



Friday, 17 June 2016

HARBOUR COMMITTEE

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

Monday, 27 June 2016

commencing at **5.30 pm**

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

Members of the Committee

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

Councillor Robson
Councillor Stringer
Councillor Sykes
Councillor Manning

External Advisors

Mr Buckpitt, Mr Ellis, Capt Lloyd and Mr Stewart

A prosperous and healthy Torbay

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

Teresa Buckley, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207087

Email: governance.support@torbay.gov.uk

www.torbay.gov.uk

HARBOUR COMMITTEE AGENDA

1. **Election of Chairman/woman**
To elect a Chairman/woman of the Harbour Committee for the 2016/2017 Municipal Year.
2. **Apologies**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Minutes** (Pages 4 - 8)
To confirm as a correct record the Minutes of the meeting of the Committee held on 23 March 2016.
4. **Appointment of Vice-Chairman/woman**
To consider appointing a Vice-Chairman/woman for the forthcoming Municipal Year.
5. **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.)
6. **Urgent items**
To consider any other items that the Chairman decides are urgent.
7. **Harbour Committee Terms of Reference** (Pages 9 - 11)
To note the Harbour Committee Terms of Reference as set out in the submitted report.

- | | | |
|-----|---|--------------------|
| 8. | Harbour Appointments Sub-Committee
To consider appointing a Harbour Appointments Sub-Committee with terms of reference as set out in the submitted report. | (Page 12) |
| 9. | Harbour Asset Review Working Party
To consider appointing a Harbour Asset Review Working Party with terms of reference as set out in the submitted report. | (Page 13) |
| 10. | Harbour Budget Review Working Party
To consider appointing a Harbour Budget Review Working Party with terms of reference as set out in the submitted report. | (Page 14) |
| 11. | Pilotage Review Working Party
To consider appointing a Pilotage Review Working Party with terms of reference as set out in the submitted report. | (Page 15) |
| 12. | Brixham Express Ferry Update
To receive an update on the Ferry Service. | (Pages 16 -
18) |
| 13. | Revenue Budget Outturn 2015/2016
To note the submitted report setting out the outturn position for the Harbour Authority Revenue Budget for 2015/2016. | (Pages 19 -
22) |
| 14. | Revenue Budget Monitoring 2016/2017 Quarter 1
To note the submitted report on the budget monitoring for the Harbour Authority for quarter 1 2016/2017. | (Pages 23 -
31) |
| 15. | Annual Performance Report 2015/2016
To note the submitted report setting out the annual performance of the Harbour Authority for 2015/2016. | (Pages 32 -
34) |
| 16. | Tor Bay Harbour Authority Enforcement and Prosecution Policy
To consider the submitted report on the above. | (Pages 35 -
47) |
| 17. | Quarterly Accident and Incident Data for Tor Bay Harbour
For Members to note the latest accident statistics for the Harbour Authority's operational area. | (Page 48) |
| 18. | Torquay/Paignton and Brixham Harbour Liaison Forums
To note the minutes of the above Harbour Liaison Forums. | (Pages 49 -
56) |
| 19. | 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. | |
| 20. | Paignton Harbour Development Opportunity
To receive a report on a potential development opportunity at Paignton Harbour. | (Pages 57 -
87) |



Minutes of the Harbour Committee

21 March 2016

-: Present :-

Councillor Bye (Chairman)

Councillors Amil, Carter, Ellery (Vice-Chair), Robson and Sykes

External Advisors:

David Buckpitt and Michael J Ellis

40. Apologies

Apologies for absence were received from Councillors Cunningham, O'Dwyer and Stringer and External Advisors Mike Stewart and Capt Lloyd.

41. Minutes

The Minutes of the meeting of the Harbour Committee held on 21 December 2015 were confirmed as a correct record and signed by the Chairman.

42. Harbour Light Restaurant

Further to the meeting of the Harbour Committee held on 21 December 2015 (Minute 32.12.15 refers), David White from the Torbay Development Agency outlined the submitted exempt report which set out details of the Initial Business Case for the Harbour Light Restaurant, Paignton in respect of potential development of the site. Members noted that the proposal was in line with the Port Masterplan to increase the use and vitality of Paignton Harbour, drawing people to the Harbour from the beach and town centre, which would also help make the Harbour more sustainable.

Resolved:

- (i) that the findings of the revised Initial Business Case for the Harbour Light Restaurant Building set out in Appendix 1 to the submitted exempt report be noted;
- (ii) that the Torbay Development Agency (TDA) be instructed to commission the site specific Flood Risk Assessment for the proposed development of the Harbour Light Restaurant building;

- (iii) that, subject to a satisfactory outcome from the Flood Risk Assessment identified in (ii) above, the Executive Head of Business Services in consultation with the Chairman of the Harbour Committee and the Torbay Development Agency, be asked to explore the option for the whole premises to be used by a single occupier, who would either own a long lease of the whole building or who could occupy the whole building on a shorter 25 year lease; and
- (iv) that the tenants of the Harbour Light Restaurant building continue to be consulted and kept informed as to the proposals that might affect the future use of the building.

(Note: prior to consideration of the item in Minute 42 Members confirmed that they would discuss the item on the Harbour Light Restaurant in public but that the report would remain exempt on the grounds that it contained exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).)

43. Review the Delegated Powers of the Executive Head of Tor Bay Harbour Authority

The Committee considered the submitted report on a review of the powers delegated to the Executive Head of Business Services – Tor Bay Harbour Master as contained within Torbay Council's Constitution to ensure that they were fit for purpose.

Resolved:

That, having reviewed the powers delegated to the Executive Head of Business Services, as set out in Appendix 1 and Appendix 2 to the submitted report, the Harbour Committee finds no reason to refer any proposed changes to the Council for determination.

44. Tor Bay Harbour Authority Business Plan

The Committee considered the submitted report which sought agreement of the Tor Bay Harbour Business Plan for 2016/17.

Resolved:

- (i) that the draft Tor Bay Harbour Business Plan 2016/17 as set out in Appendix 1 to the submitted report be approved; and
- (ii) that the Executive Head of Business Services and the Harbour Committee Chairman agree the final detail of the Tor Bay Harbour Business Plan 2016/17, and sign the Acceptance Statement in Section 9.

45. Operational Moorings Policy

The Executive Head of Business Services outlined the submitted report and highlighted the proposed amendments to the operational moorings facilities policy to ensure that a fair and equitable approach was applied to new, existing and potential facility customers that use Tor Bay Harbour and the harbour estate.

Resolved:

That the Tor Bay Harbour Operational Moorings and Facilities Policy – Version 11 set out in Appendix 1 to the submitted report be approved.

46. Harbour Committee Work Programme

The Committee considered the submitted report which set out the draft Work Programme for the Harbour Committee for the 2016/2017 Municipal Year. Members discussed the merit of reducing the number of meetings and issues considered by the Harbour Committee in light of reducing resources and the expansion of the role of the Executive Head of Business Services.

Resolved:

That the Executive Head of Business Services, in consultation with the Chairman of the Harbour Committee, be authorised to finalise the Harbour Committee Work Programme for 2016/2017 with a view to reducing the number of items and frequency of meetings.

47. Tor Bay Harbour Authority quarterly Budget Monitoring Report

The Committee received the Revenue Budget Monitoring Report which provided Members with projections of income and expenditure for the 2015/2016 financial year as at the end of February 2016 compared with approved budgets.

Members suggested that consideration should be given to using any future underspend in the Revenue Budget on providing night time security at Brixham Harbour as concerns have been raised by partner agencies over the security of the Port as the gates are being left open at night.

The Committee thanked the Executive Head of Business Services and his staff for their excellent performance and the high levels of income generated by the Harbour Authority.

The Committee noted:

- (i) the amended outturn position of the harbour account and adjustments to the Reserve Fund show in Appendix 1 to the submitted report;

- (ii) the Executive Head of Business Services' use of delegated powers to make decisions in relation to the budget allocated to the Tor Bay Harbour; and
- (iii) the Tor Bay Harbour Master's use of delegated powers to waive certain harbour charges, which so far this financial year has amounted to £10,726.45 (excl VAT) and that no additional charges have been levied.

48. Tor Bay Harbour Asset Management Plan

The Committee received the submitted report on a review of the Tor Bay Harbour Authority Asset Management Plan. The Executive Head of Business Services advised the Committee that the Asset Review Working Party had met on 23 February 2016 and reviewed the Asset Management Plan in accordance with their terms of reference.

Resolved:

That the Tor Bay Harbour Authority Asset Management Plan 2016/17 set out in Appendix 1 to the submitted report be approved.

49. Tor Bay Harbour Economic Impact Report

The Committee noted the submitted report which provided information regarding a recent study into the impacts of Tor Bay Harbour on the local economy. The report highlighted the key findings from the study and provided background reasons why an Economic Impact Assessment was commissioned.

The Committee noted the Tor Bay Harbour Economic Impact Assessment Study (2016) attached at Appendix 1 to the submitted report and the key findings set out in paragraph 2.5 of the submitted report.

Resolved:

That the Executive Head of Business Services be requested to issue a press release highlighting the positive impact of the Tor Bay Harbour on the local economy and use this document to help promote the benefits of the Tor Bay Harbour.

50. Tor Bay Harbour Authority Business Unit Performance Report

The Committee noted the submitted report which outlined the performance of the Tor Bay Harbour service area. The Executive Head of Business Services informed Members where performance was on target or below target.

