- 5.3.1 The storage of fishing equipment is only chargeable after 48 hours at the discretion of the Harbour Master.
- 5.3.2 A charge will be made for moving equipment into storage and the applicable rate will be labour charge identified in 5.2 above.

Unleased quay areas for fish boxes, fishing gear, cargo containers etc.	£1.00 per m ² /per day
Unleased quay areas for fish boxes, fishing gear, cargo containers etc (subject to availability and at the Harbour Masters discretion)	£65.00 per m ² /per annum
Storage of beams. on unleased quay areas	£6.00 per set/per week
Storage of waste bins (1,100 litres)	£2.50 per bin per day
Storage of loaded pallets on unleased quay areas	£3.00 per pallet/per week
Unleased storage areas in Oxen Cove, Brixham	£28.00 per m ² /per annum
Lock-up storage (ship stores only) (Equipment removal and transportation costs at applicable hourly rate)	To be determined by the Harbour Master
Storage lockers at Paignton Harbour (subject to availability)	£188.00 per annum

4. Licences (Exclusive of VAT)

- 5.4.1 Fish salesmen's and buyer's licences are valid from 1st April each year.
- 5.4.2 The period of validity for a Boatman's licence must run concurrent with their DfT licence - MCA and Code of Practice Boatmen only.
- 5.4.3 Torbay Council, as the Harbour Authority, may grant upon such terms and conditions as they may think fit licences for pleasure craft to be let for hire or to be used for carrying passengers for hire within the Harbour, and to the boatmen or persons assisting in the charge or navigation of such craft. (See section 22 (1) Tor Bay Harbour Act 1970).

Fish salesmen's licence (includes use of Fish Market brand)	£315.00 per annum
Fish buyer's licence (includes use of Fish Market brand)	£315.00 per annum
Self-drive pleasure boats	£5.00 per boat/per annum
Harbour estate trading licence (at the Harbour Masters discretion)	As per Council's Street Trading Consent Fee.
Fishing permit	To be determined by the Harbour Master

5.5 Bunkering Charges (Exclusive of VAT)

- 5.5.1 Bunkering charges do not apply where fuel is taken from the refuelling stations at the Bunkering Jetty at Brixham, Brixham Marina or South Pier at Torquay

For fuel oil delivered to vessels from tankers on shore or afloat up to 4,000 litres (minimum charge £25.00)	£0.03p per litres per vessel
For fuel oil delivered to ships from tankers on shore or afloat over 4,000 litres (minimum charge £25.00)	£1.50p per 500 Litres
For fuel oil delivered to ships from tankers afloat in Tor Bay	To be determined by the Harbour Master

5.6 Waste Charges

- 5.6.1 Waste/rubbish that litters the Harbour Estate as a result of refit or repair work maybe removed by the Harbour Authority. Fishing vessels undergoing a refit will be required to use a dedicated skip. The related charges and applicable costs are detailed below.

Transportation to the Council refuse tip, Including attendants and use of Council transport etc.	£150.00 per truck load or part load
Council tipping charge.	As per weighbridge load
Provision of skip for fishing vessels in refit	At cost + 10%

- 5.6.2 A significant contribution towards the reasonable cost of Port Waste reception facilities for vessels covered by the Port Waste Reception Facilities Regulations 2003 will be made by way of a consolidated harbour dues charge where applicable. However, with the exception of small volumes of waste oil, the charge for receipt of dirty ballast water, tank washings (slops), oily mixtures containing chemicals, scale and sludge from tank cleaning operations, oily bilge water, sludge from purification of fuel oil, noxious liquid substances, sewage and excessive volumes of garbage will be levied at cost plus 10%.

Passenger Craft Waste Reception Facilities	To be determined by the Harbour Master
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5.7 Miscellaneous Charges

- 5.7.1 The parking of exhibition vehicles on Harbour Estate is at the discretion of the Harbour Master.
- 5.7.2 Pleasure Boat Advertising Boards are licensed sites and are subject to a tendering process.
- 5.7.3 Vessels of exceptional construction or methods of propulsion, or not otherwise covered which include; sea planes, hovercraft, hydroplanes, hydrofoils and similar craft, rafts used for recreational purposes, etc.
- 5.7.4 The Harbour Authority may from time to time levy a charge on persons promenading on Quays and Piers of the Harbour Estate
- 5.7.5 Annual Contractors passes are valid from 1st April each year and are subject to Terms and Conditions of Use. To be determined by the Harbour Master using Powers Delegated by Torbay Council.

Administration Charge (This charge is at the discretion of the Harbour Master)	£50.00 Minimum
Officer Charge (this charge applies when time has been spent by officers in preparing reports or supervising work that is not the responsibility of the Harbour Authority)	To be determined by the Harbour Master
Parking of Exhibition Vehicle on Harbour Estate	£70.00 per day or part
Replacement Swipe Card or Fob for controlled access/electricity meters	£10.00 per unit
Additional pontoon cleat (subject to Harbour Master's agreement)	£47.00 per unit fitted
Vessels of exceptional construction or methods of propulsion, or not otherwise covered.	Such charges as may from time to time be fixed.
Contractors Pass (for Tradesmen working on the harbour estate) Exclusive of VAT	£315.00 per year or part
Daily Contractors Pass Exclusive of VAT	£8.98 per day or part
Advertising Charges	To be determined by the Harbour Master
Salt Water Extraction Charge (Use of quays to pump water for commercial purposes) (At the Harbour Masters discretion)	£25.00 per day or part £1000.00 per year or part
Facilities for visiting Fishing Vessels at Brixham Harbour Use of showers	£2.50 per shower
Tide Tables (Subject to availability)	To be determined by the Harbour Master
Payment Plan Administration Charge (Direct Debit payments over monthly instalments) (annual facility charges only) inclusive of VAT	£30.00
Payment Plan Administration Charge (Direct Debit payments over monthly instalments) (annual facility charges only) inclusive of VAT	£42.00
Payment Plan Administration Charge (Direct Debit payments over monthly instalments) (annual facility charges only) inclusive of VAT	£60.00

PART 6 – Pilotage

6.1 Services of a Pilot and/or Pilot Boat (Exclusive of VAT)

6.1.1. Extract from Tor Bay Harbour Pilotage Directions

Pilotage shall be compulsory within the compulsory pilotage area for all vessels except :-

- i. any ship of Her Majesty’s Royal Navy or Royal Fleet Auxiliary;
- ii. foreign warships navigating in the harbour for the purpose of taking up or leaving an anchorage;
- iii. any vessel of less than 36m LOA entering or leaving an enclosed harbour and not carrying a cargo of dangerous goods or marine pollutants;
- iv. any vessel of less than 80m LOA providing they do not enter or leave an enclosed harbour
- v. any vessel engaged in towing where the length of such vessel aggregated with the length of the tow is less than 80m or less than 36m for those entering or leaving an enclosed harbour;
- vi. any fishing vessel less than 47.5m LOA;
- vii. any vessel, or vessel engaged in towing, proceeding to or departing from a designated anchorage provided such vessel has been forced by stress of weather to seek shelter.

See www.tor-bay-harbour.co.uk for the latest version of the Tor Bay Harbour Pilotage Directions

From sea to Brixham or Torquay harbours	£70.00 per metre draught
From Brixham or Torquay harbours to sea	£65.00 per metre draught
Shift berth within Torquay or Brixham harbours	£40.00 per metre draught
From sea to Tor Bay Harbour anchorage	£29.00 per metre draught
From Tor Bay Harbour anchorage to sea	£22.00 per metre draught
Sea to Tor Bay Harbour & Tor Bay Harbour to sea – surcharge for vessels over 150m LOA	£1.50 per metre for each metre over 150m
Minimum charge (with or without a Pilot on board)	£105.00
Detention, after 1 hour	£65.00 per hour or part
Pilot Boat Charges (Shipping or Landing a Local Pilot)	Levied by Marine & Towage Services Group Ltd [Brixham Office]

Note – Add 50% surcharge to Pilotage Charges incurred on Bank Holidays

6.2 Charges for Pilotage Exemption Certificates

6.2.1 Pilotage Exemption Certificate, per issue £110.00

Appendix 2

Provisional Harbour Estimates for 2017/18 and Subsequent Years
with an average 3.0% increase in Harbour Charges

TOR BAY HARBOUR AUTHORITY

Summary of Harbour Contributions to General Fund	2016/17	2017/18	2018/19	2019/20
Target Contribution to General Fund for year		50	78	95
Total Contribution to General Fund per year	607	657	735	830

Expenditure	2016/17 Base Budget £ ,000	2016/167 Projected Outturn £ ,000	2017/18 Provisional Budget £ ,000	2018/19 Provisional Budget £ ,000	2019/20 Provisional Budget £ ,000	Note
Harbour Employee Costs	557	567	589	610	616	A
Operations and Maintenance :-						
Repairs and Maintenance	229	255	229	229	229	
Rent Concessions	23	17	17	17	17	
Other Operating Costs	473	506	548	550	555	B
Management and Administration :-						
Internal Support Services	162	175	162	162	162	
External Support Services	42	50	50	50	50	
Other Administration Costs	83	109	79	79	79	
Capital Charges	498	498	498	498	498	C
Contribution to General Fund - EHO	0	25	25	25	25	D
Contbn to General Fund - Cash Dividend	160	160	171	171	171	
Contbn to General Fund - Asset Rental	447	447	486	564	659	E
Revenue Contribution to Capital	0	85	0	0	0	
Contribution to Reserve	0	95	0	0	0	
	2,674	2,989	2,854	2,955	3,061	
Income						
Rents and Rights :-						
Property and Other Rents/Rights	540	550	576	594	594	F
Marina Rental	398	429	403	408	413	
Operating Income :-						
Harbour Dues	139	158	144	149	154	
Visitor and Slipway	53	53	54	55	56	
Mooring fees	196	192	212	218	224	G
Torquay Town Dock	297	297	306	319	326	
Torquay Inner Dock	251	251	258	268	279	
Fish Toll Income	571	700	616	616	621	
Fish Tolls - Mussels	0	0	20	60	130	H
Boat and Trailer parking	36	42	42	42	42	
Recharged Services	73	83	79	82	82	
Other Income	120	114	144	144	144	J
Refund of water charges	0	33	0	0	0	
Interreg grants received	0	62	0	0	0	
Contribution from Reserves	0	26	0	0	0	
Support Services - saving unidentified	0	0	0	0	0	
	2,674	2,990	2,854	2,955	3,065	
Operating Surplus /(Deficit)	0	1	0	0	4	

RESERVE FUND				
Estimated Opening Balance as at 1st April	719	660	445	370
Interest Receivable	6	5	5	5
Net Surplus / (Deficit) from Revenue Account	1	0	0	4
Contribution to Revenue Account	(26)	0	0	0
Contribution to Revenue Account	95	0	0	0
Withdrawals - Harbour Schemes	(135)	(220)	(80)	(10)
Expected Closing Balance as at 31st March	660	445	370	369

Minimum Reserve Level

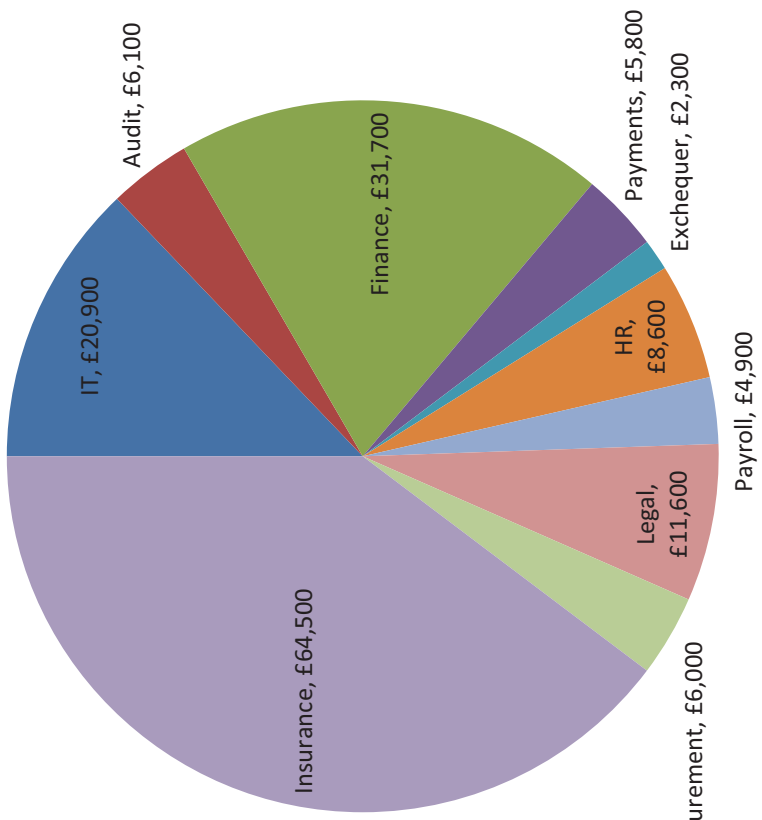
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Appendix 3
Harbour Account
Estimated Internal Support Service Charges 2017/18



Meeting: Harbour Committee


Date: 13 December 2016

Wards Affected: All wards in Torbay

Report Title: Port Marine Safety Code - Annual Compliance Audit

Executive Lead Contact Details: Non-Executive Function

**Supporting Officer Contact Details: Kevin Mowat
Executive Head of Business Services
Tor Bay Harbour Master**

 **Telephone: 01803 292429**

 **Email: Kevin.Mowat@torbay.gov.uk**

1. Purpose

- 1.1 This report provides Members with details of the annual Port Marine Safety Code compliance audit undertaken for the Council, as the Harbour Authority, by the Devon Audit Partnership.
- 1.2 The Harbour Committee, on behalf of the Council, is the 'Duty Holder' under the Port Marine Safety Code (PMSC) and the Devon Audit Partnership are the appointed 'Designated Person'.
- 1.3 The Committee is asked to note the contents of the PMSC Compliance Audit Report for 2016, including the actions identified for implementation during 2016/17, attached as Appendix 1.
- 1.5 A table of Accident/Incident Statistics for the period from December 2015 to November 2016 is attached as Appendix 2. During the same period in the previous year there were 62 accidents/incidents and near misses.
- 1.6 The Committee is asked to note the contents of the revised Tor Bay Harbour Committee Safety Management System, as attached as Appendix 3.

2. Summary

- 2.1 Torbay Council, under their responsibilities as a Harbour Authority, has implemented the requirements of the Port Marine Safety Code (PMSC). The Code offers a national standard for port safety in the UK with the aim to "improve safety for those who use or work in ports, their ships, passengers and cargoes, and the environment". Creation of the Code was prompted by a review of the Pilotage Act 1987 undertaken in 1998 by the Department for Environment, Transport and the Regions in the aftermath of the 1996 Sea Empress disaster. All Harbour Authorities are expected to comply with the Code. As the Code is not statutory, failure to comply is not an offence in itself, but the Code does set out references to legal duties that do exist and not adhering to it may be indicative of a breach of those duties. The Code is subject to a triennial review process by a steering group of maritime organisations. It was reissued in 2003, 2006, 2009 and 2012.
- 2.2 On 3 November 2016, the Department for Transport (DfT) and the Maritime and Coastguard Agency (MCA) released an updated version of the Port Marine Safety Code. It provides additional advice for non-statutory harbour authorities and the introduction of 10 principles designed to assist organisations in focusing on the issues they should be considering to ensure compliance.
- 2.3 In the updated version of the PMSC the Government is now placing a greater emphasis on proportionate compliance with the Code by other marine facilities, berths and terminals in the UK. The PMSC now strongly advises that such organisations should adopt a formal risk assessment process and implement a marine safety management system (MSMS) which complies with the Code or any alternative similar standard applicable to their sector.
- 2.4 The PMSC is not mandatory and does not create any new legal duties. Failure to comply is not an offence, however, the Code represents good practice as recognised by a wide range of industry stakeholders and a failure to adhere to good practice may be indicative of a harbour authority being in breach of certain legal duties.
- 2.5 In order to comply with the PMSC, the Code states that, statutory harbour authorities must consider the following 10 measures. Other organisations are advised to identify which of the items may be applicable to their port marine activities. It is recommended that, at the very minimum, items 4, 5 and 6 below should be considered by all organisations.
1. **Duty holder:** Formally identify and designate the duty holder, whose members are individually and collectively accountable for compliance with the Code, and their performance in ensuring safe marine operations in the harbour and its approaches.

2. **Designated Person:** A 'designated person' must be appointed to provide independent assurance about the operation of the marine safety management system. The designated person must have direct access to the duty holder.
3. **Legislation:** The duty holder must review and be aware of their existing powers based on local and national legislation, seeking additional powers if required in order to promote safe navigation.
4. **Duties and Powers:** Comply with the duties and powers under existing legislation, as appropriate.
5. **Risk Assessment:** Ensure that marine risks are formally assessed and are eliminated or reduced to the lowest possible level, so far as is reasonably practicable, in accordance with good practice.
6. **Marine Safety Management System:** Operate an effective MSMS which has been developed after consultation, is based on formal risk assessment and refers to an appropriate approach to incident investigation.
7. **Review and Audit:** Monitor, review and audit the risk assessment and MSMS on a regular basis – the independent designated person has a key role in providing assurance for the duty holder.
8. **Competence:** Use competent people (who are trained, qualified and experienced) in positions of responsibility for managing marine and navigation safety.
9. **Plan:** Publish a safety plan showing how the standards in the Code will be met and produce a report assessing performance against that plan at least every 3 years.
10. **Aids to Navigation:** Comply with directions from the General Lighthouse Authorities and supply information & returns as required.

2.6 All the officers involved in marine safety have been instructed to familiarise themselves with the updated PMSC and review any implications for marine operations in Tor Bay Harbour. It is strongly recommended that members of the Harbour Committee, acting as the duty holder, should also become familiar with the updated Code by reference to this report and by following the link identified in the Additional Information section below.

Supporting Information

3. Position

- 3.1 The Code states that “Each organisation must appoint an individual as the ‘designated person’ to provide independent assurance directly to the duty holder that the marine safety management system (MSMS), for which the duty holder is responsible, is working effectively. Their main responsibility is to determine, through assessment and audit, the effectiveness of the MSMS in ensuring compliance with the Code.
- 3.2 The Devon Audit Partnership has been appointed the ‘designated person’ to review the Tor Bay Harbour Safety Management System and annually report on compliance with the Port Marine Safety Code.
- 3.3 The last Port Marine Safety Code Compliance Audit Report was dated November 2015 and was presented to the Harbour Committee on 21st December 2015.

Appendices

Appendix 1 - Port Marine Safety Code - Compliance Audit Report - November 2016

Appendix 2 – Table of Accident/Incident Statistics - December 2015 to November 2016

Appendix 3 – Tor Bay Harbour Committee Safety Management System – Issue 15

Additional Information

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

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

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

A Guide to Good Practice on Port Marine Operations – March 2015 (DfT & MCA)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/417662/guide-good-practice-marine-code.pdf



devon **audit** partnership

Internal Audit Report
Port Marine Safety Code
Tor Bay Harbour Authority
November 2016

OFFICIAL



Auditing for achievement

Devon Audit Partnership

The Devon Audit Partnership has been formed under a joint committee arrangement comprising of Plymouth, Torbay and Devon councils. We aim to be recognised as a high quality internal audit service in the public sector. We work with our partners by providing a professional internal audit service that will assist them in meeting their challenges, managing their risks and achieving their goals. In carrying out our work we are required to comply with the Public Sector Internal Audit Standards along with other best practice and professional standards.

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

Confidentiality and Disclosure Clause

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

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

1 Introduction

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

The Devon Audit Partnership is the appointed 'Designated Person' for the Tor Bay Harbour Authority for 2016/17.

2 Audit Opinion

In our opinion the Tor Bay Harbour Authority is compliant with the requirements of the Port Marine Safety Code.

3 Executive Summary

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

To the best of our knowledge and belief, and having carried out appropriate checks, in our opinion the Tor Bay Harbour Authority is compliant with the Port Marine Safety Code. It is pleasing to note that significant progress has been made against the previous year's recommendations.

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

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

4 Assurance Opinion on Specific Sections

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

Risks Covered		Level of Assurance
1	Breach of the Port Marine Safety Code	Good Standard

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

5 Issues for the Annual Governance Statement

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

There are no issues arising from this review that would require inclusion within the Annual Governance Statement.

