



Friday, 10 March 2017

HARBOUR COMMITTEE

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

Monday, 20 March 2017

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 (Chairman)

Councillor Amil
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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01803 207087

Email: governance.support@torbay.gov.uk

www.torbay.gov.uk

HARBOUR COMMITTEE AGENDA

1. **Apologies**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 4 - 8)
To confirm as a correct record the Minutes of the meeting of the Committee held on 13 December 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. **Review of Delegated Powers** (Pages 9 - 34)
To consider the submitted report on the annual review of the powers delegated to the Executive Head of Business Services.
6. **Tor Bay Harbour Business Plan 2017/2018** (Pages 35 - 61)
To consider the submitted report on the above.
7. **Operational Moorings and Facilities Policy** (Pages 62 - 87)
To consider the submitted report on an annual review of the Operational Moorings and Facilities Policy.

8. **Tor Bay Harbour Authority Budget Monitoring 2016/17**
To consider the submitted report on the above. (Pages 88 - 96)
9. **Harbour Committee Work Programme 2017-18**
To consider the Harbour Committee Work Programme for 2017-18 as set out in the submitted report. (Pages 97 - 98)
10. **Review of the Tor Bay Harbour Asset Management Plan 2017/18**
To consider the submitted report on the above. (Pages 99 - 108)
11. **Quarterly Accident and Incident Data for Tor Bay Harbour**
For Members to note the latest accident statistics for the Harbour Authority's operational area.
12. **Torquay/Paignton and Brixham Harbour Liaison Forums**
To note the minutes of the above Harbour Liaison Forums.
13. **Exclusion of the Press and Public**
To consider passing a resolution to exclude the press and public from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined by the Local Government (Access to Information) Act, 1985) is likely to be disclosed.
14. **Harbour Light Restaurant, Paignton Harbour**
To consider the submitted exempt report on a revised business case in respect of the Harbour Light Restaurant.



Minutes of the Harbour Committee

13 December 2016

-: Present :-

Councillor Bye (Chairman)

Councillors Amil, Carter, Ellery (Vice-Chair) and Stringer

External Advisors: Mr Buckpitt, Mr Ellis and Mr Stewart

19. Apologies

Apologies for absence were received from Councillor Robson and Capt Lloyd.

20. Minutes

The Minutes of the meeting of the Harbour Committee held on 27 June 2016 were confirmed as a correct record and signed by the Chairman.

21. Tor Bay Harbour Authority Budget and Harbour Charges 2017/2018

The Committee considered the submitted report which presented the opportunity to consider the level of harbour charges to be levied by Tor Bay Harbour Authority, for the forthcoming financial year and to consider the Tor Bay Harbour Authority budget for 2017/18 as recommended by the Budget Review Working Party. Members were advised that the charges and budget were 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.

The Executive Head of Business Services explained that the Tor Bay Harbour Budget Review Working Party had met several times and following responses from the Harbour Liaison Forums and harbour users the working party had recommended the harbour charges increase by a representative average of 3.0%, this was due to increasing budget pressures, including an increase in business rates. Members noted the content of a letter from Mr Crumpton on behalf of the Torquay Inner Dock Social Group requesting that the increase in harbour charges be set at a maximum of 2% which also mirrored the views of other harbour users.

The Executive Head of Business Services gave assurance that the other issues raised in the letter from Mr Crumpton were being addressed and that the harbour staff would continue to work closely with all harbour users regarding the management and maintenance of the harbour estate.

Resolved:

- (i) that, having had regard to the opinions expressed by the Harbour Liaison Forums and Torquay Inner Dock Social Group and the recommendation from the Harbour Committee's Budget Review Working Party, the harbour charges for 2017/18 be increased by a representative average of 3.0% and the schedule of harbour charges set out in Appendix 1 to the submitted report be approved;
- (ii) 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;
- (iii) 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; and
- (iv) 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.

22. Port Marine Safety Code - Annual Compliance Audit

Members considered and noted the submitted report which provided details of the annual Port Marine Safety Code compliance audit undertaken for the Council, as the Harbour Authority, by the Devon Audit Partnership (acting as the Designated Person') and the actions identified for implementation during 2016/2017. The report also included a table of accident/incident statistics for the period from December 2015 to November 2016. It was noted that 50 accidents/incidents had been recorded during this time compared to 62 in the previous year.

Mrs Barnes from Devon Audit Partnership attended the meeting and outlined the process carried out for the audit, which included visiting and walking around the three harbours, meeting staff and reviewing all records on safety management. She confirmed that she had found that the Harbour Authority was compliant with the Port Marine Safety Code. Recommendations arising from the audit had been agreed with the Executive Head of Business Services and the Devon Audit Partnership which included lessons learned from other parts of the country. The Committee welcomed the actions in relation to translation services in particular.

23. Tor Bay Harbour Authority Budget Monitoring 2016/2017

The Committee noted a report that provided projections of income and expenditure for the year 2016/17 compared with approved budgets. The report identified the overall budgetary position for Tor Bay Harbour Authority as at the end of October 2016 to enable appropriate action to contain expenditure and maintain reserves at appropriate levels. The report demonstrated that the income generation for the Harbour estate was performing strongly which had enabled money to be invested in

improvements. Members thanked the harbour staff for their hard work in implementing new technology and making significant efforts to generate harbour income.

The Committee noted the amended outturn projections of the harbour accounts and adjustments to the Reserve Funds shown in Appendix 1 to the submitted report, in particular:

- (i) the Executive Head of Business Services' use of delegated powers to make decisions in relation to the budget allocated to Tor Bay Harbour; and
- (ii) the Harbour Master's use of delegated powers to waive certain harbour charges which so far in this financial year has amounted to £699.79 (excluding VAT), with no additional charges being levied.

24. Internal Audit Report - Harbour Authority Income

The Committee noted the submitted report which set out an overview of the results of the Internal Audit Report undertaken for the Tor Bay Harbour Authority on income which concluded in June 2016. The overall assurance opinion was 'improvements required' which meant that in the Auditor's opinion there were a number of instances where controls and procedures do not adequately mitigate the risks identified and existing procedures need to be improved to ensure that they are fully reliable. The report also set out an action plan which had been agreed by the Executive Head of Business Services and Devon Audit Partnership to enhance the internal control framework and mitigate the identified risks.

Mrs Barnes from the Devon Audit Partnership attended the meeting to present the findings of the audit, which had been brought forward as a priority area for audit. Members were advised that they had not received the full audit report as it was confidential. Mrs Barnes advised that she had looked at various areas including cash handling, fish landing and security arrangements and found that some areas were good and other areas required improvements, which have been included in a list of actions. She was confident that any issues that were found would be addressed.

Resolved:

That the Internal Audit Report – Harbour Authority Income Action Plan to be presented to the next Budget Review Working Party.

25. Torquay Town Dock Capital Repairs

The Committee received a report which sought approval of a capital spend of approximately £220,000 required for Torquay Harbour to carry out some essential pontoon replacement works to the Town Dock. It was 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 continue the screen further east on the visitor's pontoon and this will afford greater protection for the inner walkways and finger berths of the dock.

Resolved:

- (i) that the essential capital works to maintain the safety and sustainability of the Town Dock set out in the submitted report be approved; and
- (ii) that, funding of approximately £220,000 be secured from the Tor Bay Harbour Reserve Fund for these necessary capital projects.

26. Notice of Motion Protecting Devon Dolphins

Members considered the submitted report in respect of a motion referred to the Harbour Committee for consideration by the elected Mayor regarding a campaign to create a 'Devon Dolphins' Marine Conservation Zone (MCZ) in the south-west of Lyme Bay. The report provided background information in respect of 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. Members noted that the Council had already taken action to improve the maritime environment for dolphins and other wildlife.

Resolved:

- (i) that, the elected Mayor be advised that in respect of the campaign to create a 'devon dolphins' Marine Conservation Zone (MCZ) in the south-west of Lyme Bay, currently:
 - (a) the proposed area falls outside the limits of Tor Bay Harbour;
 - (b) the proposed area is used by commercial shipping, fishing vessels and recreational craft;
 - (c) a number of voluntary codes of conduct already exist to help protect dolphins, whales and seabirds by influencing human activity;
 - (d) there are no firm proposals from the Department for Environment, Food and Rural Affairs (Defra);
 - (e) there are no proposed management measures to consider;
 - (f) the socio-economic impacts of any management measures cannot therefore be determined; and
 - (g) consultation to determine the views of stakeholders within our communities has not been undertaken.
- (ii) that, in view of the points highlighted in (i) above and the need for informed decision making and meaningful consultation, the elected 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.

27. Tor Bay Harbour - Local Port Services Policy Statement

Members considered the submitted report which set out a review of the Tor Bay Harbour Authority Local Port Services (LPS) Policy Statement to ensure that customers and employees will benefit from a clear and concise LPS Policy Statement that demonstrates compliance with the Port Marine Safety Code (PMSC). In light of the recent incident in Brixham Harbour it was suggested that signage should be used to warn users that some of the dock areas dry out.

Resolved:

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

28. Tor Bay Harbour - Environmental Policy Statement

Members considered the submitted report which set out a revised Environmental Policy Statement to ensure that the Harbour's commercial and recreational activity co-exists with sound environmental practice.

Resolved:

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

29. Torquay/Paignton and Brixham Harbour Liaison Forums

The Committee noted the Minutes of the Torquay and Paignton and Brixham Harbour Liaison Forums.

Chairman



Meeting: Harbour Committee

Date: 20th March 2017

Wards Affected: All wards in Torbay

Report Title: Review of Delegated Powers

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 the powers delegated to the Executive Head of Business Services – Tor Bay Harbour Master as contained within Torbay Council's Constitution.
- 1.2 Harbour customers and the wider community would expect the harbour authority to be fit for purpose and to review the powers delegated to its senior management.

2. Proposed Decision

- 2.1 **That, having reviewed the powers delegated to the Executive Head of Business Services, as set out in Appendix 1, the Harbour Committee finds no reason to refer any proposed changes to the Council for determination.**

3. Action Needed

- 3.1 No further action required.

4. Summary

- 4.1 The Terms of Reference for the Harbour Committee form part of Torbay Council's Constitution.
 - 4.2 It is stated within those Terms of Reference that it is for the Harbour Committee to review annually the powers delegated to the Executive Head of Business Services – Tor Bay Harbour Master and refer any proposed changes to the Council for determination. The Committee itself shall not authorise any changes.
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Supporting Information

5. Position

- 5.1 In November 2000, in '**Modern Ports – A UK Policy**', the Department for Transport promised a review of municipal ports management structures and practices to ensure that municipal ports were playing a full and accountable part in the local and regional economy.
- 5.2 In May 2006 the Department for Communities and Local Government and Department for Transport jointly published '**Opportunities for Ports in Local Authority Ownership; A review of municipal ports in England and Wales**'.
- 5.3 In the review they stated that within the current framework for decision-making in local government there is scope for responsive and dynamic management of municipal ports. The key findings identified in the Executive Summary of the review concerned:-
- 1 Accountability and decision making
 - 2 Strategy and Business Planning
 - 3 Management and Performance Review
 - 4 Municipal Port Finances
- 5.4 Furthermore the review document states that decisions relating to the Harbour are based on advice from officers who have a clear understanding of the special requirements of the Harbour.
- 5.5 Following a report to the Harbour Committee in June 2006 it was resolved that a Municipal Ports Review Working Party be established to prepare an implementation schedule for review in relation to the review of Municipal Ports.
- 5.6 This Working Party met on five occasions with the last meeting being held on 22 January 2007. The Working Party agreed and recommended that the best way forward to meet the requirements of the Municipal Ports Review is to have a fit for purpose Harbour Committee working for Tor Bay Harbour under new and more detailed Terms of Reference and a Protocol set by the Council, making it effectively a decision-making committee of the Council. Later in 2007 the Council adopted the Working Party's recommendations.
- 5.7 It was a recommendation of the Working Party that the new Committee should be protected against short-term thinking and be subject to a coherent and consistent treatment by the Council.
- 5.8 Appendix 1 of this report contains the Officer Scheme of Delegation published by Torbay Council, which forms part of the Council's Constitution. Several delegated powers are generic and they apply to all Directors, Assistant Directors and Executive Heads. The general powers delegated to Directors, Assistant Directors and Executive Heads are listed between 1.23 and 1.29 in Appendix 1, with the limitations on delegations to the Chief Executive, Directors and Assistant Directors, Executive Heads and all other officers; shown between 2.5 and 2.16.

5.9 Specific officer delegations are also shown in the Scheme of Delegation and the current powers delegated to the Executive Head of Business Services can be seen between 6.1 and 6.5 in Appendix 1. Limitations on the powers delegated to the Executive Head of Business Services are also shown and these can be seen between 6.6.1 and 6.6.4.

6. Possibilities and Options

6.1 Not to review the powers delegated to the Executive Head of Business Services – Tor Bay Harbour Master.

6.2 To recommend further changes to the powers delegated to the Executive Head of Business Services – Tor Bay Harbour Master.

7. Preferred Solution/Option

7.1 Not to refer any proposed changes to the Council regarding the powers delegated to the Executive Head of Business Services.

8. Consultation

8.1 There are a number of stakeholder groups which are used to consult on the quality and performance of the harbour service these are the Brixham Harbour Liaison Forum, the Torquay/Paignton Harbour Liaison Forum, various Community Partnerships, individual Harbour User Groups and the community wide Viewpoint Panel.

8.2 All of these stakeholder groups have helped to influence the management arrangements in place for Tor Bay Harbour.

9. Risks

9.1 There is likely to be a reduction in risk by providing the Executive Head of Business Services – Tor Bay Harbour Master with the appropriate level of delegated powers. If the governance arrangements for the harbour did not include an appropriate level of delegated powers there would be a significant risk that the Council would not have a fit for purpose form of governance that reflects national best practice.

- 9.2 Although the Executive Head of Business Services – Tor Bay Harbour Master has a significant level of delegated powers, the risks associated with the Executive Head of Business Services – Tor Bay Harbour Master making such decisions is minimal as the powers are governed by restrictions as shown in Appendix 1. Also, the delegated powers can be revoked at any time by a revision of the Council’s Constitution, although this would be an extreme option as it would go against national best practice.
- 9.3 Any changes to the powers delegated to the Executive Head of Business Services – Tor Bay Harbour Master could delay or disrupt effective decision-making and this would affect the safe and efficient management of Tor Bay Harbour Authority.
- 9.4 The only remaining risk is that the Council could be criticised for not adopting the appropriate level of delegated powers for the Executive Head of Business Services – Tor Bay Harbour Master as recommended by the Municipal Ports Review.

Appendices

Appendix 1 Officer Scheme of Delegation (Torbay Council) - updated and published on 6th February 2017.

Additional Information

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

Opportunities for Ports in Local Authority Ownership: A Review of Municipal Ports in England and Wales – Dept. for Communities & Local Government/Dept. for Transport (May 2006)

<http://webarchive.nationalarchives.gov.uk/+/http://www.dft.gov.uk/pgr/shippingports/ports/opportunities/>

Modernising Trust Ports: A Guide to Good Governance – Dept. of the Environment, Transport and the Regions (Jan 2000) (Second Edition August 2009)

<https://www.gov.uk/government/publications/modernising-trust-ports>

Torbay Council’s Constitution – Officer Scheme of Delegation (last updated and published on 6th February 2017)

Officer Scheme of Delegation

Contents

General Delegations

1. General Scheme of Delegation to the Chief Executive, and other Directors, Assistant Directors and Executive Heads.
2. Limitations on delegations to the Chief Executive, other Directors, Assistant Directors Executive Heads and all other officers.....

Specific Delegations

1. Delegations to the Director of Adult Services
2. Delegations to the Director of Children’s Services.....
3. Delegations to the Director of Public Health
4. Delegations to the Assistant Director Corporate and Business Services.....
5. Delegations to the Assistant Director Community and Customer Services
6. Delegations to the Executive Head of Business Services
7. Delegations to the Chief Finance Officer (as Section 151 Officer).....
8. Delegations to the Governance Support Manager.....

