



devon **audit** partnership

## Audit Report

Port Marine Safety Code  
Compliance Audit

Tor Bay Harbour Authority

*November 2015*

**OFFICIAL**



**Auditing for achievement**

## **Devon Audit Partnership**

---

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

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

## **Confidentiality and Disclosure Clause**

---

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

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

## 1 Introduction

---

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

The Devon Audit Partnership is the appointed 'Designated Person' for the Tor Bay Harbour Authority for 2015/16.

## 2 Audit Opinion

---

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

## 3 Executive Summary

---

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

To the best of our knowledge and belief, and having carried out appropriate checks, in our opinion the Tor Bay Harbour Authority is compliant with the Port Marine Safety Code.

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

## 4 Assurance Opinion on Specific Sections

---

The following table summarises our assurance opinions on the area covered during the audit. Definitions of the assurance opinion ratings can be found in the Appendices.

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

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

## **5 Issues for the Annual Governance Statement**

---

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

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

## **6 Scope and Objectives**

---

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

## **7 Inherent Limitations**

---

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

## **8 Acknowledgements**

---

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

**Robert Hutchins**  
**Head of Partnership**

**Appendix A**

**Detailed Audit Observations and Action Plan**

1. Risk Covered: Breach of Port Marine Safety Code	Level of Assurance
<p><b>Opinion Statement:</b></p> <p>We found the Tor Bay Harbour Authority staff to be knowledgeable and positively engaged in maintaining compliance with the Port Marine Safety Code (PMSC). Staff were supportive of the review process and were active in providing the supporting evidence.</p> <p>The Harbour Committee act as Duty Holder for the purposes of the Port Marine Safety Code. All committee members and advisors are responsible for compliance with the code, which is set out in their terms of reference and published on the Tor Bay Harbour website. Commitment to the PMSC is set out in the 'Safety Management System' which is presented to the Tor Bay Harbour Committee annually along with outcome of the PMSC compliance audit which is undertaken in November each year. The designated person appointed to undertake the PMSC compliance audit is appointed by the Tor Bay Harbour Committee.</p> <p>A review is undertaken annually of the 'Powers delegated to the Executive Head of Business Services' who is the responsible officer for the Tor Bay Harbour Authority. A full review of 'Tor Bay Harbour Key Statutory Powers' which includes 'Special and General Directions' and Byelaws has been undertaken by an external law company during 2015 and they have produced a draft report confirming that the authority currently only has limited powers of general directions. Byelaws have been established and are published on the Harbour website. Breach of byelaws results in fines that are limited by scale, however for serious breaches alternative legislation such as the Merchant Shipping Act or Collision Regulations is available to enable a greater degree of prosecution and financial penalties. Given the complexity of issuing new Byelaws, harbour directions should be used to address any changes to water activities, and a recommendation has been in relation to this matter.</p> <p>A Port Masterplan has been established and is designed to assist regional and local planning bodies and transport network providers in preparing / revising their own strategic developments. The Masterplan sets out the development opportunities for the Tor Bay Harbour Authority and the expected timelines for implementation; although not specific to the PMSC some of the projects are potentially integral to safe Port operations. The Tor Bay Harbour Safety Policy has been adopted by the Harbour Committee and measures Health and Safety Performance which is reported to the Harbour Committee annually. The Safety Management System (SMS) records marine based risks and links to risks held on the network. Issues relating to the access to the SMS have been previously identified and remain outstanding and have therefore been reported within this audit report. Risks are reviewed annually and are also reviewed / updated when a need has been identified. The SMS system is designed to show risks ALARP (as low as reasonably practicable) by colour coding the risks as per their severity.</p> <p>Standard Operating Procedures have been established and are a continuing work in progress i.e. as a new / amended procedure has been identified they will be completed / updated.</p> <p>Pilotage / tugs are provided by contract to a local company, at the time of the audit a new contract had been drawn up but remains in draft. The contract must ensure that it covers training / risk assessments and compliance with local legislation / byelaws and the PMSC. Whilst towage guidelines have been established they are not fully comprehensive.</p>	<p><b>Good Standard</b></p>

All accidents / incidents are reported quarterly to the Harbour Committee. These reports are produced from MarNIS. Between the period 1/12/2014 and 30/11/2015 there were 62 accidents / incidents. Of these, there was one fatality in May 2015 due to the capsizing of a boat which resulted in the tragic death of a teenage girl. There were three bodies recovered from beaches; one unexploded ordnance; three fire / explosion incidents; and thirteen pollution incidents; the remainder were categorised as equipment failures; flooding and other less critical incidents. System controls within the SMS ensure that any serious / fatal accident / incident are reported to the Marine Accident Investigation Branch (MAIB) who will then carry out an investigation. Investigations are also held locally and reviewed at Management meetings with the appropriate action then being taken.