6 Scope and Objectives

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

7 Inherent Limitations

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

8 Acknowledgements

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

Robert Hutchins
Head of Partnership

Appendix A

Detailed Audit Observations and Action Plan

1. Risk Covered: Breach of Port Marine Safety Code	Level of Assurance
<p>Opinion Statement:</p> <p>We found the Tor Bay Harbour Authority staff to be knowledgeable and positively engaged in maintaining compliance with the Port Marine Safety Code (PMSC). Staff were supportive of the review process and were active in providing the supporting evidence. The Harbour Committee act as the 'Duty Holder' for the purposes of the Port Marine Safety Code. All committee members and advisors are responsible for compliance with the Code, which is set out in their terms of reference and published on the Tor Bay Harbour website. Commitment to the PMSC is set out in the 'Safety Management System' which is presented to the Tor Bay Harbour Committee annually along with the outcome of the PMSC compliance audit which is undertaken in November each year. The 'Designated Person' appointed to undertake the PMSC compliance audit is appointed by the Tor Bay Harbour Committee.</p> <p>A review is undertaken annually of the 'Powers delegated to the Executive Head of Business Services' (Tor Bay Harbour Master) who is the responsible officer for the Tor Bay Harbour Authority. A full review of 'Tor Bay Harbour Key Statutory Powers' which includes 'Special and General Directions' and Byelaws was undertaken by an external law company during 2015 and as a result of this review an application has been made to the Department for Transport (DfT) for the Tor Bay Harbour Authority to be designated with powers of Harbour Directions.</p> <p>Byelaws have been established and are published on the Harbour website. A breach of the byelaws can result in fines that are limited by scale; however, for more serious breaches alternative legislation such as the Merchant Shipping Act (Collision Regulations) is available to enable a greater degree of prosecution and financial penalties. Given the complexity of issuing new byelaws, Harbour Directions, once obtained, should be used to address any changes to water activities that require control measures, and a recommendation has been in relation to this matter.</p> <p>A Port Masterplan has been established and is designed to assist regional and local planning bodies and transport network providers in preparing / revising their own strategic developments. The Masterplan sets out the development opportunities for the Tor Bay Harbour Authority and the expected timelines for implementation; although not specific to the PMSC some of the projects are potentially integral to safe port operations. The previously defined SWOT analysis undertaken in 2013 is due for review in 2018. At this time we would suggest that the review incorporates consideration of and linkage to the Port Marine Safety Code.</p> <p>The Tor Bay Harbour Safety Policy has been adopted by the Harbour Committee and measures Health and Safety Performance, which is reported to the Harbour Committee annually. The Safety Management System (SMS) records marine based risks and links to risks held on the network.</p> <p>Risks are reviewed annually and are also reviewed / updated when a need has been identified. The SMS system is designed to show risks ALARP (as low as reasonably practicable) by colour coding the risks as per their severity.</p>	<p>Good Standard</p>

Standard Operating Procedures have been established and are a continuing work in progress i.e. as a new / amended procedure has been identified they will be completed / updated, it was noted that several new SOP's had been completed in the current year., however as reported these have yet to be risk assessed and a recommendation has been made to address this.

Pilotage / tugs are provided under contract by a local company, at the time of the audit a new contract had been drawn up but has not been signed. We understand that there are issues around the signing of the contract and the Harbour Authority need to pursue this matter to ensure that agreement is gained and appropriate contractual documentation is in place. Towage Guidelines have been established and published on the Tor Bay Harbour website.

All accidents / incidents / near misses are reported quarterly to the Harbour Committee. These reports are produced from MarNIS. There is potential for improvements in maintaining and linking records between MarNIS and external documentation.

System controls within the SMS ensure that any serious / fatal accident / incident are reported to the Marine Accident Investigation Branch (MAIB) who will then carry out an investigation. Investigations are also held locally and reviewed at Management Team meetings with the appropriate action then being taken.

The Tor Bay Harbour Enforcement Policy is published on the Tor Bay Harbour website. Staff were found to be trained to ensure they are able to enforce this policy and take any necessary actions; this is supported by a Standard Operating Procedure for Byelaw enforcement.

Community House undertakes an annual audit of all navigational aids with any issues reported back to the Tor Bay Harbour Authority, who then provide written confirmation that all issues / defects have been rectified.

Staff have undergone various types of training during 2016 thus confirming training needs are identified and undertaken. Staff training is recorded in a Training Matrix, a review of the matrix found that in some cases the records have not been kept up to date and in some cases training certificates have now expired or records do not clearly demonstrate the requirements for associated certification such as medical assessments. Recommendations have been made within the report to rectify this.

Hydrographic surveys have been completed and are retained by the Tor Bay Harbour Authority and the UK Hydrographic Office. Survey results can be seen at the Tor Bay Harbour Authority office but we were unable to fully confirm appropriate links to an on-line data source. The Tor Bay Harbour Authority has a website, which provides information on weather, harbour notices, shipping movements, events, etc, could be expanded to include links to sites that can provide local hydrographic survey data. Various social media applications are also now being used but do not as yet hold all the information the website holds.

A Tor Bay Harbour Business Plan has been established and is published on the Tor Bay Harbour website and is subject to annual review. Work is continuing on Haldon Pier in Torquay. This work is being undertaken from a floating structure with diving contractors who are strengthening the walls that have become damaged. The outer harbour slipway in Torquay requires further review to establish safety arrangements due to a section of the structure dropping, forming a lip and becoming a trip hazard. The new ferry pontoon in Brixham has been significantly damaged by a passenger craft and is currently out of use; safety arrangements are in place to restrict its use. The issue is currently with insurers to agree damage resolution and replacement.

No.	Observation and implications	Priority	Management response and action plan including responsible officer
1.1	Although there is clear commitment to the code and performance is reported on an annual basis, the PMSC is not currently a standing item on the committee meetings.		
	Recommendation		
1.1.1	As previously reported (2015) the PMSC should be a standing agenda item for the Harbour Committee meetings.	Low	Agreed – KM To be combined with the Accident and Incident statistics agenda item going forward.
No.	Observation and implications		
1.2	The authority to issue Byelaws by the Harbour Authority forms part of the Tor Bay Harbour Act 1970. Byelaws were established and signed off by the Secretary of State in Oct 1994. The Byelaws set out the regulations for vessels, navigation, berthing, mooring, and water sports, etc. As there is significant complexity in issuing new Byelaws, any new activity e.g. paddle boarding / fly-boards should be addressed through Harbour Directions once obtained.		
	Recommendation		
1.2.1	As previously reported (2015), once power of Harbour Directions has been obtained, Harbour Directions should be issued for new activities.	Low	Agreed - KM New power of Harbour Directions not yet issued by DFT.
No.	Observation and implications		
1.3	The outer harbour slipway at Torquay was installed in sections, one of the end sections has dropped causing a lip in the slipway, this was only visible under water however at low tide would pose some risk to users, it is understood that the contractor who installed the slipway has been contacted and has been to inspect and they are now awaiting the results of the inspection. The slipway is not old and it is felt the contractor will be responsible for any repairs.		
	Recommendation		
1.3.1	The slipway should continue to be monitored with any further deterioration reported to the contractors. If needed at low tide warning signs should be in place warning the public and the contractor should be pursued for repairs before the start of the 2017 season.	Medium	Agreed – NB Contractor being pursued for latent defect. Warning sign to be erected prior to 2017 season.
No.	Observation and implications		
1.4	Torquay Harbour has issued a Warning Notice to a harbour user following an incident. Whilst the details have been entered into MarNIS there is no link between the Warning Notice and the MarNIS record. The final section within MarNIS relates to actions and reporting and it was found in the sample used that this had not been updated to confirm a warning had been given.		

	Recommendation	Priority	Management response and action plan including responsible officer
1.4.1	Where a Warning Notice is given, the corresponding record on MarNIS should reflect this and be cross-referenced to the Warning Notice reference number.	Opportunity	Agreed – KM Managers to be reminded at the December 2016 managers meeting.
No.	Observation and implications		
1.5	As previously reported the MarNIS system used to record all risk assessments / accidents / incidents / training etc. has no system controls linked to access i.e. all staff have the same access. Further investigation has been undertaken and a pending system update will include audit trail functionality whereby transactions can be attributed to users through view of an on screen provision. This will provide some element of mitigation; however the risk remains that the system access cannot be appropriately restricted. Resolution of this issue in full would require a system modification at significant cost to the Harbour Authority.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.5.1	Tor Bay Harbour Authority should either accept the risks (with the upgrade audit trail provision) or progress the modification to provide fully system access controls.	Medium	Agreed – KM Management have accepted the risk subject to the upgrade audit trail provision.
No.	Observation and implications		
1.6	The Corporate Health & Safety webpage states that any competent person can undertake a risk assessment provided they have the necessary mix of training i.e. 'suitable and sufficient' depth of tasks, situations, and the equipment to be used'. There are trained risk assessors at Paignton and Torquay, however, two members of staff at Brixham undertook their training in 2006 and have not been refreshed; the guidance is that they should have refresher training every 3 years, given that Brixham is a busy commercial port the need for fully trained risk assessors is essential.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.6.1	Management should ensure there are sufficiently trained risk assessors at each site through appropriate initial and refresher training, ensuring necessary skill sets are in place and remain current.	Medium	Agreed – DB The two members of staff to attend the next available refresher training course.
No.	Observation and implications		
1.7	In line with the Port Marine Safety Code risk assessments are required to be reviewed annually. There are a number of risk assessments that are held outside MarNIS; it was noted that although a majority have been reviewed some are now slightly overdue. It was also found that one assessment in MarNIS had not been reviewed due to an incorrect review date being selected.		

	Recommendation	Priority	Management response and action plan including responsible officer
1.7.1	Review all risk assessments annually to ensure they are kept current and up to date.	Low	Agreed – KM Managers to be reminded at the December 2016 managers meeting.
No.	Observation and implications		
1.8	During 2016 further Standard Operating Procedures have been developed, however it was noted that there are currently no risk assessments linked to these.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.8.1	Ensure that where applicable all SOP's have an associated risk assessment.	Low	Agreed – KM Risk owners to be assigned and tasked at the December 2016 managers meeting.
No.	Observation and implications		
1.9	A 'Pilotage Review Working Party' has been established and minutes from a recent meeting show that a 'Tor Bay Harbour Pilotage Manual' is in place but needs updating, this has yet to be completed. Towage Guidelines have also been established and published on the Tor Bay Harbour website, to ensure these are fully publicised they should be included in a Notice to Mariners.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.9.1	The Pilotage Manual needs to be updated, issued for comments and finalised.	Low	Agreed – SP Manual to be finalised by March 2017.
1.9.2	Issue notice to mariners re the towage guidelines.	Opportunity	Agreed -SP Notice to be issued by December 2016.
No.	Observation and implications		
1.10	The Training Matrix held for all three harbour sites provides details of the RYA Powerboat certificates obtained by staff. Whilst re-training is not necessary it has been confirmed that where the advanced certificate is held medical certificate have to be obtained from an approved Doctor every 5 years to confirm fitness, these certificates then have to be supplied to the RYA but this is not detailed on the Training Matrix.		

	Recommendation	Priority	Management response and action plan including responsible officer
1.10.1	The Training Matrix should be updated to show when the last medical fitness certificates were obtained and when they are due for renewal. Additionally managements should ensure that staff at Brixham hold the relevant qualifications for the new work boat that is under construction. Linked to this all staff holding the RYA Advanced Powerboat Certificate should ensure their first aid training is up to date.	High	Agreed – KA Business Manager to update the Matrix before the end of December 2016.
No.	Observation and implications		
1.11	A Training Matrix has been established for each harbour site and this holds the details of all training required / available. There are fields for when the training was undertaken and when it is due for renewal. The Torquay & Paignton matrix has been updated to show all training undertaken, if it's due for renewal and when. It was noted that whilst some work has been done on the Brixham matrix it still needs to be fully updated, in particular it should state if retraining is needed and if not this should be reflected in the relevant field i.e. N/A. Issues with powerboat training have already been reported in 1.10 above.		
Page 51			
1.11	Work should continue on the Brixham Training Matrix to ensure it details all training undertaken including when and if training is to be renewed. Additionally management should continue to monitor what training is required and when to ensure certification and skill sets remain current.	Low	Management response and action plan including responsible officer Agreed – KA Business Manager to update the Matrix before the end of December 2016.
No.	Observation and implications		
1.12	The newly updated PMSC states that 'A harbour authority has a duty to conserve the harbour so that it is fit for use as port, this duty covers several specific requirements' and goes on to state 'hydrographic information is published in a timely manner'. No reference to the publishing of hydrographic information could be found on the Tor Bay Harbour website.		
	Observation and implications		
1.12.1	Links to the publication of relevant hydrographic information should be made available on the Tor Bay Harbour website.	Low	Management response and action plan including responsible officer Agreed – SP Suitable links to be added to the website before the end of December 2016.

No.	Observation and implications		
1.13	<p>The recent Marine Accident Investigation Branch (MAIB) accident report into the grounding and capsizing of a fishing vessel in Dartmouth in March 2016 has highlighted some areas that the Harbour Authority / Committee may want to review to ensure that the Tor Bay Harbour Authority has appropriate measures in place.</p> <p>The findings of the MAIB concluded that;</p> <p>The Dartmouth Harbour Master should have taken steps to ensure himself that the skipper understood the limitations of the berth.</p> <p>It was identified that taking the ground, on the South Embankment, on a falling tide, was a potential hazard. However, there were no harbour procedures or method statements to give effect to the control measures identified in the risk assessments for the use of berths at the Quay.</p> <p>It was identified that the language barrier played a part in the incident and that although a list had been compiled of berth holders who could act as translators the Harbour Master and his Deputy were unaware of this list.</p>		
	Recommendation	Priority	Management response and action plan including responsible officer
1.13.1	<p>It would be advisable for the Tor Bay Harbour Authority to review the recommendations / findings of the MAIB report and ensure that they have the appropriate measures in place; in particular there should be a procedure to overcome any language barrier.</p> <p>It is thought that Torbay Council may have a translation service but this was not known to staff.</p>	Opportunity	<p>Agreed – KM</p> <p>Managers to be reminded at the December 2016 managers meeting of the Council's access to translation services.</p> <p>SP to produce a Standard Operating Procedure by the end of January 2017.</p>
No.	Observation and implications		
1.14	<p>In November 2016 the Port Marine Safety Code was updated, whilst it is acknowledged that this is a very recent update, we noted that the changes to the Code had not been disseminated at the time of the audit in November 2016.</p>		
	Recommendation	Priority	Management response and action plan including responsible officer
1.14.1	<p>Management should ensure that a copy of the updated Port Marine Safety Code is made available to all staff / Harbour Committee members and that they are informed of any changes made to the Code.</p>	Opportunity	<p>Agreed – KM</p> <p>Managers to be reminded at the managers meeting and Committee Members to be advised by email - December 2016.</p>

Definitions of Audit Assurance Opinion Levels

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

Definition of Recommendation Priority

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

Confidentiality under the National Protective Marking Scheme

Marking	Definitions
Official	The majority of information that is created or processed by the public sector. This includes routine business operations and services, some of which could have damaging consequences if lost, stolen or published in the media, but are not subject to a heightened threat profile.
Secret	Very sensitive information that justifies heightened protective measures to defend against determined and highly capable threat actors. For example, where compromise could seriously damage military capabilities, international relations or the investigation of serious organised crime.
Top Secret	The most sensitive information requiring the highest levels of protection from the most serious threats. For example, where compromise could cause widespread loss of life or else threaten the security or economic wellbeing of the country or friendly nations.



Agenda Item 6 Appendix 2

Tor Bay Accident / Incident List

	Date	ID Code	Accident Category	Name		
	20/11/2016	TOR0737REP	Breaking Free of Mooring	Yacht Woody breaking free		
	20/11/2016	TOR0738REP	Capsizing/Listing	capsizing		
	16/11/2016	TOR0736CLO	Slip, trip, fall same level	Employee fell into harbour		
	13/11/2016	TOR0739REP	Pollution - Water	Inner Harbour Diesel leak		
	09/11/2016	TOR0734REP	Breaking Free of Mooring	Resolution breaking free from mooring		
	25/10/2016	TOR0733IVD	Breaking Free of Mooring	Lady P stern mooring parting		
	21/10/2016	TOR0735CLO	Drowned, asphyxiated or exposed to harmful substance	Body at Meadfoot Beach		
	17/10/2016	TOR0732INV	Grounding/Stranding	MFV Progress grounding		
	13/10/2016	TOR0731IVD	Breaking Free of Mooring	Amy 2 stern mooring parted at Paignton harbour		
	16/09/2016	TOR0729CLO	Breaking Free of Mooring	Sunbird Broke Free From Mooring		
	15/09/2016	TOR0730IVD	Flooding/Foundering	Sinking Of Tender		
	10/09/2016	TOR0728IVD	Drowned, asphyxiated or exposed to harmful substance	Man Overboard T/T Windrush		
	08/09/2016	TOR0727CLO	Grounding/Stranding	Small inflatable stranded		
	30/08/2016	TOR0726INV	Slip, trip, fall same level	Passenger slip on North Quay steps dep A		
	25/08/2016	TOR0725CLO	Fall from height	Fall from Princess Pier		
	21/08/2016	TOR0724CLO	Fall from height	Car off Corbyns Head		
	16/08/2016	TOR0723CLO	Grounding/Stranding	Merry Wake		
	03/08/2016	TOR0722IVD	Other nautical safety	Harmes Johanna ignored safe berthing procedures		
	31/07/2016	TOR0721CLO	Vessel Wash	Rowland / Liardet		
	16/07/2016	TOR0720CLO	Collision - Multiple underway	Flipside / Bears Watching collision		
	14/07/2016	TOR0718CLO	Slip, trip, fall same level	Member of public trip on passenger pontoon bridge		
	14/07/2016	TOR0719CLO	Equipment failure (Vessel)	Shepherd Lass Breakdown		
	11/07/2016	TOR0717IVD	Fire/Explosion	Suspected Unexploded Ordnance		
	07/07/2016	TOR0716CLO	Slip, trip, fall same level	Fall Into Inner Harbour		
	01/07/2016	TOR0715CLO	Slip, trip, fall same level	PSC Member fell on Paignton Pontoon		
	12/06/2016	TOR0713INV	Contact - Floating object	Collision with passenger pontoon, Brixham Harbour		
	12/06/2016	TOR0714CLO	Other nautical safety	Dart Princess, Yachtsmans Steps		
	29/05/2016	TOR0711IVD	Slip, trip, fall same level	Fatality Onboard Tringo Brixham Harbour		
	28/05/2016	TOR0712IVD	Other personnel or public safety item	Brixfest Firework Display & Ferry Berthing Issues		
	08/05/2016	TOR0710CLO	Capsizing/Listing	Dittisham Princess Listing		
	30/04/2016	TOR0709CLO	Vessel Wash	White Pearl		
	28/04/2016	TOR0708CLO	Breaking Free of Mooring	Section of harbour wall pull out by Dart Princess		
	27/04/2016	TOR0707CLO	Pollution - Water	Diesel Plume at Paignton		
	20/04/2016	TOR0706CLO	Other nautical safety	Floating LIne		
	19/04/2016	TOR0705CLO	Fall from height	Body Recovery		
	06/04/2016	TOR0704CLO	Fire / Explosion	Haldon Pier Fire		
	28/03/2016	TOR0702CLO	Breaking Free of Mooring	Miss Cheivious		
	28/03/2016	TOR0703CLO	Pollution - Water	HMS ECHO		
	09/03/2016	TOR0698IVD	Breaking Free of Mooring	'Whipsea' - broke free from mooring		
	09/03/2016	TOR0699IVD	Slip, trip, fall same level	Trip and fall on Middle Pier, Brixham		
	09/03/2016	TOR0700IVD	Breaking Free of Mooring	'Turn-a-bout' - broke free from mooring		
	04/03/2016	TOR0697IVD	Other nautical safety	Unexploded ordnance		
	16/02/2016	TOR0696CLO	Contact - Fixed object	'Brixham Vitesse' / Beacon Quay Slipway		
	19/01/2016	TOR0695CLO	Dangerous occurrence	Potential unexploded ordnance		
	06/01/2016	TOR0694CLO	Fire / Explosion	Fire at Molly Malones		
	31/12/2015	TOR0693CLO	Flooding/Foundering	'Broom' - sinking on outhaul mooring		
	21/12/2015	TOR0692CLO	Breaking Free of Mooring	'Liberty Lass' stern line parted		

Generated on 05/12/2016





Tor Bay Accident / Incident List

	18/12/2015	TOR0691CLO	Other nautical safety	Scallop ranch floats		
	10/12/2015	TOR0690CLO	Breaking Free of Mooring	MFV 'Mary Anne' slipped lines		
	02/12/2015	TOR0689CLO	Flooding/Foundering	'Florrie B' - sank on mooring		

Number of Accidents listed = 50

Incident report status as follows;

Reported = 4; Investigating = 3; Investigation Complete = 12; Actioned-Closed = 31

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

30th November 2016

ISSUE 15

TOR BAY HARBOUR COMMITTEE
SAFETY MANAGEMENT SYSTEM

in compliance with
The Port Marine Safety Code

THE TOR BAY HARBOUR COMMITTEE (TBHC) :-

- Councillor Nick Bye (Chairman)
- Councillor Vic Ellery (Vice Chairman)
- Councillor Christine Carter
- Councillor James O'Dwyer
- Councillor Nicole Amil
- Councillor Lynn Sykes
- Councillor Roger Stringer
- Councillor Chris Robson
- Councillor Terry Manning