Definitions

“Council”	includes all Committees and Sub-Committees of the Council unless the context requires otherwise
“Council Function”	means a function on which the responsibility of the Council has been delegated by the Council
“Executive”	includes the elected Mayor, all Committees of the Executive and any individual member of the Executive to whom the elected Mayor has delegated decision making power unless the context requires otherwise
“Executive function”	means a function that is the responsibility of the elected Mayor or has been delegated by the elected Mayor, or a member or committee, of his Executive
“Executive member/s”	includes the elected Mayor unless the context requires otherwise

“relevant member” means the elected Mayor (in relation to Executive Functions) (or any Executive member to whom he/she has delegated the relevant function) and (in relation to Council functions) means the Chairman/woman of the appropriate Committee where the decision to be taken is within the power of the Committee; or (in relation to harbour matters) the Chairman/woman of the Harbour Committee; and otherwise the Chairman/woman of the Council (where no single political group has more than 18 elected members) or the Leader of the political group that comprises more than 18 elected members AND may mean more than one member where the context or nature of decision made so requires BUT where the person referred to above is absent or has a pecuniary interest or a conflict of interest in the matter or is precluded by law from acting, the expression “relevant member” shall mean the Deputy Mayor, Deputy Chairman/woman or Deputy Group Leader as applicable.

General Delegations

Description	Responsibility delegated by
<p>1. General scheme of delegation to the Chief Executive, Directors and Assistant Directors</p> <p>Delegations to the Chief Executive</p>	
1.1 To advise the Executive and Council on policy development, the overall strategic direction and corporate governance of the Council.	Council/Executive
1.2 To act as the Council’s Head of Paid Service under section 4(1) of the Local Government and Housing Act 1989.	Council
1.3 To determine the organisation and management of the Council’s employees.	Council
1.4 To determine the appointment of all officers (excluding the Head of Paid Service and Directors).	Council
1.5 To determine the terms and conditions of employment of all officers (excluding the Head of Paid Service and any other officers so far as that power has been specifically reserved to be exercised by the Employment Committee).	Council
1.6 To be responsible for taking disciplinary action (including dismissal) in respect of any officer (except the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer).	Council
1.7 To be responsible for appropriate management arrangements across the Council including the co-ordination of functions and to resolve disputes between business units.	Council
1.8 In consultation with the relevant member to (by written notice) change the allocation of responsibilities for services and functions between Directors, Assistant Directors and Executive Heads.	Council/Executive
1.9 To exercise any powers delegated to any Director, Assistant Director and/or Executive Head.	Council/Executive
1.10 In consultation with the relevant member to (by written notice) withdraw any powers delegated to any Director, Assistant Director and/or Executive Head.	Council/Executive

Description	Responsibility delegated by
1.11 In managing the services and functions for which he/she is directly responsible to take any decisions (including any Key Decisions) and to exercise all legal powers relevant to those services and functions.	Council/Executive
1.12 To retain contract staff or appoint consultants on matters related to the management of the Council.	Council/Executive
1.13 So far as is lawful, to delegate (in such manner in which he or she considers appropriate) to any other employee responsibility for any matters for which he/she is responsible. Any such delegations may be revoked, varied or subject to such limitations as the Chief Executive considers appropriate.	not applicable
1.14 To handle complaints made against the Council (including Ombudsman complaints) and (following consultation with the relevant member) to settle complaints locally.	Council/Executive
1.15 To represent the interests of the Council to the community, local interest groups and external agencies.	Council/Executive
1.16 In consultation with the relevant member, to deal with all matters in connection with the media and public relations including issuing press releases on behalf of the Council.	Council/Executive
1.17 In consultation with the relevant member, to respond on behalf of the Council to Government and other consultation exercises in relation to proposed legislation and other matters relevant to the Council.	Council/Executive
1.18 To approve (in consultation with the relevant member) all civic and ceremonial arrangements including in relation to twinning.	Council/Executive
1.19 Where the Chief Executive is of the opinion that as a matter of urgency any decision in relation to a Council function shall be taken in the best interests of either the Council or the inhabitants of the Borough and it is not in his/her opinion reasonably practicable to convene a meeting of the Council to consider the matter he/she may take such decisions, as he/she considers necessary, following consultation with the elected Mayor and Group Leaders. The decision will also be communicated to all members as soon as practicable after the decision has been taken. He/she will also submit to a meeting of the Council a written report of any action taken under this paragraph 1.19 (and the reasons for that action and the	Council

Description	Responsibility delegated by
alternative options he/she considered) as soon as reasonably practicable.	
1.20 In the absence of the Chief Executive his/her powers as set out in the preceding paragraphs may be exercised by the Assistant Director of Community and Customer Services, or the Assistant Director of Corporate and Business Services.	Council/Executive
1.21 In consultation with the elected Mayor and Group Leaders, to determine all appointments (or decide not to make appointments) to outside organisations at any time after the general review of such appointments in accordance with the Protocol on Relations between the Mayor and Political Groups. Where consensus between the elected Mayor and the Leaders of the all the political groups is not forthcoming, the Chief Executive may refer the matter to the Council for determination.	Executive
1.22 In consultation with the Overview and Scrutiny Co-ordinator, to appoint representatives to serve on a Joint Health Scrutiny Committee in accordance with legislation, guidance and/or protocols in force at the time.	Council
Delegations to Directors, Assistant Directors and Executive Heads	
1.23 In managing the services and functions for which they are responsible Directors, Assistant Directors and Executive Heads shall be authorised to take any decisions (including any Key Decisions) and to exercise all legal powers relevant to those services and functions. Except Assistant Directors and Executive Heads shall not be authorised to take any decisions where they are expressly delegated to the Chief Executive, a specific Director, Assistant Director or Executive Head in this Scheme of Delegation unless so expressly delegated specifically to them.	Council/Executive
1.24 This authorisation shall include (but not be limited to) any decisions in relation to the budget for and resources (including employees) allocated to those service/s and function/s for which they are responsible, from time to time.	Council/Executive
1.25 Where the areas of responsibility and powers of an employee refer to specific Acts of Parliament,	not applicable

Description	Responsibility delegated by
Regulations, Orders or guidance any subsequent re-enactment or amendment of the same shall apply.	
1.26 To retain contract staff or appoint consultants on matters related to their areas of responsibility.	Council/Executive
1.27 To make any decisions related to staff matters within their business unit in accordance with Council policy.	Council
1.28 So far as is lawful, Directors, Assistant Directors and Executive Heads may delegate (in such manner as is considered appropriate) matters within the services and functions for which they are responsible to employees within their portfolio/business unit or to other Directors, Assistant Directors or Executive Heads. Any such delegations may be revoked, varied or subject to such limitations as the delegating Director, Assistant Director or Executive Head considers appropriate.	not applicable
1.29 A Director or Assistant Director (following consultation with the Chief Executive and the relevant Executive Head) may (by written notice (including email)) withdraw (either permanently or temporarily) any of the above powers delegated to any Executive Head within his/her portfolio and/or impose restrictions or conditions upon the exercise of any of the above powers by that Executive Head. However, this paragraph shall not apply in relation to the following:	not applicable
(a) the Council’s Monitoring Officer when acting in that capacity;	
(b) the Executive Head of Business Services when exercising powers or duties expressly reserved to him/her by law in respect of the Harbour Authority; and	
(c) any other officer when exercising powers or duties expressly reserved to him/her by law.	

Limitations on delegations to the Chief Executive, Directors and Assistant Directors, Executive Heads and all other officers

2.5 No decision shall be taken by any officer under this Scheme of Delegation if any relevant member or the Chief Executive requests that the matter shall be referred	Council/Executive
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Description	Responsibility delegated by
to the Council or the Executive (whichever shall be able to take the decision in question) or to the Chief Executive.	
2.6 All decisions shall be in accordance with the law. Whether or not any decision is contrary to the Council’s Constitution may, if necessary, be determined by the Council. However, no decision or action shall be taken by any employee if the Assistant Director Corporate and Business Services reasonably considers it to be contrary to the law.	No applicable
2.7 All decisions shall be in accordance with the Constitution and the Policy Framework of the Council. Whether or not any decision or action falls within the Policy Framework may, if necessary, be determined by the Council. However, no decision or action shall be taken by any employee if the Assistant Director Corporate and Business Services reasonably considers it to be contrary to the Policy Framework.	Council
2.8 All decisions shall be in accordance with the Council’s Budget and Financial Regulations. Whether or not any decision or action falls within the Budget and Financial Regulations may, if necessary, be determined by the Council. However, no decision or action shall be taken by any employee if the Chief Finance Officer or the Monitoring Officer reasonably considers it to be contrary to the Budget or Financial Regulations.	Council
2.9 All decisions relating to the expenditure of unbudgeted additional income, or lower than budgeted expenditure shall be in accordance with the Financial Regulations.	Council/Executive
2.10 All decisions shall be in accordance with the Council’s Standing Orders. Whether or not any decision or action is in accordance with the Council’s Standing Orders may, if necessary, be determined by the Council. However, no decision or action shall be taken by any employee which the Monitoring Officer reasonably considers to be contrary to the Council’s Standing Orders.	Council
2.11 In relation to the authorisation of the institution, defence or conduct of legal proceedings no decision shall be taken without prior consultation with the Assistant Director of Corporate and Business Services and no such action	Council/Executive

Description	Responsibility delegated by
<p>shall be taken that is contrary to or not in accordance with any instruction from the Assistant Director of Corporate and Business Services.</p>	
<p>2.12 Before exercising (or deciding not to exercise) any delegated powers all employees shall undertake appropriate internal consultation. This consultation shall normally include (but not be limited to) the following:</p>	Council/Executive
<p>2.12.1 Where the proposal may have implications relating to the Council’s Corporate Plan, consultation with all relevant members and the Chief Executive;</p>	Council/Executive
<p>2.12.2 Where the proposal may have any policy implications, or any significant service implications, consultation with all relevant members and the Chief Executive;</p>	Council/Executive
<p>2.12.3 Where the proposal might reasonably be regarded as unusual or highly contentious, or involve an uncertain outcome, or has been the subject of (or is likely to result in) an allegation of maladministration being made against the Council, consultation with the relevant member, the Chief Executive and appropriate other senior officers;</p>	Council/Executive
<p>2.12.4 Where the proposal has any legal implications, consultation with the relevant member and the Assistant Director of Corporate and Business Services;</p>	Council/Executive
<p>2.12.5 Where the proposal may have significant implications for any particular Ward, consultation with all the members representing that Ward;</p>	Council
<p>2.12.6 Where the proposal may have any financial or audit (whether internal or external) implications, or any property implications, consultation with the Chief Finance Officer;</p>	Council/Executive
<p>2.12.7 Where the proposal may have any constitutional implications, consultation with the Monitoring Officer;</p>	Council
<p>2.12.8 Where the proposal may have any implications relating to the Council’s insurance policies (or the ability of the Council to obtain insurance at reasonable rates in the future), consultation with the Assistant Director Corporate and Business Services;</p>	Council/Executive

Description	Responsibility delegated by
2.12.9 Where the proposal may have any health and safety implications for the public or employees, consultation with the Assistant Director Community and Customer Services;	Council/Executive
2.12.10 Where the proposal may have any human resources implications, consultation with the Assistant Director Corporate and Business Services;	Council
2.12.11 Where the proposal may have any equalities implications, consultation with the Assistant Director Corporate and Business Services;	Council/Executive
2.12.12 Where the proposal may have any implications for another Council business unit, consultation with the relevant Director, Assistant Director and Executive Head;	Council/Executive
2.12.13 Where any relevant member, Director, Assistant Director or Executive Head has expressed opposition to a proposal, consultation with the Chief Executive;	Council/Executive
2.12.14 Where the proposal is similar to a previous matter that has been the subject of consultation with any member (or which a member has expressed a desire to be consulted about), consultation with that member;	Council/Executive
2.12.15 Where the delegated power is expressly required to be exercised in consultation with one or more Community Partnership, the Community Partnership(s) specified in the decision to delegate;	Council/Executive
2.12.16 Where the proposal may have significant implications for one or more Community Partnerships, consultation with those Community Partnerships affected; and	Council/Executive
2.12.17 In any cases of doubt, consultation with the relevant member.	Council/Executive
2.13 Freehold property acquisitions and disposals may not be authorised where in the reasonable opinion of a fellow or member of the Royal Institute of Charter Surveyors (RICS) the estimated market value of the land or property being acquired or disposed of exceeds £50,000 or (if a	Executive

Description	Responsibility delegated by
<p>transaction is linked to another transaction) where the aggregate estimated value exceeds that amount (this includes disposals at a peppercorn rate). But this paragraph shall not prevent the Chief Executive, Directors and Assistant Directors authorising land/property acquisitions and freehold disposals where they are in accordance with the Council’s Capital Programme or an express Council decision.</p>	
<p>2.14 The Chief Executive, Directors and Assistant Directors and Executive Heads may not authorise leases if, in the reasonable opinion of a fellow or member of the Royal Institute of Charter Surveyors (RICS), the market value of the premium exceeds £25,000 or if the market value of the rent (including any service charge) should exceed £10,000 per year, or (if a transaction is linked to another transaction) where the aggregate relevant amounts exceeds those limits (this includes leases at a peppercorn rent). But this paragraph shall not prevent the Chief Executive, Directors, Assistant Directors and Executive Heads authorising leasehold disposals where they are in accordance with the Council’s Capital Programme or an express Council decision.</p>	Executive
<p>2.15 The Chief Executive, all Directors, Assistant Directors and Executive Heads may not authorise the acceptance of any tender for goods or services where the estimated or actual (whichever the higher) total contract value exceeds £50,000 or (if a contract is linked to another contract) where the aggregate estimated or actual (whichever the higher) value exceeds that amount unless otherwise specified within the Financial Regulations. But this paragraph shall not prevent the Chief Executive, Directors, Assistant Directors and Executive Heads authorising the acceptance of any tenders for goods or services where they are pursuant to the Council’s approved Capital Programme.</p>	Executive
<p>2.16 No decision shall be taken that is contrary to the terms of any specific delegations whether in this Scheme or made by Council (or a Council Committee or Sub-Committee) or the Executive, or an employee of the Council.</p>	not applicable

Specific Delegations

Description	Responsibility delegated by
1. Delegations to the Director of Adult Services	
1.1 No specific delegations.	
Description	Responsibility delegated by
2. Delegations to the Director of Children’s Services	
2.1 In consultation with the Executive Member for Children’s Services, approve all care package arrangements for children, irrespective of value.	Executive
Description	Responsibility delegated by
3. Delegations to the Director of Public Health	Statutory delegation
3.1 The holder of the post of Director of Public Health is the statutory officer for the purposes of Section 73A of the National Health Service Act 2006 and is responsible for the strategic direction and overall management and delivery of the local authority’s functions relating to Public Health and without prejudice to the foregoing, shall have power, subject to compliance with the Constitution and approved policies of the Council or Executive (as appropriate) and all legal requirements, to discharge the following functions in relation to public health matters:	
a) taking appropriate steps to improve the health of the people in the authority’s area. Steps that may be taken include: providing information and advice; providing services or facilities designed to promote healthy living; providing services or facilities for the prevention, diagnosis or treatment of illness; providing financial incentives to encourage individuals to adopt healthier lifestyles; providing assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment; providing or participating in the provision of training for persons working or seeking to work in the field of health improvement; making	

