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Internal Audit

Internal Audit Report

Port Marine Safety Code Follow up of 2019/20 Report

Tor Bay Harbour Authority

November 2020

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Devon Audit Partnership

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

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

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1 Introduction

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

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

2 Audit Opinion

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

3 Executive Summary

Due to the Covid-19 pandemic for the 2020/21 year, we have only undertaken a follow up of the previous findings and recommendations made in relation to 2019/20. This was undertaken remotely due to current Covid-19 restrictions and associated working practices, and as such we have not undertaken any site visits. Within the follow up we have examined a restricted sample of records relating to previous recommendation made in relation to the Tor Bay Harbour Authority and its compliance with the requirements of the Port Marine Safety Code and obtained such explanations and carried out such tests as we consider necessary to confirm Management have actioned previous recommendation.

To the best of our knowledge and belief, having carried out appropriate checks within the remit of the follow up exercise, and considered responses provided to us by relevant Harbour staff, in our opinion the Tor Bay Harbour Authority remains compliant with the Port Marine Safety Code. We continue to have significant concerns in relation to land-based Health and Safety (H&S), however these are outside of the scope of the Code.

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

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

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

4 Added Value

Compliance against the requirements of the Port Marine Safety code.

5 Assurance Opinion on Specific Sections

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

Risk Covered		Level of Assurance
1	Non-Compliance with Port Marine Safety Code	Compliant with the requirements of the Port Marine Safety Code (<i>note, this year's assurance is solely based upon the outcomes of the remote follow up exercise of recommendations made in 2019/20 and as such we have not undertaken any site visits</i>)

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

6 Issues for the Annual Governance Statement

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

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

7 Scope and Objectives

Due to Covid-19 restrictions, Devon Audit Partnership as Designated Persons have undertaken a Port Marine Safety Code review in the form of a follow up of the 2019-20 Port Marine Safety Code report, and as such our conclusion is based upon that evaluation and associated outcomes.

To note, our original 2019/20 audit was undertaken based upon the Department for Transport's Port Marine Safety Code, and the associated Port Marine Safety Code Guide to Good Practice.

8 Inherent Limitations

The opinions and recommendations contained within this report are based on our follow up of previous recommendations made in the 2019/20 report, including review of related evidence, and discussions with responsible officers.

9 Acknowledgements

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

Robert Hutchins
Head of Partnership

Appendix A

Detailed Audit Observations and Action Plan

Risk Covered: Non-Compliance with Port Marine Safety Code	Level of Assurance
<p>Opinion Statement:</p> <p>Taking into account the opinion statement provided within the 2019-20 audit report, and the current status of actions against recommendations in appendices A and B, we consider the Tor Bay Harbour Authority remain compliant with the Port Marine Safety Code, subject to the limitations in our work as described in the level of assurance opposite and the Executive Summary and other relevant areas of this report.</p> <p>It was pleasing to note that a number of recommendations are either complete or remain in progress, however, there remain some areas where further action is required as outlined in the appendices A and B.</p> <p>These primarily relate to:</p> <ul style="list-style-type: none"> – approval of duty holder terms of reference and power of directions; – risk assessments and associated SOP for defective vessels; – evidence of training for lone working; – update SHE assure to reflect dates of all training undertaken by staff; – the need for a SOP for forklift use has not previously been accepted by management and therefore remains a risk; – edge protection policy has been subject to review and an update requested. The policy has been approved subject to strengthening of the section relating to alcohol use, however we have made an additional recommendation to strengthen this further by referral to substance abuse; – there remains a risk around access to MarNIS although we understand that resolution of this is cost prohibitive. <p>Although we recognise that Land based Health and Safety is outside of scope of Port Marine Safety Code, we continue to be concerned that related risks are not being adequately mitigated. Our opinion is based upon knowledge of ongoing issues and occurrences relating to poor H&S practices within Tor Bay Harbour Authority. As such we have made further recommendation that Health and Safety regarding land-based practices must be formally reviewed by an appropriately qualified body and an action plan drawn up to identify mitigating actions and associated costs. This should then be presented to Senior Management for a decision on remediation action to be taken.</p>	<p>Compliant with the requirements of the Port Marine Safety Code</p> <p><i>(note, this year's assurance is solely based upon the outcomes of the remote follow up exercise of recommendations made in 2019/20 and as such we have not undertaken any site visits)</i></p>