51. Torquay/Paignton and Brixham Harbour Liaison Forums

Members noted the Minutes of the Torquay/Paignton and Brixham Harbour Liaison Forum meetings held on 8 March and 10 March 2016.

52. Quarterly Accident and Incident Data for Tor Bay Harbour

Members received the submitted report which provided a quarterly update on the current accident statistics for the Harbour Authority's operational area up to 9 March 2016.

Chairman

Harbour Committee Terms of Reference – June 2016

Terms of Reference:

To determine all matters relating to the strategic management of the Council's function as a Harbour Authority, in line with the Tor Bay Harbour **Port Masterplan** ~~Maritime Strategy~~ and the Council's Policy Framework. Specifically the Committee will:-

1. Manage all of the Harbour's financial matters in accordance with approved financial procedures and the Council's aspirations for the harbour to be self financing as outlined in the **Tor Bay Harbour Port Masterplan** ~~and maritime strategy~~ and including (but not limited to):
 - (a) the setting of harbour charges from time to time (including in-year changes to the schedule) normally following consultation with the relevant Harbour Liaison Forums;
 - (b) approving the annual revenue budgets within the ring-fenced harbour accounts;
 - (c) receiving quarterly budget monitoring reports and to approve variances as appropriate; and
 - (d) monitoring the harbour reserve funds and to seek to ensure that the funds are kept above an appropriate minimum contingency level and ensure the harbour remains self-financing;

providing that no decision by the Harbour Committee shall impact adversely on the Council's general fund or capital budget.

Membership:

9 members of the Council in accordance with the political balance requirements, plus up to five external non-voting advisors appointed by the Committee on a four year term **(maximum term as an advisor = 2 x 4 years)** and one non-voting advisor who is a private sector representative of the Board of the Torbay Economic Development Company Limited.

(Group Leaders will be asked to take account of the geographical spread of members in making appointments to the Committee)

Conservative (6)

Liberal Democrat (2)

Independent Group (1)

2. To act as Duty Holder for the purposes of the Port Marine Safety Code;
3. Approve and monitor a business plan for Tor Bay Harbour, in line with the Council's policy framework, and address any issues relating to performance;
4. Review these terms of reference annually and request the Council to make any necessary amendments and/or additions;
5. Review annually the powers delegated to the Executive Head **of Business Services** ~~Tor Bay Harbour Authority~~ Tor Bay Harbour Master and refer any proposed changes to the Council for determination. The Committee itself shall not authorise any changes;
6. Consider any other matters referred to the Committee by the Executive Head **of Business Services** ~~Tor Bay Harbour Authority~~;
7. Establish any sub-committee or working parties as the Committee sees fit, in particular a Harbour Appointments Sub-Committee for the recruitment of advisors;
8. Recommend the format, composition and governance of the Harbour Liaison Forums and keep the arrangements under review;
9. To provide strategic direction to the Executive Head **of Business Services** ~~Tor Bay Harbour Authority~~ and the **elected** Mayor in relation to those assets within Tor Bay Harbour and the harbour estate that are managed by Tor Bay Harbour Authority; and
10. Appoint advisors following receipt of recommendations from the Harbour Appointments Sub-Committee and the Board of Torbay Economic Development Company Limited. Appointments will be merit based and be in accordance with the Local Protocol for members of the Harbour Committee.

The suggested amendments to the existing Terms of Reference (March 2015) are shown above in **bold** and ~~strikethrough~~ text.

Recommendation

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

Kevin Mowat, Executive Head of Business Services

27 June 2016

Agenda Item 8

Appointment of Harbour Appointments Sub Committee

The Terms of Reference for the Harbour Committee state that the Committee membership will be :-

“9 members of the Council plus up to five external non-voting advisors appointed by the Committee on a four year term and one non-voting advisor who is a private sector representative of the Board of the Torbay Economic Development Company. Appointments will be merit based and be in accordance with the Local Protocol for members of the Harbour Committee”

The Committee is asked to consider appointments to the Harbour Appointments Sub Committee (a minimum of three Councillors). In June 2015, it was resolved that a Harbour Appointments Sub-Committee, comprising of five members of the Harbour Committee (The Chair, Vice-Chair and Councillors Amil, Cunningham and Carter), be appointed with the following Terms of Reference :-

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

Although not specifically stated in the Terms of Reference for the Harbour Committee it is a Harbour Committee recommendation that External Advisers should be limited to two 4-year terms, which is in line with good governance best practice. The table below shows the current position in respect of External Advisers :-

Advisor	Appointing Body	Date Appointed	4 year term ends
David Buckpitt	Harbour Committee	5 Dec 2011	End of Dec 2015
Michael Stewart	Harbour Committee	17 Dec 2012	End of Dec 2016
Paul Lloyd	Harbour Committee	23 Sept 2013	End of Sept 2017
Michael Ellis	Harbour Committee	16 Dec 2013	End of Dec 2017
Vacant	Harbour Committee		
Vacant	EDC	N/A	N/A

June 2016

Harbour Asset Review Working Party

The Terms of Reference for the Harbour Committee state that the Committee should :-

“determine all matters relating to the strategic management of the Council’s function as a Harbour Authority..... and provide strategic direction to the Executive Head of Business Services and the Mayor in relation to those assets within Tor Bay Harbour and the harbour estate that are managed by Tor Bay Harbour Authority”

The Committee is asked to consider appointments to the Harbour Asset Review Working Party. In June 2015 it was resolved that a Harbour Asset Review Working Party, comprising four members of the Harbour Committee (Chair, Councillors Amil, Carter and Cunningham) and two of the External Advisors to the Committee (Mr Stewart and Capt. 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.*

June 2016

Agenda Item 10

Harbour Budget Review Working Party

The Terms of Reference for the Harbour Committee state that the Committee should :-

“manage all of the Harbour’s financial matters in accordance with approved financial procedures and the Council’s aspirations for the harbour to be self financing as outlined in the Tor Bay Harbour Port Masterplan and including (but not limited to):

- (a) the setting of harbour charges from time to time (including in-year changes to the schedule) normally following consultation with the relevant Harbour Liaison Forums;*
- (b) approving the annual revenue budgets within the ring-fenced harbour accounts;*
- (c) receiving quarterly budget monitoring reports and to approve variances as appropriate; and*
- (d) monitoring the harbour reserve funds and to seek to ensure that the funds are kept above an appropriate minimum contingency level and ensure the harbour remains self-financing”*

The Committee is asked to consider appointments to the Harbour Budget Review Working Party.

In June 2015 it was resolved that a Harbour Budget Review Working Party, comprising three members of the Harbour Committee (Councillors Stringer and Amil), plus the Chairman and two External Advisors to the Committee (Mr Stewart and Mr Ellis), be appointed to scrutinise the draft Tor Bay Harbour Authority budget prior to presentation to the Harbour Committee and to review the full range of harbour charges. Also, to assist Officers to monitor and review the budget ahead of each quarterly Harbour Committee meeting.

June 2016

Pilotage Review Working Party

The Terms of Reference for the Harbour Committee state that the Committee should:-

1. Establish any sub-committee or working parties as the Committee sees fit and;
2. To act as Duty Holder for the purposes of the Port Marine Safety Code

It is therefore appropriate for the Harbour Committee to establish a Pilotage Review Working Party.

In June 2016 it was resolved that a Pilotage Review Working Party, comprising of two of the External Advisors Capt. Lloyd and Mr Buckpitt) be appointed to work alongside Officers to review the Pilotage arrangements for Tor Bay Harbour and to recommend to the Harbour Committee any amendments to the Pilotage Directions as and when appropriate.

June 2016

Agenda Item 12



Meeting: Harbour Committee

Date: 27th June 2016

Wards Affected: All

Report Title: Brixham Express Ferry Service

Is the decision a key decision? No

When does the decision need to be implemented? NA

Executive Lead Contact Details: Non-Executive Function

Supporting Officer Contact Details: Pat Steward, Head of Spatial Planning, 01803 208811, pat.steward@torbay.gov.uk

1. Purpose and Introduction

- 1.1 This report is for information only, providing the Harbour Committee with an update on the latest position on delivery of the Brixham Express ferry service.

2. Proposed Decision

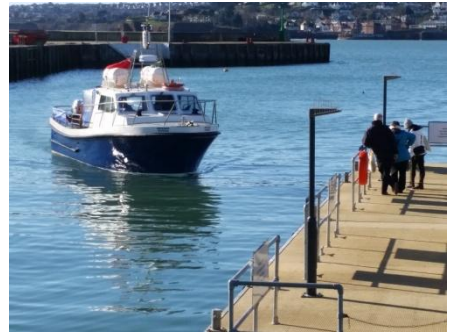
- 2.1 No decision is required

3. Position

Background

- 3.1 Torbay Council was awarded £2.75 million during spring 2012, from the Department for Transport's Local Sustainable Transport Fund (LSTF), to improve sustainable transport and cut congestion in the area, centred on a new commuter passenger ferry and improved harbour facilities for all. This is a project that has been in development since 2007.
 - 3.2 Following an extended procurement exercise, Torbay Council awarded a five year contract to Brixham Express Ltd (BEL) to provide the passenger ferry service element of the scheme.
- ### **Ferry operation and subsidy**
- 3.3 Brixham Express Ltd have been operating the Commuter Ferry Service since November 2014, to its planned timetable and starting operations one month earlier than they were contractually obliged to.