Description	Responsibility delegated by
available the services of any person or any facilities; and providing grants or loans;	
b) dental public health as prescribed by the Secretary of State under Section 111 of the 2006 Act;	
c) joint working with the prison service in relation to improving the way in which the authority's functions are exercised to secure and maintain the health of prisoners;	
d) the medical inspection of pupils and the weighing and measuring of children;	
e) research, obtaining and analysing data or other information, and obtaining advice from persons with appropriate professional expertise;	
f) planning for, or responding to, emergencies involving a risk to public health;	
g) co-operating with arrangements for assessing risks posed by violent or sexual offenders;	
h) any public health function of the Secretary of State (or functions exercisable in connection with those functions): <ul data-bbox="571 1451 1091 1615" style="list-style-type: none">• which the authority is required by regulations to exercise; or• in respect of which arrangements have been made;	
i) any other function prescribed by the Secretary of State as the responsibility of the Director of Public Health;	
j) the oversight of clinical governance arrangements;	
k) making representations to the licensing authority in relation to applications for the grant, variation and review of premises licences as responsible authority for public health for the purposes of the Licensing Act	

Description	Responsibility delegated by
<p>2003; and</p> <p>l) provision of contraceptive services.</p>	
<p>4. Delegations to the Assistant Director Corporate and Business Services</p>	
<p>4.1 Institute, defend and conduct any legal proceedings and take all steps necessary to enforce judgements in accordance with any policies approved by the Council or the Executive.</p>	Executive
<p>4.2 To negotiate and reach agreement on behalf of the Council on policies and procedures concerning employees.</p>	Executive
<p>4.3 To obtain the necessary statistical information to enable the Council to monitor the composition of its workforce in accordance with its equal opportunity and other policies and good practice.</p>	Executive
<p>4.4 To authorise employees to appear on behalf of the Council in the County Court and/or Magistrates’ Court pursuant to Section 60 of the County Courts Act 1984 and Section 223 of the Local Government Act 1972.</p>	Council/Executive
<p>4.5 Property Management, Acquisition and Disposal:</p>	
<p>(a) Where the Council or the Executive or an officer acting under delegated powers has made a decision to acquire or dispose of a freehold or leasehold property interest, to determine the detailed terms of acquisition/disposal. No term shall be agreed that is contrary to any term imposed by the decision maker without the consent of the decision maker or (in the case of the Executive, the express approval of the elected Mayor);</p>	Council (so far as part of the Capital Plan) – otherwise Executive
<p>(b) To grant or enter into easements, licences, agreements, restrictive covenants or other rights or obligations where the consideration does not exceed £10,000 per annum on any single transaction (or series of linked transactions);</p>	Executive
<p>(c) To grant leases for up to 40 years to sports clubs on acceptable terms which each case being</p>	Executive

Description	Responsibility delegated by
<p>considered on its merits, in consultation with the Chief Executive of the Torbay Development Agency;</p>	Executive
<p>(d) To renew leases (regardless of the level of rent payable), licences and undertake a review of rents and licence fees when necessary and to agree surrenders, sub-letting and approve assignments;</p>	Executive
<p>(e) To approve variations to (including the release of) restrictive and other covenants;</p>	
<p>(f) To approve terms for the appropriation of land previously authorised by the Executive or the Council</p>	
<p>4.6 To make changes to the Council’s constitution required for technical or legal reasons.</p>	Council/Executive
<p>4.7 To approve members’ and co-opted members’ travel and subsistence allowances that technically fall outside the scheme where he/she is satisfied that the expenses incurred are essential to the proper conduct of Council related business.</p>	Council

Description	Responsibility delegated by
<p>5. Delegations to the Assistant Director Community and Customer Services</p>	
<p>5.1 To consider and determine (unless such determination is reserved by law or the Council’s Constitution to Council all applications and all other matters (including issuing Notices, making Orders and requesting Legal Services to issue civil or criminal proceedings) relating to the Buildings Act 1984 and Building Regulations as appropriate.</p>	Council
<p>5.2 To consider and take any action under the Town and Country Planning Act 1990 in connection with tree preservation and enforcement.</p>	

Description	Responsibility delegated by
6. Delegations to the Executive Head of Business Services	
6.1 To serve or receive notices, make orders, authorise any action or the institution, defence or conduct of proceedings and appeals and authorise named employees to enforce specific powers in respect of Tor Bay Harbour Authority.	Council
6.2 The following powers in this paragraph are statutory powers which cannot be exercised by any officer other than the Executive Head Business Services, his/her Deputy or appointed assistants (such appointments being specifically referred to in their job description). Likewise they cannot be withdrawn by the Chief Executive or any other officer.	Statutory delegation
6.2.1 To give general directions to regulate the movement and berthing of ships and the safety of navigation.	
6.2.2 To give directions prohibiting the entry into, or requiring the removal from, the Harbour of any dangerous vessels.	
6.2.3 To prohibit the entry into the Harbour, and to regulate the movement, of any vessel carrying dangerous substances and to control similarly the entry onto the Harbour estate of dangerous substances brought from inland.	
6.2.4 To detain a vessel, if he/she has reason to believe that it has committed an offence by discharging oil, or a mixture containing oil, into the waters of the Harbour.	
6.2.5 Only in relation to property forming part of the Harbour Estate and always having first obtained the approval of a fellow or member of the Royal Institute of Charter Surveyors (RICS) as to the value and terms of such disposal:- (a) to grant or enter into the terms of leases, sub leases, or licences where the consideration does not exceed £25,000 per annum on any single transaction (or series of linked transactions); (b) to grant or enter into easements, licences, agreements, restrictive covenants or other rights or obligations where the consideration does not exceed £20,000 on any single transaction (or	Executive

Description	Responsibility delegated by
<p>series of linked transactions);</p> <p>(c) to effect freehold disposals of land not required for operational purposes up to £100,000 in value;</p> <p>(d) to renew leases (regardless of the level of rent payable), licences and undertake a review of rents and licence fees when necessary and to agree surrenders, sub-letting and approve assignments; and</p> <p>(e) to approve variations to (including the release of) restrictive and other covenants.</p>	
<p>6.2.6 To regulate the time and manner of a ship’s entry into, departure from and movement within the Harbour waters and related purposes.</p>	<p>Council</p>
<p>6.3 To vary (by addition or waiver (in full or as to part)) the approved Schedule of Harbour Charges in such manner as the Executive Head Business Services shall consider reasonable; including for example (without restricting the generality of this power) where he/she considers:</p> <p>(i) the variation to be in the best interest of the Harbour Authority and/or local people;</p> <p>(ii) the variation would fairly reflect actual or part-year usage;</p> <p>(iii) that it would be appropriate where a vessel owner/operator has made use of a facility as a result of what the Executive Head Business Services considers to be extreme or unusual weather conditions, an accident at sea, or other emergency; and</p> <p>(iv) it appropriate to levy a charge above or in addition to those matters contained within the approved Schedule of Charges for anything done or provided by (or on behalf of) the Harbour Authority in accordance with the Harbours Act 1964 and/or Section 24 of the Tor Bay Harbour Act 1970 or any amendments or re-enactments of those Acts.</p>	<p>Council (as part of the budget)</p>

PROVIDED THAT the Executive Head Business Services shall maintain a proper written record of all variations approved under this paragraph and shall, at least twice a

Description	Responsibility delegated by
<p>year, report to the Harbour Committee the total value of the additional charges levied and the total value of the charges waived under this paragraph.</p>	
<p>6.4 To consider and (if appropriate) determine (unless such determination is reserved by law or the Council’s Constitution to Council or its Development Management Committee) all applications and all other matters (including issuing Notices, making Orders and requesting the Assistant Director Corporate and Business Services to issue civil or criminal proceedings) relating to:</p> <p style="padding-left: 40px;">Town and Country Planning; Conservation Areas; Listed Buildings; Scheduled Ancient Monuments; The display of advertisements; and Public Rights of Way.</p>	Council
<p>6.5 Following consultation with the relevant member, to determine applications for planning permission where an application that is materially the same has previously been refused because of a failure to execute a Section 106 Agreement and such determination would otherwise be contrary to a limitation set out in paragraph 2 below, or where an appropriate Section 106 Agreement has been executed and there has been no other material change in circumstances.</p>	Council
<p>6.6 Limitations to Delegated Powers Delegations to the Executive Head of Business Services</p>	
<p>6.6.1 At all times to have regard to the extant Torbay Local Plan (“the Torbay Local Plan”).</p>	Council
<p>6.6.2 The Executive Head of Business Services shall not determine any application (or other matter) in a manner that would (in his/her opinion or the opinion of the Assistant Director Corporate and Business Services not be in accordance with the Torbay Local Plan and any such application (or other matter) shall be referred to the Development Management Committee (or, if he/she considers it appropriate, Council).</p>	Council
<p>6.6.3 The Executive Head of Business Services may not determine and must refer to the Development Management Committee (or, if he/she considers it</p>	Council/Executive

Description	Responsibility delegated by
<p>appropriate, Council) any application (or other matter) that:</p>	
<p>(a) Constitutes a “Major Development” (as defined (from time to time) by the Secretary of State) for the purposes of the Council’s PS1 Return;</p>	
<p>(b) Relates to Minerals;</p>	
<p>(c) Relates to the handling, transfer or disposal of Waste or Hazardous Waste;</p>	
<p>(d) Relates to land owned, controlled or occupied by the Council (unless there are no objections and/or it is a minor variation to an existing planning permission);</p>	
<p>(e) The Executive Head of Business Services, or any Director, Assistant Director or Executive Head has requested be referred to the Development Management Committee or Council;</p>	
<p>(f) By law requires determination by Council or a Council Committee or the Secretary of State; and</p>	
<p>(g) Having consulted with the Chairman/woman or Deputy Chairman/woman of the Development Management Committee, he/she considers should be referred to members for consideration or determination in the interest of the Council or the public or for any other reason.</p>	
<p>6.6.4 The Executive Head of Business Services shall refer to the elected Mayor for determination any matters the determination of which is an Executive Function (e.g. preparation of supplementary planning guidance, designation of conservation areas, designation of areas of archaeological interest, designation of nature reserves, removal of permitted development rights through Article 4 Directions and making compulsory purchase orders).</p>	not applicable

Description	Responsibility delegated by
<p>7. Delegations to the Chief Finance Officer (as Section151 Officer)</p>	
<p>7.1 In accordance with the Council’s Standing Orders and</p>	Executive

Description	Responsibility delegated by
Financial Regulations:	
(a) to take any decisions (including any Key Decisions) and to exercise all legal powers relevant to the Council's borrowing, investments, and financial management;	
(b) to approve the re-phasing of expenditure between years on approved schemes, provided that the impact does not exceed the overall level of the approved programme and the level of resources estimated to be available;	
(c) to authorise the opening and closing of any such bank accounts, purchasing cards etc as may be considered necessary in the Council's interest;	
(d) in respect of National Non Domestic Rates, Council Tax including Council Tax Support Scheme, and other income and debtors, to exercise all the powers of the Council (including the institution of legal proceedings and all steps necessary to enforce judgements) in accordance with any policies approved by the Council or the Executive;	
(e) in respect of any sums due to the Council, to approve the writing off of sums that he/she considers to be irrevocable (or uneconomic to recover). If the amount to be written off exceeds £1,000 the Chief Finance Officer shall first consult with the relevant Executive member with responsibility for finance;	
(f) to submit bids and accept any grant offers, including the terms and conditions attached to such offers subject to the grant offer and terms and conditions being in accordance with the Council's policies and objectives, and make any resulting budget virements;	
(g) in consultation with the Chief Executive to approve any use of contingency budgets, carry forwards (positive or negative) that the Chief Finance Officer deems necessary;	
(h) in consultation with the Chief Executive to approve the use of Earmarked reserves in accordance with Financial Regulations;	

Description	Responsibility delegated by
<ul style="list-style-type: none"> (i) that the Chief Finance Officer, in consultation with the Executive Director of Operations and Finance, elected Mayor and Executive Lead Member for Finance, be authorised to make adjustments to and introduce new fees and charges in year if it has no adverse impact upon the revenue or capital budget; (j) to make any changes to the budgets for technical Reasons; (k) the approval of the estimated distribution on the Collection Fund for both Council Tax and Non Domestic Rates; and (l) approval of the Council’s estimate of Business Rate Income as required to be submitted to central government. 	
<p>7.2 In consultation with the relevant member, to determine all applications for grants or concessions from the Council up to the value of £25,000 (to any one person or organisation whether or not extending over more than one financial year) and to impose such conditions on any approved grant as he/she shall consider appropriate. In exercising this power the Chief Finance Officer shall have regard to all relevant matters including the following:</p> <ul style="list-style-type: none"> (a) the extent to which the grant requested would facilitate a contribution towards the Council’s priorities; (b) the extent to which the grant requested would be likely to assist the grantee to obtain additional funding from third parties; (c) whether alternative sources of funding are available to the grantee; (d) value for money; (e) the extent to which the grant is likely to enable the grantee to apply the principle of “invest to save”; (f) the likely medium and long-term implications for the Council’s Revenue Budget; and 	Executive

Description	Responsibility delegated by
<p>(g) the extent to which the grantee is able to demonstrate that it has in place (or is able to put in place) effective auditing arrangements to monitor and control the expenditure of the grant monies.</p>	
<p>7.3 To make adjustments to the Exceptional Hardship Policy and Fund and the Vulnerable Policy in consultation with the Mayor and Executive Lead for Finance and Regeneration.</p>	Council/Executive
<p>Limitations to Delegated Powers to the Chief Finance Officer</p>	
<p>7.4 That the provisions outlined above exclude decisions to make loans or provide guarantees to external organisations and that these require approval by Full Council. However loans of less than £50,000 to be approved by the Chief Finance Officer, in consultation with the Chief Executive and the elected Mayor.</p>	Council/Executive
Description	Responsibility delegated by
<p>8. Delegations to the Governance Support Manager</p>	Council/Executive
<p>8.1 To authorise additional training and development that is not included within the Annual Development Programme.</p> <p>(Note: The Local Protocol on relations between the Mayor and Political Groups states that the members’ training budget will be used primarily to meet the cost of the development programme with the remainder of the funding to be allocated in equal proportions (one third) to fund the following:-</p> <p>(i) Training for Executive Members; (ii) Training for Scrutiny Members; and (iii) Training not specifically related to Executive. scrutiny functions.)</p>	Council
<p>8.2 The appointment of Political Group Assistants where budget is allocated for such posts.</p>	Council
<p>8.3 The taking of disciplinary action (including dismissal) in</p>	Council/Executive

Description

**Responsibility
delegated by**

relation to the elected Mayor’s Assistant (in consultation with the elected Mayor) and any Group Assistant (in consultation with the relevant group leader).



Meeting: Harbour Committee

Date: 20th March 2017

Wards Affected: All wards in Torbay

Report Title: Tor Bay Harbour Business Plan 2017/2018

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 agree the Tor Bay Harbour Business Plan for 2017/18.
- 1.2 Harbour customers and the wider community would expect the harbour authority to have a business plan.
- 1.3 If the Harbour Committee work to an agreed Business Plan it will have a positive impact on our customers.

2. Proposed Decision

- 2.1 **That the draft Tor Bay Harbour Business Plan 2017/18 as set out in Appendix 1 be approved.**
- 2.2 **That, subject to the views of the Harbour Committee, the Executive Head of Business Services and the Harbour Committee Chairman agree the final detail of the Tor Bay Harbour Business Plan 2017/18, and sign the Acceptance Statement in Section 9.**

3. Action Needed

- 3.1 To agree the final detail of the Tor Bay Harbour Business Plan 2017/18, and sign the Acceptance Statement in Section 9.

4. Summary

- 4.1 The Municipal Ports Review recommends that local authority owned ports and harbours should consider producing a business plan that looks at the future prospects of the port/harbour and how it will meet the requirements of stakeholders.

- 4.2 The business plan should review the strategy of the harbour and present measurable objectives.
- 4.3 The Tor Bay Harbour Business Plan 2017/18 has followed the guidelines set out in the Municipal Ports Review, which also refers to *'Modernising Trust Ports: A Guide to Good Governance'*.