ADVISORS :-

- Mr David Buckpitt
- Mr Michael Stewart
- Capt. Paul Lloyd
- Mr Michael Ellis

OFFICERS :-

- Capt. Kevin Mowat - Executive Head, Business Services and Harbour Master

DESIGNATED PERSON :-

- Verna Barnes – Devon Audit Partnership

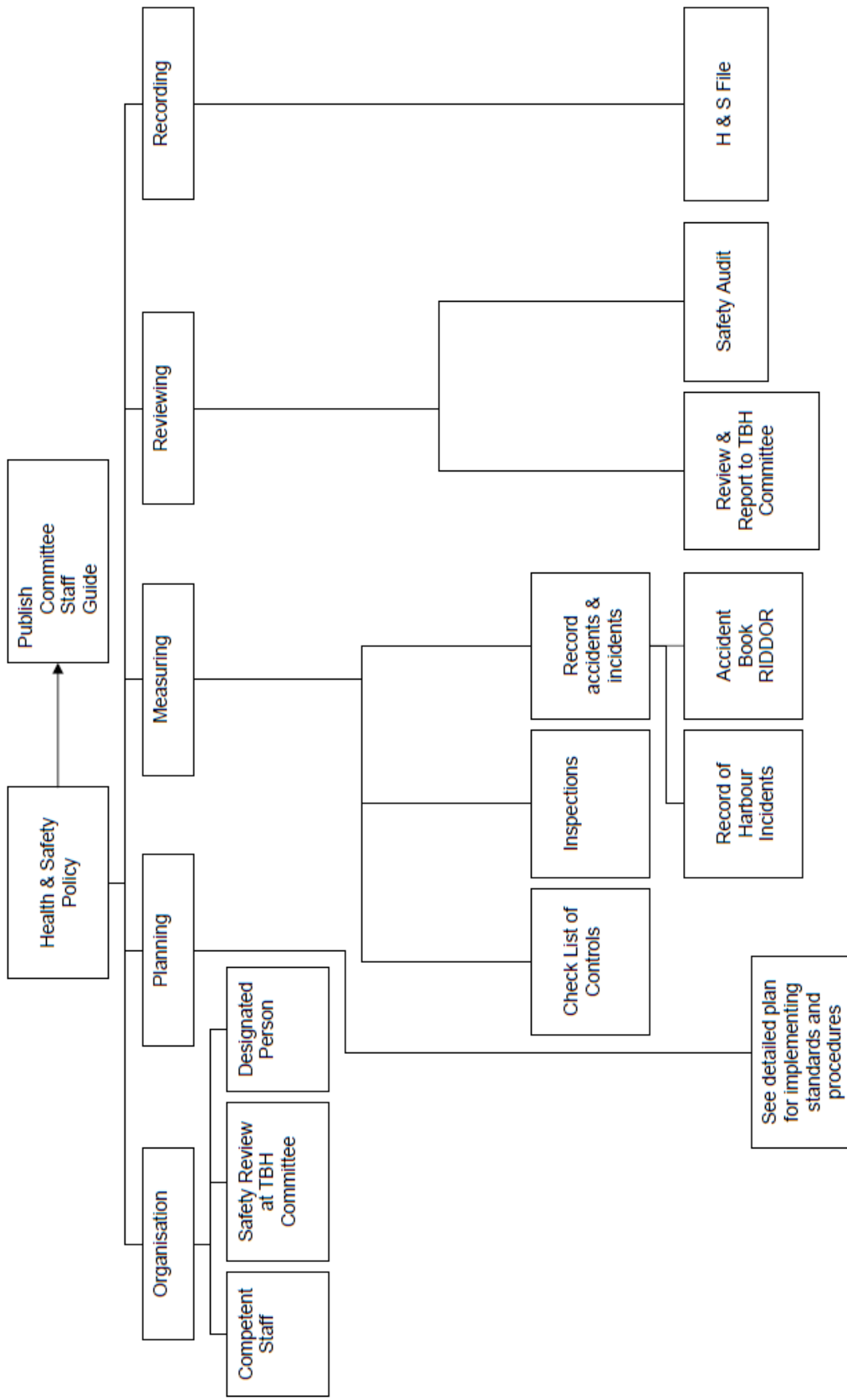
SAFETY MANAGEMENT SYSTEM

OVERVIEW	PAGE
Diagram of Safety Management System	4
Diagram of Planning and Procedures	5
<p>Tor Bay Harbour Committee (TBHC) have, after consultation with harbour users, drafted risk assessments and adopted a Safety Management System comprising the following 6 elements:-</p>	
1) Policy	Adopting a health and safety policy which contributes to business performance while meeting responsibilities to people and the environment in a way which fulfils both the spirit and the letter of the law. 6 – 8
2) Organisation	Establishing a positive organisation and culture which puts the policies into effective practice. 9
	Structure/Organisation Chart 10
	Training 11
3) Planning	Assessing risk and then adopting a planned and systematic approach to policy implementation. Risk assessments will be the key to judge what safety plans are needed. 12
	3.1 Risk Assessments and Risk Register 13-15
	3.2 Risk Control Procedures 16
	3.2.1 Emergency plans 17
	3.2.2 Conservancy 18
	3.2.3 Environment 19
	3.2.4 Management of Navigation 20 – 21
	3.2.5 Pilotage 22
	3.2.6 Marine Services 23 – 24
4) Measuring	Measuring health and safety performance against predetermined standards. 25
5) Reviewing	Auditing, monitoring and reviewing the performance so that lessons are learned from all the relevant experience and are effectively applied. Training and education are implicit as part of good safety management. Consultation is a continuing process through the Harbour Liaison Forums. 26 – 27
6) Recording	What has been done? 28
	Safety controls and responsibilities
	Maintaining a record of due diligence

Torbay Council, through the Tor Bay Harbour Committee, is responsible for policy. The Harbour Master is responsible for the organisation and the facilities. The staff implement the policy. Together these three categories form the system that puts policy into effective practice.

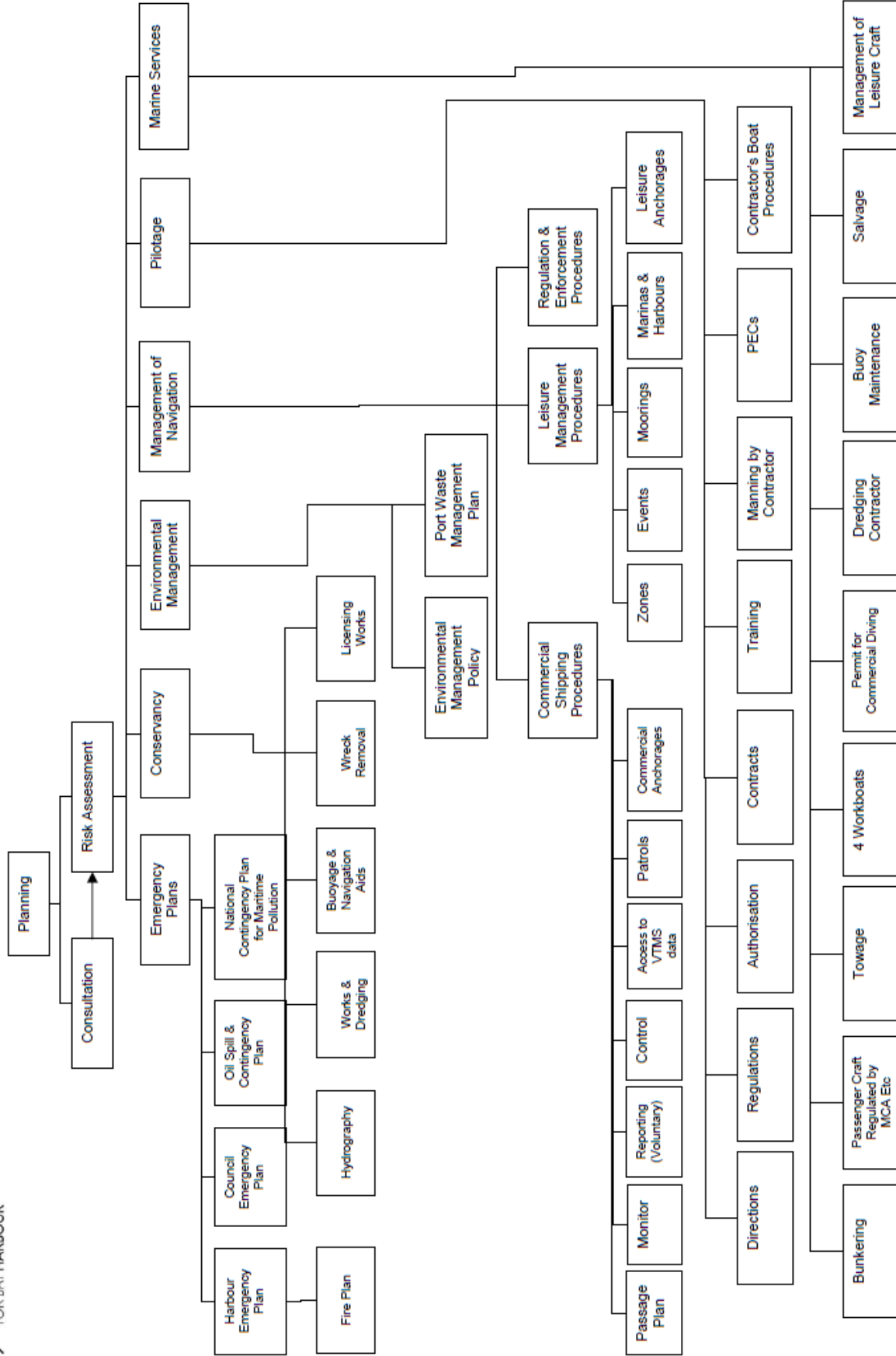


TOR BAY PMSC SAFETY MANAGEMENT SYSTEM



OUTLINE CHART OF SAFETY MANAGEMENT SYSTEM

TOR BAY HARBOUR PLANNING FOR PMSC



1. Tor Bay Harbour Safety Policy

Health and Safety Management System;

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

Tor Bay Harbour Committee will on behalf of Torbay Council provide a safe harbour within the limits of their jurisdiction, which is open to the public for recreation and the transportation of passengers and goods. It will ensure the safety of Tor Bay by exercising its statutory functions to a high standard. The TBHC will regulate the use of the harbour by maintaining appropriate byelaws and ensuring that these and other statutory regulations are enforced. The TBHC will ensure that an efficient pilotage service is available and that pilotage directions are maintained and reviewed regularly. The TBHC will ensure such marine services as are required for the safe use of their harbour are available and are well maintained and operated. Tor Bay Harbour Committee will ensure that up to date plans are available to deal with emergency situations and that the resources required to implement these plans are maintained and exercised.

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

The Policy incorporates input from officers, from staff and from harbour users as high standards of safety can only be achieved through dialogue and co-operation.

Plans and reports will be published as a means of improving the transparency and accountability of the harbour authority, as well as providing reassurance to the harbour users. TBHC will consider past events and incidents so as to recognise potential dangers and identify the means of avoiding them.

The Aims of the Safety Management System of Tor Bay Harbour Committee;

1. To identify, quantify and manage the significant marine risks associated with the waters and harbour activities of Tor Bay. This will ensure there is proper control of ship movements by, where necessary, regulating the safe arrival, departure and movement within the harbour of all vessels.
2. To maintain, protect, improve and regulate the safe navigation of all vessels in Tor Bay.
 - To ensure that Tor Bay and its enclosed harbours remain safe areas for all harbour users to undertake their business and activities, with the risk of injury as low as reasonably practical
 - To have an effective system for promulgating navigation warnings affecting the Harbour.
 - To consider the effect of weather on harbour safety and see that the broadcast warnings are accessible.
 - To designate suitable anchorages.
 - To monitor lights and marks used for navigation.
 - To keep the need for pilotage under review and authorise suitably trained and experienced pilots to provide an efficient pilotage service.
 - To provide resources to deliver marine services, such as the provision of harbour patrol craft.

3. To ensure that suitable plans for emergency situations are maintained, regularly updated and exercised, so that TBHC will respond rapidly and effectively to emergency incidents to minimise the impact.
4. To carry out all its functions with special regard to the possible environmental impact, protecting from damage and pollution the marine environment and the landscape, heritage, amenity and tourism attractions of the Tor Bay coastline.
5. To maintain an up to date set of byelaws in consultation with harbour users and enforce them so as to regulate harbour use effectively.
6. To set up controls for personal safety.
 - To safeguard Harbour users', employees, those working in harbours, port users and the public whilst within areas under the TBHC's control.
 - To control the risk of exposure to criminal and civil liability.
 - To involve all stakeholders in management of marine safety and raise awareness of marine safety risks and prevention, control and management of risks.
 - To consider the effects on harbour safety of proposed changes in use or harbour works.
 - To operate within policies developed specifically to address marine issues in addition to the corporate policies and procedures agreed by the Council.
 - confirm the roles and responsibilities of key personnel at the harbour authority
 - outline present procedures for marine safety within the harbour and its approaches
 - measure performance against targets, after building a database recording incidents, including near misses
 - refer to emergency plans that would need to be exercised
 - be audited on an annual basis
7. To keep the duties and powers under review.

All employees have a duty to:

- Take care regarding their own health and safety and that of other harbour users and of those who might be affected by their acts or omissions.
- Comply with all harbour safety procedures laid down by Tor Bay Harbour Committee.
- Ensure that marine operations are undertaken in a safe manner.
- To report hazard, risk, accident, incident or near miss to their Safety Officer.

Harbour users operating commercially and the general public using the Harbour for pleasure are responsible for:

- Their own health and safety and that of other harbour users and the general public who may be affected by their acts or omissions.
- Complying with byelaws, directions and other regulations aimed at ensuring the safe use of the Harbour.

Nominated Harbour Safety Officers

Mr Dave Bartlett at Brixham, Mr Nick Burns at Torquay and Mr Simon Pinder at Paignton are the safety officers for these areas. In their absence urgent harbour safety matters shall be referred to the Harbour Master. The Safety Officers are also the “competent persons responsible” for fire safety.

Emergencies in the Harbour

Emergencies where life is in danger must be notified at once to the emergency services by dialling 999 or through VHF channel 16. Other emergencies shall be notified to the Duty Harbour Master by the quickest available means.

Reporting of Accidents Incidents and Near Misses

The public are asked to bring matters of safety - all accidents, incidents and near misses – promptly to the attention of the Harbour Master or the Harbour Safety Officer at the nearest Harbour Office or by completing an online form on the Harbour Authority website.

The Harbour staff are obliged to record on the Maritime Navigation and Information Services (MarNIS) computer system; Marine Safety incidents/accidents/near misses. The reports will be used to review accidents and incidents, for assessing whether any action is necessary to reduce the risk of recurrence. It shall be recorded that the Executive Head has conducted this review and that the necessary actions have been taken. This will be an assessment of the effectiveness of the harbour safety management system.

Adopted by Torbay Council’s Harbour Committee - December, 2016

2. Tor Bay Harbour Authority (TBHA) Organisation

Torbay Council is the statutory harbour authority for Tor Bay Harbour. The Council has set up a sub-committee, Tor Bay Harbour Committee (TBHC), to advise on all matters relating to strategic management of the Council's function as harbour authority. The TBHC performs the Council's role of Duty Holder as required under the Port Marine Safety Code. Members of the Tor Bay Harbour Committee are, jointly, the Duty Holder in accordance with the PMSC. They are collectively and individually responsible for the safe management of the harbour and they cannot assign or delegate their accountability for compliance with the Code on the grounds they do not have particular skills.

The current members of the TBHC are listed on page 1. This committee is the Duty Holder.

The Tor Bay Harbour Committee considers that current legislation gives them adequate authority to exercise their responsibilities as described in this document and in accordance with the Port Marine Safety Code. The organisation is bound by the Harbour, Docks and Piers Clauses Act 1847, The Harbours Act 1964, The Tor Bay Harbour Act 1970, which confirms the harbour limits, the Tor Bay Harbour (Torquay Marina &c) Act 1983, the Health and Safety at Work Act 1974, the Workplace (Health, Safety and Welfare) Regulations 1992, and all the other harbour related and safety laws and regulations.

Torbay Council and the Harbour Committee set the policy and the officers and staff provide the means of implementing the Policy. Any decisions taken or policy set must take into account any issues related to harbour safety. The consideration of such issues is to be minuted.

The Executive Head of Business Services is responsible for the day to day management of marine safety risks and for reporting to the duty holder, the TBHC. He is responsible for ensuring that the staff put the Harbour Safety Policy into practice. He is responsible for maintaining insurance policies, obtaining any required licences, publication and display of such notices and instructions as the Tor Bay Harbour Committee consider necessary.

He must also ensure that facilities are provided up to the standards set in the policy. Such facilities include the harbour infrastructure, harbour craft, pilotage and equipment to be used in the event of emergencies.

The Duty Harbour Master has the role of Emergency Planning Officer for the harbour and is the co-ordinating officer, responsible for marine incidents planning and response. He is also the officer responsible under their Oil Spill Contingency Plan for maintenance of the plan and response to incidents. Torbay Council also has an emergency planning officer who is responsible for planning and response to major incidents.

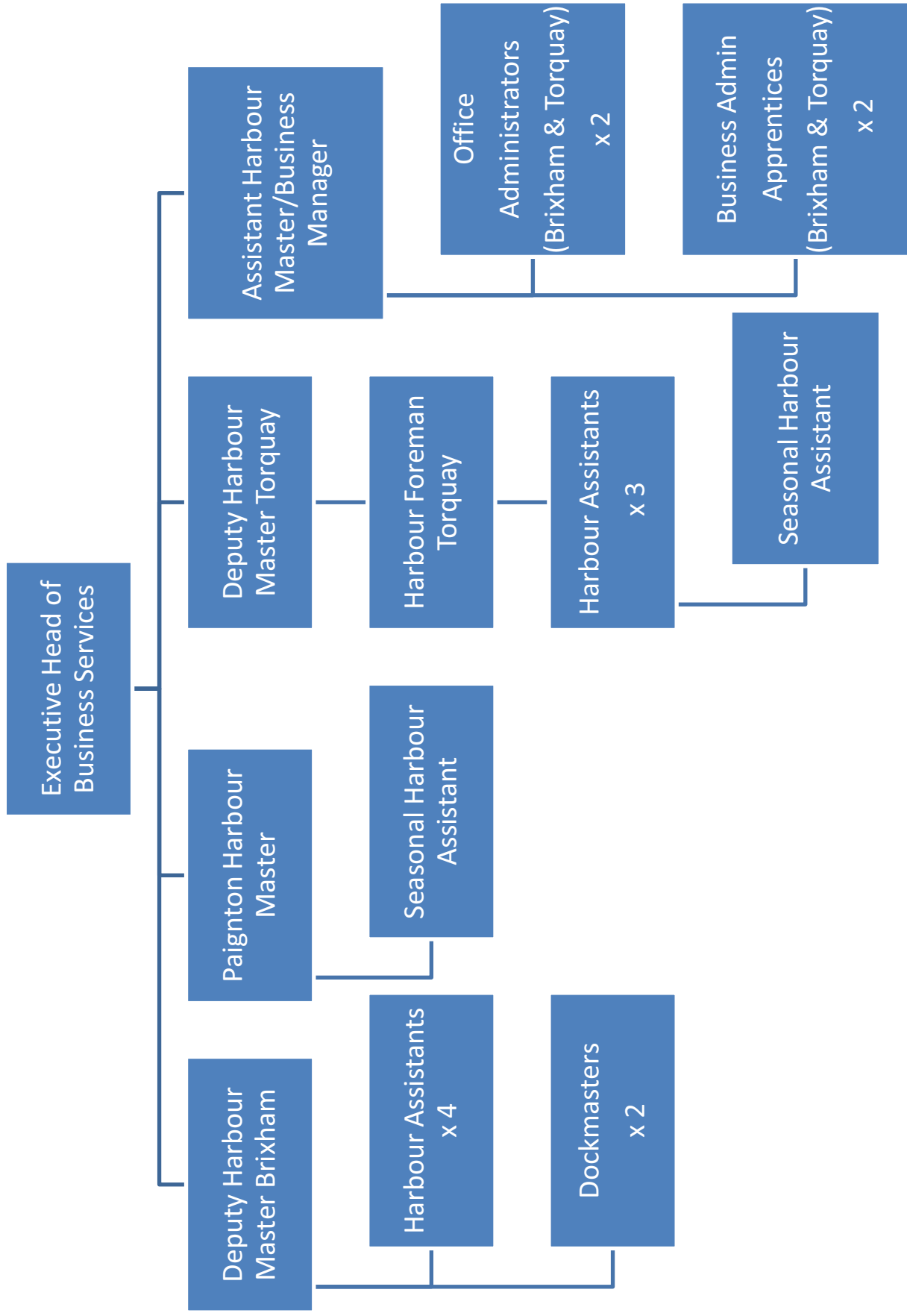
The pilots, contracted through Marine & Towage Services Group Ltd, are responsible for safe pilotage of large vessels within the waters of Tor Bay Harbour and for reporting marine risks, incidents and near misses to the Harbour Master.

