

TOR BAY HARBOUR AUTHORITY

OPERATIONAL MOORINGS AND FACILITIES
POLICY



Tor Bay Harbour Authority

Operational Moorings and Facilities Policy

Introduction

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

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

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

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

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

Capt. Kevin Mowat
Executive Head of Tor Bay Harbour Authority
Tor Bay Harbour Master

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

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

13. "Loss, injury or damage" means any loss, injury or damage, which may occur to any person, vessel, vehicle or their contents, or to any other goods or things whatsoever.
14. "Facility Form Agreement and conditions" shown in Appendix 1.

Types of Mooring/Facilities

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

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

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

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

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

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

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

Facility Charges

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

Facilities Allocation

Private Moorings/Facilities Waiting List

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

Under normal circumstances the applicant will only be given one offer of a facility. A second or third offer will only be made in exceptional circumstances. All applicants will have their name removed from the list ~~and their deposit will~~

be lost (without exception), if they have declined three offers of a harbour facility.

Waiting List Priority

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

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

Torquay Town Dock & Inner ~~DockHarbour~~ Pontoons Priority

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

Mooring Exchange Scheme - Torquay Town Dock & Inner ~~DockHarbour~~ Pontoon System

Customers with existing 6 metre, 8 metre, 9.14 metre, 10 metre and 12 metre berths on the Town Dock or Inner ~~DockHarbour~~ Pontoon system at Torquay, may be able to exchange their facility for an alternative sized berth. Further details including eligibility criteria can be found in Appendix 3.

Commercial Moorings - Waiting List

A waiting list exists for a number of specified commercial moorings. Currently these can be split into specific numbers of facilities for passenger carrying pleasure craft and other moorings identified for commercial craft such as fishing vessels. To avoid over capacity the Council has an established policy to restrict the number of moorings for passenger carrying pleasure craft at each of the enclosed harbours. Furthermore this is the only policy that allows the transfer of use of a mooring facility to the new owner of a passenger boat. i.e. where a pleasure boat ceases to operate at any Harbour and the operator sells his/her business, the Harbour Master is authorised to transfer the mooring facilities to the new owner. This mooring transfer does not apply to fishing vessels or other commercial craft.

This commercial moorings waiting list requires a non-refundable £50 registration fee, does not require a deposit.

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

Facilities for Heritage Vessels

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

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

Boat Park Spaces

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

Duration of Facility Agreement

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

Renewal of Allocated Facility

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

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

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

Cancellation of Facility Form Agreement

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

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

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

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

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

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

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

The facility holder shall at all times be responsible for the safety of his/her vessel and shall be liable for any damage occasioned to the Council's

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

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

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

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

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

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

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

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

The facility is personal to facility holder and may not be shared, assigned, transferred, sub let or otherwise used or made available to anyone other than the facility holder. In the event that it is discovered that a facility holder is subletting the facility will be withdrawn with immediate effect.

The facility granted may not be loaned without prior notification to, and agreement of the Harbour Master in writing. Written notification must also be provided to the Harbour Master from both parties to the loan. If the Harbour Master's consent is obtained in no circumstances will this be given for a

period greater than 12 months. In agreed loan circumstances the owner of the vessel borrowing the facility must confirm that he holds the necessary required insurance, confirm acceptance of all conditions and Byelaws and be liable for the appropriate level of harbour dues.

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

Size of Vessel (Facility Agreement Conditions 17)

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

Inheritance

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

Vessel Identification (Byelaw 35)

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

Change of Vessel (Byelaw 33)

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

Vessel Not On Facility

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

Partnerships

Partnerships must have been registered with the Harbour Authority when the facility was first allocated. Any subsequent changes of ownership or partnership buy out **will not be recognised** or count towards facility allocation. The Harbour Authority will not recognise shared ownership beyond

one third. i.e. a maximum of three partners inclusive of the applicant. All partners must be over the age of 18 and meet the local residence requirements detailed in this policy with regard to facility allocation priority.