Supporting Information

5. Position

- 5.1 In November 2000, in **'Modern Ports – A UK Policy'**, the Department for Transport promised a review of municipal ports management structures and practices to ensure that municipal ports were playing a full and accountable part in the local and regional economy.
- 5.2 In May 2006 the Department for Communities and Local Government and the Department for Transport jointly published **'Opportunities for Ports in Local Authority Ownership; A review of municipal ports in England and Wales'**.
- 5.3 In the review they stated that within the current framework for decision-making in local government there is scope for responsive and dynamic management of municipal ports. The key findings identified in the Executive Summary of the review concerned:-
- 1 Accountability and Decision Making
 - 2 Strategy and Business Planning
 - 3 Management and Performance Review
 - 4 Municipal Port Finances
- 5.4 Furthermore the review document states that decisions relating to the Harbour are based on advice from officers who have a clear understanding of the special requirements of the Harbour.
- 5.5 Following a report to the Harbour Committee in June 2006 it was resolved that a Municipal Ports Review Working Party be established to prepare an implementation schedule for review in relation to the review of Municipal Ports.
- 5.6 This Working Party met on five occasions with the last meeting being held on 22 January 2007. The Working Party agreed and recommended that the best way forward to meet the requirements of the Municipal Ports Review is to have a fit for purpose Harbour Committee working for Tor Bay Harbour under new and more detailed Terms of Reference and a Protocol set by the Council, making it effectively a decision-making committee of the Council. Later in 2007 the Council adopted the Working Party's recommendations.

- 5.7 It was a recommendation of the Working Party that the new Committee should be protected against short-term thinking and be subject to a coherent and consistent treatment by the Council. Furthermore they believed the Committee should be apolitical.
- 5.8 Once the principle of a Harbour Committee was established a suggested Implementation Schedule was agreed in 2007 and this included the need to draw up and agree a Tor Bay Harbour Business Plan by the end of March each year.
- 5.9 The Municipal Port Review deals with the management of the harbour. It is not a question of ownership as the Council remains the owning authority. It is a matter of what delivers the most appropriate and fit for purpose form of governance that will work best for any particular municipal port.
- 5.10 The second edition of *Modernising Trust Ports: A Guide to Good Governance* was published by the Department for Transport (DfT) in 2009. More recently a further study looking more specifically at the major trust ports was undertaken by the DfT in 2016. The DfT has now started work on preparing revised guidance, working with trust ports and others in the sector. While the focus of the guidance will be trust ports, the intention is for it also to include good practice guidance for local authority ports and potentially other ports.

6. Possibilities and Options

- 6.1 Not to accept the draft Tor Bay Harbour Business Plan 2017/18 and to recommend an alternative layout with alternative content.

7. Preferred Solution/Option

- 7.1 To approve the draft Tor Bay Harbour Business Plan 2017/18.
- 7.2 Municipal Ports are expected to consider adopting and adapting the recommendations made in *'Modernising Trust Ports: A Guide to Good Governance'*. This sets out the benchmarks in terms of Board composition, appointment, performance and accountability.

8. Consultation

- 8.1 There are a number of stakeholder groups which are used to consult on the quality and performance of the harbour service these are the Brixham Harbour Liaison Forum, the Torquay/Paignton Harbour Liaison Forum, various Community Partnerships, individual Harbour User Groups and the community wide Viewpoint Panel.
- 8.2 All of these stakeholder groups have helped to influence the content of the Tor Bay Harbour Business Plan over recent years. In particular harbour staff and the Liaison Forums have been able to comment on a draft version of the plan.
- 8.3 The Harbour Committee, with its Business Plan, will improve community relations as External Advisors are involved at the heart of the strategic decision-making process for Tor Bay Harbour.

9. Risks

- 9.1 There is likely to be a reduction in risk by having a Business Plan in place. If the Harbour Authority's governance arrangements did not include an appropriate Business Plan there would be a significant risk that the Council would not have a fit for purpose form of governance that reflects national best practice.
- 9.2 Although the Harbour Committee is a decision-making body, the risks associated with the Committee making decisions is minimal as the powers given to it can be revoked at any time by a revision of the Council's Constitution. However, this would be an extreme option as it would go against national best practice.
- 9.3 The only remaining risk is that the Council could be criticised for not adopting a Tor Bay Harbour Business Plan as recommended by the Municipal Ports Review.

Appendices

Appendix 1 Draft Tor Bay Harbour Business Plan 2017/18

Additional Information

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

Opportunities for Ports in Local Authority Ownership: A Review of Municipal Ports in England and Wales – Dept. for Communities & Local Government/Dept. for Transport (May 2006)

<http://webarchive.nationalarchives.gov.uk/http://www.dft.gov.uk/pgr/shippingports/ports/opportunities/>

Modernising Trust Ports: A Guide to Good Governance – Dept. of the Environment, Transport and the Regions (Jan 2000) (Second Edition August 2009)

<https://www.gov.uk/government/publications/modernising-trust-ports>

Trust Port Study: Findings and Recommendations (2016)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/525076/trust-port-study-key-findings-and-recommendations.pdf

Torbay Council's Constitution - updated and published on 6th February 2017.



Tor Bay Harbour - Business Plan 2017/18
Business Unit – Tor Bay Harbour Authority

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

Tor Bay Harbour - Business Plan 2017/18
Business Unit – Tor Bay Harbour Authority

1. Executive Summary

Torbay Council is the 'Harbour Authority' for Tor Bay Harbour. In 2007 Torbay Council made a significant change to the way it manages Tor Bay Harbour and how it fulfils its function as a harbour authority. As a direct result of the Municipal Port Review, (a joint initiative by the Department for Communities and Local Government and the Department for Transport), the Council now manages Tor Bay Harbour through a dedicated committee called the Tor Bay Harbour Committee. This Committee consists of up to 9 Councillors and up to 6 External Advisors who have been selected following a skills audit. Also, appropriate training is now given to each member of the Committee.

The Harbour Committee deals with all matters relating to the strategic management of the Council's function as the 'Harbour Authority'. It is a committee of the full council and is both open and accountable. In particular this Committee determines the level of harbour charges and fulfils the Council's role as Duty Holder for the purposes of the Port Marine Safety Code. This fit for purpose Committee sets the budgets for the harbour and, with the assistance of the Tor Bay Harbour Authority service team, oversees the management of Tor Bay Harbour, which includes the harbour estate. This management is undertaken within the framework of Council policy and with special attention being given to the aspirations set out within the Tor Bay Harbour Port Masterplan (see Appendix 1).

Given the arrangements described above the Harbour Authority service team effectively acts like an internally commissioned service. Torbay Council will continue to review its harbour authority function and seek opportunities to improve the governance of Tor Bay Harbour, where appropriate.

There is a strong commitment on behalf of Torbay Council both to improve the service provided by the Harbour to its direct users and to develop its role in supporting the local economy and as a focus both for the local community and visitors to the Bay. In 2017/18, the Harbour Authority will continue to pay the Council a significant cash dividend as well as an asset rental fee.

2. Introduction

Torbay Harbour has existed successfully as a statutory entity since 1970 and it has served the community well. For more than 45 years it has been shown that Tor Bay Harbour can operate successfully, efficiently and economically, and subsequently not become a burden on Torbay Council's resources. Maintaining this situation has become extremely challenging in recent years as cash leaves the 'ring-fenced business' to help alleviate the financial pressure placed on the Council who are the owning authority.

Torbay Council's role as a strong maritime local authority is enhanced because the jurisdiction of the Harbour Authority mirrors the Council's land boundaries and it includes the Bay's entire coastline. Appendix 3 has a plan showing the limits of Tor Bay Harbour.

In operational terms it allows control over 22 miles of coastline and 16 square miles of open sea. This control has proved to be invaluable when issues of water safety combined with sound marine management, impact so clearly on the image of the Bay, and can be seen as both crucial and integral to the tourism product and wider economy. The Bay wide harbour controls have allowed regulation of shipping, control over the pollution risk, management of the harbour estate and zoning of small craft activity. Marine operations

Tor Bay Harbour - Business Plan 2017/18 Business Unit – Tor Bay Harbour Authority

regularly dovetail effortlessly with beach, coast and environmental issues, often with a common aim.

2009 saw the introduction of the Marine & Coastal Access Act and during 2010 the new Marine Management Organisation became fully operational. These changes have altered how the UK manages its coastal waters and the marine environment. In December 2013 a Marine Conservation Zone (MCZ) was designated in Tor Bay. The Harbour Authority plays an important role, in partnership with other stakeholders, in managing our local coastal zone.

The Tor Bay Harbour Port Masterplan which commenced in 2012, was approved, adopted and published by Torbay Council in December 2013. This milestone is particularly relevant given the number of quays, piers, buildings and other elements of infrastructure that make up the sizeable harbour estate managed by Tor Bay Harbour Authority. In addition, further progress will be made during 2017/18 on the emerging South Coast Marine Plan as the introduction of marine spatial planning continues at a national level.

At a local level Torbay Council has the opportunity to put forward a united front; this is clearly a position of strength. Tor Bay as one harbour is well suited to best serve the needs of all the relevant stakeholders.

The Tor Bay Harbour Authority Vision and Mission Statement are as follows;

Vision - ***‘to be a high quality service that is committed to improving Tor Bay Harbour and providing a cleaner and safer environment’.***

- ***“Better Facilities – Safer Harbour – Cleaner Environment”***

Mission Statement – ***‘to offer a quality Service to those who live, work and visit Torbay, by continually striving to improve both Marine and Harbour facilities and ensuring a cleaner and safer environment’.***

To help deliver the vision and mission statement the Tor Bay Harbour Authority service team is dedicated to providing the best value for harbour and marine users. They will continuously challenge the way harbour services are provided to ensure the most cost effective and efficient approach is adopted. Tor Bay Harbour Authority will continue to work with the private sector, external agencies and other organisations to deliver high quality services. To achieve this outcome the business unit will endeavour to ensure that all staff are well trained, dedicated and well-motivated.

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

Torbay has an underperforming economy with productivity rates and wage levels below the national average. The Bay has an above average older population and a reliance on the public and tourism sectors for employment. A relatively high proportion of the working age population are claiming benefits. Recent improvements in wage levels and skills are absolute rather than relative and businesses continue to be hampered by the poor

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availability of sites and premises. However, the newly opened South Devon Highway linking the A38 directly to Torbay is beginning to unlock new opportunities for businesses, allowing them to grow and flourish in Torbay.

Our main customers and stakeholders include the following :-

- Fishermen, including those from locally based vessels and vessels from other ports (UK and Europe). These include owners, skippers and crew.
- Brixham Trawler Agents, Fish Merchants & Fish Processors
- Ships visiting Tor Bay, including the owners of the vessels, skippers and crew.
- Owners and users of vessels for private pleasure and recreational purposes.
- Owners, skippers and crew of certified passenger carrying pleasure craft, including chartered angling vessels, dive boats, heritage boats, etc.
- Businesses and organisations with tenancy agreements within the Harbour Estate.
- Tourists visiting the resort of Torbay including its enclosed harbours, waterfront and coastline.
- English Riviera BID Company Ltd
- Marina operators at Torquay and Brixham - Marina Developments Ltd.
- Royal National Lifeboat Institution (RNLI)
- Marine Management Organisation (MMO)
- Devon & Severn Inshore Fisheries & Conservation Authority (IFCA)
- Maritime & Coastguard Agency (MCA)
- Organisations involved in waterborne sports and activities (e.g. Yacht and sailing clubs, training organisations, Scouts, Sea Cadets, divers, rowing clubs, youth groups etc.).
- Marine & Towage Services Group (Torbay and Brixham Shipping Agents - contracted pilotage service provider).
- Charitable and religious organisations, including various individuals and groups providing entertainment and events within the Harbour Estate.
- Various businesses, organisations and individuals conducting their affairs on the Harbour Estate.
- Local Chambers of Commerce and the Torbay Business Forum
- The general public and residents of Torbay.

Specific partnership understandings exist with the Maritime & Coastguard Agency (MCA), Marine & Towage Services Group, UK Hydrographic Office, Marina Developments Ltd, the Torbay Coast and Countryside Trust and other external agencies and Voluntary Sector groups.

A record of complaints and compliments, together with Users Surveys, all combine to give a good indication of which services are meeting the customers' expectations and those which might be seen as below the quality expected. Survey results are reported to the Harbour Committee every two years.

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3. SWOT Analysis

STRENGTHS	WEAKNESSES
Dedicated and experienced staff	Low profile of harbour authority status
Natural harbour and safe anchorage	Extent of physical infrastructure (exposure to storm damage & climate change)
Fit for purpose Harbour Committee	Poor boat repair and maintenance facilities
Adequate harbour legislation and a modern set of harbour byelaws	Harbour governance is not fully fit for purpose compared with other sectors
A leading fishing harbour in England and Wales with modern facilities	Resources diverted for provision of public amenity facilities
Support of Torbay Council	Very limited commercial / shipping income
Diversity and richness of natural environment	Operational land not 'safeguarded' by the planning system
Extent of and range of property on harbour estate	Ageing infrastructure with a significant repairing liability
Self-financing and policy of ring-fenced harbour accounts	Insufficient water depth in the enclosed harbours
Good provision of leisure and recreational boating facilities	Protective status of the natural and physical environment restricts development
Designated sites protecting the natural and physical environment	Weak local transport infrastructure – road and rail links
Strong identity as the English Riviera and used for marketing opportunities for tourism	Lack of marine related working space in and around the enclosed harbours
One of the UK's best competitive sailing venues	Lack of cargo handling facilities
A compulsory pilotage service providing safety and protection	Narrow roads, congestion and lack of adjacent parking capacity
A Port Masterplan	Lack of usable shoreline / water edge
OPPORTUNITIES	THREATS
Improve the natural and physical environment	Competition from other ports & harbours
Provide boat repair and maintenance facilities for recreational craft and fishing vessels	Change of Council policy (removal of harbour governance arrangements or ring-fenced harbour accounts)
A catalyst for regeneration activity	Effects of climate change and sea level rise
Integrated coastal zone management	Pollution – especially our sea and coast
Maximise commercial use of assets	Increasing user conflict over a shared and finite resource
Use the designations of SAC, MCZ and Geopark to attract business and tourism	Storm damage to quays, piers & breakwaters
Raise external profile and promote success	European fishing policies (restrictions with fish quota / depleted fish stocks)
Expand marina style berthing and capacity	Resistance to change i.e. improvement to governance
Improvement of transport links – road, rail and sea	Loss of operational land to non-marine use due to lack of safeguarding policy

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OPPORTUNITIES (continued)	THREATS (continued)
Improve sea defences against flooding	Inadequate regional & national ports strategy
Review governance model to allow the port to be a more efficient business	Too many sites designated for protection in the natural and physical environment
Support maritime related businesses and sport activities to strengthen the maritime culture / identity	New cash dividend and asset rental charge paid to the Council's general fund becoming too much of a burden
Larger sub-regional marine leisure market opened up by the South Devon link road	Disruption to business caused by major redevelopment of adjacent sites
Refurbish or replace derelict port infrastructure	Current and future MCZ designation could hinder growth and/or curtail existing business activity
Provide sufficient shelter and berthing facilities within the enclosed harbours	Lack of finance and funding for developments particularly for breakwater extensions

4. Compliance with the Municipal Ports Review

In 2007 Torbay Council decided to accept the main findings of the Municipal Ports Review (Appendix 2), published the previous year. Consequently the Council made constitutional changes to set up a decision making Committee called the 'Tor Bay Harbour Committee'. The Committee's purpose is to manage and govern Tor Bay Harbour, which includes the enclosed harbours of Brixham, Torquay and Paignton. Although the Committee cannot make decisions outside the Council's policy framework it does set its own budget, determine the level of harbour charges and has a capital spending limit of £25,000.

Up to fifteen people can sit on the Harbour Committee, 9 members of the Council plus up to five external non-voting advisors appointed by the Committee on a four year term (maximum term 8 years) and the option for one non-voting private sector advisor representing the Board of the Economic Development Company (Torbay Development Agency). Political group leaders have been asked to take account of the geographical spread of members and the need for continuity when making appointments to the Harbour Committee. The external non-voting advisors are selected and appointed following a skills audit. Meetings are usually held every quarter with additional meetings as required.