TBHC shall assess the fitness and competence of all persons appointed to positions with responsibility for safe navigation.

The 'Designated Person' as defined in the Port Marine Safety Code is responsible for auditing the marine safety system and providing assurance to the 'Duty Holder' of the effectiveness and performance of the system. Corporate Services audit team has been appointed the designated person to provide this function and annual reviews and reports on Tor Bay Harbour Authority's compliance with the Port Marine Safety Code. The Designated Person has direct access to the Harbour Committee.

All staff are suitably qualified, have job titles and descriptions. A Tor Bay Harbour Authority staff Structure Chart is set out on the next page.

Tor Bay Harbour Authority – Structure Chart October 2014



Training

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

Training and education are implicit as part of good safety management.

- New staff receive induction training.
- Every year the training requirements of each member of staff will be assessed and a training programme planned.
- Training needs will be considered during the annual appraisal process.
- An in house training programme will be implemented to reinforce the importance of harbour safety and of maintaining best working practice.
- All staff receive emergency training and practices.

Training Records

The Harbour Authority holds a Training Record for all staff and the respective line managers are responsible for its upkeep. Staff are trained in the Standard Safe Operating Procedures listed in Appendix 3.

Training Plan Responsibilities

Post	Training Responsibility
Deputy & Assistant Harbour Masters	Executive Head of Business Services
Assistant Harbour Master/Business Manager	Executive Head of Business Services
Harbour Master, Paignton	Executive Head of Business Services
Office Administrators	Assistant Harbour Master/Business Manager
Business Administration Apprentices	Assistant Harbour Master/Business Manager
Torquay Staff	Deputy Harbour Master, Torquay
Brixham Staff	Deputy Harbour Master, Brixham
Paignton Staff (seasonal only)	Harbour Master, Paignton
Pilots	Marine & Towage Services Group Ltd
Pilot Boat crews & technical staff	Marine & Towage Services Group Ltd
Launch crews Technical staff	Marine & Towage Services Group Ltd

3. Tor Bay Harbour Safety Planning

Planning Policy

It is the policy of the Torbay Council to have powers, policies, plans and procedures based on a formal assessment of hazards and risks, and TBHC shall have a formal marine safety management system.

The marine safety management system shall be in place to ensure that all risks are controlled – the more severe ones must either be eliminated or kept “as low as reasonably practicable” (ALARP).

Once a year the THBC will receive from the Executive Head of Business Services his review of the risk assessments. The Harbour Safety Management System with the Harbour Safety Policy will also be tabled for review. The Committee will undertake a review and their findings will be recorded in the minutes.

An independent audit of the Harbour Safety Management System will be commissioned once a year from the Designated Person. The audit report will be considered by the TBHC and the outcome of this consideration will also be minuted.

The TBHC will remind the officers every year that harbour safety issues must always be taken into account in their decisions and recorded appropriately.

The Officers will annually bring to the attention of each employee the Harbour Safety Policy and specifically their roles in an emergency.

Organisation of Annual Reviews

Safety Policy	Tor Bay Harbour Committee
Safety Management System	Designated Person & Tor Bay Harbour Committee
Harbour use	Executive Head of Business Services & Harbour Master
Commercial shipping	Executive Head of Business Services & Harbour Master
Operation of all other craft	Executive Head of Business Services & Harbour Master
Premises & Quays	Executive Head of Business Services & Harbour Master
Workshops	Deputy Harbour Masters
Offices	Harbour Masters & Business Manager

3.1 Tor Bay Harbour Committee Risk Assessments

Risk Assessment Policy:

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

The aim of this process is to eliminate the risk or, failing that, to reduce risks to as low as reasonably practicable.

The formal risk assessments incorporating the Risk Register are listed in Appendix 1 and shall be used to :-

- identify hazards and analyse risks;
- assess those risks against an appropriate standard of acceptability; and
- where appropriate, consider a cost-benefit assessment of risk reducing measures.

Torbay Harbour Committee has undertaken a formal safety assessment of its harbour operations to insure that a systematic approach was taken to the identification and the management of risks. The level of risk was determined after considering the risk to Life, to the Environment, to Port Operations and to Port Users.

There is a preferred hierarchy of risk control principles :-

- eliminate risks - by avoiding a hazardous procedure, or substituting a less dangerous one;
- combat risks - by taking protective measures to prevent risk;
- minimise risk - by suitable systems of working.






A set of risk assessments, Appendix 1, has been reviewed and signed off on various dates during 2015 and there is a ranked hazard list. The control measures emanating from the risk assessments are listed in Appendix 2 and the Standard Safe Operating Procedures used by staff to minimise their risks are listed in Appendix 3.

These are the checks to identify new hazards, review risks and see that controls are implemented to bring the risks down to 'As Low As Reasonably Practicable', as defined in the following diagram.

MarNIS Risk Assessment Matrix Grid and Calculation

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

Symbol showing the level of each hazard:

- | | |
|---|------------------------------------|
|  | - High Risk |
|  | - Significant Risk |
|  | - ALARP* |
|  | - Low Risk |
|  | - Negligible Risk
or Unassessed |

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

* ALARP stands for :-
'As Low As Reasonably Practicable'.

The following matrix values are loaded into the MarNIS software.

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

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

The following calculation is used to determine the Overall Score.

- Matrix Score from Worst Credible: People + Property + Planet + Port ÷ 4 = Average Worst Credible Value;
- Matrix Score from Most Likely: People + Property + Planet + Port ÷ 4 = Average Most Likely Value;
- Maximum score from the Worst Credible Scenario;
- Maximum score from the Most Likely Scenario;
- = Average Worst Credible + Average Most Likely + Max Worst Credible + Max Most Likely ÷ 4 = Overall Score.

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

1. Complete a comprehensive set of harbour specific Standard Operating Procedures. These would consolidate the existing 19 procedures, 3 codes of practice and 3 SMS guidelines and the various Standing Orders –Completed.

2. Revise, sign off and re-issue a full set of risk assessments, including ones for fire risk. - Completed
3. Update the training records and plans on completion of the Standard Operating Procedures, so each employee is sure to be instructed in the procedures relevant to his/her work.
4. Consider amending the MarNIS risk assessment software to :-
 - Display the matrix that shows clearly that the risk is as low as reasonably practical.
 - Change the descriptions of the controls to those listed in Appendix 2 of the SMS, linking them to the Standard Operating Procedures and the specific controls set out in the SMS.
5. Endeavour to have the MarNIS accident reporting software modified to :-
 - Clarify the need for any further controls and the rule that each report is shown to the Harbour Master and he is the only one able to close off a report.
 - Have a short form report where there is no ship involved.
6. Promotion of safe seamanship,
 There is forever a need to maintain, refresh, improve and emphasise the advice already being given through notices, brochures, emails of Notices to Mariners, the website, in person by harbour staff and through sea schools.
 Regularly review how IT developments can improve communications with customers.
 Consider ways to promote the identity of Tor Bay Harbour Authority, possibly by expanding the Tor Bay Harbour Visitor Guide and by using social media, by improving the web site and providing a clear link to the Safety Management System and compliance with the Port Marine Safety Code. One specific improvement would be to make it clearer on the web how to subscribe to the distribution by email of Notices to Mariners. Links to weather information could readily be improved.
7. Review security measures in place at the Brixham Fish Market.
8. Pilotage:
 - Finalise the contract between Marine & Towage Services Group Ltd and T B H A
 - Pilotage Review Working Party to meet annually.
 - Consider pilot training needs i.e. Bridge Management and ECDIS.
9. Structural improvement plans are in hand for :-
 - Haldon Pier
 - Princess Pier
 - Northern Arm Breakwater at Brixham
10. Review and update where necessary :-
 - Tor Bay Harbour Emergency Plan
 - Local Port Services Policy
 - Harbour Legislation
11. Consider using Torbay Council's remote learning platform, 'i-Learn', to provide a link to the new Standard Operating Procedures currently being drafted.
12. Undertake a detailed review of the Safety Management System, cross referenced to the Maritime and Coastguard Agency's aide memoire for inspection, and amend the wording as required.

3.2 Tor Bay Harbour Committee Risk Control Procedures

3.2.1 Emergency plans

3.2.2 Conservancy

3.2.3 Environment

3.2.4 Management of Navigation

3.2.5 Pilotage

3.2.6 Marine Services

3.2.1 Emergency plans

Emergency Policy:

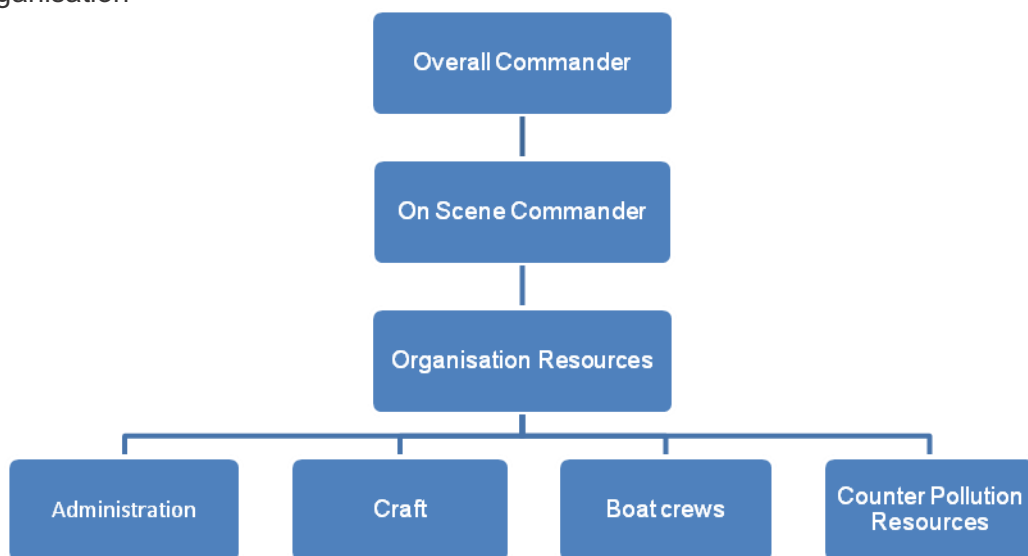
The safety management system shall include preparations for emergencies – and these should be identified as far as practicable from the formal risk assessment. Emergency plans need to be published and exercised.

Emergency Organisation and Management Responsibility

Review of Emergency and Oil Pollution Plans

Harbour Master

Emergency Organisation



Emergency Plans and Procedures

Tor Bay Harbour Emergency Plan – Oct 2015

The Tor Bay Oil Spill and Contingency Plan – redrafted in June 2015

National Contingency Plan for Marine Pollution

Standard Operating Procedure 22 – Harbour Emergency

All officers trained to Tier 2 Response

Planning exercises are undertaken to see that the procedures would be followed.

The MAIB web site is used to see if lessons can be learnt from accidents investigated at other harbours.

3.2.2 Conservancy

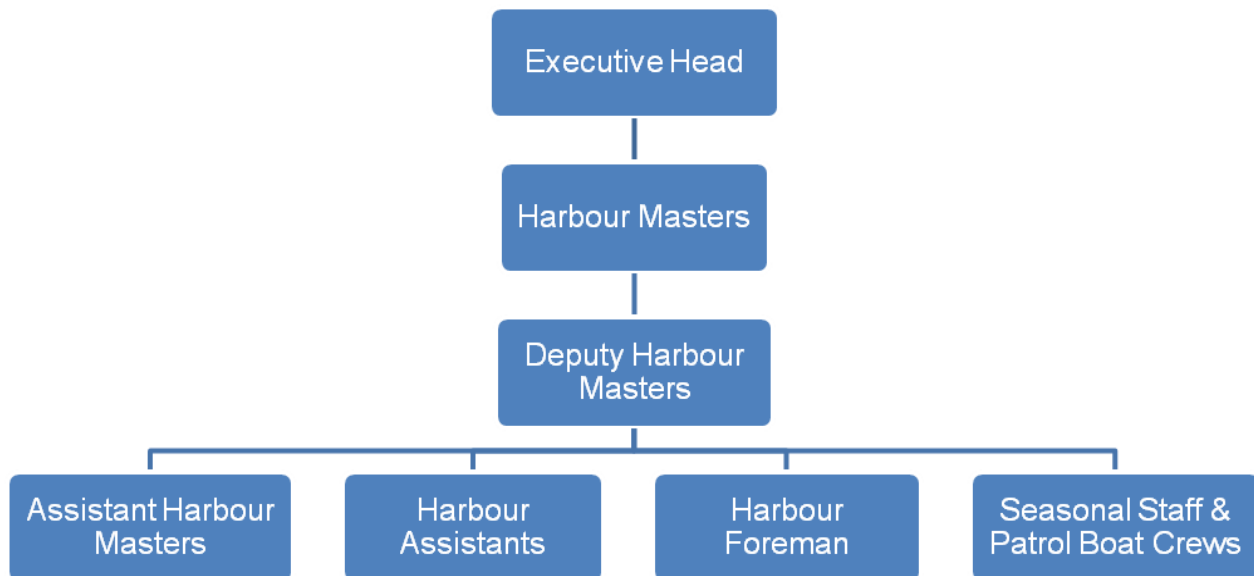
Conservancy Policy:

Torbay Council recognises it's a duty of conservancy the harbour so that it is fit for use as a harbour, and a duty of reasonable care to see that the harbour is in a fit condition for a vessel to use it.

The aim to provide users with adequate information about conditions in the harbour.

Torbay Council recognises the extent of its duty and powers as local lighthouse authority; and specific powers in relation to wrecks.

Conservancy Organisation and Management Responsibility



Conservancy Procedures

Hydrography

TBHC follows the code of practice for UK ports and harbours, developed by the Hydrographic Office.

Dredging

Tor Bay Harbour Committee does not maintain a maintenance dredging disposal licence. Any capital dredging that might take place is subject to statutory consent and TBHC is a priority consultee when such applications are considered.

Buoyage and Navigational Aids

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

Wreck Removal

The procedure is to buoy and/or light a wreck as appropriate, issue a notice to mariners and, if necessary, use TBHC's authority to remove the wreck.

Licensing of Work

TBHC is a statutory consultee for proposed work affecting navigation or the environment within the harbour limits.

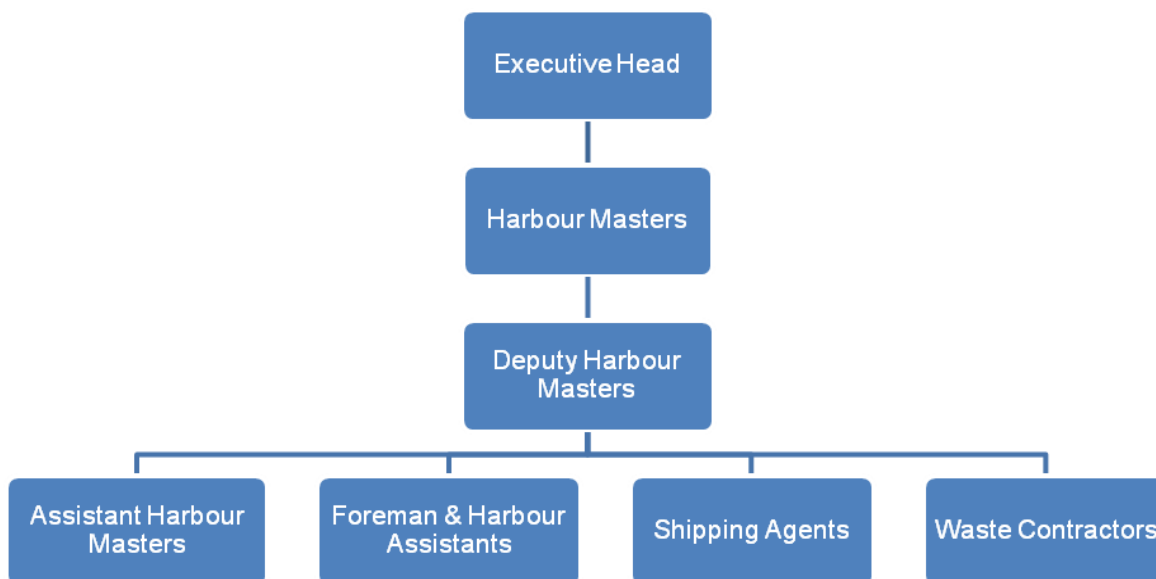
3.2.3 Environment

Environment Policy:

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

A Marine Conservation Zone and part of a Special Area of Conservation are located within the limits of Tor Bay Harbour.

Environment and Port Waste Management Plan Organisation and Responsibility



Environment Policies, Plans & Procedures

Tor Bay Harbour Environmental Policy Statement – December 2016

Port Waste Management Plan – November 2016

Port Marine Safety Code – A Guide to Good Practice on Port Marine Operations

Natural England's Advice

SeaTorbay Membership (Coastal Partnership)

Standard Operating Procedure 46 – Oil Pollution

Standard Operating Procedure 30 – Surge Barriers & Flood Defence

3.2.4 Management of Navigation

Policy for Management of Navigation:

Torbay Council, through its TBHC, has rules in byelaws and directions, which every user must obey as a condition of his or her right to use the harbour.

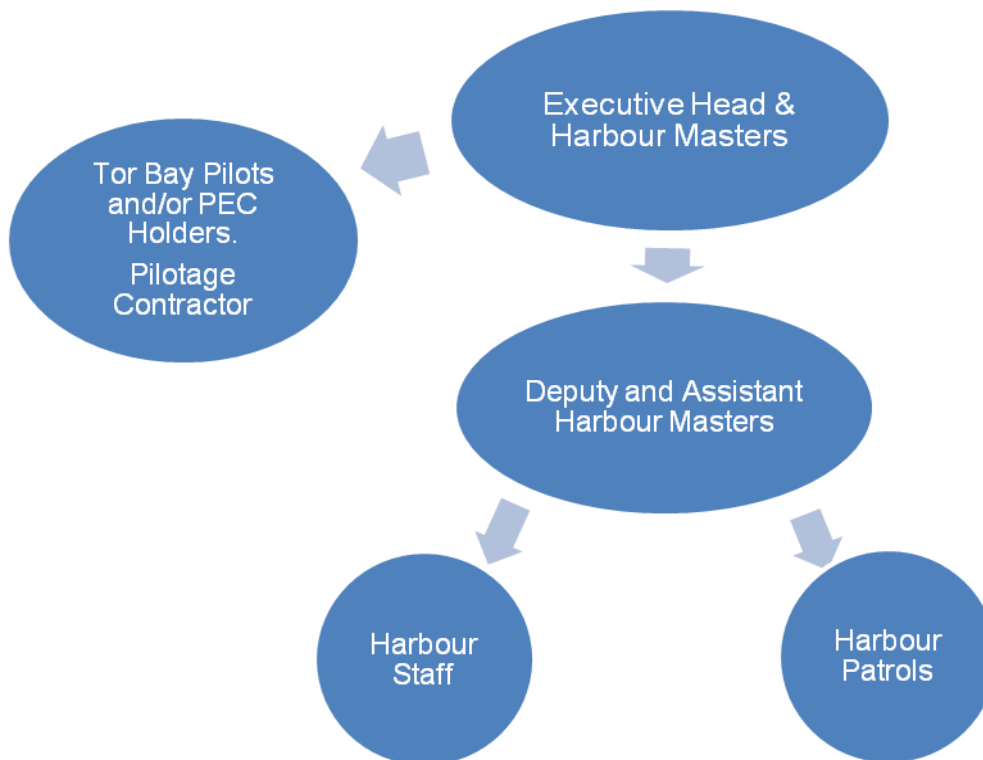
Torbay Council and its Harbour Master recognise their duty to assess risk and make proper use of powers to make byelaws, and to give directions (including pilotage directions), to regulate all vessel movements in their waters.

These powers shall be exercised in support of the policies and procedures developed in this safety management system, and should be used to manage the navigation of all vessels.

TBHC has clear policies on the enforcement of directions, and should monitor compliance.

Powers of direction shall be used to require the use of port passage plans in appropriate cases – whether vessels are piloted or not.

Management of Navigation Organisation and Management Responsibility



Procedures for Management of Commercial Navigation

Passage Plans

The passage plan is prepared on a standard form by the pilot and agreed with the master of the vessel. A copy is to be filed at the offices of the shipping agents.

Monitor

24-hour VHF cover is provided by the combined efforts of the Harbour Offices and the Pilot Station.

Reporting

Reporting is mandatory, as per Tor Bay Harbour Pilotage Directions.