Use of Facilities

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

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

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

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

Fuel and Re fuelling

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

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

Any fuel spillage must be reported to the Harbour Master

Pollution (Byelaw 91 and Byelaw 102)

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

Moorings and Vessel Protection

Fitting of Moorings (Facility Agreement Condition 16)

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

Buoyant Rope (Byelaw 98)

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

Removal of Moorings (Byelaw 100)

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

Vessel Monitoring

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

Propeller Covers (Facility Agreement Conditions 22)

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

Provision of Proper Fenders (Byelaw 46)

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

Mooring, Berthing, Anchoring in the Harbour

Vessels to be moored etc as directed

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

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

No person shall anchor so as to obstruct a fairway.

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

The master of a vessel shall not make fast his/her vessel to or lie against any buoy, beacon or mark used for navigation. No person shall make a vessel fast

to or interfere with any post, quay, ring, fender or any other thing or place not assigned for that purpose.

Vessels not to Obstruct Free Passage

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

Vessels to be Properly Secured

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

Vessels Not to Obstruct Steps, Slipways (Byelaw 26)

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

Reckless Conduct and Disorderly Behaviour

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

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

Compliance with Statute, Byelaws and Directions of the Harbour Master

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

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

Disabled Access

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

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

Young People

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

Visitor Moorings

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

Appendix 1

GENERAL CONDITIONS

DUES, TOLLS, LEVY RENTS, FEES AND OTHER CHARGES ARE ONLY ACCEPTED ON THE FOLLOWING CONDITIONS:

1. All reasonable care will be taken of the applicant's property but whilst precautions will be taken to prevent loss and/or damage all vessels are berthed, moored, launched, moved and hauled out at the risk of the applicant. The applicant is therefore strongly advised to make sure that his/her vessel and property are adequately insured against all risks.
2. The applicant shall indemnify the Council, their servants and agents against all actions, claims, costs and demands in respect of any injury or death of any person and any damage to any property which may arise out of the applicant's occupation and use of the harbour facilities including slipways, steps, jetties and staging and for this purpose shall maintain a Public Liability policy against such risks. Failure to maintain the appropriate insurance cover will result in the withdrawal of mooring, launching or other facilities.
3. All applicants using any part of the harbour facilities including slipways, steps, jetties and staging, for whatever purpose in connection with this application and whether by the Council's invitation or not, are expected to have due regard for their own safety and do so at their own risk.
4. The applicant shall at all times be responsible for the safety of his/her vessel and shall be liable for any damage occasioned to the Council's property, howsoever caused, during the navigation of any vessel by the applicant or his/her servant or agents, or whilst the applicant's vessel is berthed, moored or launched, or by the vessel slipping her berth, mooring or being cast adrift and will pay to the Council on demand any claim for compensation in respect of such damage.
5. The Council's Harbour Master and other authorised officers and servants, whilst acting in the course of their duty, shall not be responsible for any loss or damage which may occur as a result of compliance, or attempted compliance, with any lawful order or directions given by the Harbour Master, or such other officers or servants, nor shall the Council be liable for any loss or damage arising out of compliance, or attempted compliance, with the officers' lawful orders. The Council, its servants, agents or employees shall not be liable for injury to any person, except where such injury arises through the negligence of the Council.
6. The phrase "loss, injury or damage" in these conditions means any loss, injury or damage which may occur to any person, vessel, vehicle or their contents, or to any other goods or things whatsoever.

7. The lawful orders or directions of the Council's Harbour Master and other authorised officers must always be obeyed promptly.
8. The Council may determine this agreement at any time during the period of this contract by giving one month's notice in writing to the applicant at their last known address.
9. The Council will, upon receipt of payment in accordance with this account, allocate a facility to the applicant as described in the Facility Charge Details in a location in Tor Bay Harbour determined at the discretion of the Harbour Master and the Harbour Master may at any time designate to the applicant an alternative location for such a facility, whereupon the applicant will move his/her vessel and/or any other possessions or chattels from the previous location to the appointed new location for such facility forthwith.
10. The Council will, upon the commencement of this agreement, allocate a facility to the applicant but the Harbour Master may at any time designate an alternative facility to the applicant, whereupon the applicant must move his/her vessel to the appointed facility forthwith.
11. Following the determination of this agreement, the applicant shall forthwith remove his/her vessel and any other property from the facility.
12. This facility is personal to the applicant and made available on the basis to which the Applicant hereby agrees that it will not be shared, assigned, transferred, sublicensed or otherwise used by or made available to anyone other than the applicant.
13. The facility made available to the applicant shall not be used other than for the purpose described in the Facility Charge details.
14. No facility granted may be shared or *LOANED* without the prior consent of the Harbour Master in writing.
15. The Council have the right to exercise a general lien upon any vessel, and/or her gear and equipment, whilst in or upon the harbour premises, or afloat, until such time as the monies due to the Council from the applicant in respect of such vessel whether on account of storage or mooring charges or otherwise, shall be paid.
16. Any swivel, riser chain, mooring rope or buoy, not provided by the Council, shall comply with the Council's specification in that behalf and shall only be fitted by a person licensed by the Council to do such work or by the applicant personally in respect of his/her allocated mooring. The applicant shall as soon as any swivel, riser chain, mooring rope or buoy has become fitted, immediately notify the Harbour Master of the fact. The applicant shall also arrange for regular inspection and maintenance of such equipment not provided by the Council.