3.4 Until the end of March 2015, Brixham Express was providing a contractually compliant vessel and was able to claim subsidy as part of the contract. No subsidy has been paid to the company, since the end of March 2015, as it has not been able to comply with the vessel specification contained within the contract. This is due to their reserve vessel, Brixham Vitesse, which was brought to Torbay as part of their service continuity plan and carries 35 passengers, suffering terminal engine failure and requiring some significant maintenance to re-enter service during the latter part of 2015 and the beginning of 2016.



3.5 Nonetheless, Brixham Express continued to provide a service, chartering a 12 seater passenger vessel during this period.

Vessel specification

3.6 Brixham Express Ltd is not contractually obliged to provide a catamaran for the service, and may operate any vessel which meets our specification, whether this is owned by the company, or chartered by the company. Since April 2015, the only element of the specification which they have been unable to fulfil is the seating capacity requirements and the requirement for an onboard toilet for passengers. All other contractual obligations, including timetable and journey times have been fulfilled, and they have continued to operate all other levels of service that we require under the contract.

3.7 Providing a specific catamaran has been the choice of Brixham Express in order to fulfil the contract with the Council.

Obtaining certification for the vessel

3.8 The vessel is seeking a EURO B passenger certificate for operating within 20 miles of the coast, all year round. As a result the Maritime & Coastguard Agency (MCA) have been an integral part of this project to ensure the vessel can obtain a licence at the end of the refit, which has been underway since the autumn of 2014.

3.9 BEL originally anticipated the certification of the catamaran with the MCA would be complete by April 2015. However, the process with the MCA has taken significantly longer than expected. This has been due to a requirement to redesign part of the vessel in the spring of 2015, which has caused lengthy delays in the approval process to get licensed. It was disappointing that the MCA was not able to provide either an indicative or a clear timescale on how long it would take to certify the vessel.

Implications for Torbay Council

3.10 The Council has met with and written to the MCA, to try to understand the reasons for the significant delay and to broker a mutually acceptable outcome, not least because the lack of a contract compliant licensed vessel has put the continuation of the project

and BEL under severe financial pressure and has resulted in significant media and politically scrutiny. In addition, the funding available to deliver the service ceased at the end of March 2015 and therefore we have missed a key milestone in having the vessel operational in Torbay by end the of March 2015. Fundamentally, however, this is a matter that BEL and the MCA need to resolve between them.

Latest situation

- 3.11 It is very unfortunate that the vessel which BEL proposed would operate this service (a fairly modern twin screw Aluminium Catamaran, approx 15m long and 6 metres wide – see image right) has still not arrived. We understand, as of 31 May 2016, that the final sign-off from the Maritime and Coastguard Agency has been issued. The ferry is due leave Donegal (N. Ireland) on 3 June and arrive in Brixham by mid June. We also understand that the ferry is due to be placed “on the grid” in Brixham for a final inspection. The crew will also need to be trained.



- 3.12 The Council will resume subsidy payments once a vessel is used which meets the contract specification.
- 3.13 A further verbal update will be provided at the Harbour Committee meeting.



Meeting: Harbour Committee

Date: 27th June 2016

Wards Affected: All Wards in Torbay

Report Title: Tor Bay Harbour Authority Revenue Outturn 2015/16

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 (Ext 2724)
 ✉ E.mail: Kevin.Mowat@torbay.gov.uk

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

1. Purpose and Introduction

1.1 This report provides Members with the details of the Tor Bay Harbour Authority final expenditure and income figures against budget targets for 2015/16.

2. Proposed Decision

2.1 That the report is noted.

Supporting Information

3. Position

3.1 The Tor Bay Harbour Authority budget for 2015/16, based on a 2.0% increase in harbour charges, was approved by Council on 15th December 2014.

3.2 Subsequent amendments to the budget and variation to the Reserve Account have been noted by the Harbour Committee throughout the year.

3.3 The final outturn against the revised budget is summarised below:

	Original Budget 2015/16 £000	Revised Budget 2015/16 £000	Outturn 2015/16 £000
Tor Bay Harbour Authority Surplus/(Deficit)	(51)	0	0

- 3.4 Details of expenditure and income with explanations of material variances are provided at Appendix 1. The outturn figures form part of the Council's Statement of Accounts which is currently being prepared for audit.
- 3.5 The Committee is asked to note the Harbour Master's use of delegated powers to waive certain harbour charges, which at the end of this financial year amounted to £10,726.45 (excl VAT) and which were spread across both harbour accounts.
- 3.6 The Harbour's liability for prudential borrowing is detailed in the following table:

Capital Scheme	Amount Borrowed	Start of Repayments	Principal outstanding at 31st March 2016
Town Dock (Torquay Harbour)	£1,140,000	2008/09	£745,585
Haldon Pier (Torquay Harbour)	£1,200,000	2010/11	£1,018,209
Brixham Harbour New Fish Quay Development	£4,750,000	2011/12	£4,188,612
Torquay Inner Harbour pontoons (Inner Dock)	£800,000	2014/15	£763,678
TOTAL			£6,716,084

- 3.7 The Tor Bay Harbour Authority debt position at 31st March 2016 is set out in the table below:-

	Corporate Debtor System		HMS	
	Unpaid by up to 1 year	Unpaid over 1 year	Unpaid by up to 60 days	Unpaid over 60 days
Debt outstanding	£24k	£13k	£52k	£10k
Debt Impairment Provision	£20k			

Charges raised in advance and due after 1st April 2016 are not included in the above analysis. The 2015/16 accounts show a reduction in the required level of impairment provision with an adjustment of £20k returned to the Revenue Account.

7. Consultation

7.1 The Harbour Outturn position has been shared with the Harbour Liaison Forums.

8. Risks

8.1 There are no risks associated with this report.

Appendices

Appendix 1 – Harbour Revenue Accounts Outturn 2015/16

Additional Information

None

HARBOUR REVENUE ACCOUNTS 2015/16 - Outturn

TOR BAY HARBOUR AUTHORITY

Expenditure	2015/16 Original Budget £ ,000	2015/16 Revised Budget £ ,000	2015/16 Outturn £ ,000
Harbour Employee Costs	641	594	573
Operations and Maintenance:-			
Repairs and Maintenance	228	294	332
Rent/User Charges Concessions	5	15	15
Other Operating Costs	477	472	487
Management and Administration :-			
Internal Support Services	151	162	162
External Support Services	42	52	58
Other Administration Costs	86	157	150
Capital Charges	497	498	498
Contribution to Patrol Boat Operation	2	1	2
Contbn to General Fund - Cash Dividend	145	145	145
Contbn to General Fund - Asset Rental	315	315	315
Contribution to Reserve - HM system			26
Revenue Funding of Capital	0	48	48
	<u>2,589</u>	<u>2,753</u>	<u>2,811</u>
Income			
Rents and Rights :-			
Property and Other Rents/Rights	511	508	519
Marina Rental	397	397	448
Operating Income :-			
Harbour Dues	143	146	148
Visitor and Slipway	52	53	59
Mooring fees	174	192	198
Torquay Town Dock	270	289	289
Torquay Inner Dock	183	209	209
Fish Toll Income	510	620	647
Boat and Trailer parking	35	41	41
Recharged Services	67	95	105
Other Income	100	116	128
Contribution from Reserves	96	87	0
Reduction in Debt Impairment Provision	0	0	20
	<u>2,538</u>	<u>2,753</u>	<u>2,811</u>
Operating Surplus /(Deficit)	<u>(51)</u>	<u>0</u>	<u>0</u>

RESERVE FUND	
Opening Balance as at 1st April	688
Interest Receivable	5
Net Surplus / (Deficit) from Revenue Account	0
Contribution to/from Revenue Account	26
Capital Funding	0
Expected Closing Balance as at 31st March	<u>719</u>



Meeting: Harbour Committee

Date: 27th June 2016

Wards Affected: All wards in Torbay

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

Executive Lead Contact Details: Non-Executive Function

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

 **Telephone: 01803 292429 (Ext 2724)**

 **E.mail: Kevin.Mowat@torbay.gov.uk**

Pete Truman

Principal Accountant

 **Telephone: Ext 7302**

 **E.mail: 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 May 2016 to enable appropriate action to contain expenditure and maintain reserves at appropriate levels.
- 1.3 The Committee is asked to note that the amended outturn projection of the harbour account and adjustments to the Reserve Fund 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 has not been exercised this financial year to date.

2. Summary

- 2.1 The Tor Bay Harbour Authority budget was approved by the Harbour Committee on 21st December 2015.
- 2.2 This is the first budget monitoring report presented to the Harbour Committee for

the financial year 2016/17.

- 2.3 Additional income anticipated in year has been applied to the Repairs & Maintenance and External Support budgets to ease pressures on these spend headings. A reinstatement of 24 hour security cover at Brixham Harbour is being proposed by the Executive Head of Business Services

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
Projected Deficit 2016/17	36

- 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	745	1,272	(i)

- (i) An initial application for external funding from the Environment Agency was successful and the grant of approximately £1.3m is currently being used for Phase 2. These works are being carried out in Phases over a number of years commencing in 2011. A detailed assessment of both Piers was undertaken in April/May 2016, which identified the remaining works required for these structures. Consequently, a bid for grant in aid funding will be submitted to the Environment Agency and as part of the revised bid to the EA, the Council will also be investigating other alternative sources of partnership funding. One of these may be from developer contributions and within the planning consultation response for major harbour side redevelopment projects both the EA and Council Engineers have highlighted that a S106 contribution should be made from such development to the structural repairs at both Haldon and Princess Piers.