Control

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

Access to Vessel Traffic Management System (VTS) data

After the assessment of risk it has not been considered necessary to have a VTS system & Local Port Services (LPS) are provided. The harbour authority has AIS monitoring software. To the extent that there are Local Port Services these include information in the Admiralty Sailing Directions, Channel Pilot, in Reeds Almanac, in the Local Notices to Mariners and on the Tor Bay Harbour web site.

Patrols

Standard instructions are issued to staff running patrol boats. Patrol boats enforce bye-laws and assist visitors

Bunkering

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

Cargo Transfer

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

Commercial Anchorages

Anchorages are specified for large vessels.

Procedures for Leisure Management

Zones

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

Events

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

Moorings

Moorings are allocated by TBHC.

Marinas

There are 2 marinas in Tor Bay Harbour operated by MDL. It is considered that both these marinas are managed safely.

Enclosed Harbours

The Harbour Masters and the Harbour Master manage the enclosed harbours of Torquay, Brixham and Paignton.

Leisure Anchorages

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

Procedures & Plans

Standard Operating Procedures - Appendix 3

Tor Bay Harbour Authority Emergency Plan – Dec 2015

3.2.5 Pilotage

Policy for Pilotage:

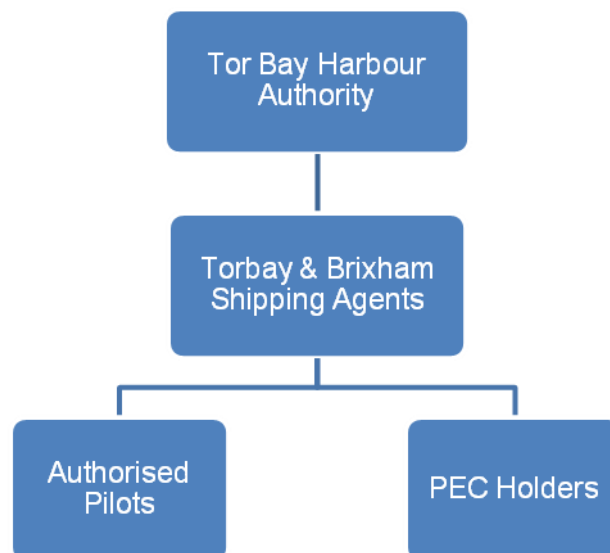
Torbay council, through its TBHC, is the competent harbour authority and accountable for the duty to provide a pilotage service; and for keeping the need for pilotage and the service provided under constant and formal review.

TBHC will therefore exercise control over the provision of the service, including the use of pilotage directions, and the recruitment, authorisation, examination, employment status, and training of pilots.

Pilotage shall be fully integrated with other harbour safety services under harbour Committee control.

Authorised pilots are accountable to their authorising authority for the use they make of their authorisations: TBHC shall have contracts with authorised pilots, regulating the conditions under which they work – including procedures for resolving disputes.

Pilotage Organisation and Management Responsibility



Procedures, Plans, Codes and Guides for Pilotage

Standard Operating Procedure 22 – Harbour Emergency

Standard Operating Procedure 28 – Pilotage & Defective Vessel Notification

Standard Operating Procedure 23 – Harbour Master’s Directions

Standard Operating Procedure 47 – Security

Standard Operating Procedure 33 – Visiting Ships, Fishing Vessels, etc.

Tor Bay Harbour Emergency Plan – Dec 2015

The Port Marine Safety Code - A Guide to Good Practice on Port Marine Operations

3.2.6 Marine Services – Harbour Operations

Policy for Marine Services:

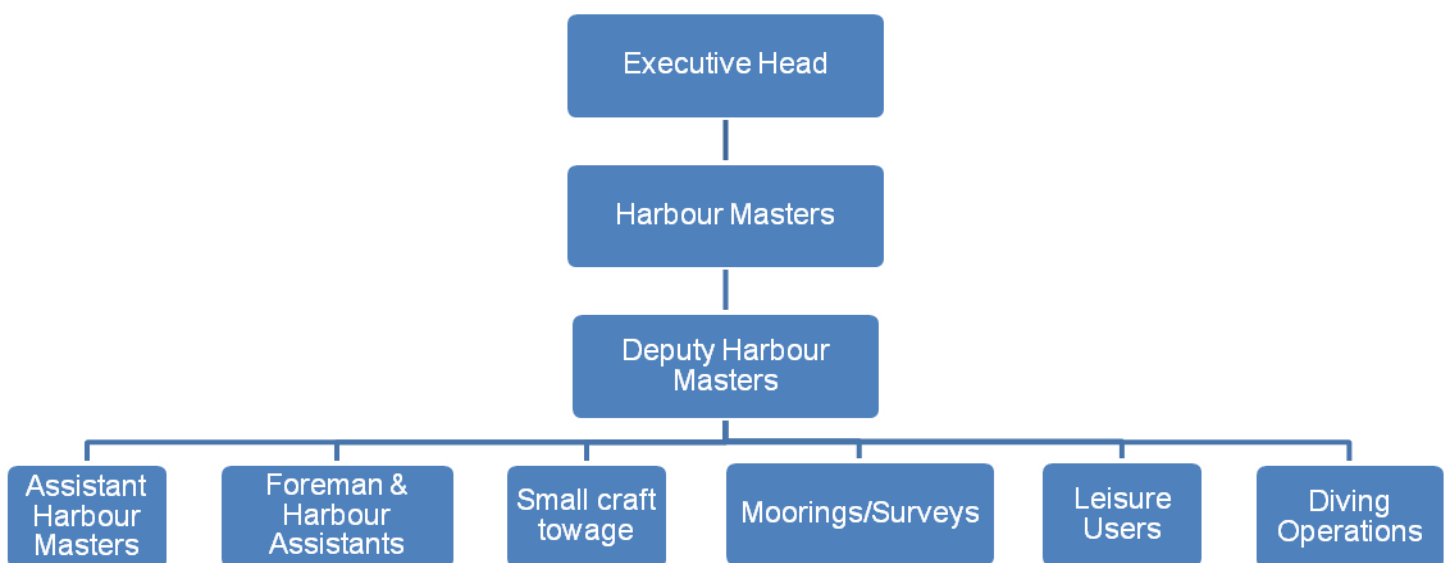
TBHC’s safety management system shall cover the use of harbour craft and the provision of moorings.

The formal safety assessment shall be used to identify the need for, and potential benefits of use of harbour craft for safety management,

TBHC shall ensure that harbour vessels or craft which are used in the harbour are fit for purpose and that crew are appropriately trained and qualified for the tasks they are likely to perform.

Byelaws and the power to give directions are available for these purposes.

Harbour Operations Organisation and Management Responsibility



Marine Services Procedures

Bunkering

Other than at an approved harbour fuel station, the Harbour Master’s approval is required before bunkering operations take place.

The Harbour Authority issues procedures for bunkering.

For any bunkering at anchor or cargo vessels alongside, or vessels taking bunkers direct from road tankers - there is a checklist.

Cargo Transfer

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

Craft Regulation

For boats not subject to MCA licensing or coding conditions of operation are issued in accordance with the South West Regional Standing Committee on Safety of Small Craft.

Craft have to be surveyed, carry specific safety equipment and the boatman must be suitably qualified.

Towage

The staff operating harbour boats and pilot boats are experienced and suitably qualified to tow where and when necessary. Towage Guidelines were published in December 2016.

Work Boats

Operating Code of Practice for relevant TBHC harbour craft.
MCA and other relevant certification.

Commercial Diving

TBHC contracts commercial divers to inspect moorings and provide maintenance as needed.
A diving permit is required for all commercial diving operations - the operators' registration and safety policy are checked.

Dredging

TBHC has inconsequential levels of maintenance dredging. Capital dredging is the responsibility of approved contractors.
MFA licences are required for the disposal of dredged spoil. [See also Harbour Licences for Work]

Moorings/Buoy Maintenance

Moorings/Buoys are inspected annually by divers and there is a maintenance programme.
The adequacy of buoyage is regularly reviewed.
Navigational buoy casualties are reported to Trinity House, who still undertake annual inspections / audits.

Salvage

It is left to the owner to organise salvage of small craft except where safe navigation may be affected.
In such cases TBHC may use its powers to take possession of the vessel and arrange salvage. For large commercial vessels stranding or sinking within the harbour recovery measures will be supervised and approved as necessary.
The necessary consultation with the owners and public interests would be undertaken.

Procedures

Standard Operating Procedures - Appendix 3

4. MEASURING OF PERFORMANCE

Measuring Policy

TBHC will measure health and safety performance against predetermined standards.

Performance in complying with the TBHC safety management system will be required to meet the national standards as laid down in the Port Marine Safety Code.

Appropriate performance indicators will be set.

All accidents, incidents and near misses will be recorded and used to assist in assessment of the effectiveness of the Harbour Safety Management System.

Management of Standard Setting

Standards will be set for operations in the following areas :-

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

Performance indicators are to include the following :-

AREA	SET BY	REMARKS
Navigation Lights Availability	Trinity House	Records kept on the Trinity House software "PANAR" system. Also, on "SPAR.Net" – Torbay Council's Performance Management System ~ reviewed quarterly
Harbour Users Survey	Executive Head	On "SPAR.Net" – Torbay Council's Performance Management System ~ reviewed annually
Reduce the number of reportable accidents including RIDDOR	Executive Head	On "SPAR.Net" – Torbay Council's Performance Management System ~ reviewed quarterly
Implement the Safety Management System Improvement Plan	Harbour Committee	On "SPAR.Net" – Torbay Council's Performance Management System ~ reviewed annually
Incident Investigation	Executive Head	Data recorded and details reviewed bi-monthly
Response to Complaints	Torbay Council	Corporate complaints procedure
Enforcement Activity	Executive Head	Data recorded and details reviewed bi-monthly – no targets currently set

5. REVIEWING

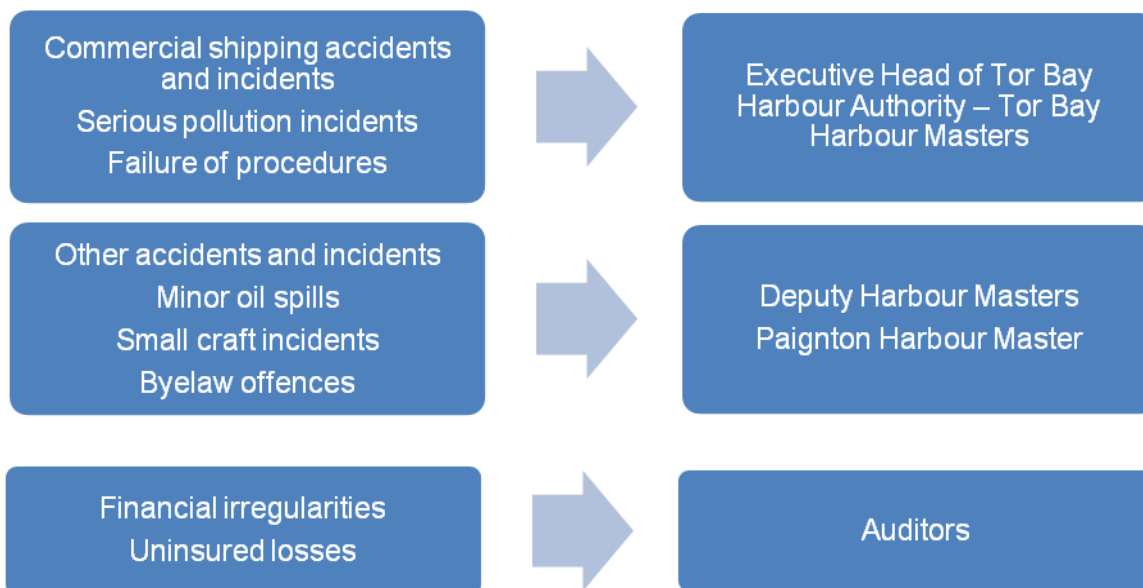
Reviewing Policy

TBHC will monitor, review and audit the marine safety management system on a regular basis so that lessons are learned from all the relevant experience and such lessons are effectively applied.

Performance of the system shall be assessed against internal performance indicators and where appropriate, by benchmarking against other ports that have adopted good practice.

In light of these reports the Executive Head of Business Services and the TBHC will consider whether their rules or working practices require amendment and will submit recommendations to Torbay Council.

The responsibility for investigations and reports is assigned as follows;



Procedure for Reviews

The Executive Head of Business Services will include in his bimonthly meeting of Harbour Masters a review of any accidents, incidents or near misses.

Investigations by the Harbour Master of marine incidents have two essential purposes :-

- to determine the cause of the incident, with a view to preventing a recurrence of that incident (or similar); and
- to determine if an offence has been committed: if so, there may be the need on the part of the harbour authority to initiate enforcement action that may lead to prosecution in our own right or through an agency of another authority such as the Police or the MCA.

By ensuring that a robust, rigorous, independent investigation has been carried out, the TBHC and the duty holder can be assured that their obligations for compliance have been addressed.

Any conclusions from investigations or lessons learned will be included in the minutes together with measures being taken to prevent a recurrence. If appropriate a more detailed report will be submitted to the Harbour Committee, the Councils Health and Safety Officer and/or the MAIB, to the Chief Police Inspector and any other appropriate authorities, by the quickest means available.

Where necessary the MCA may undertake a verification visit. These verification visits are usually arranged following an MAIB investigation into an incident, but could also be triggered by other indicators of non-compliance.

Further reviews are undertaken in the meetings of the Harbour Liaison Forums.

Once every three years, the MCA will ask the “duty holder” to confirm in writing if their harbour authority is complying with the Code.

6. RECORDING

Recording Policy

TBHC will maintain records of what has been done

- Safety controls and responsibilities
- Maintaining a record of due diligence

Publication of Plans and Reports

To demonstrate the authority's commitment to maritime safety and ensure the involvement of harbour users, the safety plan for marine operations shall be published every year at a TBHC meeting open to the press and the public and be available from the Harbour's web site. The plan shall illustrate how the policies and procedures will be developed to satisfy the requirements under the Code. It shall commit the authority to undertake and regulate marine operations in a way that safeguards the harbour, its users, the public and the environment. It shall refer to commercial activities in the harbour; the efficient provision of specified services and the effective regulation of shipping. It shall also explain how commercial pressures would be managed without undermining the safe provision of services and the efficient discharge of its duties.

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

Appendix 1 RISK ASSESSMENTS - MarNIS Hazard (Scenario) List

ID	Scenario Name	Risk Score
PE0028	Port infrastructure delay: Fishing Industry	
PE0029	Port infrastructure delay: Torquay Bridge & Cill	
EP0032	Air pollution	
EP0033	Ballast water discharge	
EP0034	Other environmental: Hull Cleaning	
EP0036	Illegal waste discharge	
EP0041	Bunkering: and Fuelling	
CM0045	Terrorist threat: Bomb Threat	
EP0072	Pollution in water	
NS0067	Other nautical safety: Diving commercial	2.5
NS0063	Fire/Explosion: Berthed	3.06
PE0031	Road traffic congestion	3.13
NS0003	Fire/Explosion: Anchored or Underway	3.44
NS0008	Collision - Multiple underway: Large Vessels - Underway and-or Anchor	3.63
NS0006	Capsizing/Listing: Large Vessels	3.94
NS0064	Vessel Wash: In harbours and shoreline	4.06
NS0062	Other nautical safety: Winter lift - towage and lifting	4.13
NS0012	Contact - Floating object: Buoyage or Debris	4.19
NS0069	Other nautical safety: Towage	4.31
NS0009	Collision - Multiple underway: Small Vessels - Under 36m - Underway and-or Anchor	4.5
NS0071	Flooding/Foundering: Large vessel	4.5
NS0001	Grounding/Stranding: Large vessels	4.56
NS0015	Equipment failure (Port): Cill Failure	4.63
NS0007	Capsizing/Listing: Small Vessels - under 36m	4.69
NS0065	Other nautical safety: Swimmers - In harbour and shoreline	4.81
NS0024	Salvage: Large and small vessels	5.06
NS0014	Contact - Fixed object: Heavy berthing - All vessel types	5.06
CM0044	Natural Emergency: Storm event - surge and wave	5.38
NS0002	Grounding/Stranding: Small vessels - under 36m	5.56
NS0070	Flooding/Foundering: Small Vessels - under 36m	5.69
NS0066	Other nautical safety: Diving recreation	5.75
NS0068	Other nautical safety: Event management - maritime	6.25

Number of Scenarios listed = 32

Average Risk Assessment Score = 4.47

RISK ASSESSMENTS - not listed on MarNIS

ID	Name	Date	Review Date	Status	Department
2	Angling	15/10/2015	09/10/2017	Active	Marine
3	Boatyard Working	21/05/2016	21/05/2017	Active	Marine
4	Car Parks & Boat Parks	16/02/2016	16/02/2017	Active	Marine
5	Cranes (Mobile, Static & Hoists)	10/11/2015	10/11/2016	Active	Marine
6	Harbour Events	20/05/2016	20/05/2017	Active	Marine
7	Harbour Office	30/06/2016	30/06/2017	Active	Admin
8	Harbour Workboats	21/05/2016	21/05/2017	Active	Marine
9	Licensed Works (e.g. Dredging, Sea Defences)	22/04/2015	22/04/2016	Active	Marine
10	Marina Working	21/05/2016	21/05/2017	Active	Marine
11	Mooring Maintenance	13/11/2015	13/11/2016	Active	Marine
12	Mooring & Unberthing	10/11/2015	10/11/2016	Active	Marine
13	Public Access to Quays	13/11/2015	13/11/2016	Active	Marine
14	Public Slipways & Launching Hards	16/02/2016	16/02/2017	Active	Marine
15	Scrubbing Grids	13/11/2015	13/11/2016	Active	Marine
16	Workshops	21/05/2016	21/05/2017	Active	Marine
125	Expectant Mothers RA Torquay Office	18/11/2015	19/11/2020	Active	Marine
145	Inspection and Maintenance of Aids to Navigation	15/10/2016	15/10/2017	Active	Maintenance

Appendix 2

RISK CONTROLS

- 1) Accurate tidal information - published & on internet
- 2) Aids to navigation, provision & maintenance - Trinity House inspected & audited, SMS 3.2.4
- 3) AIS coverage - public, on internet
- 4) Anchorage positions, designated – as per chart
- 5) Arrival/Departure, advance notice - AIS, CERS – SSOP 33
- 6) Availability of latest hydrographic information - Hydrographic Office, SMS 3.2.2
- 7) Availability of pollution response equipment - Tier 1 onsite, Tier 2 contracted – SSOP 46
- 8) Availability of suitably qualified workboat skippers - as recorded training
- 9) BSAC & PADI training schemes - public, SSOP 50 Diving Permit
- 10) Bunkering areas, restricted - directions
- 11) Bunkering vessel checklist – SSOP 31
- 12) Byelaws - 1994, and General Directions, SMS 2 – SSOP 52
- 13) CCTV coverage - Council policy and guidance
- 14) Codes of practice - use of gill nets
- 15) Codes of practice - Yacht Harbours Association
- 16) COLREGS, applied within port/harbour - public
- 17) Communications - Dock/Jetty and all traffic - voice & VHF
- 18) Communications - Port and Agents - phone & email
- 19) Communications – Stakeholder - consultancy, SMS 5
- 20) Communications equipment - radios, walky-talky, VHF and emails
- 21) Contingency plan exercises - Emergency, Oil Spill & Resuscitation , SMS 3.2.1
- 22) Contractors Pass – provides access to work on the harbour estate
- 23) Diving at work regulations, HSE - public
- 24) Diving permit – SSOP 50
- 25) Draught, accurate declared and within max limits - passage plans – SSOP 33
- 26) Dredging programme – 3 yearly surveys, SMS 3.2.6
- 27) Emergency Plan (Council/Regional) – Torbay Council & Devon County Council
- 28) Emergency power supply - for Cill – SSOP 17
- 29) Emergency services/ shoreside equipment – SMS 3.2.1
- 30) Environmental policy - SMS 3.2.3
- 31) Fatigue & health monitoring - as per Torbay Council Policy
- 32) General directions – Tor Bay Harbour Act 1970
- 33) Guidance for small craft - Stay Safe leaflet & Maritime Guide
- 34) Harbour Emergency Plan (local) - SMS 3.2.1
- 35) Harbour Master's powers of direction (Special Direction) – Tor Bay Harbour Act 1970
- 36) Hazardous cargoes, advance notice - CERS – SSOP 53