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

Management response

We are making greater use of AIS to monitor vessel movements (for example, all managers have the free 'Marine Traffic' AIS viewer installed as an 'App' on their smartphone. The HA have additionally purchased a software licence for 2 commercial instances of the 'Marine Traffic' application and have requested 2 large screens from IT on which to show the AIS picture in both Brixham and Torquay main offices.

Internal Audit Comment – Partially complete and in progress.

AIS installation has progressed, and further installations planned - unable to evidence progress due to remote working.

ACTION: Progress AIS installation.

No.	Observation and implications		
1.2	As per the MCA Health check the Harbour Master was to arrange involvement of the Dartmouth Harbour Master in order to support Devon Audit Partnership in fulfilling the marine based aspects of their Designated Person role, however at the time of our review this remains outstanding.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.2.1	Tor Bay Harbour Master to pursue this support prior to the next PMSC compliance review.	Medium	Dart Harbour Master has agreed to this and their contact details have been passed to the DP

Management response

Due to Covid-19 a full audit is not being undertaken this year; it is anticipated this will be actioned in 2021/22. The Dart HM has retired, and a new HM is now in place. If they are suitably experienced, then an approach will be made to them in the New Year to see if they would be prepared to undertake this.

Internal Audit Comment – Not actioned. Re-reported for action in 2021/22

ACTION: Original agreed action to be undertaken in the New Year 2021.

No.	Observation and implications		
1.3	Within the Duty Holders terms of reference, the PMSC requires a statement regarding the Duty Holders accountability in that they cannot re assign or delegate their accountability. This is currently not detailed.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.3.1	Update Duty Holders terms of reference to include the statement that 'Duty Holders cannot re-assign or delegate their responsibilities in relation to PMSC'.	Low	Will be incorporated at the next published change - AP
<p>Management Response This has recently (November 2020) been completed by Governance Support who have made the changes after consultation with Members.</p> <p>Internal Audit Comment – Actioned ACTION: No further action required.</p>			
No.	Observation and implications		
1.4	The Harbour Authority has the power to make directions, this is detailed within the constitution under scheme of delegations. The terms of reference for the harbour committee states that once a year these will be reviewed with any changes referred to Council however this review has not been undertaken for the current year. The last review was undertaken in March 2018 where no changes were made. The next annual review would have therefore been due in March 2019 however at that time the Committee were awaiting the outcome of local elections prior to restructuring. We understand that the MCA have made some recommendations in relation to Powers of Direction within their report, which forms part of an overall action plan.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.4.1	As per Harbour Committee terms of reference, the power of directions should be reviewed and logged, and changes referred to Council.	Low	Will be incorporated at the next published change in March 2020 - AP
<p>Management response Reviews are undertaken every 2 years but are out of date (as the March 2020 meeting was cancelled. These will be brought to the March 2021 committee meeting.</p> <p>Internal Audit Comment – Actioned – awaiting response re approval of changes. We have viewed evidence that the request has been made to make the changes to the power of directions. Completion of the action is now reliant on the Committee response / Management approval which, we understand has been delayed due to Covid-19 – due March 2021.</p> <p>ACTION: No further action required by Harbour Master other than to ensure the changes are followed through and applied.</p>			

