



devon **audit** partnership

Internal Audit Report
Port Marine Safety Code
Tor Bay Harbour Authority
November 2016

OFFICIAL



Auditing for achievement

Devon Audit Partnership

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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 for 2016/17.

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. It is pleasing to note that significant progress has been made against the previous year's recommendations.

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

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 in the Appendices to this report.

4 Assurance Opinion on Specific Sections

The following table summarises our assurance opinions on each of the risks 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.

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

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.

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 for Transport's Port Marine Safety Code, and the associated 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>Opinion Statement:</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. The Harbour Committee act as the '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 the 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' (Tor Bay Harbour Master) 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 was undertaken by an external law company during 2015 and as a result of this review an application has been made to the Department for Transport (DfT) for the Tor Bay Harbour Authority to be designated with powers of Harbour Directions.</p> <p>Byelaws have been established and are published on the Harbour website. A breach of the byelaws can result in fines that are limited by scale; however, for more serious breaches alternative legislation such as the Merchant Shipping Act (Collision Regulations) is available to enable a greater degree of prosecution and financial penalties. Given the complexity of issuing new byelaws, Harbour Directions, once obtained, should be used to address any changes to water activities that require control measures, 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 previously defined SWOT analysis undertaken in 2013 is due for review in 2018. At this time we would suggest that the review incorporates consideration of and linkage to the Port Marine Safety Code.</p> <p>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.</p> <p>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>Good Standard</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, it was noted that several new SOP's had been completed in the current year., however as reported these have yet to be risk assessed and a recommendation has been made to address this.

Pilotage / tugs are provided under contract by a local company, at the time of the audit a new contract had been drawn up but has not been signed. We understand that there are issues around the signing of the contract and the Harbour Authority need to pursue this matter to ensure that agreement is gained and appropriate contractual documentation is in place. Towage Guidelines have been established and published on the Tor Bay Harbour website.

All accidents / incidents / near misses are reported quarterly to the Harbour Committee. These reports are produced from MarNIS. There is potential for improvements in maintaining and linking records between MarNIS and external documentation.

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 Team 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 / defects have been rectified.

Staff have undergone various types of training during 2016 thus confirming training needs are identified and undertaken. Staff training is recorded in a Training Matrix, a review of the matrix found that in some cases the records have not been kept up to date and in some cases training certificates have now expired or records do not clearly demonstrate the requirements for associated certification such as medical assessments. Recommendations have been made within the report to rectify this.

Hydrographic surveys have been completed and are retained by the Tor Bay Harbour Authority and the UK Hydrographic Office. Survey results can be seen at the Tor Bay Harbour Authority office but we were unable to fully confirm appropriate links to an on-line data source. The Tor Bay Harbour Authority has a website, which provides information on weather, harbour notices, shipping movements, events, etc, could be expanded to include links to sites that can provide local hydrographic survey data. Various social media applications are also now being used 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 and is subject to annual review. Work is continuing on Haldon Pier in Torquay. This work is being undertaken from a floating structure with diving contractors who are strengthening the walls that have become damaged. The outer harbour slipway in Torquay requires further review to establish safety arrangements due to a section of the structure dropping, forming a lip and becoming a trip hazard. The new ferry pontoon in Brixham has been significantly damaged by a passenger craft and is currently out of use; safety arrangements are in place to restrict its use. The issue is currently with Insurers to agree damage resolution and replacement.

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	As previously reported (2015) the PMSC should be a standing agenda item for the Harbour Committee meetings.	Low	Agreed – KM To be combined with the Accident and Incident statistics agenda item going forward.
No.	Observation and implications		
1.2	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 set out the regulations for vessels, navigation, berthing, mooring, and water sports, etc. As there is significant complexity in issuing new Byelaws, any new activity e.g. paddle boarding / fly-boards should be addressed through Harbour Directions once obtained.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.2.1	As previously reported (2015), once power of Harbour Directions has been obtained, Harbour Directions should be issued for new activities.	Low	Agreed - KM New power of Harbour Directions not yet issued by DfT.
No.	Observation and implications		
1.3	The outer harbour slipway at Torquay was installed in sections, one of the end sections has dropped causing a lip in the slipway, this was only visible under water however at low tide would pose some risk to users, it is understood that the contractor who installed the slipway has been contacted and has been to inspect and they are now awaiting the results of the inspection. The slipway is not old and it is felt the contractor will be responsible for any repairs.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.3.1	The slipway should continue to be monitored with any further deterioration reported to the contractors. If needed at low tide warning signs should be in place warning the public and the contractor should be pursued for repairs before the start of the 2017 season.	Medium	Agreed – NB Contractor being pursued for latent defect. Warning sign to be erected prior to 2017 season.
No.	Observation and implications		
1.4	Torquay Harbour has issued a Warning Notice to a harbour user following an incident. Whilst the details have been entered into MarNIS there is no link between the Warning Notice and the MarNIS record. The final section within MarNIS relates to actions and reporting and it was found in the sample used that this had not been updated to confirm a warning had been given.		