- 37) Health & Safety policy - SMS 1
- 38) Hot works permit – SSOP 24
- 39) Hydrocarbon tankers certified gas free – via ship's Agents
- 40) Hydrographic surveying program - SMS 3.2.2
- 41) Illness on board ship – SSOP 25
- 42) Injurious vessel notice (Sec.23 Tor Bay Harbour Act)
- 43) Lifting operations & lifting equipment Regs 1998 (LOLA) - SSOPs 19 & 42
- 44) Local authority petroleum licence – required for South Pier, Torquay
- 45) Local Port Services – SMS 3.2.4 - SSOP 33
- 46) LPS broadcast – VHF Radio Ch 14
- 47) Marine engineering support - public
- 48) Marine guidance notes (MCA MGNs) - public
- 49) Marine Safety Management System - SMS
- 50) MCA certificates of competency – training/manning requirement
- 51) MCA harmonised code of practice for commercial vessels - public document
- 52) MCA passenger vessel certification
- 53) Merchant shipping notices (MCA MSNs)
- 54) Monthly safety equipment checklist – internal control
- 55) Mooring plans - chartered and as directed
- 56) Notices to Mariners - emailed & social media - SSOP 51
- 57) Official warning - Enforcement Policy and SSOP
- 58) Oil spill contingency plans – SMS 3.2.1 - SSOP 46
- 59) PANAR Trinity House reports - online
- 60) Passage planning (Pilot/PEC) - Pilotage Manual, SMS 3.2.5
- 61) Passenger numbers declared - ferry operator MCA requirement
- 62) Patrol vessel – reactive, SSOP 53
- 63) PECs, authorisation and control of - Pilotage Manual, SMS 3.2.5
- 64) Personal protective equipment – SSOP 27
- 65) Personal safety risk assessment - Safety Policy SMS 1
- 66) Personal watercraft registration
- 67) Pilot boarding point, designated – marked on Chart 26
- 68) Pilot launch - licensed to contractor
- 69) Pilotage & Navigation procedure - Pilotage Manual, SMS 3.2.5
- 70) Pilotage directions - SMS 3.2.5
- 71) Pilotage service - SMS 3.2.5
- 72) PMSC compliance – Safety Management System (SMS) throughout.
- 73) Policy – Conservancy - SMS 3.2.2
- 74) Policy - Operational Moorings and Facilities - published annually
- 75) Port Equipment - SSOPS 17 & 19
- 76) Port state control inspection by MCA
- 77) Port waste management plan - SMS 3.2.3

- 78) Portable appliance testing records – covered by SLA with the TDA
- 79) Prohibited anchorage areas - as Byelaws and directions
- 80) Proof of third party liability insurance – Contractors pass/competence, SSOP 21
- 81) Provision & use of work equipment Regs 1998 (PUWER)
- 82) Public access to working quays procedure - SSOP 29
- 83) Requirement for notification of vessel defects - CERS – SSOP 33
- 84) Risk based monitoring and assessment - SMS 3.1
- 85) Safe allocation of berths (depth, available, suitable) – SSOP 33
- 86) Scrubbing grid/repair berth booking form - at Brixham, SSOP 51
- 87) Shoreside facility maintenance programme - planned maintenance
- 88) Standard Safe Operating Procedures – covering a range of activities
- 89) Tor Bay Harbour website – useful information & external links
- 90) Towage guidelines - SSOP 53
- 91) Towage, appropriate and available - by coded boats – SSOP 53
- 92) Towage SMS – third party operators
- 93) Training & authorisation of harbour personnel - SMS 2
- 94) Training & authorisation of pilots - Pilotage Manual, SMS 3.2.5
- 95) Training of pollution response personnel - SSOP 46
- 96) Weather forecast - public, on internet & posted in window
- 97) Weekly lifebuoy inspection – internal control
- 98) Workboats - maintained to certification standard – SSOP 53

Appendix 3

STANDARD SAFE OPERATING PROCEDURE

ID	Name
43	Abrasive Wheels
54	Boat Haul Out and Storage
17	Bridge & Cill
52	Bye Law Enforcement
21	Contractors & Construction
18	Control of Substances Hazardous to Health (COSHH)
19	Crane and Davit Operations
50	Diving Permit
48	Entering or Moving Vessels
20	Facility Audits
22	Harbour Emergency
45	Harbour Events
23	Harbour Master's Directions
24	Hot Work
25	Illness On Board Ship
44	Induction
56	International Catering Waste
26	Lone Working
42	Manual Handling
49	Mooring Maintenance
51	Office Procedures
46	Oil Pollution
27	Personal Protective Equipment (PPE)
28	Pilotage & Defective Vessel Notification
29	Public Access in Adverse Weather Conditions
47	Security
30	Surge Barriers & Flood Defence
31	Taking on Fuel
55	Unexploded Ordinance
32	Vehicles on Harbour Estates
34	Working at Height
53	Working on Workboats
33	Visiting Ships, Fishing Vessels etc
134	Laying Seasonal Marks
143	Inner Harbour & Town Dock Pontoon Maintenance



Meeting: Harbour Committee

Date: 13 December 2016

Wards Affected: All wards in Torbay

Report Title: Tor Bay Harbour Authority Budget Monitoring 2016/17

Executive Lead Contact Details: Non-Executive Function

Supporting Officer Contact Details: Kevin Mowat
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1. Purpose

- 1.1 This report provides Members with projections of income and expenditure for the year 2016/17 compared with approved budgets.
- 1.2 This report identifies the overall budgetary position for Tor Bay Harbour Authority as at end of October 2016 to enable appropriate action to contain expenditure and maintain reserves at appropriate levels.
- 1.3 The Committee is asked to note that the amended outturn projections of the harbour accounts and adjustments to the Reserve Funds shown in Appendix 1. In particular the use of
- 1.4 The Committee is asked to note the Executive Head of Business Services' use of delegated powers to make decisions in relation to the budget allocated to Tor Bay Harbour.
- 1.5 The Committee is asked to note the Harbour Master's use of delegated powers to waive certain harbour charges which so far this financial year has amounted to £699.79 (excl VAT). No additional charges have been levied.

2. Summary

- 2.1 The Tor Bay Harbour Authority budget was approved by the Harbour Committee on 21st December 2015.

- 2.2 This is the second budget monitoring report presented to the Harbour Committee for the financial year 2016/17.
- 2.3 Additional costs have been authorised by the Executive Head of Business Services in respect of increased security arrangements at Brixham Harbour and increased insurance cover. Capital works to refurbish the toilet facilities at Beacon Quay will be funded from the revenue account during the current year and the Council will be asked to vary its Capital Plan accordingly.
- 2.4 The Harbour account has benefitted from higher than expected income from fish tolls and additional rental streams.

Supporting Information

3. Position

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

	£000
Original Budget 2016/17 – approved December 2015	0
Previous Budget Monitoring Report – June 2016	(36)
Current Projected Surplus 2016/17	1

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

	Total Budget	Actual to Date (including prior years)	Projected Outturn	Notes
	£000	£000	£000	
Environment Agency grant funding for Torquay Harbour – Haldon & Princess Piers	1,272	815	1,272	(i)
Brixham Major Repairs	123	111	123	(ii)
New Harbour Workboat	45	10	45	(iii)

- (i) Work has recently resumed on the underwater repair works to the inner walls of Princess Pier and Haldon Pier. These works are being carried out in Phases over a number of years commencing in 2011, following a grant of £1.3m from the Environment Agency (EA). Before Phase 3 can commence further grant in aid funding will need to be secured from the EA. However, as part of any revised bid to the EA, the Council will also be investigating other alternative sources of partnership funding.
- (ii) These works are nearly completed and include repairs to the drying grid, masonry walls and new compound fencing.
- (iii) A new workboat has been ordered and the hull is currently under construction, with delivery of the craft expected in March/April 2017.

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

Capital Scheme	Amount Borrowed	Start of Repayments	Principal outstanding
Town Dock (Torquay Harbour)	£1,140,000	2008/09	£697,363
Haldon Pier (Torquay Harbour)	£1,200,000	2010/11	£983,016
Brixham Harbour New Fish Quay Development	£4,750,000	2011/12	£4,094,367
Torquay Inner Harbour pontoons (Inner Dock)	£800,000	2014/15	£744,261
		TOTAL	£6,716,084

3.5 The Tor Bay harbour Authority debt position at the end of October 2016 is set out in the table below :-

	Corporate Debtor System		Harbour Charges	
	Unpaid by up to 60 days	Unpaid over 60 days	Unpaid by up to 60 days	Unpaid over 60 days
Debt outstanding	£16k	£16k	£15k	£90k
Bad Debt Provision	£20k			

The outstanding Harbour Charges debt largely reflects the uptake of payment by instalments and the overall figure is reducing.

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

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

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

Consequently the Executive Head of Business Services (Tor Bay Harbour Master), in consultation with the Chairman of the Harbour Committee, has produced a list of Harbour Reserve Fund projects attached as Appendix 2. The Committee is asked to note this list and the obvious ongoing need for a healthy Harbour Reserve Fund.

3.8 Over recent years the Harbour Committee has agreed to make annual contributions to the Council's General Fund building to a total of £460,000 by 2015/16. The Committee understood that the recommendation relating to the cash contribution should then be reviewed. It was also agreed by the Harbour Committee that any operating surplus for the years 2013/14, 2014/15 and 2015/16 be passed to the Councils general fund. (Providing the harbour reserve levels are not below the minimum recommended level).

3.9 The Harbour Committee Budget Working Party initially considered a schedule of budget reductions/income generating proposals by the Executive Head of Business Services to achieve the corporate General Fund contribution target of an additional £400,000 over 2016/17 to 2018/19. While the Working Party was generally supportive of the viability of income generating proposals it was felt that a number of high-risk budget cuts would threaten the operation of the Harbour function and its ability to raise income. These specific proposals were rejected and a revised additional contribution of £285,500 was offered back to the corporate centre with £97,000 to be applied from 2016/17.

3.10 Following developments in the Council's overall budget exercise the corporate centre made a counter request that amounted to :-

- Bringing forward £25k of identified savings in both 2017/18 and 2018/19, into the 2016/17 year
- Plus an additional £50k of new savings in 2016/17

On consideration of the revised request, the Working Party accepted a plan presented by the Executive Head of Business Services to bring £50,000 of previously identified savings in future years forward to 2016/17. However, income

streams proposed to realise the additional £50,000 of new contribution could not be agreed.

- 3.11 The proposals of the Working Party were accepted by Harbour Committee with a decision to make an additional contribution to the general fund of £147,000 in 2016/17, this recommendation being £50,000 below the contribution requested from the corporate centre.
- 3.12 If the Council continues to request a significant contribution to the General Fund in the form of a cash dividend and asset rental fee there is a significant risk that the Harbour Authority will be unable to remain self funding. In that situation the Harbour Authority would require a precept from the General Fund and this scenario would be contrary to government best practice for the management of municipal ports.

Appendices

Appendix 1 Harbour Revenue Accounts for 2016/17

Appendix 2 Harbour Reserve Funds Project List

Additional Information

None

HARBOUR REVENUE ACCOUNTS 2016/17 - BUDGET MONITORING

Appendix 1

TORQUAY and PAIGNTON HARBOURS

Expenditure	2016/17 Original Budget £ ,000	2016/17 Current Budget £ ,000	2016/17 Profiled Budget £ ,000	2016/17 Actual to Date £ ,000	2016/17 Projected Outturn £ ,000	Notes
Harbour Employee Costs	557	557	328	335	567	1
Operations and Maintenance :-						
Repairs and Maintenance	229	239	115	154	255	2
Rent/User charges Concessions	23	15	23	17	17	3
Other Operating Costs	473	509	364	256	506	4
Management and Administration :-						
Internal Support Services	162	162	162	175	175	5
External Support Services	42	50	25	23	50	6
Other Administration Costs	83	109	46	39	109	7
Capital Charges	498	498	498	498	498	
Contribution to General Fund - EHO	0	0	0	25	25	8
Contribution to General Fund - Cash Dividend	160	160	0	0	160	
Contribution to General Fund - Asset Rental	447	447	0	0	447	
Revenue Contribution to Capital	0	0	0	0	85	9
Contribution To Reserve	0	0	0	0	95	10
	2,674	2,746	1,561	1,522	2,989	
Income						
Rents and Rights :-						
Property and Other Rents/Rights	540	540	400	440	550	11
Marina Rental	398	398	120	151	429	12
Operating Income :-						
Harbour Dues	139	139	112	158	158	13
Visitor and Slipway	53	53	53	53	53	
Mooring fees	196	196	179	192	192	
Town Dock	297	297	297	297	297	
Torquay Inner Harbour pontoons	251	251	251	251	251	
Fish Tolls	571	571	270	355	700	
Boat and Trailer parking	36	42	42	42	42	14
Recharged Services	73	83	42	47	83	15
Other Income	120	114	108	114	114	14
Contribution from Reserves	0	26	0	0	26	7
Refund of water charges	0	0	0	0	33	16
Interreg grants received	0	0	0	62	62	17
	2,674	2,710	1,874	2,162	2,990	
Operating Surplus /(Deficit)	0	(36)	313	640	1	

RESERVE FUND	
Opening Balance as at 1st April	719
Interest Receivable	6
Net Surplus / (Deficit) from Revenue Account	1
Contribution to Revenue Account	(26)
Contributions from Revenue Account	95
Anticipated withdrawals in year	(135)
Expected Closing Balance as at 31st March	660

Note: In line with Harbour Committee minute 398 (5) December 2011 the minimum Reserve level at year end 2016/17 is £530k 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.

Details of the Reserve and a full schedule of capital projects is included at Appendix 2 to the report.

HARBOUR REVENUE ACCOUNTS 2016/17 - BUDGET MONITORING

NOTES

- 1 Employee costs will rise as a result of increased staff numbers taking their pension option.
- 2 Projected savings from recharged services (see note 6) have been applied to the R&M budget figure to ease pressure on this heading. Further expenditure will be incurred at Paignton Harbour on new flood gates and leased property renovation and dredging.
- 3 The Projected Outturn has been adjusted in line with the actual applied to 2016/17 charges.
- 4 With approval from the Committee the Executive Head of Business Services has reinstated 24 hour security cover at Brixham Harbour. There is currently a potential loss from undeclared fish toll income and this measure will help to ensure all fish tolls are captured as well as securing the harbour estate. Full year costs are projected to be £48k with £36k due for part of 2016/17 but this will now be partly mitigated by capacity within the harbour toilets cleaning budget.

The new waste facility at Brixham will not deliver the planned savings in the current year, partly due to increased volumes from fishing vessel refits.
- 5 Additional support has been incurred.
- 6 The Projected Outturn reflects Engineers support costs now charged by the Torbay Economic Development Company.
- 7 The remaining costs of the Harbour Management software system will be spent in the current year funded from the Reserve.
- 8 The Executive Head of Business Services has agreed to part fund an Environmental Health Officer post to reflect the benefit to the fish market operation. The additional costs will be funded through increased income from fish tolls.
- 9 Current year resources will now fund the planned refurbishment of the Beacon Quay toilets facility, subject to capital approval by Council.
- 10 A contribution to Reserve is being made to reflect one-off income received in relation to previous years (see notes 16 and 17).
- 11 Rent income has increased following the transfer of a new catering concession to Torquay Harbour.
- 12 The projected outturn reflects residual balances due in respect of 2015/16 turnover rent for both Marinas.
- 13 Income levels have been boosted by visiting cruise ships and by wind farm boats occupying berths at Torquay Harbour.
- 14 An adjustment has been made to correct an element of the Boat & Trailer Parking income which was originally mapped to Other Income.
- 15 A new regime for recharging electricity supplied to boats was implemented during 2015/16 and will increase the base income level going forward.
- 16 A refund of overcharged water services at Brixham Harbour toilets has been secured (see note 10).
- 17 The final grant claim for the Interreg project work has now been received. This receipt funds prior year expenditure and will therefore be transferred to the Reserve (see note 10).
- 18 Withdrawals are planned to fund a new work boat (£45k) and infrastructure work (£90k) at Brixham. A previous planned withdrawal of £85k to fund the refurbishment of the Beacon Quay toilets facility will now be funded directly from the Revenue Account (see note 9)

Appendix 2 - Tor Bay Harbour Authority - Reserve Funds Project List

Harbour Committee Minute 398 (5) - December 2011

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

	£
Consolidated Reserve Balance at 31st March 2016	719,000
Anticipated interest for year	6,000
Withdrawals in year	(161,000)
Contributions in year	95,000
Projected Surplus/(Deficit) for year	1,000
Projected Consolidated Reserve Balance at 31st March 2017 (prior to implementation of any scheme on this schedule)	660,000
less: 20% of Budgeted Turnover	(530,000)
= Balance for Projects	130,000
Total costs of proposed Projects (as listed below).	1,102,900
<i>Shortfall in Reserve funding available</i>	<i>(972,900)</i>

Projects	Brixham	Torquay & Paignton	Timeframe
Torquay harbour - Haldon Pier fender replacement		£80,000	Short
Torquay harbour - cill repair		£10,000	Short
Torquay Town Dock - 'V' pontoon upgrade		£220,000	Short
Torquay harbour - Haldon Pier brow		£80,000	Medium
Torquay harbour - Old Fish Quay refurbishment		£200,000	Medium

Brixham harbour – photo-voltaic solar panels on roof	£48,000		Medium
Torquay harbour – office/welfare improvements		£24,900	Medium
Projects continued	Brixham	Torquay & Paignton	Timeframe
Torquay harbour - Inner Harbour Slipway repairs		£75,000	Medium
Torquay harbour - South Pier cathodic protection		£30,000	Medium
Tor Bay Harbour Patrol Boat replacement	£25,000	£25,000	Medium
Torquay harbour - new dinghy park & seaward slipway feasibility study		£30,000	Medium
Torquay harbour - Haldon Pier crane		£60,000	Long
Torquay harbour - outer harbour slipway repairs		£75,000	Long
Torquay harbour - Fuel Station refurbishment		£120,000	Long
TOTALS	£73,000	£1,029,900	

Capital Projects over £25k to be listed on the Council's Capital Plan which is approved by full Council.

KEY
Capital
Revenue



Current financial year
0 to 12 months
12 to 24 months
24 to 60 months

2017-18
Short
Medium
Long

Meeting: Harbour Committee

Date: 13 December 2016

Wards Affected: All wards in Torbay

Report Title: Internal Audit Report – Tor Bay Harbour Authority Income

Executive Lead Contact Details: Non-Executive Function

Supporting Officer Contact Details: Kevin Mowat

Executive Head of Business Services

Tor Bay Harbour Master

 **Telephone: 01803 292429**

 **Email: Kevin.Mowat@torbay.gov.uk**

1. Purpose

- 1.1 This report provides Members with an overview of the results of the Internal Audit Report undertaken for Tor Bay Harbour Authority on Income, which was concluded in June 2016.
- 1.2 It is entirely appropriate that the Harbour Committee also receives and notes the main findings of the Internal Audit of the Harbour Authority's Income as shown in the Executive Summary - Appendix 1.

2. Summary

- 2.1 A 5-year rolling audit plan was taken to the Harbour Committee and approved in June 2011 separating the various operation and strategic elements of the harbour operation into distinct audit areas; this particular audit is from the rolling plan and focuses on income.
- 2.2 The audit plan had previously identified 'Harbour Income' as a piece of work to be undertaken in 2017/18. However, the Executive Head of Business Services decided to bring this audit forward and put back the scheduled audit of 'Business Management'. This decision was made in consultation with the Internal Auditors.
- 2.3 The audit for 2015-16 was undertaken based on key risks identified through discussions with harbour staff and Internal Audit's view on risk within the function.

The key risks were :-

- Loss of income
- Income data is not reliable and complete
- Income not maximised

- 2.4 The opinions and recommendations contained within the Internal Audit report are based on an examination of restricted samples of transactions / records and discussions with officers responsible for the processes reviewed.
- 2.5 The overall assurance opinion which was – **Improvements Required**. This means that in the Auditor’s opinion there are a number of instances where controls and procedures do not adequately mitigate the risks identified. Existing procedures need to be improved in order to ensure that they are fully reliable. Recommendations have been made to ensure that organisational objectives are not put at risk.
- 2.6 Details of the risks covered and the definitions of the assurance opinion ratings can be found in section 3 below.
- 2.7 The findings and recommendations in relation to each of the areas are discussed in the "Detailed Audit Observations and Action Plan" which forms an Appendix to the full report. This Appendix records the action plan agreed by the Executive Head of Business Services to enhance the internal control framework and mitigate identified risks where agreed. The Tor Bay Harbour Authority service has already agreed the action plan with the Devon Audit Partnership.
- 2.8 The "Detailed Audit Observations and Action Plan" referred to in 2.7 above has been marked RESTRICTED and therefore does not form part of this report because it contains information or data or documents that should only be shared between a specific group of work staff who have to demonstrate a need to know, because of the sensitive content.

Supporting Information

3. Position

- 3.1 The following table summarises the assurance opinions given on each of the risks covered during the audit.

Risks Covered		Level of Assurance
1	Loss of income	Improvements Required
2	Income data is not reliable and complete	Improvements Required
3	Income not maximised	Good Standard

3.2 Assurance opinion levels are defined as follows :-

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

3.3 The recommendations are categorised as follows :-

High	A significant finding. A key control is absent or is being compromised; if not acted upon this could result in high exposure to risk. Failure to address could result in internal or external responsibilities and obligations not being met.
------	---

Medium	Control arrangements not operating as required resulting in a moderate exposure to risk. This could result in minor disruption of service, undetected errors or inefficiencies in service provision. Important recommendations made to improve internal control arrangements and manage identified risks.
Low	Low risk issues, minor system compliance concerns or process inefficiencies where benefit would be gained from improving arrangements. Management should review, make changes if considered necessary or formally agree to accept the risks. These issues may be dealt with outside of the formal report during the course of the audit.