No.	Observation and implications		
1.5	A risk workshop was held with APBmer to review all current risk assessments, the causes and controls along with identifying a number of new / emerging risks. APBmer have taken these away to formulate then into completed risk assessments which they will then be returned to Harbours. It was agreed that the review / update of risk assessments would not be undertaken until the output from the workshops had been received from APBmer. As this process will have identified new/emerging risks and potentially updated existing risks, the supporting SOP's will also require further review and associated update or formulation.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.5.1	Once the new / reviewed risk assessments have been received and input into MarNIS, then the corresponding SOP's should be reviewed to ensure they align with them. Additionally, for any new risk assessments new SOP's should be drawn up where applicable	Medium	Will be actioned once feedback from APBMer received – AP/SP
<p>Management Response Marnis operational risk assessments have been updated and can be accessed therein. The H&S risk assessments have migrated to SHE Assure.</p> <p>IA Comment – Complete As above, we have been advised that the risk assessments and SOP's have been subject to update, and we can partially evidence a recent review. However, due to remote working we are unable to fully evidence that these updates include the outcomes of the APBmer risk workshop.</p> <p>ACTION: No further action required</p>			
1.5.2	We recommend that a risk assessment of the need for a Vessel Traffic Service be undertaken to support the current decision that one is not required and that AIS is sufficient.	Medium	Risk Assessment for VTS will be completed by end Dec 2019 - AP
<p>Management Response There is not a stand-alone risk assessment (RA) for the need for VTS. However, the choice to use VTS (or not) is implicit within every operational RA contained in Marnis: it is one of a 'suite' of control measures proffered by Marnis and if deemed necessary would have been selected. Unfortunately, Marnis does not permit reasons for non-selection to be recorded.</p> <p>IA Comment – Complete VTS has been considered and noted by Management per the above response.</p> <p>ACTION: No further action required</p>			

No.	Observation and implications		
1.6	A SOP has been established for 'Pilotage and Defective Vessel Notification' however this does not include details of reporting to MCA should there be a defective vessel. It was also noted that there is no risk assessment for defective vessels (injurious vessel) within the harbour limits, this was identified at the workshop and a new RA is being formulated with APBmer.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.6.1	Once the new risk assessment has been received and put into MarNIS it should be determined if a new SOP should be drawn up or the existing one amended. As a minimum the existing SOP will require updating to include reporting procedures.	Medium	Noted Will be actioned once feedback from APBMer received – AP/SP
<p>Management Response Complete, risk assessment and SOP now done.</p> <p>IA Comment – Complete The risk assessment and associated SOP have been produced in December 2020 and now form part of the policy and risk assessment framework.</p> <p>ACTION: None</p>			
No.	Observation and implications		
1.7	<p>Harbour staff across all 3 harbours have undertaken various training courses and all details are logged in a training matrix. It was noted that whilst a number of staff had received training in manual handling / working at heights etc, however these were completed several years ago. H&S have confirmed that best practice is for this training to be refreshed every 3 years.</p> <p>It was also noted that the SOP for lone working states that staff are trained, and that refresher training should be undertaken at regular intervals. In addition, the training should be logged in the training matrix. Our review found that this was not undertaken or recorded.</p>		
	Recommendation	Priority	Management response and action plan including responsible officer
1.7.1	A full review should be undertaken to see what training / refresher training is required for all staff. Additionally, lone working training should be provided to and undertaken by all applicable staff, and the training matrix updated accordingly.	Medium	<p>This is 'business as usual' and reviewed annually Individual training undertaken should be added as completed, with an annual review and consolidation exercise undertaken.</p> <p>The next review is due shortly – KA - end Dec 2019</p>
<p>Management Response Training in manual handling and working at height was provided to all Harbour Assistants in Dec 2019. More widely, all training has been migrated to SHE Assure (in fact the Harbour Authority is the first department so to do which has now been correctly configured to accept certification/training end-dates. The process of entering these dates has started and is expected to be complete by Jan 2021.</p>			

IA Comment – Part actioned – re-report

SHE Assure has a risk assessment for Lone Working. We were unable to evidence that Lone Working training had been completed. In addition, although training records were transferred to SHE Assure, the individual staff training dates have yet to be migrated across.