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	£745,585
Haldon Pier (Torquay Harbour)	£1,200,000	2010/11	£1,018,209
Brixham Harbour New Fish Quay Development	£4,750,000	2011/12	£4,188,612
Torquay Inner Harbour pontoons (Inner Dock)	£800,000	2014/15	£763,678
		TOTAL	£6,716,084

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

	Corporate Debtor System		Harbour Charges	
	Unpaid by up to 60 days	Unpaid over 60 days	Unpaid by up to 60 days	Unpaid over 60 days
Debt outstanding	£15k	£28k	£144k	£216k
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

Funds projects attached as Appendix 2. The Committee is asked to note this list and the obvious ongoing need for healthy Harbour Reserve Funds.

- 3.8 Over recent years the Harbour Committee has agreed to make annual contributions to the Council's General Fund building to a total of £460,000 by 2015/16. The Committee understood that the recommendation relating to the cash contribution should then be reviewed. It was also agreed by the Harbour Committee that any operating surplus for the years 2013/14, 2014/15 and 2015/16 be passed to the Council's general fund. (Providing the harbour reserve levels are not below the minimum recommended level).
- 3.9 The Harbour Committee Budget Working Party initially considered a schedule of budget reductions/income generating proposals by the Executive Head of Business Services to achieve the corporate General Fund contribution target of an additional £400,000 over 2016/17 to 2018/19. While the Working Party was generally supportive of the viability of income generating proposals it was felt that a number of high-risk budget cuts would threaten the operation of the Harbour function and its ability to raise income. These specific proposals were rejected and a revised additional contribution of £285,500 was offered back to the corporate centre with £97,000 to be applied from 2016/17.
- 3.10 Following developments in the Council's overall budget exercise the corporate centre made a counter request that amounted to :-
- Bringing forward £25k of identified savings in both 2017/18 and 2018/19, into the 2016/17 year
 - Plus an additional £50k of new savings in 2016/17

On consideration of the revised request, the Working Party accepted a plan presented by the Executive Head of Business Services to bring £50,000 of previously identified savings in future years forward to 2016/17. However, income streams proposed to realise the additional £50,000 of new contribution could not be agreed.

- 3.11 The proposals of the Working Party were accepted by Harbour Committee with a decision to make an additional contribution to the general fund of £147,000 in 2016/17, this recommendation being £50,000 below the contribution requested from the corporate centre. Additional savings identified by the Working Party for 2017/18 and 2018/19 have not yet been presented to committee for approval.
- 3.12 If the Council continues to request a significant contribution to the General Fund in the form of a cash dividend and asset rental fee there is a significant risk that the Harbour Authority will be unable to remain self funding. In that situation the Harbour Authority would require a precept from the General Fund and this scenario would be contrary to government best practice for the management of municipal ports.

Appendices

Appendix 1 Harbour Revenue Accounts for 2016/17

Appendix 2 Harbour Reserve Funds Project List

Additional Information

None

HARBOUR REVENUE ACCOUNTS 2016/17 - BUDGET MONITORING

TORQUAY and PAIGNTON HARBOURS

Expenditure	2016/17 Original Budget £ ,000	2016/17 Profiled Budget £ ,000	2016/17 Actual to Date £ ,000	2016/17 Projected Outturn £ ,000	Notes
Harbour Employee Costs	557	89	86	557	
Operations and Maintenance :-					
Repairs and Maintenance	229	17	15	239	1
Rent/User charges Concessions	23	22	14	15	2
Other Operating Costs	471	170	167	507	3
Management and Administration :-					
Internal Support Services	162	0	0	162	
External Support Services	42	0	0	50	4
Other Administration Costs	83	12	5	109	5
Capital Charges	498	0	0	498	
Contribution to Patrol Boat Operation	2	0	0	2	
Contribution to General Fund - Cash Dividend	160	0	0	160	
Contribution to General Fund - Asset Rental	447	0	0	447	
	2,674	310	287	2,746	
Income					
Rents and Rights :-					
Property and Other Rents/Rights	540	111	156	540	
Marina Rental	398	40	40	398	
Operating Income :-					
Harbour Dues	139	129	129	139	
Visitor and Slipway	53	4	8	53	
Mooring fees	196	193	193	196	
Town Dock	297	265	287	297	
Torquay Inner Harbour Pontoons	251	243	243	251	
Fish Tolls	571	68	94	571	
Boat and Trailer parking	36	32	42	42	6
Recharged Services	73	0	0	83	7
Other Income	120	72	86	114	6
Contribution from Reserves	0	0	0	26	5
	2,674	1,157	1,278	2,710	
Operating Surplus /(Deficit)	0	847	991	(36)	
RESERVE FUND					
Opening Balance as at 1st April				719	
Interest Receivable				6	
Net Surplus / (Deficit) from Revenue Account				(36)	
Contribution to Revenue Account				(26)	5
Anticipated withdrawals in year				(135)	8
Expected Closing Balance as at 31st March				528	

Note: In line with Harbour Committee minute 398 (5) December 2011 the minimum Reserve level at year end 2016/17 is £530k based on 20% of budgeted turnover to meet any deficit in the revenue budget or winter storm damage. The balance is earmarked for harbour related capital projects.

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

HARBOUR REVENUE ACCOUNTS 2016/17 - BUDGET MONITORING

NOTES

- 1 Projected savings from recharged services (see note 7) have been applied to the R&M budget figure to ease pressure on this heading.
- 2 The Projected Outturn has been reduced in line with the 2015/16 actual.
- 3 The Executive Head of Business Services is proposing reinstatement of 24 hour security cover at Brixham Harbour. There is currently a potential loss of undeclared fish toll income and this measure will help to ensure all fish tolls are captured as well as providing improved security for the harbour estate.
Full year costs are projected to be £48k with £36k due for part of 2016/17.
It is intended that the increase in costs will be mitigated going forward by income streams although these have yet to be confirmed.
- 4 The Projected Outturn reflects Engineers support costs now charged by Torbay Economic Development Company.
- 5 The remaining costs of the Harbour Management software system will be spent in the current year funded from the Reserve.
- 6 An adjustment has been made to correct an element of the Boat & Trailer Parking income which was originally mapped to Other Income.
- 7 A new regime for recharging electricity supplied to boats was implemented during 2015/16 and will increase the base income level going forward.
- 8 A schedule of proposed projects is presented to Harbour Committee every quarter. The projected outturn is an indicative figure of selected schemes within Appendix 2 to this report.

Agenda Item 14

Appendix 2

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 2015	719,000
Anticipated interest for year	6,000
Withdrawals in year	(26,000)
Projected Surplus/(Deficit) for year	(36,000)
Projected Consolidated Reserve Balance at 31st March 2016 (prior to implementation of any scheme on this schedule)	663,000
less: 20% of Budgeted Turnover	(530,000)
= Balance for Projects	133,000
Total costs of proposed Projects (as listed below).	1,227,900
<i>Shortfall in Reserve funding available</i>	<i>(1,094,900)</i>

Projects	Brixham	Torquay & Paignton	Timeframe
Torquay harbour - Haldon Pier fender replacement		£80,000	Short
Brixham Harbour - various (drying grids, fencing, forklift barriers)	£120,000		Short
Torquay harbour - cill repair		£10,000	Short
Brixham harbour - new work boat	£45,000		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 Town Dock - 'V' pontoon upgrade		£180,000	Long
Torquay harbour - Fuel Station refurbishment		£120,000	Long
TOTALS	£238,000	£989,900	

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

2015-16
Short
Medium
Long

Tor Bay Harbours Detailed Report 2015/16

Quarterly report for 2015/16 and 2015

No headings

Filtered by Flag: Include: Tor Bay Harbour Authority

Exclude: Archive

Key to Performance Status:

Projects:

No Data available	Milestone Missed	On Hold	On Target	Well Behind Target	Behind Target	Ahead of Target	Well Ahead of Target	Completed	Terminated
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Performance Indicators:

No Data	Well Below Target	Below Target	On Target	Above Target	Well Above Target
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Key to +/- Column:

+ Higher figures are better - Lower figures are better OFF Direction cannot be determined

Tor Bay Harbours Detailed Report 2015/16

Performance Indicators									
Status	Code	Title	+/-	Prev Year End	Annual Target	Q1 Act	Q2 Act	Q3 Act	Q4 Act
On Target	TDAMS01	<u>TDAMS01 Harbour estate lettings occupancy</u>	+	98.30%	100.00%	98.30%	98.30%	98.30%	98.30%
On Target	TDAMS04	<u>TDAMS04 Navigation Lights availability</u>	+	99.91%	100.00%	99.91%	99.92%	99.85%	99.85%
Well Above Target	TDAMS07	<u>TDAMS07 Brixham Harbour Fish Tolls</u>	+	£565,232.62	£510,000.00	£139,470.08	£253,910.30	£466,156.01	£1,113,057.37
Below Target	TDAMS08	<u>TDAMS08 Harbour Users Survey</u>	+	n/a	81.0%	n/a	n/a	n/a	75.8%
On Target	THARB08	<u>To Produce and Review a Risk Register for the Business Unit</u>	+	Yes	Yes	n/a	n/a	n/a	Yes
Well Below Target	THARB11	<u>Reduce the number of reportable accidents including (RIDDOR)</u>	-	6	4	2	4	7	7
On Target	THARB17	<u>Implement the safety management improvement plan</u>	+	93%	100%	n/a	n/a	n/a	95%
On Target	THARB21	<u>Test and Review a Business Continuity Plan for the Business Unit</u>	+	Yes	Yes	n/a	n/a	n/a	Yes
Well Above Target	THARB23	<u>To Reduce Staff Absence</u>	-	2.618%	2.500%	0.644%	0.702%	0.964%	2.202%
Above Target	THARB26	<u>% Variation on Budgeted Income - Tor Bay Harbour Authority</u>	+	4.11%	0.00%	1.97%	3.15%	8.00%	8.47%