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

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

Staff have undergone various types of training during 2015 thus confirming training needs are identified and undertaken. Staff training is recorded in a training matrix, a review of these found that in some cases they have not been kept up to date and in some cases training certificates have now expired. Recommendations have been made within the report to rectify this.

Hydrographical surveys have been completed and are retained by the Tor Bay Harbour Authority and the UK Hydrographic Office; surveys can be seen at the Tor Bay Harbour Authority office and are also available from the UK Hydrographic Office. The Tor Bay Harbour Authority has a website which provides information on weather, notices, shipping movements, events etc. Various social media sites have also been set up but do not as yet hold all the information the website holds.

A Tor Bay Harbour Business Plan has been established and is published on the Tor Bay Harbour website.

Work is currently under way to strengthen Princess and Haldon Piers in Torquay. This work is being undertaken from a floating structure with underwater divers who are strengthening the walls that have become damaged. It was noted that a section of Princess Pier has been fenced off each side due to the structures being unsafe; this middle section has replacement / temporary flooring which is becoming worn. It is understood that works are to commence in early 2016 to repair this, we would recommend continual inspections to this area as if it deteriorates further it may need to be closed to the public. Steel barriers are to be installed on the walkways outside the fish markets (quay side at Brixham); this is to prevent further damage being done to the walls by the forklifts although it was noted this damage is minimal at present. It was noted that at Paignton there were issues relating to maintaining clear public walkways, we would recommend that these areas are subject to regular review to ensure walkways are kept clear.

There have been no new activities for 2015 in any of the areas, although it is noted that the commuter ferry continues to operate a reduced service. A license has been granted for a new scallop farm in Torquay; however this has yet to become fully operational.

It is understood that due to budget restrictions the dock-masters at Brixham have been reduced and the firm providing security has ceased; this has resulted in no security being provided at night. There is some control in that the harbour is covered by CCTV however this is only limited and will not mitigate the risks associated with having no security on site.

No.	Observation and implications		
1.1	Although there is clear commitment to the code and performance is reported on an annual basis, the PMSC is not currently a standing item on the committee meetings.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.1.1	The PMSC should be a standing agenda item on the Harbour Committee meetings.	Low	Agreed – to be combined with the Accident and Incident statistics going forward. KM
No.	Observation and implications		
1.2	There are various acts, and local and national legislation governing the Authority, however as detailed in the audit opinion the Tor Bay Harbour Authority has limited powers of General Directions. The Department of Transport has now given Authorities the right to apply to be designated with powers of Harbour Directions.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.2.1	The Tor Bay Harbour Committee should review the powers they have and assess whether they are sufficient to meet current need. If it is determined they are insufficient then they should apply to the DfT to be designated with powers of Harbour Direction.	Medium	Agreed – on 21 <sup>st</sup> December 2015 a mandate will be put forward to the Harbour Committee to apply for the power to make Harbour Directions in January 2016. KM
No.	Observation and implications		
1.3	The authority to issue Byelaws by the Harbour Authority forms part of the Tor Bay Harbour Act 1970. Byelaws were established and signed off by the Secretary of State in Oct 1994. The Byelaws sets out the regulations for vessels, navigation, berthing, mooring, water sports etc. Linked to 1.2, as there is significant complexity in issuing new Byelaws, any new activity e.g. paddle boarding / flyboards should be addressed through Harbour Directions once obtained.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.3.1	Once power of Harbour Directions have been obtained, Harbour Directions should be issued for new activities.	Low	Agreed. KM

No.	Observation and implications		
1.4	The Tor Bay Harbour Authority issues Notices to Mariners, these are put on the Harbour website and sent out via mail chimp. The Harbour Authority also subscribes to various social media platforms, and whilst these provide various details on Tor Bay Harbour, these Notices could not be located.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.4.1	To ensure maximum notification to all harbour users / visitors Harbour Notices should be put on the various social media platforms that the Tor Bay Harbour Authority subscribe to.	Low	Agreed – April / May 2016. Tor Bay Harbour Authority staff.
No.	Observation and implications		
1.5	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. This was reported in the 14/15 risk management audit for the Tor Bay Harbour Authority. A request was made to the supplier of the system however despite updates to the system this remains outstanding.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.5.1	Tor Bay Harbour Authority should continue to liaise with APBmer to ensure that the system access issue is resolved, thus ensuring that access can be appropriately apportioned.	Medium	Agreed – MoD and larger ports have recently agreed to purchase this system and this should assist with system developments.
No.	Observation and implications		
1.6	<p>It was noted that a section of Princess Pier has been fenced off on each side due to the structures being unsafe; also the middle section has replacement / temporary flooring which is becoming worn. It is understood that works are to commence in early 2016 to repair this.</p> <p>It was noted that at Paignton there were two boats blocking the designated public walkway restricting access and we understand that this is a regular occurrence during the winter months and in a separate area a commercial boat had left a hose across the public walkway, we would recommend that these areas are subject to regular review to ensure walkways are kept clear.</p>		
	Recommendation	Priority	Management response and action plan including responsible officer
1.6.1	We would recommend continual inspections to this area to establish levels of deterioration and if deemed necessary, consideration should be given to the closure of this area to the public if found unsafe.	High	Agreed – ongoing. Tor Bay Harbour Authority staff.
1.6.2	We would recommend regular inspections of public walkways to ensure that they are kept clear at all times or diversion signs erected.	High	Agreed – signage is to be erected to direct the public away from this walkway in winter months and to advise the public to be aware of boat users' equipment on the quay. KM April 2016