The relationship between the Council as the owning authority and the Harbour Committee as the managing body is determined by detailed Terms of Reference and a Protocol, which forms part of the Council's Constitution. In effect, the Tor Bay Harbour Authority service team is an internally commissioned service.

The Harbour Committee, which, when required, reports directly to the full Council, is also the '**duty holder**' under the Port Marine Safety Code.

There are two bespoke stakeholder groups set up to give advice on day to day operational matters and to provide a conduit on such matters to the Harbour Committee. The two groups, which have formal constitutions, are known as the Brixham Harbour Liaison Forum and the Torquay/Paignton Harbour Liaison Forum. Both Forums meet quarterly, two weeks prior to the Harbour Committee meetings. The Forum's minutes are standing agenda items for the Harbour Committee.

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

Although currently working well the Council could improve the governance arrangements set out above by considering other delivery options for its harbour authority function.

5. Strategic Objectives and Core Values

Links to Corporate and Community priorities and objectives.

There are a variety of different and obvious links between this Plan relating to Tor Bay Harbour and the provision of the Tor Bay Harbour Authority service, and the Council's Ambitions for "**A prosperous Torbay**" and "**A healthy Torbay**" as set out in the **Corporate Plan**.

The provision of Tor Bay Harbour Authority, as a statutory function, contributes directly and indirectly to the Council's three targeted actions within the **Corporate Plan**, which are:

- **Working towards a more prosperous Torbay**
- **Promoting healthy lifestyles across Torbay**
- **Ensuring Torbay remains an attractive and safe place to live and visit**

Torbay Harbour, the waterfront, the three enclosed harbours, the piers and the coastline all form a central part of our built and natural environment. Tor Bay Harbour Authority endeavour to keep the enclosed harbours, the harbour estate and the Bay clean, safe, tidy and attractive and by so doing the service remains crucial to the overall feeling of civic pride endorsed within the **Corporate Plan**.

Harbour Authority Objectives

1. Maintain, expand and improve the harbour facilities
2. Enable the safe use of the harbour
3. Maintain self-financing accounts
4. Invest in the present and the future
5. Enhance our self-critical and performance driven culture
6. Enable staff to achieve through development and training
7. Influence, respond and contribute to the economic, voluntary, community, cultural and environmental agendas

Harbour Authority Priorities

1. MAINTAIN SAFETY
2. IMPROVE CUSTOMER EXPERIENCE
3. STEWARDSHIP OF THE HARBOUR'S BUILT AND NATURAL ENVIRONMENT

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4. ENGAGE WITH THE COMMUNITY AND HARBOUR USERS
5. ENCOURAGE LOCAL PROSPERITY
6. ACHIEVE FINANCIAL STRENGTH

Shared Torbay Council Targeted Actions

- Working towards a more prosperous Torbay
- Promoting healthy lifestyles across Torbay
- Ensuring Torbay remains an attractive and safe place to live and visit

Delivering on our Core Values

- To maintain and improve the quality of service that we provide to our customers.
- Our services will be tailored to meet the changing needs of our customers.
- Marine and harbour facilities will be made available to as many users as possible.
- To develop a professional and caring service, that is fit for purpose.
- We are committed to the courteous and fair treatment of our customers.
- To consult with all relevant user groups and stakeholders.
- To provide an open, accountable and transparent management of Tor Bay Harbour.
- To provide a prompt reply to correspondence.
- To carry out our duties in a fair and equitable manner.

Shared Torbay Council Core Values

- We will be - forward thinking.
- We will be - people orientated.
- We will be – adaptable.
- We will - act with integrity when we deliver services and make decisions.
- We will - use reducing resources to best effect.
- We will - reduce demand through prevention and innovation.

Overall Objective for Tor Bay Harbour

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

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6. Priorities, Outcomes and Actions

COUNCIL AMBITIONS – A HEALTHY BAY AND A PROSPEROUS BAY

PRIORITY No. 1: MAINTAIN SAFETY

The outcomes we want to achieve are:

- To fulfil the Council’s obligations as a statutory and competent harbour authority
- To responsibly manage the safety of navigation and overall harbour safety, through the enforcement of applicable byelaws and appropriate legislation
- To comply with the Port Marine Safety Code through the use of a robust Safety Management System
- A safe haven for all vessels and a safe harbour estate – making people feel safe

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ACTIONS	Timescale	Who
Renew the bi-lateral agreement with the UK Hydrographic Office	Annually	Executive Head
Undertake routine maintenance of harbour infrastructure	Ongoing	Harbour Masters
Pass annual audit / inspection from Trinity House and file quarterly reports	Annually / Quarterly	Executive Head
Issue local Notices to Mariners and enforce Harbour Byelaws	As required	Harbour Masters
Lay seasonal 5-knot buoys & navigational marks	May 2017	DHM Torquay
Manage a seasonal beach / harbour response craft	May to September 2017	DHM Torquay
Audit the Safety Management System and agree an Improvement Plan	December 2017	Harbour Masters
Implement the Safety Management System Improvement Plan (2016/17)	November 2017	Harbour Masters
Provide the Harbour Committee with a summary of accident & incident data	Annually / Quarterly	Executive Head
Review and exercise the Tor Bay Harbour Emergency Response Plan	Annually	Executive Head / TBC
Review the delegated powers of the Executive Head of Business Services	March 2017	Harbour Committee

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COUNCIL AMBITIONS – A HEALTHY BAY AND A PROSPEROUS BAY

PRIORITY No. 2: IMPROVE CUSTOMER EXPERIENCE

The outcomes we want to achieve are:

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

ACTIONS	Timescale	Who
Refresh the Tor Bay Harbour Website	Ongoing	Harbour Masters
Undertake a customer satisfaction survey and react to the results	May to July 2017(Biennial)	Business Manager
Continue benchmarking via the British Ports Association, UK Harbour Masters Association, RYA, BMF & SW Regional Ports Association	Ongoing	Harbour Masters
To provide a prompt reply to enquiries and correspondence	Ongoing	All Office Staff
Complete Equality Impact Assessments (Annually)	November 2017	HM Paignton
Implement Equality Impact Assessment Improvement Plans (Annually)	November 2017	Executive Head
Monitor and support staff through induction and appraisal reviews (RADARs)	March/April 2017	All Managers
Encourage Harbour Masters to fully complete CPD records	Ongoing	Executive Head
Implement & review the new invoicing system and developing CRM software	April 2017 ~ March 2018	Business Manager
To review the Tor Bay Harbour Operational Moorings Policy (Annually)	March 2017	Business Manager

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COUNCIL AMBITIONS – A HEALTHY BAY AND A PROSPEROUS BAY

PRIORITY No. 3: STEWARDSHIP OF THE HARBOUR’S BUILT AND NATURAL ENVIRONMENT

The outcomes we want to achieve are:

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

ACTIONS	Timescale	Who
Influence decision making over the management measures of the new Special Area of Conservation in Tor Bay	Ongoing	Executive Head, Harbour Masters
Influence decision making over the management measures for the Torbay Marine Conservation Zone	Ongoing	Executive Head, Harbour Committee
Attend meetings with other coastal zone stakeholders. (Inshore Fisheries and Conservation Authority (IFCA), Torbay Coast & Countryside Trust, Devon Maritime Forum)	Ongoing	Chairman, Vice Chairman, Executive Head, Harbour Masters
Distribute information on good practice and regulations to boat owners (Green Blue Initiative) – improve recycling and reduce carbon emissions	Ongoing	Harbour Masters
Help provide appropriate sea/flood defences and raise awareness of sea level rise	Ongoing	Harbour Committee, TBC & EA
Support the implementation of the Coastal Zone Management Plan for Torbay	Ongoing	Executive Head & Harbour Masters
Work with partners to help deliver the English Riviera Destination Management Plan	2017 ~ 2021	Executive Head, Harbour Masters, Harbour Committee
Purchase new work boat for Brixham Harbour	April 2017	DHM Brixham

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COUNCIL AMBITIONS – A HEALTHY BAY AND A PROSPEROUS BAY

PRIORITY No. 4: ENGAGE WITH THE COMMUNITY AND HARBOUR USERS

The outcomes we want to achieve are:

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

ACTIONS	Timescale	Who
Hold quarterly meetings with harbour users & stakeholders (Liaison Forums)	Quarterly	Harbour Masters
Continue to encourage young people to engage in marine activities	As required	Harbour Masters
Support and engage with the local Coastal Partnerships	Ongoing	Harbour Masters
To continue to work with and / or participate with relevant voluntary and community organisations (Community Partnerships, Pride in Brixham, NCI, etc.)	Ongoing	Harbour Masters
Improve understanding of the work of the Harbour Authority through talks, boat trips, open days, etc.	Ongoing	Executive Head & Harbour Masters

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COUNCIL AMBITIONS – A HEALTHY BAY AND A PROSPEROUS BAY

PRIORITY No. 5: ENCOURAGE LOCAL PROSPERITY

The outcomes we want to achieve are:

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

ACTIONS	Timescale	Who
By working with stakeholders investigate options to improve the management of the new Fish Market complex	March 2018	Executive Head
Produce a schedule of Maritime Events (Annually)	January 2018	HM Paignton
Contribute to tourism by working to support event organisers	Ongoing	All Harbour Staff
Work collaboratively with the English Riviera BID Company Ltd, especially in respect of marketing and promoting Tor Bay Harbour	Ongoing	Harbour Masters & ERBC
Contribute to tourism by providing visitor mooring facilities (Annually)	Ongoing (May ~ Oct)	Harbour Masters
Work with the Economic Development Company (TDA), the Local Enterprise Partnership (LEP), the Mayor and the Council to maximise the potential benefits of marine/waterfront projects	Ongoing	Executive Head & Harbour Committee
Agree the Tor Bay Harbour Authority Business Plan (Annually)	March 2017	Harbour Committee
Continue to assess and explore all potential grant funding opportunities on an on-going basis, including in particular, any new European funding programmes and Environment Agency flood defence options	December 2017	Executive Head & TDA
Work with the Economic Development Company (TDA) and the Local Enterprise Partnership (LEP) to help deliver the Marine Economy Action Plan, including projects like the Fish Processing Park and marine related development at Oxen Cove	Ongoing	Executive Head & Harbour Committee

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COUNCIL AMBITIONS – A HEALTHY BAY AND A PROSPEROUS BAY

PRIORITY No. 6: ACHIEVE FINANCIAL STRENGTH

The outcomes we want to achieve are:

- **Effective financial management of the harbour**
- **To operate ‘ring-fenced’ accounts and remain self-financing**
- **Full occupancy of harbour facilities**
- **100% of harbour estate properties let**
- **Effective management of all harbour assets**
- **Effective management of business risks**

ACTIONS	Timescale	Who
Keep existing businesses and attract new activities, including direct and indirect marketing and promotion.	Ongoing	Executive Head & Harbour Committee
Monitor variation on budgeted income	Quarterly	Executive Head & Harbour Committee
Monitor variation on budgeted expenditure	Quarterly	Executive Head & Harbour Committee
Produce an Asset Management Plan for Tor Bay Harbour (Annually)	March 2018	Executive Head
Review the Tor Bay Harbour Risk Register (Annually)	September 2017	Executive Head
Test and review a Tor Bay Harbour Business Continuity Plan	July 2017	Business Manager
Maximise harbour estate lettings occupancy	Quarterly	Executive Head & Harbour Committee
Set the Tor Bay Harbour Charges and Harbour Budget (Annually)	December 2017	Harbour Committee
Review the Audit Plan for Tor Bay Harbour Authority (Annually)	June 2017	Harbour Committee
Undertake spot checks on fish landing declarations	Ongoing	Harbour Masters & Audit Officers

Key

Executive Head	Executive Head of Business Services	TBC	Torbay Borough Council
ERBC	English Riviera BID Company	EA	Environment Agency
TDA	Torbay Development Agency (Economic Development Co.)		

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7. Budget and Financial Planning

Expenditure	2015/16 Outturn £ ,000	2016/17 Projected Outturn £ ,000	2017/18 Provisional Budget £ ,000
Harbour Employee Costs	573	567	589
Operations and Maintenance :-			
Repairs and Maintenance	332	255	229
Rent/User Concessions	15	17	17
Other Operating Costs	489	506	548
Management and Administration :-			
Internal Support Services	162	175	162
External Support Services	58	50	50
Other Administration Costs	176	109	79
Capital Charges	498	498	498
Contbn to General Fund - Cash Dividend	145	160	171
Contbn to General Fund - Asset Rental	315	447	486
Contbn to General Fund - EHO	0	25	25
Revenue Funding of Capital/Cont to Reserve	48	180	0
	<u>2,811</u>	<u>2,989</u>	<u>2,854</u>
Income			
Rents and Rights :-			
Property and Other Rents/Rights	519	550	576
Marina Rental	448	429	403
Operating Income :-			
Harbour Dues	148	158	144
Visitor and Slipway	59	53	54
Mooring fees	198	192	212
Torquay Town Dock	289	297	306
Torquay Inner Dock	209	251	258
Fish Toll Income	647	700	636
Recharged Services	41	42	42
Boat and Trailer parking	105	83	79
Other Income	128	209	144
Contribution from Reserve/Debt provision	20	26	0
	<u>2,811</u>	<u>2,990</u>	<u>2,854</u>
Operating Surplus /(Deficit)	<u>0</u>	<u>1</u>	<u>0</u>

RESERVE FUND

Estimated Opening Balance as at 1st April	660
Interest Receivable	5
Net Surplus / (Deficit) from Revenue Account	0
Withdrawal - Capital Projects	(220)
Expected Closing Balance as at 31st March	<u>445</u>

£ ,000

660
5
0
(220)
<u>445</u>

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	OBTURN 2015/16 £000	APPROVED ESTIMATE 2016/17 £000	PROJECTED OBTURN 2016/17 £000	PROVISIONAL ESTIMATE 2017/18 £000	PROVISIONAL ESTIMATE 2018/19 £000	PROVISIONAL ESTIMATE 2019/20 £000
1. EXPENDITURE						
Employees	573	557	567	589	610	616
Maintenance	332	229	255	229	229	229
Rent/User Concessions	15	23	17	17	17	17
Other Costs	639	556	615	627	629	634
Capital Financing	498	498	498	498	498	498
Support Services	220	204	225	212	212	212
	2,277	2,067	2,177	2,172	2,195	2,206
2. INCOME						
Marina Rent	448	398	429	403	408	413
Rent and Other	519	540	550	576	594	594
Fish Tolls	647	571	700	616	616	621
User Charges /Other	679	617	737	695	750	832
User Charges - Town/Inner Docks	498	548	548	564	587	605
	2,791	2,674	2,964	2,854	2,955	3,065
Contributions to/from Reserve	54	0	179	25	25	25
Contributions to General Fund	460	607	607	657	735	830
Projected Net Surplus/(Deficit)	0	0	1	0	0	4

Total Reserve level at Year End	719	660	445	370	369
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Revenue Deficit Reserve level at Year End (minimum level)	488	530	570	590	610
Capital Projects Reserve level available at Year End *	231	130			

* Use of capital Projects Reserve subject to Harbour Committee/Council approval.
A reserve list of capital schemes is reported to Harbours Committee on a quarterly basis.

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Cash Dividend and Asset Rental Charge to the Council's General Fund

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 & Business 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. 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.

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.

The Harbour Budget Review 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 between 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.

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 2016 meeting. The recommendation of the Working Party was therefore that the Harbour Account should make 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.

Harbour Reserve Fund

The balance on the Harbour Reserve Fund forms part of the Council's overall cash balances which are invested in line with the annual Treasury Management Strategy approved by Council. The strategy sets out assumptions on interest rates and the controls for maintaining security of cash. Since 2012/13, investments have yielded annual returns of 1.82%, 1.11%, 0.88%, 0.85% with 0.90% anticipated for 2016/17. Global economic and market conditions continue to subdue investment rates with no increase in UK Bank Rate likely until 2019. A return of 0.79% has been budgeted for 2017/18.