3.4 The full report contains 24 recommendations of which 8 are 'High', 13 are 'Medium' and 3 are 'Low'. Some of the agreed actions identified within the Report's Action Plan have already been implemented or are in the process of being implemented. All of the 'High' priority actions will have been taken by the end of March 2017.

Appendices

Appendix 1 Devon Audit Partnership Internal Audit Report – Tor Bay Harbour Authority ~ Income (June 2016) – Executive Summary

Additional Information

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

Devon Audit Partnership Internal Audit Report – Tor Bay Harbour Authority ~ Income (June 2016) RESTRICTED



Draft Internal Audit Report

Tor Bay Harbour Authority
- Income

Torbay Council

June 2016

OFFICIAL



Auditing for achievement

Devon Audit Partnership

The Devon Audit Partnership has been formed under a joint committee arrangement comprising of Plymouth, Torbay and Devon councils. We aim to be recognised as a high quality internal audit service in the public sector. We work with our partners by providing a professional internal audit service that will assist them in meeting their challenges, managing their risks and achieving their goals. In carrying out our work we are required to comply with the Public Sector Internal Audit Standards along with other best practice and professional standards.

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

Confidentiality and Disclosure Clause

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

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

1 Introduction

Tor Bay Harbour Authority incorporates three separate Harbours; Torquay, Paignton and Brixham. Torquay and Paignton are primarily focussed on tourism and leisure activities, whereas Brixham also includes commercial fishing. Tor Bay Harbour Authority is responsible for providing various services to harbour users and harbour tenants, along with ensuring compliance with statutory requirements and adherence to harbour byelaws.

The control framework related to income ensures that the Tor Bay Harbour Authority effectively collects all income arising from services, in order that future service provision and maintenance of the service infrastructure is adequately funded.

Until recently the Harbours income was managed and processed through the Harbour Management System (HMS); however debt management and recovery has now been transferred to the Council's financial management system (FIMS) with core customer data remaining on the HMS.

2 Audit Opinion

Improvements Required - In our opinion there are a number of instances where controls and procedures do not adequately mitigate the risks identified. Existing procedures need to be improved in order to ensure that they are fully reliable. Recommendations have been made to ensure that organisational objectives are not put at risk.

3 Executive Summary

Opportunities exist to improve the arrangements for income billing, collection and recovery and the associated record management. Recent change of practice to utilise the Councils Financial Management System (FIMS) and the implementation of the new Harbour Management System (HMS) will assist in facilitating these improvements in a number of areas along with increasing efficiency and ensuring compliance with information governance expectations.

Local recovery practices and monitoring arrangements are employed in addition to the FIMS system recovery controls; however further steps are now required to address the older debt.

We noted that office security arrangements are inconsistent across the three sites.

The arrangement with the Brixham Trawler Agency (BTA) for fish toll does not provide a formal robust structure within which both the Tor Bay Harbour Authority and BTA can operate effectively. Further, direct fish landing is not adequately controlled. As such, fish toll from both sources may not be complete and accurate.

Income may not be being maximised in relation to rental and leasing on Tor Bay Harbour estate property because agreements are not being reviewed to ensure they remain appropriate. Income improvement opportunities are also evident in relation to utility recharging to reduce the cost borne by the Tor Bay Harbour Authority

Other income opportunities exist in relation to expanding existing facilities that are known to be popular. Additionally pursuing new methods for maximising take up of facilities could also increase income to the Tor Bay Harbour Authority.

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

4 Assurance Opinion on Specific Sections

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

Risks Covered		Level of Assurance
1	Loss of income	Improvements Required
2	Income data is not reliable and complete	Improvements Required
3	Income not maximised	Good Standard

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

5 Issues for the Annual Governance Statement

The evidence obtained in internal audit reviews can identify issues in respect of risk management, systems and controls that may be relevant to the Annual Governance Statement. In our opinion there are no issues that warrant inclusion within the Annual Governance statement.

6 Scope and Objectives

The audit for 2015-16 was undertaken based on key risks identified through discussions with the department and Internal Audit's view on risk within the function.

The key risks are:

- Loss of income

- Income data is not reliable and complete
- Income not maximised

Internal Audit has provided added value through evaluating arrangements for the collection of fish toll including the verification of data to records held by the Brixham Trawler Agents (BTA) and the Marine Management Organisation (MMO), and assessment of related security measures, in order to determine whether controls sufficiently mitigate the risk of fraud.

7 Inherent Limitations

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

8 Acknowledgements

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

Robert Hutchins
Head of Partnership



Meeting: Harbour Committee

Date: 13 December 2016

Wards Affected: All wards in Torbay

Report Title: Torquay Town Dock Capital Repairs

Executive Lead Contact Details: Non-Executive Function

Supporting Officer Contact Details: Kevin Mowat
Executive Head of Business Services
Tor Bay Harbour Master

 **Telephone:** 01803 292429

 **Email:** Kevin.Mowat@torbay.gov.uk

1. Purpose

- 1.1 This report provides Members with the opportunity to consider the approval of a capital spend in the region of approximately £220,000 required for Torquay harbour to carry out some essential pontoon replacement works to the Town Dock.

2. Proposed Decision

- 2.1 That the capital works set out in the submitted report be approved; and
- 2.2 That, funding of approximately £220,000 be secured from the Tor Bay Harbour Reserve Fund for these necessary capital projects.

3. Action Needed

- 3.1 For the Harbour Committee to consider the request for funding for capital works at Torquay harbour.
- 3.2 If funding is approved the Harbour Master will seek the necessary quotations, in line with Financial Regulations.

4. Summary

- 4.1 Capital repairs are required at the Town Dock located in Torquay harbour to deliver robust infrastructure so that current and future income can be sustained from this facility. It is proposed that larger pontoon units are purchased, in the style of the existing wave screen, to be installed on the southern edge of the dock. The additional draught and rigidity of the new structure will in effect continue the wave screen further East on the visitor's pontoon and this will afford greater protection for the inner walkways and finger berths of the dock.

- 4.2 The Harbour Committee is requested to approve the necessary capital spend for these works.

Supporting Information

5. Introduction and history

- 5.1 The Town Dock at Torquay harbour was installed in 2007 at a cost of £1.1m and was funded by prudential borrowing supported via the harbour revenue account. It was built to accommodate 175 berths for vessels ranging from 6 metres to 13 metres in length.
- 5.2 Income generated from this facility is forecast to be £306,000 in 2017/18. It provides affordable berthing opportunities for local boat owners as well as supporting maritime events and accommodating visiting recreational craft. The dedicated visitor berthing ('V' – pontoon ~ marked as 'A' in the attached Appendix 1) is approximately 135 metres in length and provides safe berthing along with access to fresh water and electricity services. This area is exceptionally busy in the summer season and has an excellent record of visitor berthing from early April through to the end of October each year. Visiting vessels therefore generate a steady income in addition to the resident berth holders within the dock.
- 5.3 The Town Dock also has disabled access and is home to vessels owned by the Disabled Sailing Association, Torbay British Sub Aqua Club, and the Royal Torbay Yacht Club. The local Sea Scouts and Rowing Club also make use of the dock to berth their safety boats.
- 5.4 The design, construction and installation of the Town Dock pontoon system was completed by Solent Marine. The design comprises of a steel structure supported by a series of floats that have a plastic skin. The design characteristics of this float can be simplified as a large plastic container filled with polystyrene beads. The float is then injected from two filling ports with steam to fuse the beads together into one large solid block of polystyrene. Once the beads are fused together the ports are sealed to make a watertight unit. The filled floats are then fixed at each corner to the underside of the steel framed walkway or finger pontoon.
- 5.5 Experience gained in working with this product has shown that the design and methodology is not 100% effective in this location. The wave climate in this area of the outer harbour puts sufficient pressure on the floats to cause the plastic to split in the corners at the fixing points, which then allows water into the plastic casing. Once the casing starts to slowly fill with water the beads can be seen floating out of the cracked casing and the remaining void is replaced with more water. The additional weight of this fluid then enhances the problem as it flows around the inside of the casing until there can be a catastrophic failure of the float.
- 5.6 The sometimes excessive wave climate also puts severe pressure on the steel frames of the walkway pontoons. As a consequence the existing infrastructure suffers from occasional cracking to the steel, including the welded joints, and in extreme circumstances the bolts connecting the walkway units and finger pontoons

can sometimes shear.

- 5.7 It is clear that the existing design of the Town Dock in the 'V' pontoon area (marked as 'A' in the attached Appendix 1) is not coping with the wave climate and consequently damage is being caused to the steel, the connecting bolts and the supporting floats. A solution is proposed that would see a continuation of the heavier wave screen design east towards Beacon Quay along the visitor's area. This would assist in the protection of the inner walkways and fingers of the dock and also supply a large quantity of floats and walkway pontoon sections that can be recycled into the remaining areas that have also suffered some damage over the past nine years.
- 5.8 As a temporary measure the harbour staff have been modifying some of the damaged floats before recycling them back into the facility. The top of the floats are cut open so that the soaked polystyrene beads can be removed, before the void is backfilled with expanding foam that is impervious to salt water. These works are completed by the harbour maintenance team. The floats changed so far have only been fitted to finger berths and to date no attempts have been made to replace floats on the visitor's area because the floats are still likely to crack due to the wave climate. Some of the main walkway sections also require attention where the buoyancy is deficient.
- 5.9 A systematic change of floats on finger berths that are low in the water is now underway, especially where the problem is causing issues to customers accessing their vessels. This process is ongoing but the number of floats that can be recovered and re-used within the dock is depleting.
- 5.10 The Harbour Master and Deputy Harbour Master have been consulting with various manufacturers regarding a solution to the problem. Reference has also been made to the design code published by the Yacht Harbours Association.

6. Preferred Solution/Option

- 6.1 Replace the 'V' pontoon section with heavier 'wave screen' type pontoons, which will be more resilient to the wave climate in that part of the enclosed harbour during south easterly gales.
- 6.2 Quotations have been sought from suitable manufacturers including Docking Solutions, Walcon Marine and Gael Force Marine. It is expected that the cost of this work will range from £163,000 to £231,000.
- 6.3 Docking Solutions manufactured the existing heavier wave screen, which has served the Town Dock very well. The company have made site visits in the past and proposed to continue the existing wave screen towards Beacon Quay and adapt the pontoon sections to accommodate berthing fingers. An updated quote has been requested.
- 6.4 Walcon Marine have a product called WALIFLOTE which is a concrete floating wave screen capable of accepting berthing fingers and a quote has been received for the installation of this product.

6.5 Gael Force Marine were asked to provide a third quotation as they now supply similar pontoon systems since acquiring Varis Marine Engineering.

7. Consultation

7.1 Consultation has taken place with the Torquay and Paignton Harbour Liaison Forum, various harbour users, contractors, harbour staff and marine industry manufacturers.

8. Risks

8.1 If the capital work is not approved there is a very real risk that certain facilities will need to be closed due to the unacceptable health and safety risks that could occur.

8.2 Any pontoon closures will result in lost income and reputational damage.

8.3 This funding requirement will reduce the harbour reserve fund and the balance would fall below the minimum reserve level, which is expected to be £530k at the end of 2016/17, based on 20% of budgeted turnover to meet any deficit in the revenue budget or winter storm damage.

Appendices

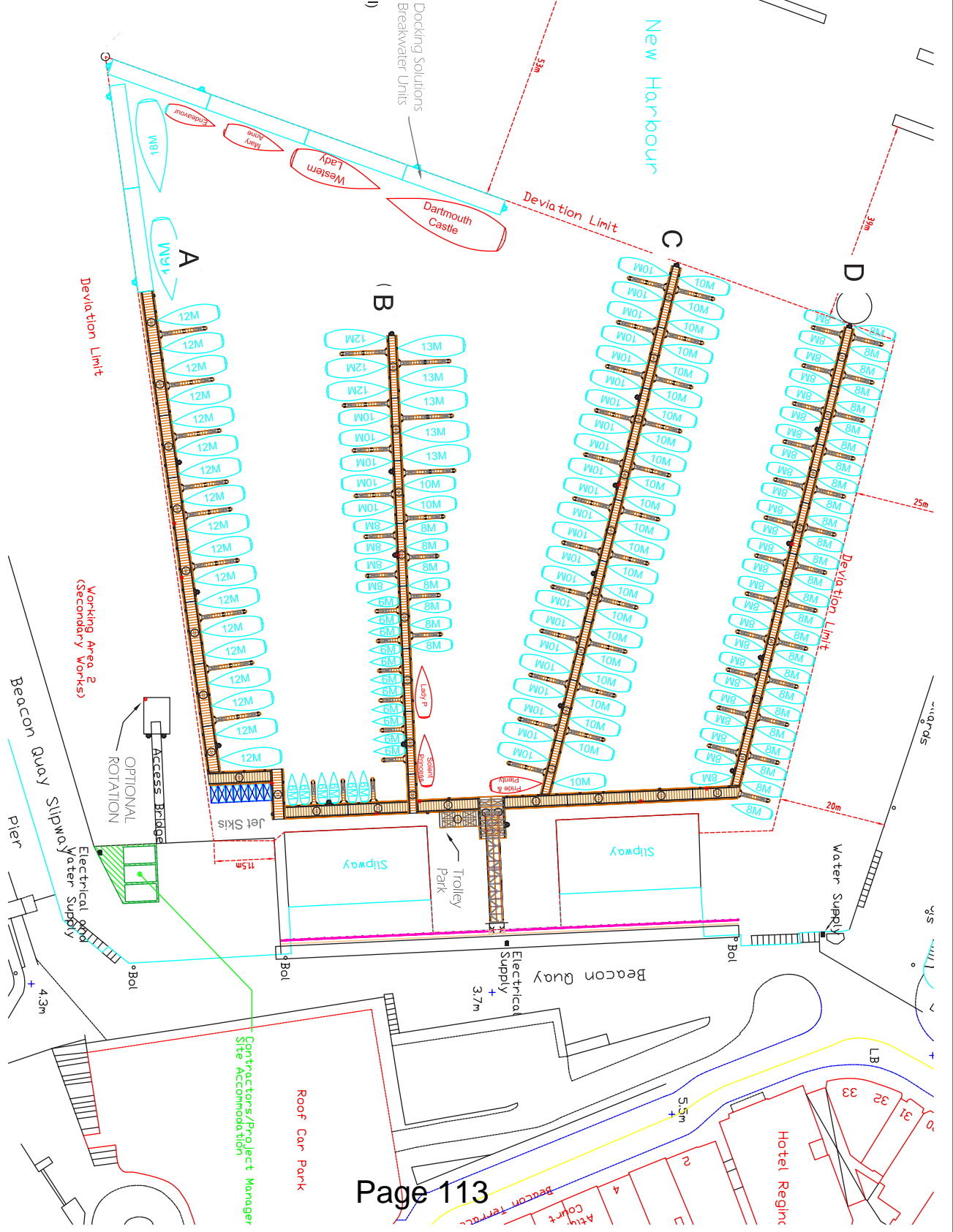
Appendix 1 - Town Dock Pontoon Layout (6/12/06)

Agenda Item 9 Appendix 1

Berthing Mix		
Excluding Commercial & Linear	Berths	Linear
Jet Ski	8	N/A
6 M	17	102
8 M	62	496
10 M	53	530
12 M	21	252
13 M	5	65
16 M	1	16
18 M	1	18
Total:	168	1479
Visitor	7	80
Summer	10	108
Total:	177	1728

Marina Berthing

Outer Berthing



REV	DATE	DESCRIPTION	REV	DATE	DESCRIPTION
001	07/12/04	Revised Highlighted	005	24/09/07	Tracing Error
002	18/07/07	Configuration Change	006	03/10/07	Minor Layout Change
003	12/09/07	Configuration Change	007	23/11/07	Minor Layout Change
004	CP	Configuration Change			
005	18/09/07	Configuration Change			

DRAWING:		APPROVED		SCALE	
PROJECT NO.	SOL-2000-06	M.S.		1:750 @ A3	
TYPE	Schematic	DATE	06/12/06	DRAWN	M.S.
CLIENT	Torbay Council	FILE NAME	A3_SCO2_011	ORDER NO.	SOL2000
	Outer Basin	DRAWING NO./REV	SOL-2000-SC01-007		

- NOTES:**
- 1.) All Dimensions in Millimetres Unless Stated Otherwise.
 - 2.) 9 Emergency Ladders and 7 Emergency Cabinets supplied and fitted

Solent Marine Ltd.

Hangar 2A, Universal Marina,
Crableck Lane, Southampton,
SO31 4NN
Tel: 01489 577 177 Fax: 01489 557 574
e-mail: enquiry@solentmarine.com
Website: www.solentmarine.com

Contractors/Project Manager
Site Accommodation

Meeting: Harbour Committee

Date: 13 December 2016

Wards Affected: All wards in Torbay

Report Title: Notice of Motion Protecting Devon Dolphins

Executive Lead Contact Details: Non-Executive Function

Supporting Officer Contact Details: Kevin Mowat
Executive Head of Business Services
Tor Bay Harbour Master
☎ **Telephone: 01803 292429**
✉ **Email: Kevin.Mowat@torbay.gov.uk**

1. Purpose

- 1.1 The Mayor has asked the Harbour Committee to consider the implications of the issues raised in a motion put to the Council regarding a campaign to create a 'Devon Dolphins' Marine Conservation Zone (MCZ) in the south-west of Lyme Bay. Following such consideration the Mayor is seeking recommendations from the Harbour Committee so that he might respond to the motion.
- 1.2 This report provides some background information related to the campaign being led by the Devon Wildlife Trust to protect an area in the south west of Lyme Bay for dolphins, whales and seabirds.

2. Proposed Decision

- 2.1 **That, the Mayor be advised that in respect of the campaign to create a 'Devon Dolphins' MCZ in the south-west of Lyme Bay, currently:**
- i. the proposed area falls outside the limits of Tor Bay Harbour;**
 - ii. the proposed area is used by commercial shipping, fishing vessels and recreational craft;**
 - iii. a number of voluntary Codes of Conduct already exist to help protect dolphins, whales and seabirds by influencing human activity;**
 - iv. there are no firm proposals from the Department for Environment, Food & Rural Affairs (Defra);**
 - v. there are no proposed management measures to consider;**

- vi. **the socio-economic impacts of any management measures cannot therefore be determined; and**
 - vii. **consultation to determine the views of stakeholders within our communities has not been undertaken.**
- 2.2 That, in view of the points highlighted in 2.1 above and the need for informed decision making and meaningful consultation, the Mayor be advised that it would not be appropriate, at this time, to support the campaign to create a 'Devon Dolphins' MCZ in the south-west of Lyme Bay.**
- 3. Summary**
- 3.1 The Devon Wildlife Trust is calling on the government to create a protected area in the south west of Lyme Bay for dolphins, whales and seabirds.
- 3.2 A motion has been put before Torbay Council seeking support for this campaign and the Mayor has requested the Harbour Committee to consider the implications of the issues raised in the motion and make recommendations to him on its findings.
-

Supporting Information

4. Position

- 4.1 At a meeting of Torbay Council on Thursday, 27 October 2016 Councillors considered a motion in relation to a campaign to create a new Marine Conservation Zone in the south west of Lyme Bay to protect dolphins, notice of which was given in accordance with Standing Order A14.
- 4.2 Councillor Darling (S) proposed and Councillor Pentney seconded the motion as set out below :-

"This Council notes that Devon Wildlife Trust is calling on the government to create a protected area in the south west of Lyme Bay for dolphins, whales and seabirds. This area is home to white beaked dolphins, but these dolphins have no legal protection against damaging human activities here.

After years of campaigning, fifty Marine Conservation Zones have now been designated to help our marine environment recover from decades of decline. But there are many places and species that still need protection. Large marine animals, such as whales, dolphins and basking sharks are also at risk from damaging activities. Although these species range across large areas, evidence from overseas shows that Marine Protected Areas - in places where animals gather to feed, breed and raise their young - can help to protect those at risk.

An area in the south-west of Lyme Bay is vital for a population of white beaked dolphins that spend much of their lives here, foraging for food and nursing their young.

This area is also important for bottlenose dolphins, minke whale, basking shark and thousands of seabirds.

Creation of a new Marine Conservation Zone here would protect marine animals against damaging human activities.

This Council resolves to support the campaign to create a 'Devon Dolphins' MCZ in the south-west of Lyme Bay.

This Council instructs the Chief Executive to write to the Secretary of State for the Environment, Food and Rural Affairs, Andrea Leadsom MP, advising of our support of this initiative”.