No.	Observation and implications		
1.7	The PMSC states that 'The process of assessment is continuous, so that new hazards to navigation and marine operations and changed risks are properly identified and addressed. Where appropriate, harbour authorities should consider publishing relevant details of their risk assessments.' It is unclear from records whether the provision of aids to navigation has been subject to a formal risk assessment.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.7.1	The aids to navigation should be subject to a formal risk assessment.	Medium	Agreed. Tor Bay Harbour staff. April 2016
No.	Observation and implications		
1.8	Tor Bay Harbour Authority do not provide a pilotage service directly; this is contracted out to a local firm who are based at Brixham Harbour. The original contract was drawn up in 2011 but was never officially signed. A new contract has therefore been drawn up by the Legal department but at the time of the audit still remained in draft.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.8.1	The contract for Pilotage services should be completed as soon as possible. Furthermore the contract should include the requirement for ensuring staff are adequately qualified / trained; risk assessments are undertaken and regularly reviewed; and reference made to the requirements to comply with the PMSC and legislation / local byelaws.	High	Agreed. KM April 2016
1.8.2	Towage guidelines should be reviewed and made comprehensive.	Medium	Agreed. KM April 2016
No.	Observation and implications		
1.9	Whilst risk assessments and safe operating procedures (SOPs) have been completed for work boats and moorings it was noted that the mooring maintenance SOP stated it was outside the scope of pontoon moorings at Torquay Inner Harbour & Town Dock. No separate SOP could be found for these areas.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.9.1	The risk assessments for moorings maintenance should be reviewed to ensure it covers all three areas and if needed a SOP should be drawn up to cover the Torquay Inner Harbour and Town Dock thus ensuring there are no gaps	Medium	Agreed. Tor Bay Harbour staff. April 2016

No.	Observation and implications		
1.10	A training matrix has been established for each area, where all training undertaken is recorded along with the dates completed and the date the next training is due. A review found that the training matrix for Torquay had not been updated to reflect the staff's qualifications to pilot the work boats. These qualifications are held as seen by us, and training certificates are held in individual staff folders.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.10.1	The training matrix should be reviewed and updated to reflect all current qualifications, furthermore the dates the qualifications need to be renewed should be entered thus ensuring that dates are not missed and qualifications have not lapsed.	Medium	Agreed. Tor Bay Harbour staff. April 2016
No.	Observation and implications		
1.11	Whilst numerous Standard Operating Procedures have been established it was found that a SOP has not been completed for 'Maintaining Navigational Aids'. Whilst in the main this is a visual inspection there are occasions where they have to be removed or attended to at sea.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.11.1	A SOP should be drawn up to cover the maintenance / inspection of navigational aids.  As reported above in 1.7.1, once the SOP is completed, a risk assessment should then be undertaken and demonstrate a link to the SOP.	Medium	Agreed. Tor Bay Harbour staff. April 2016
No.	Observation and implications		
1.12	As already reported the training matrix hold details of training undertaken and date for renewal. It was noted that in some cases the renewal dates have expired and not all staff have been logged as completing all i-learn courses.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.12.1	A full review of the training matrix for each area should be undertaken to ensure that all statutory courses for Torbay Council have been completed, courses renewed where applicable and that all staff listed are still current.	Medium	Agreed. Tor Bay Harbour staff. April 2016

No.	Observation and implications		
1.13	It is understood that due to budget restrictions the number of dock-masters at Brixham have been reduced and the firm providing security has ceased; this has resulted in no security being provided at night. There is some control in that the harbour is covered by CCTV however this is only limited and will not mitigate the risks associated with having no security on site.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.13.1	The sufficiency of security and safety arrangements given recent reductions should be subject to monitoring in relation to increases in security and safety incidents.	Medium	Agreed. Ongoing KM

## 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.

## Confidentiality under the National Protective Marking Scheme

---

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