Tor Bay Harbours Detailed Report 2015/16									
Performance Indicators									
Status	Code	Title	+/-	Prev Year End	Annual Target	Q1 Act	Q2 Act	Q3 Act	Q4 Act
Below Target	THARB27	<u>% Variation on Budgeted Expenditure - Tor Bay Harbour Authority</u>	-	1.47%	0.00%	1.12%	0.46%	5.40%	6.33%
On Target	THARB29	<u>Issue local Notices to Mariners and enforce Harbour Byelaws</u>	+	Yes	Yes	Yes	Yes	Yes	Yes
On Target	THARB31	<u>Safety Management System audit completed and improvement plan agreed</u>	+	Yes	Yes	n/a	n/a	n/a	Yes
On Target	THARB32	<u>Review and exercise the Tor Bay Harbour Emergency Response Plan</u>	+	Yes	Yes	n/a	n/a	n/a	Yes
On Target	THARB35	<u>Refresh the Tor Bay Harbour Website</u>	+	Yes	Yes	Yes	Yes	Yes	Yes
On Target	THARB37	<u>Continue Benchmarking through relevant trade and professional associations</u>	+	Yes	Yes	Yes	Yes	Yes	Yes
On Target	THARB39	<u>Complete Equality Impact Assessments</u>	+	Yes	Yes	n/a	n/a	n/a	Yes
On Target	THARB40	<u>Implement Equality Impact Assessment Improvement Plans</u>	+	Yes	Yes	n/a	n/a	n/a	Yes
On Target	THARB42	<u>To review the Tor Bay Harbour Operational Moorings Policy</u>	+	Yes	Yes	n/a	n/a	n/a	Yes
On Target	THARB59	<u>Agree the Tor Bay Harbour Authority Business Plan</u>	+	Yes	Yes	n/a	n/a	n/a	Yes
On Target	THARB60	<u>Produce an Asset Management Plan for the Business Unit</u>	+	Yes	Yes	n/a	n/a	n/a	Yes
On Target	THARB62	<u>Set the Tor Bay Harbour Charges and Harbour Budget</u>	+	Yes	Yes	n/a	n/a	n/a	Yes
On Target	THARB64	<u>Set up an appropriate Audit Plan for Tor Bay Harbour Authority</u>	+	Yes	Yes	n/a	n/a	n/a	Yes
Well Below	THARB65	<u>% of responses who believe Tor</u>	+	n/a	95.0%	n/a	n/a	n/a	83.2%

Tor Bay Harbours Detailed Report 2015/16									
Performance Indicators									
Status	Code	Title	+/-	Prev Year End	Annual Target	Q1 Act	Q2 Act	Q3 Act	Q4 Act
Target		<u>Bay Harbour Authority are properly managing safety in Torbay Harbour</u>							
On Target	THARB70	<u>Annual audit/inspection from Trinty House</u>	+	Yes	Yes	n/a	n/a	n/a	Yes
On Target	THARB74	<u>To hold quarterly meetings with harbour users and stakeholders</u>	+	Yes	Yes	Yes	Yes	Yes	Yes
Above Target	THARB76	<u>Number of Maritime Events supported</u>	+	42	43	n/a	n/a	n/a	47
Projects									
Project Status	Code	Title	Project End	Last Review Date	Achieved	Missed	Arising		
On Target	THARB67	<u>Influence decision making over the management measures of the new SAC in Torbay</u>	31/03/2017 (due)	03/03/2016	No significant management measures currently under discussion.				
On Hold	THARB55	<u>Working with stakeholders to investigate options to improve the management of the new Fish Market</u>	31/03/2017	28/03/2016					
Printed by: Capt. Kevin Mowat ph 292429			SPAR.net			Print Date: 23 June 2016 12:38			



Meeting: Harbour Committee

Date: 27th June 2016

Wards Affected: All wards in Torbay

Report Title: Tor Bay Harbour Authority - Enforcement and Prosecution 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**

 **E.mail: Kevin.Mowat@torbay.gov.uk**

1. Purpose

- 1.1 Tor Bay Harbour Authority has an Enforcement and Prosecution Policy. The Harbour Committee is asked to review and endorse the Enforcement and Prosecution Policy. Our customers will benefit from a clear and concise Enforcement and Prosecution Policy that is regularly reviewed by the Harbour Committee.

2. Proposed Decision

- 2.1 **That the Enforcement and Prosecution Policy shown in Appendix 1 to this report is approved.**

3. Action Needed

- 3.1 The Harbour Committee need to approve the Enforcement and Prosecution Policy and the Executive Head of Business Services/Tor Bay Harbour Master will ensure that the Policy is understood by officers and promulgated to the public and harbour users as appropriate.

4. Summary

- 4.1 Torbay Council, acting in its capacity as Tor Bay Harbour Authority, has the powers to make harbour Byelaws. The current set of Tor Bay Harbour Byelaws came into force in November 1994.
- 4.2 Byelaws empower harbour authorities to regulate activities for specific purposes, reflecting local circumstances and enabling the business of the harbour to be conducted efficiently and safely.

- 4.3 The safe and proper use of the harbour is also regulated directly via the Tor Bay Harbour Act 1970 and subsequent local harbour acts and/or Orders.
 - 4.4 Reviews of the Council's harbour powers and legislation were undertaken in 2002, 2010 and 2015. In 2013, the Harbours Act 1964 was amended by the Marine Navigation Act 2013, and this introduced a new 'power of harbour direction'. As a consequence of the most recent review of legislation and as part of its compliance with the Port Marine Safety Code, the Council has now applied for powers of harbour direction.
 - 4.5 Occasionally marine incidents occur in the harbour. Such incidents may involve death, serious injury, pollution and other undesirable outcomes and they may involve breaches of national or local laws. There may be the need on the part of the harbour authority to initiate enforcement action that may lead to prosecution in their own right or through an agency of another authority such as the Police, the Environment Agency or the Maritime and Coastguard Agency.
 - 4.6 It is therefore essential that Tor Bay Harbour Authority has a fit for purpose Enforcement and Prosecution Policy. Keeping such a policy under regular review reflects national best practice.
-

Supporting Information

5. Position

- 5.1 The original Enforcement and Prosecution Policy was published in 2004 and the current version was approved by the Harbour Committee on 23rd June 2014. Appendix 1 shows the existing policy and following a review of this policy, no amendments have been identified and no changes are proposed.
- 5.2 The Harbour Authority has statutory powers to regulate the conduct of vessels in the harbour's jurisdiction and to assist in managing the risks of marine operations. To these ends, enforcement action will sometimes be appropriate.
- 5.3 The Harbour Authority recognises that most harbour users want to comply with the law. Therefore, where it can, the Harbour Authority will help users to meet their legal obligations without unnecessary expense, while taking firm action – including prosecution where appropriate – against those who flout the law or act irresponsibly.
- 5.4 The purpose of any enforcement action is to protect the safety of residents, harbour users and visitors to Tor Bay Harbour. The Harbour Authority has the options of negotiation, education and persuasion and, where a criminal offence has occurred, of cautioning or prosecuting the offender.
- 5.5 The Enforcement and Prosecution Policy covers the following areas ;-

- Aims of the Policy
- Guiding Principles
- Clear Standards
- Consistency
- Targeting & Proportionality
- Monitoring

5.6 Adoption of a clearly stated Enforcement and Prosecution Policy should help our community to understand our approach to crime and disorder within the limits of the harbour. Furthermore it should reduce or eliminate any unlawful discrimination, direct or indirect, regarding enforcement and prosecution action undertaken by the harbour authority.

5.7 There are no resource implications associated with this recommendation and this policy should have no impact on other Business Units.

6. Possibilities and Options

6.1 To take no action and continue using the existing Enforcement and Prosecution Policy without recording that a review has been undertaken.

7. Preferred Solution/Option

7.1 To approve the recommendation set out in 2.1 above.

8. Consultation

8.1 The Enforcement and Prosecution Policy is a well-established policy that has been available to the public, via the website, for many years. Members of the Harbour Liaison Forums and harbour staff were asked to participate in the review of this policy.

9. Risks

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

9.2 The adoption of a clearly stated Enforcement and Prosecution Policy will enhance the Council's reputation for transparency and accountability in respect of its delivery of its harbour authority function.

9.1 There are no remaining risks.

Appendices

Appendix 1 Proposed Tor Bay Harbour Authority Enforcement and Prosecution Policy – June 2016

Additional Information

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

Tor Bay Harbour Authority Enforcement and Prosecution Policy – June 2014

Torbay Council's Community Safety Enforcement Policy

APPENDIX 1



TOR BAY HARBOUR AUTHORITY

ENFORCEMENT POLICY

Introduction

One of the functions of Tor Bay Harbour Authority is to act as a regulator and enforcer for a range of legal duties and powers contained in Acts of Parliament, Regulations and Orders (including various harbour byelaws).