ACTION: SHE Assure to be updated to reflect dates of training undertaken by staff. Evidence of Lone Working training to be recorded on SHE Assure.
Complete

Action Plan – status against 2018-19 actions and recommendations and any arising land-based issues in 2019-20

Previous Years (2018-19) Re-reports

No.	Recommendation	Priority	Management response / action plan / responsible officer
1.6.2	Further to the original recommendation regarding the forklift usage SOP and risk assessment, there is no mention of the limitations / restrictions on forklift use. We recommend that the SOP and risk assessment are updated accordingly to include any restrictions in relation to use.	Medium	NOT AGREED – the risk assessment is activity based rather than for an individual item of plant. As the staff might have occasion to use different FLT's and acquaint themselves with the limitations of each FLT on first and subsequent use. This information would be contained in the Operators manual, indications and limitations as signed on each FLT. This checking by the driver is not recorded.

Management Response

No change not agreed

IA Comment – Not agreed

ACTION: Risk remains – refer to Management response originally given

No.	Recommendation	Priority	Management response / action plan / responsible officer
1.6.6	The Edge Protection Policy includes a risk assessment. We would recommend that the assessment be put into a standard risk assessment format to enable monitoring, evidence actions needed / undertaken and define responsibility	Low	NOT AGREED – the existing risk assessment does not easily fit into the standard template and there is a significant risk that vital information will be lost during reformatting. The Policy itself is taken from the ACoP and the Edge Audit spreadsheet provides assessment at multiple locations with the risks being different for each, which would then require multiple risk assessments to address each. The Edge Protection Policy was approved by Committee in December 2019.

Management Response

Unfortunately, the edge protection RA does not lend itself to the SHE Assure format and will thus remain in a different format for readability. However, the point regarding substance abuse is agreed and the policy has been updated in December 2020.

IA Comment – Complete

ACTION: None

No.	Recommendation	Priority	Management response / action plan / responsible officer
1.9.2	As best practice, for completeness and ease, we would recommend that the Business Continuity Plan (BCP) contain a link to the physical and shared drive location of the Emergency Plan, as this is referenced frequently within the BCP.	Opportunity	Agreed – plan to be updated – LS/AP Nov 19
<p>Management Response HM holds a physical copy in his 'emergency' pack that he has at hand 24/7/365 in case of electrical/IT failure. Reference to the Emergency Plan and link to it now included in the BCP.</p> <p>IA Comment – Complete</p> <p>ACTION: No further action</p>			
No.	Recommendation	Priority	Management response / action plan / responsible officer
1.12.1	As previously reported the MarNIS system used to record all risk assessments / accidents / incidents / training etc. has no system controls linked to access i.e. all staff have the same access. Tor Bay Harbour Authority should either continue to accept the risks (with the upgrade audit trail provision) or progress the modification to provide full system access controls	Medium	Risk accepted by management due to cost to update system
<p>Management Response No change risk accepted by management</p> <p>IA Comment – Not agreed, risk accepted</p> <p>ACTION: Risk remains – refer to Management response originally given</p>			

Arising Land Based Issues 2019-20

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

Management Response

A 100% review of all RAs and SOPS has been undertaken and they have migrated to SHE Assure. The council have recognised the dangers and risks inherent in the maritime domain and have agreed that the Harbour Authority recruit a dedicated H&S manager to bring additional focus to this important area. This person is expected to be in post by March 21.

IA Comment – Ongoing

Although outside of scope of Port Marine Safety Code, the risk remains regarding land-based H&S issues although we recognise that a H&S Officer will be in post by March 2021. We have based our opinion on knowledge of ongoing issues and occurrences relating to poor H&S practices within Tor Bay Harbours, and as such remain concerned regarding the ongoing risks posed to the public, staff and visitors to the Harbours.

ACTION: Health and Safety regarding land-based practices must be formally reviewed by an appropriately qualified body and an action plan drawn up to identify mitigating actions and associated costs. This should then be presented to Senior Management for a decision on remediation action to be taken.

Definitions of Audit Assurance Opinion Levels

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

Definition of Recommendation Priority

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

Confidentiality under the National Protective Marking Scheme

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