The Treasury Management Strategy 2017/18 is available on the Council's website. The combined balance of the Harbour Reserve Funds at 1st April 2016 was £718,592.

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8. Targets and Performance Indicators

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

Harbour Users Survey – Overall quality of service recorded as either Average, Good or Excellent. Changed for 2009/10 to Good or Excellent only.

Year	Target	Actual	Status
2010/11	86%	82%	On Target
2011/12	85%	81.6%	On Target
2012/13	85%	80.7%	Below Target
2013/14	Non survey year	Non survey year	Non survey year
2014/15	Non survey year	Non survey year	Non survey year
2015/16	81%	75.8%	Below Target
2016/17	Non survey year	Non survey year	Non survey year

Brixham Harbour Fish Tolls

Year	Target	Actual	Status
2010/11	£485,000	£556,620	Well Above Target
2011/12	£474,000	£739,192	Well Above Target
2012/13	£525,000	£674,819	Well Above Target
2013/14	£650,000	£588,378	Below Target
2014/15	£650,000	£562,232	Well Below Target
2015/16	£510,000	£644,354	Well Above Target
2016/17	£571,000	Estimated £700k	Well Above Target

Navigation Lights Availability

Year	Target	Actual	Status
2010/11	100%	99.35%	On Target
2011/12	100%	99.28%	On Target
2012/13	100%	98.36%	On Target
2013/14	100%	99.99%	On Target
2014/15	100%	99.91%	On Target
2015/16	100%	99.85%	On Target
2016/17	100%	Estimated 99.71%	On Target

Harbour estate lettings occupancy

Year	Target	Actual	Status
2010/11	100%	95.80%	On Target
2011/12	100%	97.50%	On Target
2012/13	100%	99.16%	On Target
2013/14	100%	98.31%	On Target
2014/15	100%	98.30%	On Target
2015/16	100%	98.30%	On Target
2016/17	100%	Estimated 100%	On Target

9. Business Plan Acceptance Statement

Business Plan Acceptance

Service Area - Tor Bay Harbour Authority	Business Plan 2017/18
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Signed and accepted by Executive Head of Business Services & Tor Bay Harbour Master	<i>Print and Sign</i> Capt. Kevin Mowat
Date	1st April 2017

Signed and accepted by Harbour Committee Chairman	<i>Print and sign</i> Councillor Nick Bye
Date	1st April 2017

Tor Bay Harbour - Business Plan 2017/18
Business Unit – Tor Bay Harbour Authority

APPENDIX 1

Tor Bay Harbour Port Masterplan

Please find a copy at :-

<http://www.tor-bay-harbour.co.uk/portmasterplan.pdf>

**Tor Bay Harbour - Business Plan 2017/18
Business Unit – Tor Bay Harbour Authority**

APPENDIX 2

Municipal Ports Review

“Opportunities for Ports in Local Authority Ownership”

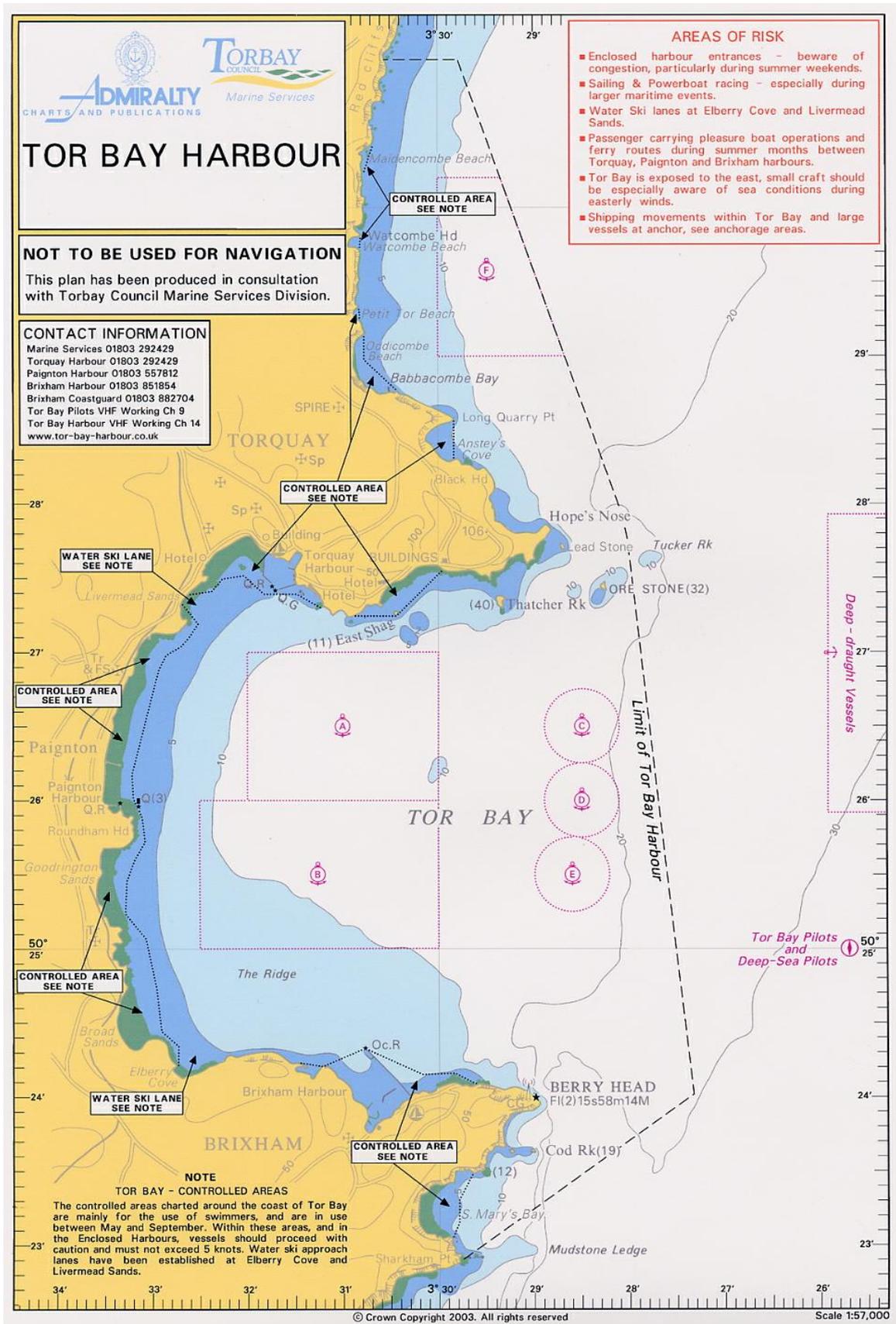
Please find a copy at :-

<http://webarchive.nationalarchives.gov.uk/+http://www.dft.gov.uk/pgr/shippingports/ports/opportunities/>

Tor Bay Harbour - Business Plan 2017/18
Business Unit – Tor Bay Harbour Authority

APPENDIX 3

Plan of Tor Bay Harbour





Meeting: Harbour Committee

Date: 20th March 2017

Wards Affected: All wards in Torbay

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

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 is seeking to amend the operational moorings and facilities policy. The impact of this policy is to ensure that a consistent, fair and equitable approach is applied to new, existing and potential facility customers that use Tor Bay Harbour and the harbour estate. It also aims to ensure that the policy and associated conditions are fully understood and recognised as being reasonable.

2. Proposed Decision

- 2.1 **That the Tor Bay Harbour Operational Moorings and Facilities Policy – Version ~ 12 set out in Appendix 1 to the report be approved.**

3. Action Needed

- 3.1 That harbour authority staff should implement the Tor Bay Harbour Operational Moorings and Facilities Policy (Version ~ 12) and the policy should be published on the harbour website.

4. Summary

- 4.1 Within Tor Bay Harbour a number of discretionary services are provided. Some of the most popular discretionary services are the provision of moorings, berths, boat park spaces, tender racks, storage lockers, etc. The annual use of these various Council owned harbour facilities is governed by a variety of controlling factors. These factors include local harbour legislation, harbour byelaws and the annual Facility Form Agreement terms and conditions.
- 4.2 In June 2007 the Harbour Committee introduced a new operational policy statement to supplement the Tor Bay Harbour Act 1970 (and subsequent amending legislation), the associated Harbour Bye-laws, and the facility agreement conditions. The policy has been subject to routine review and amendment and the

Harbour Committee has agreed to a number of revisions. In March 2016, the Committee approved Version 11.

- 4.3 Waiting lists for facilities have existed for many years and local boat owners have been given preference when vacancies have arisen. The Tor Bay Harbour Operational Moorings and Facilities Policy makes it clear how this system works and it sets out the order of priority for facility allocation.
- 4.4 An operational moorings and facilities policy is required to ensure that a consistent, fair and equitable approach is applied to new, existing and potential facility holders that use Tor Bay Harbour and the harbour estate. It also aims to ensure that the policy and associated conditions are fully understood and recognised as being reasonable. The existing operational policy statement serves as a management tool and it was accepted that it would need to be amended from time to time by the Harbour Committee. It therefore does not form part of the strategic policy framework set by Torbay Council.

Supporting Information

5. Position

- 5.1 The Tor Bay Harbour Operational Moorings and Facilities Policy was adopted by the Harbour Committee in June 2007 and amended in December 2007. It has since been updated every March since 2009.
- 5.2 All of the amendments in the proposed Tor Bay Harbour Operational Moorings and Facilities Policy – Version 12 are highlighted and shown using the ‘track changes’ tool, as can be seen in Appendix 1.

6. Possibilities and Options

- 6.1 To take no action and continue with the existing Tor Bay Harbour Operational Moorings and Facilities Policy (Version 11), which was amended in March 2016.

7. Preferred Solution/Option

- 7.1 To approve and adopt the Tor Bay Harbour Operational Moorings and Facilities Policy (Version ~ 12) as set out in Appendix 1.

8. Consultation

- 8.1 The moorings and facilities policy includes existing and well-established policy or terms and conditions of use. However, these latest amendments have been tabled at the recent Harbour Liaison Forums and have been discussed with staff within Tor Bay Harbour Authority.

9. Risks

- 9.1 There are no significant risks associated with the recommendation in this report. However, the absence of such a policy may attract criticism, especially if the Harbour Masters are expected to take operational decisions in the absence of clear guidelines.

- 9.2 The adoption of a clearly stated moorings and facilities policy will enhance the Council's reputation for transparency and accountability in respect of its delivery of its Harbour Authority function.
- 9.3 Adoption of a clearly stated moorings and facilities policy should promote equality of opportunity for people to access services provided by the Harbour Authority. Furthermore it should reduce or eliminate any unlawful discrimination, direct or indirect, regarding the allocation and use of moorings and facilities.
- 9.4 There are no remaining risks.

Appendices

Appendix 1 Tor Bay Harbour – Operational Moorings and Facilities Policy - Version ~ 12

Additional Information

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

Tor Bay Harbour – Operational Moorings and Facilities Policy - Versions 11

A Code of Practice for the Design, Construction and Operation of Coastal and Inland Marinas and Yacht Harbours – British Marine Federation

TOR BAY HARBOUR AUTHORITY

OPERATIONAL MOORINGS AND FACILITIES
POLICY



Version ~ 12 March 2017

Tor Bay Harbour Authority

Operational Moorings and Facilities Policy

Introduction

This operational policy applies to all annual moorings and other facilities that form part of a discretionary service provided by the Harbour Authority. Each facility is allocated on an annual basis only and is covered by a Facility Form Account/Agreement with associated terms and conditions of use.

The purpose of this policy is to ensure a consistent, fair and equitable approach is applied to new, existing and potential facility holders in Tor Bay Harbour and on the harbour estate. It aims to ensure that the operational policy and associated conditions are fully understood and recognised as fair, reasonable and equitable to all.

This operational policy statement supplements the Tor Bay Harbour Act 1970 (and subsequent amending legislation), the associated Harbour Bye- laws, and the facility agreement conditions. However, as a management tool it does not form part of the strategic policy framework set by Torbay Council.

Subject to the Council's Port Masterplan, nothing within this policy shall interfere with the Harbour Master's overall ability to allocate or regulate the number, location, size and type of facilities being used at any time within Tor Bay Harbour.

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

Capt. Kevin Mowat
Executive Head of Business Services
Tor Bay Harbour Master

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Definitions (See also the Tor Bay Harbour Act 1970 7 Harbour Byelaws)

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

13. “Loss, injury or damage” means any loss, injury or damage, which may occur to any person, vessel, vehicle or their contents, or to any other goods or things whatsoever.

14. “Facility Form Agreement and conditions” shown in Appendix 1.

Types of Mooring/Facilities

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

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

“Pontoon Mooring” - that the vessel is tied fore and aft to pontoons. Pontoons can be single or have “finger” pontoons coming off them. It is common for large pontoons that have heavy vessels on them to be “piled” i.e. secured by steel piles driven into the seabed. Some pontoons are connected to the shore and are known as “walk ashore” pontoons.

“Running/Outhaul Moorings” - used for small craft (currently up to 16ft) where the boat is tethered to a looped line running from the shore to a fixing, on a riser chain, secured to the harbour bed. The boat can be pulled in and out using the running line.

“Tender rack” – used for tenders/dinghies, these are racks, normally made from tubular steel into which light craft may be stored on end.

“Kayak rack” – used for kayaks/canoes, these are racks, normally made from steel into which this type of craft can be securely stored.

“Boat Park Space” - an allocated space on the harbour side where boats/dinghies are kept on trolleys/trailers and launched via a slipway. Dry storage on hard-standing.

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

Facility Charges

All matters related to the application of charges for moorings, berths, boat park spaces and other facilities can be found in the current ‘Tor Bay Harbour Authority Schedule of Charges, Dues & Fees’.

Facilities Allocation

Private Moorings/Facilities Waiting List

A mooring/facility can only be offered and allocated to the person whose name is next on the appropriate waiting list subject to the priority definitions below. A £25 non-refundable registration fee is required to join the waiting list and lists will be closed if they are over subscribed. A procedure covering the waiting list can be found in Appendix 2.

Under normal circumstances the applicant will only be given one offer of a facility. A second or third offer will only be made in exceptional circumstances.

All applicants will have their name removed from the list, if they have declined three offers of a harbour facility.

Waiting List Priority

The waiting list is segregated into the following categories/order of priority :-

- 1st Council tax payers whose main or principle residence is within the Torbay Council area of residence.
- 2nd Council tax payers who pay 90% of the Torbay Council tax. i.e. second home owners.
- 3rd All others

Torquay Town Dock & Inner Dock pontoons Priority

The Town Dock and Inner Dock Pontoon waiting lists are closed when 20 names are registered for each band of berth size and when they are re-opened, names will only be accepted from those people with a primary address in the TQ1 to TQ5 postcode areas, on a first come first served basis, to be confirmed by a check of Council Tax records and/or Electoral Register information.. Town Dock and Torquay Inner Dock Pontoon berths will only be allocated to people outside the TQ1 to TQ5 postcode areas if no waiting list exists.

Mooring Exchange Scheme - Torquay Town Dock & Inner Dock

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

Commercial Moorings - Waiting Lists

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

Entry onto a commercial moorings waiting list requires a non-refundable £50 registration fee.

Given the obvious demand for this type of mooring and the significant contribution made by passenger carrying boats to the English Riviera tourism product, the Harbour Authority will operate a “use it or lose it” policy. If a commercial or passenger boat owner does not put a vessel on the allocated mooring facility for two consecutive years, or does not operate their commercial vessel for two consecutive years, the mooring facility will be allocated to the next appropriate applicant on the waiting list.