The purpose of enforcement is to regulate the use of the harbour and harbour estate to enable business to be conducted efficiently and safely; thereby protecting harbour users, local residents and visitors to Tor Bay Harbour and safeguarding the environment. Enforcement is a very broad term which covers a large spectrum of work and includes offering advice and information through to bringing prosecutions for more serious offences.

The Tor Bay Harbour Authority team is responsible for a range of harbour and marine legislation. This policy details the standards and guidance that will apply when the harbour officers undertake their regulatory duties.

Aims

The Harbour Authority will :-

- Seek to achieve compliance in a fair, consistent, proportional, transparent and targeted manner;
- Seek to be clear, open and helpful in its approach to enforcement;
- Seek to target enforcement resources at areas of highest risk, including non-compliant businesses and individuals;
- Carry out its activities in a way that supports those they regulate to comply and improve.

In doing so it will act in accordance with national guidance and standards and any supplementary local policies.

Guiding Principles

The Guiding Principles that the Harbour Authority will have regard to when undertaking their regulatory and enforcement role are :-

- Any decision regarding enforcement action will be impartial and objective, and will not be influenced by race, gender, politics, sexual orientation, disability or religious beliefs of any alleged offender, victim or witness; such decisions will not be affected by improper or undue pressure from any source;
- The Harbour Authority believes that the majority of individuals and businesses wish to comply with legal requirements, and should be assisted to do so;
- We will give positive feedback, wherever possible, to encourage and reinforce good practices;
- In dealing with any enforcement situation, the Harbour Authority's actions will be proportionate to the scale, seriousness and intention of any non-compliance;
- There will be consistency of enforcement, whilst recognising that there are different, satisfactory solutions to each issue. We will refrain from being over-prescriptive whenever possible;
- We will provide a variety of opportunities for those we regulate to engage with us;
- This policy is built around a process of escalation. Except in the most serious cases such as a serious breach or where advice/warnings have not been heeded, adequate opportunity will be given to rectify non-compliance before formal legal action commences;
- Prosecution will normally only be considered where it is in the public interest to do so and where there have been serious breaches or where other enforcement measures have failed;
- Regard shall be had to the relevant legislation and codes of practice which protect the rights of the individual and guide enforcement action (e.g. Human Rights Act, Code for Crown Prosecutors, Regulators Code);
- Regard shall be had to the Council/Harbour Authority's own policies in respect of Customer Care, Equal Opportunities, etc.

Clear Standards

- Matters relating to enforcement and regulation will be dealt with promptly;
- Officers will announce themselves on arrival and show identification (unless they are already well known to the person). Officers will always explain the purpose of their visit/enquiry;
- Officers will provide their name and contact details to those persons or businesses with whom they are in contact concerning a regulatory or enforcement matter;
- Complaints relating to enforcement or regulatory matters will normally only be dealt with if the name and address of the complainant is given. Any such identification will be treated in confidence, but may need to be disclosed (with prior consent) should formal legal proceedings be taken against the person or

business to which the complaint relates. Anonymous complaints may however be investigated if the matter relates to a serious health & safety or navigational issue. etc;

- Officers will not be able to act as consultants or legal advisors to individuals or businesses, but will be available (by appointment if necessary) to discuss general issues or matters of specific enforcement with the aim of assisting or guiding compliance;
- Officers will be professional, courteous and helpful in their conduct of regulatory or enforcement matters, and wherever possible will seek to work with individuals and businesses towards compliance;
- Officers will endeavour to provide advice in a clear and simple manner and where any corrective or remedial action is necessary, an explanation will be given as to why it is necessary, and over what timescale it is required. Where non-compliance may result in further enforcement action or prosecution the matter will normally be confirmed in writing by way of a “Formal Warning”;
- Where necessary, we will provide leaflets and other information in languages other than English to assist individuals in complying with our requirements and recommendations;
- Officers will generally seek an informal resolution to cases of non-compliance except where immediate formal enforcement action is required. (e.g. serious issues relating to the safety of the harbour or harbour estate, including the control of pollution, etc);
- Where there is known to be an involvement of any other enforcement agency, or any case involves joint enforcement arrangements, the Harbour Authority will consult and share intelligence with that other agency prior to taking any formal enforcement action;
- Where any charges or fees are to be levied for a service, individuals and businesses will be informed of the cost or rate of charge prior to the service being provided. All fees and charges are published on the Tor Bay Harbour website;
- Any dissatisfaction with the quality and/or advice given or any complaint concerning the harbour authority’s failure to comply with procedures, rules, statutory obligation or published service standards will be dealt with under the Council’s Corporate Complaint procedure. Copies of this procedure are available from offices of the Council, or by accessing the Council’s Website (www.torbay.gov.uk).

Consistency

Consistent enforcement action is desirable, but uniformity in approach would not always recognise individual circumstances. We will encourage consistency of approach by :-

- Providing appropriate training and supervision of officers;
- Ensuring compliance with the standards set out in this policy;

- Recognising that we should not normally take formal enforcement action or prosecution in the case of minor infringements;
- Recognising that in some situations, we have no legal discretion but to pursue enforcement action;
- Taking into consideration the guidance issued by Government Departments and other national agencies, e.g. Department for Transport, Maritime & Coastguard Agency, Health and Safety Executive, etc.

Targeting and Proportionality

We will not initiate formal enforcement procedures without a clear need to do so. We believe that through a positive, proactive approach, we can achieve higher compliance rates and better overall outcome than by using reactive enforcement action.

Any formal enforcement procedures will :-

- Aim to change the behaviour of the offender;
- Aim to eliminate any financial gain or benefit to the individual or business from non-compliance;
- Be responsive and consider what is the most appropriate sanction for the particular offender and regulatory issue;
- Be proportionate to the nature of the offence and the harm caused;
- Aim to deter future non-compliance.

Our greatest enforcement effort will be where an assessment shows that both :-

- (i) A compliance breach or breaches would pose a serious risk; and
- (ii) There is a high likelihood of non-compliance.

Monitoring

To ensure that this policy is effective, a number of monitoring and feedback mechanisms will be utilised :-

- Opportunities for businesses and members of the public to comment on the policy;
- Feedback welcomed through the Tor Bay Harbour website;
- Periodic consultation with harbour stakeholders, e.g. the Harbour Liaison Forums;
- Though open discussion with the public and elected members as part of the Harbour Committee's cycle of business.

Working with Others

The Harbour Authority will work closely with other Council services and our aim is to provide a streamlined service to you.

We are part of a much wider regulatory system in Torbay and have good working relationships with other regulators such as the Maritime & Coastguard Agency, Environment Agency, Police, etc and this enables us to have a much more joined up and consistent service. This includes sharing information and data on compliance and risk, where the law allows, to help target regulatory resources.

June 2014



TOR BAY HARBOUR AUTHORITY

PROSECUTION POLICY

As stated above the decision to prosecute is a serious one, having implications for the defendant, for witnesses, sometimes for the Harbour Authority and wider still, for the consistent and effective maintenance of standards. Prosecution will be considered only when :-

- There is sufficient admissible and reliable evidence to provide a realistic prospect of conviction; and
- It is in the public interest to do so.

Prosecution will normally be in the public interest when one or more of the following criteria are satisfied :-

- a) Unlawful acts or omissions have seriously or repeatedly compromised the safe and efficient use of the harbour/harbour estate or the environment;
- b) The offending created/posed a risk to public safety or to the environment;
- c) Through blatant action or inaction risks causing pollution have been exacerbated;
- d) Where there is disregard for safe practice;
- e) The offence involves a failure to comply in full or in part with a statutory notice, including a Harbour Master's direction;
- f) The offender has relevant previous convictions or has been cautioned for a relevant matter;
- g) The offender has flagrantly breached harbour bye-laws or other harbour legislation and has ignored advice or requests to remedy breaches of such legal requirements;
- h) The offender obstructs an Officer of the Harbour Authority carrying out statutory duties or where the offence involves the failure to supply information or the supply of false or misleading information upon lawful request;
- i) The offence, whether or not serious in itself, is widespread in Tor Bay Harbour;
- j) The Harbour Authority is under a statutory duty to enforce legislation.

The above list is not exhaustive and the decision whether to prosecute will be taken having regard to the legal proceedings sheet and the individual circumstances of each case.

Regard will be had to the Code for Crown Prosecutors at all stages of proceedings.

June 2014

Legal Proceedings Decision Sheet

	For Prosecution (= -1)	Against Prosecution (= +1)	Score
1.	Serious Incident	Minor Incident	
2.	Deliberate act or potential to cause injury or damage through reckless disregard.	Unforeseeable/Accidental / Minor error of judgement	
3.	Inadequate control systems in place.	Adequate control systems in place.	
4.	Previous advice already given to the company / individual.	No precise information given by the harbour authority previously.	
5.	Company/individual aware of the risk involved in their action.	Company/individual could not have been aware of the risk involved in their action.	
6.	Management/supervisor responsible for the incident.	Employee or supplier responsible for the incident.	
7.	Poor confidence in management / individual.	Good confidence in management / individual.	
8.	Previous prosecution for a similar offence.	First offence.	
9.	No remedial action taken / proposed.	Remedial action already taken.	
10.	Management / individual obstructive in the investigation.	Management / individual co-operative with the investigation.	
11.	Attempt to cover up the true facts.	Attitude open and honest.	
12.	Harbour Authority/Council reputation tarnished if prosecution is not pursued.	Prosecution may be seen as over zealous enforcement.	
13.	Prosecution will secure definite results, e.g. raise harbour safety standards	No obvious improvements in standards will result from prosecution.	
14.	Prosecution will resolve an important legal issue.	Prosecution will not clarify a legal issue.	
15.	Harbour Authority identified problems on a previous occasion.	Harbour Authority did not identify problems on a previous occasion.	
Total			

If statements in column 1 are true, score -1.