17. The applicant shall not place a vessel on a mooring prescribed in the mooring scheme prepared by the Council for a vessel of a different size than that applied for, without the applicant obtaining the approval of the Harbour Master in writing.
18. All boats and trailers used within the harbour shall have their **names** clearly displayed and to the satisfaction of the Harbour Master. The applicant should also ensure that the name of the vessel or a mooring number is clearly displayed on any mooring buoy not provided by the Council.
19. The mooring shall be in such a position and of such type as shall be allocated by the Harbour Master.
20. In the event of the applicant selling or otherwise disposing of the vessel authorised to use the mooring, the Harbour Master shall be notified in writing.
21. No attachment (e.g. strops) is to be affixed to the mooring chain provided by the Council without the applicant obtaining the prior approval of the Harbour Master.
22. When moored, outboard engines in the raised position **must** have the propeller and skeg covered with a plastic bucket or other approved protective cover in order to prevent damage to other boats.
23. The applicant shall ensure that the vessel is provided with a sufficient number of fenders adequate for the size of vessel, so as to prevent damage to other vessels, quays or other property.

Appendix 2

WAITING LISTS

TOR BAY HARBOUR

WAITING LIST PROCEDURE AND APPLICATION OF DEPOSITS

- 1) The waiting list ~~registration fee~~ deposit is **£25**. On receipt of the appropriate fee, your name will be placed on the relevant list. Please make cheques payable to 'Torbay Council'.
- 2) The waiting list entry will be dated the same day the ~~deposit~~ fee is received.
- 3) The ~~deposit~~ registration fee is **NOT REFUNDABLE OR TRANSFERABLE** but will be credited to the facility charges when a facility is obtained.
- 4) Under normal circumstances the applicant will only be given one offer of a facility. A second or third offer will only be made in exceptional circumstances. All applicants will have their name removed from the list and their deposit will be lost (without exception), if they have declined three offers of a harbour facility.
- 5) When a facility is offered and accepted, it can only be allocated to the person whose name is on the waiting list. The facility is **NOT TRANSFERABLE**.
- 6) When a facility is offered and accepted and no boat is immediately available, then the applicant **must pay the full fee** for the size of facility applied for, and then has twelve months to place their craft on the facility.
- 7) Often a waiting list will be banded dependent on the size of the facility. It is therefore important that applicants are certain about the size of facility required. The length entered on the waiting list form will not be adjusted up at a later date and an adjustment down in size may result in a transfer to a new list with a new entry date.
- 8) Applicants who live locally will be given priority over those applicants who live outside the Torbay area. (see the Tor Bay Harbour Operational Moorings and Facility Policy)
- 9) Unfortunately applicants who have a disability do not have priority over other people on the waiting list.
- 10) From time to time applicants will be asked to provide written confirmation of their wish to stay on a particular waiting list. The applicant's details will be deleted from our records and the deposit ~~forfeit~~ if written confirmation is **not** provided.

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

Appendix 3

Mooring Exchange Scheme - Torquay Town Dock & Inner DockHarbour Pontoon System

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

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

The 13 metre berths will not feature in this scheme.

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

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

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

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

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

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

Step 1

Complete form for existing berth to *move from*

Step 2

Enter details of preferred facility to *move to* – e.g. 6m 8m 9.14m 10m or 12m

Step 3

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

Step 4

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