Facilities for Heritage Vessels

A limited number of ‘Heritage’ vessels are permitted, with the Harbour Master’s consent, to berth on the Town Pontoon in Brixham Harbour, provided they have alternative bad weather mooring facilities within the harbour. The Council’s agreed criteria against which vessels could be measured for inclusion within the “fleet” of heritage boats based at Brixham Harbour is as follows :-

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

Boat Park Spaces

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

Duration of Facility Agreement

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

Renewal of Allocated Facility

Each year the Council will send each existing facility holder a Facility Form Agreement, together with an invoice requesting a Facility Form Agreement fee. If the facility holder returns the form/invoice indicating they does not wish to renew the Facility Form Agreement, it will be allocated to the next person on the appropriate waiting list.

The Council will, upon receipt of payment allocate a facility to the applicant as described in the Facility Charge Details in a location in Tor Bay Harbour determined at the discretion of the Harbour Master. The Harbour Master may

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

Cancellation of Facility Form Agreement

The facility holder may terminate the Facility Form Agreement by giving 14 days notice in writing to the Council. However, the fee already paid shall be retained by the Council.

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

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

All reasonable care will be taken of the facility holder's property but whilst precautions will be taken to prevent loss and/or damage all vessels are berthed, moored, launched, moved and hauled out at the risk of the applicant. The applicant is therefore required to make sure that his/her vessel and property are adequately insured against all risks.

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

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

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

The facility holder shall at all times be responsible for the safety of his/her vessel and shall be liable for any damage occasioned to the Council's property, howsoever caused, during the navigation of any vessel by the

applicant or his/her servant or agents, or whilst the applicant's vessel is berthed, moored, or launched, or by the vessel slipping her berth, mooring or being cast adrift and will pay to the Council on demand any claim for reasonable compensation in respect of such damage.

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

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

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

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

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

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

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

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

The facility granted may not be loaned without prior notification to, and agreement of the Harbour Master in writing. Written notification must also be provided to the Harbour Master from both parties to the loan. If the Harbour

Master's consent is obtained in no circumstances will this be given for a period greater than 12 months. In agreed loan circumstances the owner of the vessel borrowing the facility must confirm that he holds the necessary required insurance, confirm acceptance of all conditions and Byelaws and be liable for the appropriate level of harbour dues.

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

Size of Vessel (Facility Agreement Conditions 17)

No vessel shall be placed on a facility of a different size than applied for. The facility is allocated according to the size of the vessel and the facility holder must not increase the size of his/her boat without ascertaining whether or not there is a suitable alternative mooring space available. The facility holder may lose the mooring without being offered a replacement. A vessel will be charged based on overall length, which includes any bowsprit, pushpit, stern davit, bathing platform, outboard engine, bumpkin or any other extension, etc. etc.

Inheritance

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

Vessel Identification (Byelaw 35)

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

Change of Vessel (Byelaw 33)

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

Vessel Not On Facility

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

Partnerships

Partnerships must have been registered with the Harbour Authority when the facility was first allocated. Any subsequent changes of ownership or

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

Use of Facilities

Facilities must only be used for the purposes stated in the original application. Vessels using facilities must not be used for residential purposes. i.e. no living on board is permitted and boats must not serve as the sole or main residence of any individual or group. Customers are not expected to sleep on board their craft, **whilst berthed in the harbour**, unless that vessel has a suitable manufacturers holding tank for grey water and sewage. Facilities will be withdrawn from those customers who regularly breach this expectation.

Customers are not permitted to rent any beds/berths on board their vessels. e.g. via websites such as www.bedsonboard.com and www.airbnb.co.uk. Such activity will be seen as sub-letting and facilities will be withdrawn from those customers who breach this condition.

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

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

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

Fuel and Re fuelling

No fuel or combustible material is permitted to be kept on or within the allocated facility save in authorised storage tanks and containers. Other than for small outboard engines, no petrol refuelling from cans or containers is permitted on the harbour side, pontoons, steps, slipways, or moorings. Petrol refuelling is permitted at a licensed marine fuel station or when using an approved siphoning/pumping device agreed specifically with the Harbour Master or at Paignton Harbour from cans onto moored vessels when the harbour has dried.

Any fuel spillage must be reported to the Harbour Master

Pollution (Byelaw 91 and Byelaw 102)

Facility holders must not pollute the harbour by spillage, dumping of waste, effluent, human waste, detergent and/or fuel or otherwise deposit refuse or

scrap on the harbour estate, in the waters of the harbour or on the harbour bed.

Moorings and Vessel Protection

Fitting of Moorings (Facility Agreement Condition 16)

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

Buoyant Rope (Byelaw 98)

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

Removal of Moorings (Byelaw 100)

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

Vessel Monitoring

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

Propeller Covers (Facility Agreement Conditions 22)

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

Provision of Proper Fenders (Byelaw 46)

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

Mooring, Berthing, Anchoring in the Harbour

Vessels to be moored etc as directed

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

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

No person shall anchor so as to obstruct a fairway.

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

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

Vessels not to Obstruct Free Passage

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

Vessels to be Properly Secured

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

Vessels Not to Obstruct Steps, Slipways (Byelaw 26)

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

Reckless Conduct and Disorderly Behaviour

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

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

Compliance with Statute, Byelaws and Directions of the Harbour Master

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

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

Disabled Access

The Harbour Authority provide a range of moorings and other facilities, which by their very nature, have various forms of access. Consideration has been given to providing facilities for disabled persons, wherever this is reasonably practicable, in accordance with the Disability Discrimination Act 1995/2005 (DDA). The Harbour Authority is obliged to make such adjustments as is reasonable to prevent disabled persons from being placed at a substantial disadvantage when compared to others.

Anyone who has a disability should assess the most suitable facility that meets their needs and if necessary join the relevant waiting list. The Harbour Authority staff can provide advice to anyone who is uncertain about which facility would be the most appropriate.

Young People

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

Visitor Moorings

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

Appendix 1

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

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

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

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

17. Any mooring position and type shall be subject to the Harbour Master's prior approval. Failure to obtain such approval will result in the vessel being moved at the owner(s) expense, to a suitable location and the latter shall be at the sole discretion of the Harbour Master.
18. No attachment whatsoever is to be affixed to the mooring chain provided by the Council, without the prior approval of the Harbour Master.
19. Outboard engines must be in a raised position when vessel(s) are moored and have the propeller and skeg covered with a plastic bucket or other approved protective cover, in order to prevent damage to other boats.
20. The storage of petroleum spirit and / or flammable substances and / or toxic chemicals and / or corrosive substances and / or noxious substances in storage lockers, is strictly prohibited.

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

Enquires, Arrangements to Pay & Failure to Pay

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

Fair Processing Notice

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

Appendix 2

WAITING LISTS

TOR BAY HARBOUR

WAITING LIST PROCEDURE

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

- 12) The terms and conditions of use of any facility are shown on the reverse side of any invoice/facility form agreement and are also found within the Tor Bay Harbour Operational Moorings and Facility Policy.
- 13) Partnerships must have been registered with the Harbour Authority when the facility was first allocated. Any subsequent changes of ownership or partnership buy out **will not be recognised** or count towards facility allocation. The Harbour Authority will not recognise shared ownership beyond one third. i.e. a maximum of three partners inclusive of the applicant. All partners must be over the age of 18 and meet the local residence requirements detailed in this policy with regard to facility allocation priority.

Note

Torquay Town Dock & Inner Dock pontoons Priority

The Town Dock and Inner Dock Pontoon waiting lists are closed when 20 names are registered for each band of berth size and when they are re-opened, names will only be accepted from those people with a primary address in the TQ1 to TQ5 postcode areas, on a first come first served basis, to be confirmed by a check of Council Tax records and/or Electoral Register information.. Town Dock and Torquay Inner Dock Pontoon berths will only be allocated to people outside the TQ1 to TQ5 postcode areas if no waiting list exists.

Appendix 3

Mooring Exchange Scheme - Torquay Town Dock & Inner Dock

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

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

The 12 metre berths will not feature in this scheme.

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

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

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

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

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

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

Step 1

Complete form for existing berth to *move from*

Step 2

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

Step 3

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

Step 4

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

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



Mooring Exchange Scheme – Application

(TOWN DOCK & INNER DOCK ONLY)

Name:

Boat Name:

LOA

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

I wish to move to a :- (circle)

6m 8m 9.14m 10m berth.

Signature

Date

Please return completed form to the Harbour Office



Meeting: Harbour Committee

Date: 20 March 2017

Wards Affected: All wards in Torbay

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

Supporting Officer Contact Details: Kevin Mowat
Executive Head of Business Services
Tor Bay Harbour Master
☎ Telephone: 01803 292429 (Ext 2724)
✉ Email: Kevin.Mowat@torbay.gov.uk

Pete Truman
Principal Accountant
☎ Telephone: Ext 7302
✉ Email: Pete.Truman@torbay.gov.uk

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 February 2017 to enable appropriate action to contain expenditure and maintain reserves at appropriate levels.
- 1.3 The Committee is asked to note that the amended outturn projections of the harbour accounts and adjustments to the Reserve Funds shown in Appendix 1.
- 1.4 The Committee is asked to note the 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 £8,827.76 (excl VAT). No additional charges have been levied.

Summary

- 2.1 The Tor Bay Harbour Authority budget was approved by the Harbour Committee on 21st December 2015.
- 2.2 This is the third and final 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.
- 2.4 The Harbour account has benefitted from high levels of 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 Business Services' 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	0
Current Budgeted deficit	1
Projected Surplus 2016/17	0

- 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	850	1,272	(i)
Brixham Major Repairs	123	111	123	(ii)
New Harbour Workboat	45	34	45	(iii)

- (i) The current programme of works on the underwater repairs to the inner walls of Princess Pier and Haldon Pier is now coming to an end. 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 included repairs to the drying grid, masonry walls and new compound fencing. The works have been completed but not all orders have been processed.
- (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 February 2017 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	£27K	£19k	£42k	£45k
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, 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. In 2016/17 the contributions to the Council’s General Fund will be £632,000 and in 2017/18 this will rise again to £682,000.

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

TOR BAY HARBOUR REVENUE ACCOUNTS 2016/17 - BUDGET MONITORING

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	567	495	497	567	1
Operations and Maintenance :-						
Repairs and Maintenance	229	255	204	233	255	2
Rent/User charges Concessions	23	17	17	18	18	3
Other Operating Costs	473	506	437	468	576	4
Management and Administration :-						
Internal Support Services	162	175	175	177	177	5
External Support Services	42	50	50	57	75	6
Other Administration Costs	83	109	72	48	114	7
Capital Charges	498	498	498	498	498	
Contribution to General Fund - EHO	0	25	25	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	85	0	0	114	9
Contribution To Reserve	0	95	0	0	95	10
	2,674	2,989	1,973	2,021	3,121	
Income						
Rents and Rights :-						
Property and Other Rents/Rights	540	550	550	568	568	11
Marina Rental	398	429	160	195	429	12
Operating Income :-						
Harbour Dues	139	158	158	164	164	13
Visitor and Slipway	53	53	53	62	62	
Mooring fees	196	192	192	192	192	
Town Dock	297	297	297	297	297	
Torquay Inner Harbour pontoons	251	251	251	251	251	
Fish Tolls	571	700	665	755	780	
Boat and Trailer parking	36	42	42	45	45	14
Recharged Services	73	83	80	68	70	15
Other Income	120	114	109	140	142	14
Contribution from Reserves	0	26	0	0	26	7
Refund of water charges	0	33	33	33	33	16
Interreg grants received	0	62	62	62	62	17
	2,674	2,990	2,652	2,832	3,121	
Operating Surplus /(Deficit)	0	1	679	811	0	

RESERVE FUND		Notes
Opening Balance as at 1st April	719	
Interest Receivable	6	
Net Surplus / (Deficit) from Revenue Account	0	
Contribution to Revenue Account	(26)	7
Contributions from Revenue Account	95	10
Anticipated withdrawals in year	(145)	18
Expected Closing Balance as at 31st March	649	

*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.*

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	(171,000)
Contributions in year	95,000
Projected Surplus/(Deficit) for year	0
Projected Consolidated Reserve Balance at 31st March 2017 (prior to implementation of any scheme on this schedule)	649,000
less: 20% of Budgeted Turnover	(530,000)
= Balance for Projects	119,000
Total costs of proposed Projects (as listed below).	1,102,900
<i>Shortfall in Reserve funding available</i>	<i>(983,900)</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

Harbour Committee Work Programme – 2017/2018 v1

Meeting	Standing items to be considered	Type of Report
26 th June 2017	1. To elect a Chairman for the Municipal Year	Decision
	2. To appoint of Vice Chairman for the Municipal Year	Decision
	3. To review/note the Harbour Committee's Terms of Reference as per the Council's Constitution	To note
	4. To appoint a Harbour Appointments Sub-Committee	Decision
	5. To appoint a Harbour Asset Review Working Party	Decision
	6. To appoint a Harbour Budget Review Working Party	Decision
	7. To appoint a Pilotage Review Working Party	Decision
	8. To consider the Budget Outturn for previous financial year	To note
	9. To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report	To note
	10. Annual Performance Report of the Tor Bay Harbour Authority Business Unit (SPAR.Net) (2016/17)	To note
	11. To approve a Review of the Tor Bay Harbour Pilotage Directions (biennial - 2017)	Decision
	12. To review quarterly Accident & Incident for Tor Bay Harbour	To note
	13. To receive a report on a Development Opportunity at Oxen Cove	Decision
	14. To receive a report on a Masterplan Development Opportunity at Paignton Harbour	Decision

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No meeting in September – Send out the Tor Bay Harbour Authority quarterly Budget Monitoring Report via email (end of Q2)

Meeting	Standing items to be considered	Type of Report
5 th December 2017	1. To consider the Tor Bay Harbour Authority Budget and Setting of Harbour Charges	Decision
	2. To consider the Annual Compliance Audit of the Port Marine Safety Code	Decision
	3. To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report	To note

Meeting	Standing items to be considered	Type of Report
19 th March 2018	1. To review the delegated powers of the Executive Head of Business Services	Decision
	2. To agree the Tor Bay Harbour Authority Business Plan 2018/19	Decision
	3. To review the Operational Moorings Policy	Decision
	4. To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report	To note
	5. To agree the Harbour Committee Work Programme for 2018/19	Decision
	6. To receive recommendations from the Harbour Asset Review Working Party - review and approve the Tor Bay Harbour Asset Management Plan 2018/19	Decision
	7. To review quarterly Accident & Incident for Tor Bay Harbour	To note

NB Reports on specific matters that require a decision or are to note, will be added to this programme as and when required.

Meeting venues will normally be rotated between Brixham and Torquay.

Monitoring of the Tor Bay Harbour Authority in year performance can be undertaken using the SPAR.Net software or reports can be sent on request.

Harbour Liaison Forum minutes will be emailed to all members of the Harbour Committee prior to each Committee meeting.



Meeting: Harbour Committee

Date: 20th March 2017

Wards Affected: All wards in Torbay

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

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 The Harbour Authority uses a large number of assets on behalf of the Council, as the owning authority, to deliver a safe and sustainable harbour. By maintaining harbour assets and the harbour estate efficiently the Harbour Authority can deliver a service to harbour users. A well managed harbour will also serve the needs of our communities and hopefully improve the lives of those who live and work in the Bay, as well as improving and regenerating Torbay as a place for visitors.

2. Proposed Decision

- 2.1 **That the Tor Bay Harbour Authority Asset Management Plan 2017/18 set out in Appendix 1 be approved.**

3. Action Needed

- 3.1 That the harbour authority should implement the Tor Bay Harbour Authority Asset Management Plan 2017/18.
- 3.2 The policies and future actions highlighted within the plan will help to inform the harbour budget setting process.

4. Summary

- 4.1 The Terms of Reference for the Harbour Committee form part of Torbay Council's Constitution.
- 4.2 It is stated within those Terms of Reference that the Harbour Committee is to provide strategic direction in relation to those assets within Tor Bay Harbour and the harbour estate that are managed by the Tor Bay Harbour Authority service.