If statements in column 2 are true, score +1.

If neither statements are true, or not applicable, score nil.

A total minus score will favour a prosecution.

However, a prosecution must be justifiable by a logical argument, including such reasons as :-

- (i) the protection of employees or members of the public;
- (ii) to remedy deficiencies due to incompetent or irresponsible activities.

We welcome your feedback at any time. You can provide feedback in the following ways:

Website: www.torbay.gov.uk/feedback

Email: complaints@torbay.gov.uk

Agenda Item 17



Tor Bay Accident / Incident List

	Date	ID Code	Accident Category	Name		
	12/06/2016	TOR0713REP	Contact - Floating object	Collision with passenger pontoon, Brixham Harbour		
	29/05/2016	TOR0711REP	Slip, trip, fall same level	Fatality Onboard Tringo Brixham Harbour		
	28/05/2016	TOR0712REP	Other personnel or public safety item	Brixfest Firework Display & Ferry Berthing Issues		
	08/05/2016	TOR0710INV	Capsizing/Listing	Dittisham Princess Listing		
	30/04/2016	TOR0709INV	Vessel Wash	White Pearl		
	28/04/2016	TOR0708CLO	Breaking Free of Mooring	Section of harbour wall pull out by Dart Princess		
	27/04/2016	TOR0707CLO	Pollution - Water	Diesel Plume at Paignton		
	20/04/2016	TOR0706CLO	Other nautical safety	Floating Line		
	19/04/2016	TOR0705CLO	Fall from height	Body Recovery		
	06/04/2016	TOR0704CLO	Fire / Explosion	Haldon Pier Fire		
	28/03/2016	TOR0702CLO	Breaking Free of Mooring	Miss Cheivious		
	28/03/2016	TOR0703IVD	Pollution - Water	HMS ECHO		
	09/03/2016	TOR0698REP	Breaking Free of Mooring	'Whipsea' - broke free from mooring		
	09/03/2016	TOR0699REP	Slip, trip, fall same level	Trip and fall on Middle Pier, Brixham		
	09/03/2016	TOR0700REP	Breaking Free of Mooring	'Turn-a-bout' - broke free from mooring		
	04/03/2016	TOR0697REP	Other nautical safety	Unexploded ordnance		
	16/02/2016	TOR0696CLO	Contact - Fixed object	'Brixham Vitesse' / Beacon Quay Slipway		
	19/01/2016	TOR0695CLO	Dangerous occurrence	Potential unexploded ordnance		
	06/01/2016	TOR0694CLO	Fire / Explosion	Fire at Molly Malones		
	31/12/2015	TOR0693CLO	Flooding/Foundering	'Broom' - sinking on outhaul mooring		
	21/12/2015	TOR0692CLO	Breaking Free of Mooring	'Liberty Lass' stern line parted		
	18/12/2015	TOR0691CLO	Other nautical safety	Scallop ranch floats		
	10/12/2015	TOR0690CLO	Breaking Free of Mooring	MFV 'Mary Anne' slipped lines		
	02/12/2015	TOR0689CLO	Flooding/Foundering	'Florrie B' - sank on mooring		

Number of Accidents listed = 24

Incident report status as follows;

Reported = 7; Investigating = 2; Investigation Complete = 1; Actioned-Closed = 14

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

Meeting Title	Brixham Harbour Liaison Forum
Venue	Brixham Harbour Office
Date	17 th June 2016 at 10.30am

Present	Mr D Bartlett (DB) Miss K Annis (KA) Mrs A Blackburn(AB)	Cllr N Bye (NB) Cllr V Ellery (VE) Mr N O'Brien (NO)	Mr D Faithful (DF) Mr B Wheatley (BW)

Agenda Items	<ol style="list-style-type: none"> 1. Apologies 2. Welcome 3. Minutes of the last meeting – 10th March 2016 4. Matters arising from the last meeting <ol style="list-style-type: none"> a) Loading Bay drainage issue – update b) Harbour Estate Parking – enforcement - update c) Capital works – drying grid – update d) BYC Meeting - update 5. Maritime Events 2016 6. Quarterly Accident & Incident Data 7. Update on Fast Ferry 8. Enforcement and Prosecution Policy 9. Harbour Committee <ol style="list-style-type: none"> a) Upcoming Agenda <p>Date of the next meeting – TBA</p>

1.	Apologies for Absence	Action
	Apologies were received from, the Mayor Gordon Oliver, Cllr Nicole Amil and Mike Stewart.	

2.	Welcome	Action
	DB welcomed everyone and advised that he would be chairing the meeting today in the absence of Kevin Mowat.	

3.	Minutes of the last meeting	Action
	It was agreed that the minutes of the last meeting on the 10 th March 2016, were a true and accurate record of that meeting.	

4.	Matters Arising	Action
a)	<p>Loading Bay - drainage issue update DB reported to the Forum that this has now been completed and at no cost to the Harbour Authority.</p>	All to note
b)	<p>Harbour Estate Parking – enforcement DB advised that the new system is well underway with the parking now being enforced. He reported that there was an issue with the tablet located in the Security Hut which was losing the wifi signal and several registrations had been lost and led to tickets being issued. This issue has now been resolved and the system is now using the main broadband line, the tickets have been rescinded by Premier Park, but going forward there will be a cost to the Harbour Authority for any future tickets that are rescinded. From this week customers are to be given a unique reference number when they log their vehicle in, this is to be kept as proof that they have been added to the system.</p>	
c)	<p>Capital Works – drying grid - update DB reported to the Forum that the works to the drying grids have been completed, grouting to the Inner harbour walls and underpinning of a small section was also included in the works, and DB was pleased to advise that all repairs came in on budget.</p>	
d)	<p>BYC Meeting – update DB and DF advised that they had a brief meeting and site inspection regarding the possibilities regarding the use of the Brixham Yacht club compound. - It was agreed to update at a later stage.</p>	

5.	Maritime Events 2016	Action
	<p>DB reported that the Pirate Festival, Heritage Week/ Brixfest Regatta had all been very successful events and had attracted large crowds into Brixham. DB made special note of thanks to the Brixham Yacht club in their efforts and assistance with the incident involving the tragic fatality that occurred during the Heritage Regatta.</p> <p>DB also praised the efforts of all Council staff and volunteers who helped make the Torbay Air Show a hugely successful event, and reported that preparations are well underway for the Brixham Trawler Race tomorrow.</p>	

6.	Quarterly Accident & Incident Data	Action
	<p>KA advised that there had been four boat break-ins reported this week, all were in the Western Lady area. There had been a fatality during the Heritage Regatta and also substantial damage was sustained to the passenger pontoon this week when a vessel lost use of its astern gear. The pontoon repairs are in the hands of the insurers and it is expected that the damaged section will be out of use for the whole of the summer season. Arrangements have been made for passenger vessels to use the end of the visitor's pontoon.</p>	DB

7.	Update on Fast Ferry	Action
	DB informed the Forum that the new 'Frequent Ferry' is due to arrive in Brixham tomorrow afternoon.	
8.	Enforcement and Prosecution Policy	Action
	VE announced that at the recent IFCA meeting it was decided that three new officers would be appointed and should help with the current shortfall of resources that they have.	
9.	Budget outturn 2016/16	Action
	KA reported that the Harbour Authority had originally budgeted for a deficit of £51,000, however after a bumper year for income from Fish Tolls, along with recharging efforts for electricity and waste; the harbour account ended the year at a break even position. DB went on to advise the Forum about the new waste compactor that has been installed and reduced our collections from 4 to 6 times per week to once a week. The Harbour Authority should see the benefit in this year's expenditure.	
10.	Harbour Committee – Upcoming Agenda	Action
	NB informed the Forum of the items on the agenda for the next Harbour Committee meeting on 27 th June 2016, which is due to be held in the Town Hall in Torquay. NB also advised that the September date for the Harbour Liaison Forum is likely to be combined with the Torquay & Paignton Forum and will take place in the Paignton Sailing Club, further information will follow.	KA

Next Meeting

Venue

Future meetings

Dates of Harbour Committee Meetings

Brixham Harbour Office	
6 th - 8 th September 2016	10.30 am TBC (Paignton Sailing Club)
2 nd December 2016	10.30 am
27 th June 2016	5.30 pm (Torquay)
13 th December 2016	5.30 pm (Torquay)

Agenda Item 18



Appendix 1

**Meeting Title**

Torquay & Paignton Harbour Liaison Forum

Venue

Torquay Harbour Office

Date

14th June 2016 at 10.30 am

Present

Capt K Mowat (KM) Mayor (GO) Cllr N Bye (NB) Cllr N Amil (NA) Cllr R Stringer (RS)	Mr S Pinder (SP) Mr N Burns (NBu) Mr M Stewart (MS) Mr M Ellis (ME) Mr D Buckpitt (DB)	Mr J Bond (JB) Mr A Rayner (AR) Ms C Rugg (CR) Miss L Stewart (LS)
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1. Apologies
2. Welcome
3. Minutes of the last meeting – 8th March 2016
4. Matters arising from the last meeting
 - a) Paignton Harbour Development Proposal - update
 - b) Paignton Beach Slipway
5. Capital Works
 - a) Haldon Pier – update
 - b) Princess Pier – update
 - c) Town Dock
6. Maritime Events 2016
7. Quarterly Accident & Incident Data
8. Update on Fast Ferry
9. Enforcement and Prosecution Policy
10. Budget Outturn 2015/16
11. Harbour Committee
 - a) Upcoming Agenda