- 4.3 In accordance with Standing Order A14.3 (a), the motion stood referred to the Mayor. The Mayor requested the Harbour Committee to consider the implications of the issues raised in the motion and make recommendations to him on its findings.
- 4.4 In 2018, Defra will designate a further tranche of Marine Conservation Zones (MCZs). This third tranche of MCZs is expected to complete Defra’s contribution to an ecologically coherent and well-managed network of Marine Protected Areas (MPAs).
- 4.5 As part of the third Tranche of MCZs, there is the possibility to include sites proposed by third-parties for the conservation of highly mobile species. Highly mobile species include marine animals such as whales & dolphins, birds, fish, sharks & rays. The Devon Wildlife Trust is proposing such a site in the south-west of Lyme Bay.
- 4.6 By definition, the conservation of highly mobile species using MCZs must demonstrate a benefit to the conservation of the species in its wider context. For example, where there is a significant body of reliable evidence to support a spatially definable area being of critical importance to the life-history of a species year-on-year (e.g. an important feeding or breeding area), and there are localised threats to this species that require management, then an MCZ designation may be an appropriate conservation tool.
- 4.7 Although many highly mobile species in the UK are already protected under existing European and national legislation, MCZs could be designated for highly mobile species if there is clear evidence that their conservation would benefit from site-based protection measures.
- 4.8 It is not known if Defra have agreed a formal list of sites for which they require formal pre-consultation advice from Natural England and the Joint Nature Conservation Committee (JNCC) or if such a list has been agreed, whether the formal pre-consultation advice has been delivered. Defra are likely to announce

which sites are being proposed within the third tranche of MCZs in the first half of 2017, followed by a period of public consultation.

5. Possibilities and Options

- 5.1 To wait for Defra to formally announce the proposed sites that will be considered for designation in the third tranche of Marine Conservation Zones (MCZs).
- 5.2 That the Council should continue to promulgate to all mariners, information regarding the various voluntary Codes of Conduct that already exist to help protect dolphins, whales and seabirds in the Tor Bay and Lyme Bay area.

6. Preferred Solution/Option

- 6.1 As identified in recommendation 2.2 above.

7. Consultation

- 7.1 The subject of the motion put to the Council regarding a campaign to create a 'Devon Dolphins' Marine Conservation Zone (MCZ) in the south-west of Lyme Bay was discussed at the recent meetings of the two Harbour Liaison Forums.
- 7.2 Both Forums agreed that it would be premature of the Council to support a proposed MCZ off Tor Bay Harbour limits without knowing more details about the management measures and therefore the possible socio-economic impacts.

8. Risks

- 8.1 There are no significant risks associated with taking this decision as it is simply a recommendation to the Mayor.
- 8.2 A minor reputational risk may exist if it is perceived by some that the Harbour Committee does not support the protection of marine wildlife. This risk is mitigated by the Committee's endorsement, for over 15 years, of an Environmental Policy Statement for Tor Bay Harbour. The risk is further mitigated by the Harbour Authority's previous and ongoing work with SeaTorbay and support for a range of voluntary codes of conduct related to marine conservation.

Appendices

None

Additional Information

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

Third-party Proposals for Highly Mobile Species MCZs
<http://jncc.defra.gov.uk/page-7248>

Devon Dolphins campaign
<http://www.devonwildlifetrust.org/devon-dolphins>

Meeting: Harbour Committee

Date: 13 December 2016

Wards Affected: All wards in Torbay

Report Title: Tor Bay Harbour - Local Port Services Policy Statement

Executive Lead Contact Details: Non-Executive Function

Supporting Officer Contact Details: Kevin Mowat
Executive Head of Business Services
Tor Bay Harbour Master

 **Telephone: 01803 292429**

 **Email: Kevin.Mowat@torbay.gov.uk**

1. Purpose

- 1.1 To review and endorse the Tor Bay Harbour Authority Local Port Services (LPS) Policy Statement. Our customers and employees will benefit from a clear and concise LPS Policy Statement that demonstrates compliance with the Port Marine Safety Code (PMSC) and is regularly reviewed by the Harbour Committee.

2. Proposed Decision

- 2.1 **That the Local Port Services (LPS) Policy Statement set out in Appendix 1 to the submitted report be approved.**

3. Summary

- 3.1 The Guide to Good Practice on Port Marine Operations, which supports the Port Marine Safety Code, clearly indicates that Harbour Authorities have the power to establish Vessel Traffic Services (VTS) or Local Port Services (LPS) to mitigate risk, enhance vessel safety and to protect the environment.
- 3.2 In the Guide to Good Practice it states that control of the port is a function exercised by the harbour master and/or designated deputies. Its function will include the Vessel Traffic Services (VTS) or Local Port Services (LPS), a term covering internationally recognised standards of vessel traffic management.
- 3.3 Every harbour is different, and the requirement to manage navigation varies from one to another. The Guide to Good Practice on Port Marine Operations deals only with general principles of good practice. It recognises that a VTS system is essential in some cases, but is not appropriate in others. A formal assessment of navigational risk, as required by the Code, will determine what management of navigation is required, and to what degree monitoring, controlling or managing traffic needs to be taken in mitigating risk.

- 3.4 In Tor Bay Harbour our formal risk assessments show that a VTS system is not required and Local Port Services (LPS) have therefore been established.
 - 3.5 It is essential that Tor Bay Harbour Authority has a fit for purpose Local Port Services (LPS) Policy Statement. Keeping such a policy under regular review reflects national best practice.
 - 3.6 Statutory Harbour Authorities should review the details of their VTS / LPS on a regular basis. The existing LPS Policy Statement was last reviewed in December 2014.
-

Supporting Information

4. Position

- 4.1 Marine Guidance Note MGN 401 (M+F) - Vessel Traffic Services (VTS) and Local Port Services (LPS) in the United Kingdom, as amended, defines the UK's interpretation of VTS and provides guidance for determining the need to establish a VTS. It also defines the responsibilities of those authorities concerned with providing VTS and Local Port Services (LPS) in the UK. In addition it complements the Port Marine Safety Code (PMSC) and the Guide to Good Practice (GTGP) on the management of safety in ports.
- 4.2 Implementing a VTS/LPS allows the identification and monitoring of vessels, longer term planning of vessel movements and the provision of navigational information and assistance. It can also assist in the prevention of pollution, the co-ordination of pollution response and the protection of the marine environment.
- 4.3 Having conducted a formal safety assessment the harbour authority determined that a VTS system was not an appropriate risk control option. The assessment for Tor Bay Harbour identified the need for Local Port Services (LPS) to enhance the safety of shipping, maritime users, members of the public and the protection of the marine environment.
- 4.4 A clear understanding of the distinction between the different service types was fundamental in the choice of service to be provided, its implementation, maintenance and periodic review.
- 4.5 The prerequisites for a VTS are as follows :-
 - Interacts with traffic;
 - Responds to traffic situations;
 - Authorised by the Maritime & Coastguard Agency;

- Staffed by V-103/1 certificated personnel;
- Equipped as appropriate to provide i.e. radar, automatic tracking, data recording, data export, etc.

4.6 The prerequisites for a LPS are as follows :-

- Equipped appropriate to task;
- Staffed and trained appropriate to task;
- Does not require to be authorised by the Maritime & Coastguard Agency.

4.7 Local Port Services are applicable to those ports where it has been identified from their formal risk assessment that a VTS is excessive or inappropriate and does not imply a lower standard or a poorer service to customers. The main difference arising from the provision of LPS is that it does not interact with traffic, nor is it required to have the ability and / or the resources to respond to developing traffic situations and there is no requirement for a vessel traffic image to be maintained. As such, the training requirement for its operators is less comprehensive and the operators are unlikely to be certified to the V-103 standard.

4.8 Appendix 2 shows an Equipment and Capability Table for Local Port Services. The table shows the recommendations for equipment and also what is currently available for Tor Bay Harbour Authority.

4.9 The evaluation of a VTS or provision of LPS should determine if the purpose it was implemented for is still relevant and its objectives are being achieved. This requires auditing and reviewing of performance in accordance with the Statutory Harbour Authorities Safety Management System. The evaluation is intended to ascertain the effectiveness of the VTS in meeting its objectives, with respect to mitigating the risks of collisions or groundings in the VTS area.

4.10 In order to be effective the objectives of the VTS or provision of LPS needs to be kept under continuous review, bearing in mind changes in operations, operational methods, personnel and the availability of technology, to ensure that the objectives set for the provision of LPS remain applicable and are being achieved.

4.11 The overall evaluation of the VTS or provision of LPS should be preceded by an assessment of the effectiveness of the equipment, manning and procedures involved.

5. Possibilities and Options

5.1 To take no action and continue to operate without a review and endorsement of the Local Port Services Policy Statement.

6. Preferred Solution/Option

- 6.1 To approve the Local Port Services (LPS) Policy Statement shown in Appendix 1. (See 2.1 above)

7. Consultation

- 7.1 As Local Port Services are already in operation no further consultation has been undertaken.

8. Risks

- 8.1 The significant risks associated with taking this decision relate to whether a LPS system is sufficient for the level of navigation and marine activity within Tor Bay harbour.
- 8.2 The adoption of a clear Local Port Services Policy Statement will enhance the Council's reputation for transparency and accountability in respect of its function as a Harbour Authority.

Appendices

Appendix 1 Local Port Services (LPS) Policy Statement – December 2016

Appendix 2 Local Port Services – Equipment and Capability Table

Additional Information

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

Harbour Committee Report 15th December 2014 - Tor Bay Harbour - Local Port Services Policy Statement

Marine Guidance Note MGN 401 (M+F) - Vessel Traffic Services (VTS) and Local Port Services (LPS) in the United Kingdom

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/461544/MGN_401.pdf

Marine Guidance Note MGN 401 (M+F) - Amendment (February 2013)

<https://www.gov.uk/government/publications/mgn-401a-vessel-traffic-services-and-local-port-services-in-uk>

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

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

A Guide to Good Practice on Port Marine Operations – March 2015 (DfT & MCA)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/417662/guide-good-practice-marine-code.pdf

Tor Bay Harbour Authority - Local Port Services (LPS) Policy

In order to mitigate risk, provide for safe navigation and protect the environment in Tor Bay Harbour, it is necessary to ensure that:

- effective Local Port Services (LPS) operate throughout the port; and
- that shipping movements are adequately monitored within harbour limits.

To this end it is Tor Bay Harbour policy that the harbour authority shall:

- Determine, through a process of formal risk assessment, circumstances in which a VTS or LPS should be established and operated in accordance with internationally agreed guidelines;
- Provide Local Port Services for Tor Bay Harbour and the enclosed harbours of Brixham, Torquay and Paignton;
- Maintain VHF communication with all vessels covered by the Pilotage Directions;
- Seek to ensure that the LPS system remains available at all times;
- Review regularly the performance of the system and seek improvements through technical enhancement, staff development, training and effective management as necessary;
- Maintain standards for training and if necessary certification of personnel engaged in the delivery of the LPS;
- Record all AIS data as an aid to enforcement and incident reconstruction and investigation; and
- Maintain details and records of commercial vessel movements inside harbour limits using the Bay Reporting system in conjunction with Torbay & Brixham Shipping Agents (Marine & Towage Services Group Ltd).

Appendix 2

Local Port Service – Equipment and Capability Table (Minimum Recommendations)

Service / Category	Equipment ¹												Capabilities							
	Communications						Traffic Image ²						Sensors							
	VHF	VHF / DF	Telephone	Facsimile	Email	Manual Plotting Facility	Stand-alone Radar Display with ARPA	Official Electronic Charts with Radar Display and ARPA	Official Electronic Charts with Radar Display and ARPA	Radar	AIS	CCTV	Meteorological	Hydrological	Equipment Performance Monitoring	Redundancy	Data Recording	Data Management System	Data Export	Log & Record Keeping
Local Port Service	√	0	√	√	0	√	0	0	0	0	0	0	0	√	√	0	0	0	0	√
Tor Bay Harbour	√	X	√	√	√	√	X	X	X	√	√	√	√	√	√	√	X	X	X	√

- √ - Recommended / Available
- 0 - Optional
- X - Not currently available

Notes:

1. The use of equipment carries with it the requirement that its operators are appropriately trained.
2. Traffic Image systems marked Optional, can either exceed recommended minimum capability or be assessed through Risk Assessment as a possible acceptable alternative.

Meeting: Harbour Committee


Date: 13 December 2016

Wards Affected: All wards in Torbay

Report Title: Tor Bay Harbour - Environmental Policy Statement

Executive Lead Contact Details: Non-Executive Function

**Supporting Officer Contact Details: Kevin Mowat
Executive Head of Business Services
Tor Bay Harbour Master**

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1. Purpose

- 1.1 Tor Bay Harbour Authority has an existing Environmental Policy Statement and the Harbour Committee is asked to review and endorse a revised Environmental Policy Statement. Our customers and employees will benefit from a clear and concise Environmental Policy Statement that is regularly reviewed by the Harbour Committee.

2. Proposed Decision

- 2.1 **That the Environmental Policy Statement set out in Appendix 1 to the submitted report be approved.**

3. Action Needed

- 3.1 Adoption of a clear Environmental Policy Statement should help our community to understand our approach to environmental management within the limits of the harbour. The environmental and sustainability implications are self evident within the body of the report.

4. Summary

- 4.1 In addition to their operational activities ports and harbours have extensive environmental responsibilities. The designation of more new areas – both land and marine sites – requiring special protection has now resulted in the creation of new management structures for the open coast as well as for estuaries. A harbour's commercial and recreational activity must co-exist with sound environmental practice.
- 4.2 Torbay Council as the Harbour Authority is bound by law to conserve the Harbour of Tor Bay to a reasonable state for use as a port and in a fit condition for a vessel

to resort to. The Council's adopted Port Masterplan contains the overarching strategy for Tor Bay Harbour Authority and it includes the following two objectives :-

- Manage the harbour in a sustainable manner by supporting a variety of maritime activities including fishing, shipping, marine related businesses, heritage, eco-tourism and marine recreational facilities.
- Balance the responsible stewardship of the marine environment with appropriate socio-economic development and use of Tor Bay.

To assist the Harbour Committee to fulfil these objectives it is appropriate to produce and keep under review an Environmental Policy Statement.

- 4.3 Tor Bay Harbour Authority also has a general duty to exercise its functions with regard to nature conservation and other related environmental considerations. There is an obligation, where a Special Protection Area for Birds or a Special Area of Conservation has been designated under the Wild Birds or Habitats Directives, to have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions. A significant inshore area of Tor Bay Harbour is now a Special Area of Conservation in respect of reefs and submerged or partially submerged sea caves. It is therefore increasingly important that the Harbour Committee demonstrates 'accountability' for environmental matters.
- 4.4 Marine Protected Areas (MPAs) are zones of the seas and coasts where wildlife is protected from damage and disturbance. The Government is committed to establishing a well-managed ecologically coherent network of marine protected areas (MPAs). The Marine and Coastal Access Act (2009) created a new type of Marine Protected Area (MPA), called a Marine Conservation Zone (MCZ). MCZs protect nationally important marine wildlife, habitats, geology and geomorphology. A Marine Conservation Zone has been designated for most of the inshore area within the limits of Tor Bay Harbour.
- 4.5 It is therefore essential that Tor Bay Harbour Authority has a fit for purpose Environmental Policy Statement. Keeping such a policy under regular review reflects national best practice.
- 4.6 An Environmental Policy Statement is the first step towards the development of an Environmental Management System. It is important that the Harbour Authority helps to maintain a healthy and safe environment for harbour users, employees and the local community alike.

Supporting Information

5. Position

- 5.1 The Council first approved a specific Environmental Policy Statement for Tor Bay Harbour in March 2000.

- 5.2 In 2007 the Council approved its first Harbour and Maritime Strategy and in 2013 this Strategy was superseded by a new Port Masterplan for Tor Bay Harbour. As indicated in 4.2 above the Port Masterplan makes it clear that, through the Harbour Committee, the Harbour Authority should manage the harbour in a sustainable manner and balance the responsible stewardship of the marine environment with appropriate socio-economic development and use of Tor Bay.
- 5.3 At present the following environmental designations exist within or adjacent to Tor Bay Harbour limits:-
- Area of Outstanding Natural Beauty (AONB)
 - Sites of Special Scientific Interest (SSSI)
 - Local Nature Reserve (LNR)
 - National Nature Reserve (NNR)
 - Marine Nature Reserve (MNR)
 - Special Protection Area (SPA)
 - Special Area of Conservation (SAC)
 - Marine Conservation Zone (MCZ)
 - County Wildlife Sites
- 5.4 A policy statement is the start of a process which will look at and identify all operations affecting the environment. These will include:-
- Sewage discharges from pleasure craft
 - Anchoring and mooring policy
 - Litter control
 - Dredging and spoil disposal
 - Oil/fuel contamination into the harbour
 - Control of fish waste into the harbour
 - Use of biocides
 - Screening of suppliers
 - Recycling
 - Recreational disturbance of wildlife
 - Management of sub-contractor or lessee activities

- Energy consumption
- Water consumption

5.5 Statutory plans already exist covering waste reception facilities as well as oil spill response and contingency planning for the Tor Bay Harbour area. In addition, as a resort destination the English Riviera places considerable importance on bathing water quality and strict regulations also apply.

6. Possibilities and Options

6.1 To take no action and continue using the existing Environmental Policy Statement approved in September 2014, without any further review.

7. Preferred Solution/Option

7.1 To approve the Environmental Policy Statement shown in Appendix 1.

8. Consultation

8.1 The Environmental Policy Statement is a well-established policy that has been available to the public for many years. It has also been considered by the Harbour Liaison Forums.

9. Risks

9.1 There are no key risks associated with taking this decision.

9.2 The adoption of a clear Environmental Policy Statement will enhance the Council's reputation for transparency and accountability in respect of its function as Tor Bay Harbour Authority.

Appendices

Appendix 1 Environmental Policy Statement – December 2016

Additional Information

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

Minutes of the Harbour Sub-Committee – 30th March 2000

Environmental Policy Statement – September 2014

Tor Bay Harbour Port Masterplan - 2013

Appendix 1

TOR BAY HARBOUR – ENVIRONMENTAL POLICY STATEMENT

It is the policy of Tor Bay Harbour Authority to ensure that our business practices protect the welfare of our employees and the communities in which we operate. This Environmental Policy is applicable to all employees and is also encouraged within our tenants, contractors and operations within the limits of Tor Bay Harbour.

We will seek to attract and develop sustainable harbour operations and to minimise impacts on the environment. We will operate the harbour in accordance with procedures designed to prevent incidents that may cause environmental damage.

Torbay Council, as the Harbour Authority for Tor Bay Harbour, is committed to maintaining the balance between commercial, recreational and environmental interests, at the same time maintaining a sustainable and commercially viable municipal port.

Tor Bay Harbour Authority will seek to maintain and improve, wherever possible, a high level of environmental quality through the strict adherence of U.K. environmental legislation and internationally agreed conventions, directives and resolutions intended to protect the environment.

In pursuance of these policy objectives the Harbour Authority will :-

- Seek opportunities to apply innovative technology to reduce emissions and energy consumption.
- Consider the efficient use of renewable energy and natural resources.
- Continually assess recycling, re-use and waste minimisation opportunities.
- Ensure that contingency plans and controls are in place and regularly reviewed and tested, to endeavour to prevent spills of oil, chemicals or potentially contaminating materials.

It is the Harbour Authority's policy for the 'polluter' to pay for the cost of clean up and disposal following land and marine based incidents.

The Harbour Authority recognises the need to conserve the natural environment of the Bay through sound environmental management. Environmental policies for the Harbours will ensure, wherever possible, that duties carried out by Tor Bay Harbour Authority staff as well as recreational and commercial activities within harbour limits, will take place without any adverse effects on the quality of the environment.

Most of the inshore area within Tor Bay Harbour limits has been designated as a Marine Conservation Zone. The waters of Tor Bay also include and/or are adjacent to Sites of Special Scientific Interest, an Area of Outstanding Natural Beauty, Special Areas of Conservation and other sites with an environmental designation. Tor Bay Harbour Authority will work closely with environmental agencies to ensure that, where possible, the quality of the environment is improved upon, thereby enhancing the natural resources for future generations.

Tor Bay Harbour Authority will encourage users of the Bay and suppliers of services to the harbour to adopt practices compatible with the aims of an evolving environmental management system. This aim will be communicated to our customers.

The Council consider that educating and training our employees, as well as the public; on the importance of conserving and enhancing the Bay will contribute to achieving our environmental goals. This policy will be published and communicated to harbour staff, tenants and contractors.

Tor Bay Harbour Authority is pledged to work towards a cleaner environment through implementation of effective management strategies, co-operation with relevant authorities, purchasing of energy efficient goods and consultation with users and other interest groups.

This policy will be reviewed from time to time to embrace changes in the Harbour Authority's activities and will be endorsed by the Torbay Council's Harbour Committee.

December 2016