- 4.3 The existence of a Tor Bay Harbour Authority Asset Management Plan will assist the Harbour Committee to provide the strategic direction indicated in 4.2 above.
- 4.4 The 'harbour estate' means the piers, wharves, quays, berths, roads, sheds and other works and conveniences, and the lands, buildings and property of every description, and of whatever nature, which are for the time being vested in or occupied by the Corporation (Council) as harbour authority and used for the purpose of the harbour undertaking. (Tor Bay Harbour Act 1970)
- 4.5 An appropriate asset management plan will help the Harbour Asset Review Working Party to monitor all of the harbour estate and ensure that the assets are fit for purpose. The plan will enable the identification of assets that might be inefficient or a liability in terms of backlog or future maintenance. Consequently the Harbour Committee will be able to provide the necessary strategic advice in respect of harbour assets.
- 4.6 A harbour asset maintenance programme is considered on an annual basis with prioritisation influenced by the results of the condition surveys, which are largely held on the Council's asset register (Torbay Online Asset Database [TOAD]).

Supporting Information

5. Position

- 5.1 All of the assets currently managed by the Tor Bay Harbour Authority service on behalf of Torbay Council are governed by the Harbour Committee. Many of the assets are critical to the safe operation of the harbour and other assets are essential in terms of the revenue contribution they make to the ring-fenced budget delivered by Tor Bay Harbour Authority for the Harbour Committee. The extent of the harbour estate is fixed by the Council and may be varied from time to time having taken full consideration of the operational requirements of the harbour authority and the Council's policy to deliver a self-funding, financially sustainable harbour service.
- 5.2 In June of each year the Harbour Committee establishes a Harbour Asset Review Working Party to provide strategic direction in relation to those assets within Tor Bay Harbour and the harbour estate that are managed by Tor Bay Harbour Authority. This is in line with the Harbour Committee's Terms of Reference set out in the Council's Constitution.
- 5.3 The role of the Working Party is to regularly challenge whether all the harbour assets are required, fit for purpose and provide value for money to meet current and future needs. It is also tasked with identifying under-performing or surplus assets so that it can make recommendations about how such may be rationalised or disposed of. To this end, in June 2016 it was resolved that a Harbour Asset Review Working Party be appointed 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.
- 5.4 The Harbour Asset Review Working Party met on the 27th February 2017 to review all assets within Tor Bay Harbour and the harbour estate. Officer support to the Working Party was provided by the Executive Head of Business Services with support from the Torbay Development Agency. All assets were successfully reviewed and the Working Party was satisfied that they could broadly establish how each asset was performing. No assets were identified as being surplus to the requirements of the Harbour Authority.
- 5.5 In 2008 under Minute No. 102 it was resolved that the Director of Marine Services (now Executive Head of Business Services), in consultation with the Harbour Asset Review Working Party, be asked to consider the need for a Harbour Asset Management Plan.
- 5.6 Each year since 2008 the Harbour Asset Review Working Party has been re-established with the same Terms of Reference and each year it has discharged its requirements in respect of (a), (b), (c) above. The first Harbour Asset Management Plan was approved by the Harbour Committee in March 2011 following a recommendation from the Harbour Asset Review Working Party, in fulfilment of Minute No. 102 (2008) outlined in 5.4 above.
- 5.7 Torbay Council's Corporate Asset Management Plan refers to the effective use of assets as being a key factor in delivering to the community of Torbay the objectives and priorities they have set for the Council. The Corporate Asset Management Plan adopts the following guiding aim :-
- “The principle aim of an Asset Management Plan should be to ensure that the opportunity cost of financial resources tied up in land and buildings is minimised, and that capital and revenue expenditure on the portfolio is directed efficiently and effectively to provide value for money.”***
- The Council is fully committed to the principle of the most efficient use of assets and the Tor Bay Harbour Authority Asset Management Plan 2017/18 will help the Council to achieve this objective.
- 5.8 Due to the level of capital receipts required to support the Council's existing Capital Investment Plan and the uncertainty over future capital funding no change is proposed to the policy of allocating all capital receipts to support schemes on the existing Capital Investment Plan. Exceptions to this policy are possible as was the case with the long lease disposal of the Old Market House at Brixham harbour, which was earmarked to support the funding of the Brixham Harbour regeneration project.
- 5.9 With the expected ongoing significant reductions in central government funding for public sector capital schemes the private sector could have a greater role in providing finance for public sector infrastructure, including new harbour assets or an expansion of privately owned infrastructure within harbour limits or on the harbour estate.
- 5.10 The Council is the freehold owner of Tor Bay Harbour and the harbour estate. Under the Tor Bay Harbour Act 1970 and 1983, the Council is also the harbour authority for the harbour. Under these Acts the Council, as the harbour authority,

has a duty to maintain and improve the harbour and the services and the facilities in it and, under the same Acts, the harbour authority is granted the relevant powers to do so.

6. Possibilities and Options

- 6.1 It is considered to be best practice for a Harbour Authority to produce an Asset Management Plan and it assists the Harbour Committee to provide strategic direction in relation to those assets within Tor Bay Harbour and the harbour estate that are managed by Tor Bay Harbour Authority. This Council has developed processes to demonstrate good asset management and a strategy for capital investment. This results in more efficient and effective use of its assets and capital resources in support of its Corporate Priorities and service objectives.
- 6.2 The repair and maintenance budget could be increased further to reduce backlog over a shorter timeframe. This has to be considered with regard to other capital and revenue pressures.

7. Preferred Solution/Option

- 7.1 To approve and adopt the Tor Bay Harbour Authority Asset Management Plan 2017/18 as set out in Appendix 1.
- 7.2 Good asset management and a planned approach to capital investment impact on improving the quality of life and creating safer environments for all.

8. Consultation

- 8.1 The Asset Management Plan is designed to assist the Harbour Authority to deliver its Business Plan priorities alongside, and complementary to, the provision of its statutory functions.
- 8.2 The Plan has been developed through officer consultation with support from the Torbay Development Agency.
- 8.3 The Tor Bay Harbour Authority Asset Management Plan 2017/18 has been considered by the Harbour Asset Review Working Party at its meeting on 27th February 2017.

9. Risks

- 9.1 Failure to deal with urgent structural repairs could lead to deterioration of the asset base and additional costs. The identified repair demands in the Plan, although only approximate, are significant and are increasing over time. This is a key challenge given the limited availability of both revenue and capital resources.
- 9.2 A risk to the Plan is that it will not be “fit for purpose” i.e. it will not assist the harbour authority to use its resources economically and efficiently in support of its priorities.
- 9.3 Unforeseen emergency works, such as storm damage, could disrupt the repairs and maintenance programme. Also, over the period of the maintenance plan there will inevitably be some unforeseen works which arise and need immediate

attention. This will require periodic revision of the programme with some works having to be deferred.

- 9.4 Existing annual maintenance funding is dependent on sustaining the current levels of harbour income. Also, the financial settlement for the public sector in future years is uncertain and may significantly affect the Council's ability to implement the Capital Investment Plan and the corporate Asset Management Plan.
- 9.5 Annual maintenance funding has been reduced to help meet the Council's need for a cash dividend, which has been payable since 2012/13 and is likely to continue for some time.

Appendices

Appendix 1 - Draft Tor Bay Harbour Authority Asset Management Plan 2017/18

Additional Information

Tor Bay Harbour Authority Asset Management Plan 2016/17 (March 2016)



Tor Bay Harbour Authority - Asset Management Plan 2017/18

1. Service Background and Outcomes

Torbay Council is the 'harbour authority' for Tor Bay Harbour. In 2007 Torbay Council made a significant change to the way it manages Tor Bay Harbour and fulfils its function as a harbour authority. As a direct result of the Municipal Port Review, (a joint initiative by the Department for Communities and Local Government and the Department for Transport), the Council now manages Tor Bay Harbour through a dedicated committee called the Tor Bay Harbour Committee. This Committee consists of up to 9 Councillors and 6 External Harbour Advisors who have been selected following a skills audit. Also, appropriate training is now given to each member of the Committee.

The Harbour Committee deals with all matters relating to the strategic management of the Council's function as the 'harbour authority'. It is a committee of the full council and is both open and accountable. In particular this Committee determines the level of harbour charges and fulfils the Council's role as Duty Holder for the purposes of the Port Marine Safety Code. This fit for purpose Committee sets the budgets for the harbour and, with the assistance of the Tor Bay Harbour Authority service, manages Tor Bay Harbour within the framework of Council policy, with special attention given to the aspirations of the Tor Bay Harbour Port Masterplan (adopted in December 2013).

Tor Bay Harbour has existed successfully as a statutory entity since 1970 and it has served the community well. The move, over forty five years ago, to create a single new harbour authority was both brave and visionary and since 1970, Tor Bay Harbour has shown that it can operate successfully, efficiently and economically, and subsequently it has not become a burden on Torbay Council resources. Since 2012/13 a cash dividend contribution has been made to the Council's general fund from the harbour accounts to help support the corporate budget shortfall resulting from government funding cuts.

There is a strong commitment on behalf of Torbay Council both to improve the service provided by the Harbour to its direct users and to develop its role in supporting the local economy and as a focus both for the local community and visitors to the Bay.

Harbour Estate

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

The Harbour Committee governs all of the assets currently managed by the Tor Bay Harbour Authority service on behalf of Torbay Council, as the harbour authority. Many of the assets are critical to the safe operation of the harbour and other assets are essential in terms of the revenue contribution they make to the ring-fenced budget delivered by the Tor Bay Harbour Authority service for the Harbour Committee. The extent of the harbour estate is fixed by the Council and may be varied from time to time having taken full consideration of the operational requirements of the harbour authority and the Council's policy to deliver a self-funding, financially sustainable harbour service.

The accommodation and property that is under the control of the Harbour Committee and the Tor Bay Harbour Authority service adequately meets the immediate needs of the service. In recent years investment has been made in new quayside infrastructure at Brixham with a new fish market, office building, employment units and a new restaurant on the harbour estate. Income derived from property on the harbour estate is critical to the harbour business. The level of rental income received is significantly more than that generated by harbour charges, with the exception of fish toll income.

Routine maintenance costs for harbour assets are met from the ring-fenced harbour accounts as per Council policy. The agreed budget for repairs & maintenance for 2017/18 is as follows :-

£64,000 for Torquay harbour
£14,100 for Paignton harbour
£150,500 for Brixham harbour

In 2008 the Harbour Committee approved the establishment of a Harbour Asset Review Working Party. The Director of Marine Services (now Executive Head of Business Services) advised Members that the Harbour Committee's Terms of Reference require that the Harbour Committee provide strategic direction in relation to those assets within Tor Bay Harbour and the harbour estate that are managed by Marine Services (now the Tor Bay Harbour Authority service). It was suggested that in order to achieve this requirement the Committee should challenge whether all the harbour assets are required, fit for purpose and provide value for money to meet current and future needs. It was also recommended that the Committee should be able to identify under-performing or surplus assets so that it can make recommendations about how such may be rationalised or disposed of. The Harbour Committee felt that to fulfil this role, a Working Party should be established to review those assets managed by the Harbour Authority.

In June 2016 the Harbour Committee resolved that a Harbour Asset Review Working Party, comprising four members of the Harbour Committee (the Chair plus Councilors' Amil, Carter and Robson) and two of the External Advisors to the Committee (Mr. Mike Stewart and Capt. Paul Lloyd), be appointed 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.

The Harbour Asset Review Working Party held a meeting on 27th February 2017 and has worked in consultation with the Executive Head of Business Services and the Torbay Development Agency to recommend to the Harbour Committee this Harbour Asset Management Plan.

2. Predicted Service Delivery Changes

In March 2017, the Harbour Asset Review Working Party reported to the Harbour Committee that :-

- all assets within Tor Bay Harbour and the Harbour Estate had been successfully reviewed.
- they were satisfied that they could broadly establish how each asset was performing.
- no assets were identified as being surplus to the requirements of the Harbour Authority.

- strategic direction had been provided to the Executive Head of Business Services in relation to the following matters :-
 - the Harbour Light Restaurant Building at Paignton harbour
 - the use of kiosks on Boat Booking Board sites at Torquay harbour
 - a range of new concession opportunities at different harbour locations

- the Working Party had been updated on the subjects listed below :-
 - Future use of Oven Cove
 - Landlord's use of the Torquay Harbour Fuel Station
 - Repairs to Haldon & Princess Piers
 - Procurement of a new harbour workboat for Brixham harbour
 - Refurbishment, adaptation & upgrade of the Beacon Quay Public Toilets

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In determining this advice, where possible each asset was considered against the following performance criteria :-

- corporate asset number (Torbay Online Asset Database System (TOADS))
- leased or vacant
- lease start date
- tenure of lease
- rental income
- tenant's name
- rent review due date
- date of last condition survey

3. Scope of Service Asset Management Plan

This Asset Management Plan covers all assets managed and occupied by the Tor Bay Harbour Authority service.

4. Identification of Current Property Portfolio

This data is extracted from the Torbay Online Asset Database System (TOADS) and captured in a spreadsheet entitled 'List of Tor Bay Harbour Assets', held by the Executive Head of Business Services. The Harbour Asset Review Working Party reviews the portfolio every six months.

5. Identification of Property Surveys

This data is extracted from the Torbay Online Asset Database System (TOADS) and captured in a spreadsheet entitled 'List of Tor Bay Harbour Assets', held by the Executive Head of Business Services. The Harbour Asset Review Working Party reviews the survey dates every six months.

6. Preferred Options & Action Plan

The 'List of Tor Bay Harbour Assets', held by the Executive Head of Business Services, shows the current asset/property portfolio under the day to day management of the Tor Bay Harbour Authority service. Management of the portfolio is subject to strategic advice and direction from Torbay Council's Harbour Committee. The Harbour Asset Review Working Party, described in section 1 above, is tasked with reporting to the Harbour Committee on how each asset is performing and identifying any that are surplus. This advice would include indicating what options and actions might be required to implement any necessary or proposed changes.

7. Implement Audit & Review

Notwithstanding the comments made in sections 2 & 6 above, the following assets have been identified as requiring an ongoing review and/or action.

Asset Ref	Asset Name	Action	Timeline
T0004AB	Haldon Pier	Capital repairs are required and this is subject to a flood defence funding bid from the EA.	Underway
P0242	Harbour Light Restaurant Building	Exploring redevelopment opportunity in line with the Port Masterplan	Underway
T0006AF	Torquay – Town Dock	Ongoing design adjustment to overcome structural damage to steelwork on certain pontoons.	Underway
T0503	Princess Pier	Capital repairs are required and this is subject to a flood defence funding bid from the EA.	Underway

Asset Ref	Asset Name	Action	Timeline
T0007AB	Living Coasts site	Agreed to pursue adoption of Council land into the harbour estate in line with the Port Masterplan. (0 to 5 years)	2014 ~ 2018
T0004AD	North Quay (MDL car park) – Torquay	Potential hotel development opportunity with existing tenant and new developer in line with the Port Masterplan. (0 to 5 years)	2014 ~ 2018
P0241AE B0064	Paignton Harbour - Public Toilets New Pier Brixham - Public Toilets	Review running costs, cleaning regime, opening hours, fixtures & fittings. (Corporate review of public toilet provision)	October 2017
T0004AK	Victoria Parade Walkway & Planters – Torquay	Provide loading & delivery bays for harbour users in line with the Port Masterplan. (0 to 5 years)	2014 ~ 2018
N/A	Vehicles & Plant	Replacement workboat required for Brixham harbour.	April 2017
T0006AB	Beacon Quay Public Toilets	Refurbishment & adaptation/upgrade.	April 2017
T0004AC02	Marine Fuel Station – South Pier, Torquay harbour	Revert to Harbour Authority (landlord) control followed by refurbishment. (0 to 5 years)	2014 ~ 2018
P0248AA	Toby Jug Cafe, Paignton harbour	Repairs & refurbishment	2017/18
B0070AU	The Strand Quay, Brixham harbour	Exploring extension opportunity in line with the Port Masterplan. (0 to 5 years)	2014 ~ 2018