Date of the next meeting – 6th September 2016 at 10:30 am (TBC)
29th November 2016 at 10:30 am

1.	Apologies for Absence	Action
	Apologies were received from Mike Smith, Marshall Ritchie, Cllr Chris Robson, Mike Ould, Clive Baker & Cllr Christine Carter.	
2.	Welcome	Action
	KM welcomed everyone to the meeting.	
3.	Minutes of the last meeting	Action
	It was agreed that the minutes of the last meeting on the 8 th March 2016, were a true and accurate record of that meeting.	
4.	Matters Arising from Last Meeting	Action
a)	Paignton Harbour Development Proposal – update KM advised that a site-specific flood risk assessment has not been undertaken following further advice from the Torbay Development Agency (TDA). The clear professional advice from Dave Stewart (TDA) was that, due to the flood risk criteria that would be applied during the consent process, in his view there will be objections to a change of use to sell alcohol on the ground floor of the premises. It is highly unlikely that the objections could be overcome. Therefore, an amended report will be submitted to the Harbour Committee to focus on the first floor level. Examples of where this has worked include the Rockfish restaurant and the Old Market House at Brixham. The ground floor could be used as a coffee shop/cafe.	SP/KM
b)	Paignton Beach Slipway KM advised that he had asked the Harbour team to look at this issue. There may be an option to try a solution similar to what has happened at Oddicombe beach, where funding has been attracted through Sailing Club for the slipway to be extended. GO advised that the Paignton Sailing Club had approached him with concerns over safety issues due to the drop at the end of the slipway. KM advised that funding a slipway extension will not be a quick process and it will not be resolved until after the sailing season. As an interim solution, it was suggested that Tor2 could be asked to use their beach cleaning plant to shift some beach material to the end of the slipway on the day before any sailing events. It was also suggested that the Harbour team could assist if required.	
5.	Capital Works	Action
a)	Haldon Pier – update KM advised that nothing had happened on Haldon Pier as the contractor has been working on Princess Pier. However, it has been noticed that some cracking has worsened on the surface of Haldon Pier, which is probably due to the Dartmouth Crab Company taking on seawater. KM is looking to relocate this operation to a different location to prevent further damage. Further underwater repairs will be undertaken during the next phase when the funding has been secured.	
b)	Princess Pier – update KM advised that nearly all of the underwater repair works have been completed. In addition, the re-decking work was completed in time for the Easter holidays. There was an issue caused by the decking contractors resulting from grinding activity. A number of boats berthed on the Marina had suffered from rust damage but this matter is now with the contractor's insurers to resolve. DB asked if there was any chance of some additional rock armouring for Haldon Pier. KM commented that there is some works due to be carried out at Hollicombe beach so there may be some rock left over which could be acquired but this was unlikely.	

	GO advised that between Beacon Cove and Haldon Pier there is a hole which can be seen at low tide. KM indicated that he is unaware of this and CR agreed. CR said she would look into this.	CR
c)	<p>Town Dock</p> <p>KM advised that he is aware of an email that has been sent to Councillors about the condition of the Town Dock. He said that the staff are aware that the floats have not worked as well as expected and are now suffering from a lack of buoyancy in a number of areas. Some of the floats and pontoons have already been replaced or upgraded. An alternative solution has been found where harbour staff will remove the polystyrene beading out of a failing float, which is then cleaned and filled with expanding foam. NBu commented that the problems with the Town Dock pontoons have significantly decreased and ME agreed with this and said that the problem had clearly improved. KM indicated that the capital plan project schedule included the replacement of 'V' pontoon with a structure similar to the existing widescreen pontoon. It was hoped that this could be authorised and replaced within next 12 months.</p> <p>KM advised that the refurbishment of the Beacon Quay toilets has not been forgotten and that the project should happen at the end of the season. The quotes that were obtained were higher than expected so the TDA has now been commissioned to deliver this project. In the meantime, the harbour staff will be carrying out minor improvements over the Summer months and Tor2 have been asked to carry out a deep clean before main season starts. DB commented that his crew, from France, used the toilet facilities and complained about the cleanliness of them. DB looked at them himself and agreed they are filthy. KM advised he is aware of the problem and the toilets will be refurbished such that they will be a much more user-friendly facility. i.e. there will be mirrors, sinks, toilet seats, etc.</p>	KM

6.	Maritime Events 2016	Action
	<p>KM asked for his thanks to be recorded for all the effort put in by the harbour staff and the full co-operation of harbour customers during the Air Show weekend. He has asked for a message to be sent to all customers thanking for their help and compliance with the exclusion zone. The event was considered a huge success with many observers hoping that it will be repeated. GO commented that he had sent a message out to all staff concerned thanking them for their hard work. KM commented that the cruise ship call on the Saturday of the Air Show passed off smoothly. Students from South Devon College helped meet and greet the cruise ship passengers. All of the students were very helpful and a pleasure to work with. The Harbour Authority will be looking to ask for their help again during some future cruise ship visits. They were also able to go on the cruise ship, which was a great benefit to their Tourism course studies.</p> <p>SP advised that there are event requests being received for 2017. The Harbour Authority has a busy July and August coming up. However, some of the bigger events that were on the Events list at the start of the year have since been cancelled and this has been due, in part, to the stricter requirements imposed by the Harbour Authority. i.e. risk assessments, safety plans, etc. SP commented that he agrees with KM about the success of the Air Show. The Sailing/Yacht clubs from Paignton and Brixham were helping with the safety marshalling and all the harbour users listened to them and the at sea element was very well organised.</p>	KM/LS

7.	Quarterly Accident & Incident data	Action
	NBu advised that he would receive the corporate Health & Safety data at the end of the quarter (30 th June). KM advised that there had been a few marine incidents recently including a collision on Sunday with the Brixham passenger pontoon by a local ferryboat. NB asked if anyone was injured and KM advised that he was not aware of any injuries. The same passenger boat company also caused damage to a wall at Paignton by the slipway. There had also been a fatality on board a yacht off Brixham Harbour a few weeks ago but the cause of death was not yet clear. The quarterly accident & incident data report will be published ahead of the next Harbour Committee meeting.	NBu & KM
8.	Update on Fast Ferry	Action
	KM informed the Forum that he has today spoken with John Ford who has advised him that the Brixham Express has now left Ireland. Unfortunately, it had only made it as far as Padstow due to minor issue with the fuel injectors so repairs will shortly be undertaken. Once repaired it will proceed to Brixham to be placed on a grid ready for the Maritime & Coastguard Agency (MCA) to inspect the hull and hopefully it should be running on the service within the next two weeks.	
9.	Enforcement and Prosecution Policy	Action
	KM advised the Forum that it is good governance to review all policies in a timely fashion. The Enforcement and Prosecution Policy is normally reviewed every two years. A copy of the existing policy was circulated to the Liaison Forums with the agenda but it is also available on the Harbour Authority webpage. If anyone has any comments/amendments they would like to suggest then they are asked to email KM. KM has no plans to make any changes to the existing policy.	All to note
10.	Budget Outturn 2015/16	Action
	KM advised that he has not circulated the final outturn figures to the Forum. He informed the Forum that at the end of year the Harbour Authority had broken even. The year had started with a forecast deficit of £51,000. Although funds had been identified to be moved from the reserve fund, to help balance the budget, this was not necessary in the end. The income increased in terms of property rent, mooring fees, fish tolls, cruise ship income and visitor income, including the wind farm boats based at Torquay Harbour. The budget included a contribution made to the Council's corporate centre of £460,000. Turnover was circa £2.8m. KM advised that he would like the minutes to reflect his grateful thanks to all the harbour team and harbour customers for a great year. The full set of figures will be available in the Harbour Committee papers that will soon be published.	
11.	Harbour Committee – Upcoming Agenda	Action
	KM informed the Forum of the items on the agenda for the next Harbour Committee meeting on 27 th June 2016. KM advised that the frequency of the meetings of the Harbour Committee had been reviewed and the September meeting has now been removed from the scheduled list of meetings. Going forward there will only be three meetings held each year and not four. KM asked the Forum if they would like to still hold the Liaison Forum in September or leave it until November. All agreed to hold the September meeting. NB suggested holding a joint Brixham, Torquay & Paignton Harbour Liaison Forum meeting in September instead of holding two meetings. KM suggested that this question should be asked at the Brixham Harbour Liaison Forum and if agreed he will look to hold a joint meeting at Paignton Sailing Club.	All to note KM

Next Meeting
Venue
Future meetings

Torquay Harbour Office
6th September 2016
29th November 2016

10.30 am (TBC)
10.30 am

Dates of Harbour
Committee
Meetings

27th June 2016
13th December 2016

5.30 pm (Torquay)
5.30 pm (Torquay)

By virtue of paragraph(s) 1, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

Agenda Item 20

Appendix 1

By virtue of paragraph(s) 1, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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