	Recommendation	Priority	Management response and action plan including responsible officer
1.4.1	Where a Warning Notice is given, the corresponding record on MarNIS should reflect this and be cross-referenced to the Warning Notice reference number.	Opportunity	Agreed – KM Managers to be reminded at the December 2016 managers meeting.
No.	Observation and implications		
1.5	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. Further investigation has been undertaken and a pending system update will include audit trail functionality whereby transactions can be attributed to users through view of an on screen provision. This will provide some element of mitigation; however the risk remains that the system access cannot be appropriately restricted. Resolution of this issue in full would require a system modification at significant cost to the Harbour Authority.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.5.1	Tor Bay Harbour Authority should either accept the risks (with the upgrade audit trail provision) or progress the modification to provide fully system access controls.	Medium	Agreed – KM Management have accepted the risk subject to the upgrade audit trail provision.
No.	Observation and implications		
1.6	The Corporate Health & Safety webpage states that any competent person can undertake a risk assessment provided they have the necessary mix of training i.e. 'suitable and sufficient' depth of tasks, situations, and the equipment to be used'. There are trained risk assessors at Paignton and Torquay, however, two members of staff at Brixham undertook their training in 2006 and have not been refreshed; the guidance is that they should have refresher training every 3 years, given that Brixham is a busy commercial port the need for fully trained risk assessors is essential.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.6.1	Management should ensure there are sufficiently trained risk assessors at each site through appropriate initial and refresher training, ensuring necessary skill sets are in place and remain current.	Medium	Agreed – DB The two members of staff to attend the next available refresher training course.
No.	Observation and implications		
1.7	In line with the Port Marine Safety Code risk assessments are required to be reviewed annually. There are a number of risk assessments that are held outside MarNIS; it was noted that although a majority have been reviewed some are now slightly overdue. It was also found that one assessment in MarNIS had not been reviewed due to an incorrect review date being selected.		

	Recommendation	Priority	Management response and action plan including responsible officer
1.7.1	Review all risk assessments annually to ensure they are kept current and up to date.	Low	Agreed – KM Managers to be reminded at the December 2016 managers meeting.
No.	Observation and implications		
1.8	During 2016 further Standard Operating Procedures have been developed, however it was noted that there are currently no risk assessments linked to these.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.8.1	Ensure that where applicable all SOP's have an associated risk assessment.	Low	Agreed – KM Risk owners to be assigned and tasked at the December 2016 managers meeting.
No.	Observation and implications		
1.9	A 'Pilotage Review Working Party' has been established and minutes from a recent meeting show that a 'Tor Bay Harbour Pilotage Manual' is in place but needs updating, this has yet to be completed. Towage Guidelines have also been established and published on the Tor Bay Harbour website, to ensure these are fully publicised they should be included in a Notice to Mariners.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.9.1	The Pilotage Manual needs to be updated, issued for comments and finalised.	Low	Agreed – SP Manual to be finalised by March 2017.
1.9.2	Issue notice to mariners re the towage guidelines.	Opportunity	Agreed -SP Notice to be issued by December 2016.
No.	Observation and implications		
1.10	The Training Matrix held for all three harbour sites provides details of the RYA Powerboat certificates obtained by staff. Whilst re-training is not necessary it has been confirmed that where the advanced certificate is held medical certificates have to be obtained from an approved Doctor every 5 years to confirm fitness, these certificates then have to be supplied to the RYA but this is not detailed on the Training Matrix.		

	Recommendation	Priority	Management response and action plan including responsible officer
1.10.1	The Training Matrix should be updated to show when the last medical fitness certificates were obtained and when they are due for renewal. Additionally management should ensure that staff at Brixham hold the relevant qualifications for the new work boat that is under construction. Linked to this all staff holding the RYA Advanced Powerboat Certificate should ensure their first aid training is up to date.	High	Agreed – KA Business Manager to update the Matrix before the end of December 2016.
No.	Observation and implications		
1.11	A Training Matrix has been established for each harbour site and this holds the details of all training required / available. There are fields for when the training was undertaken and when it is due for renewal. The Torquay & Paignton matrix has been updated to show all training undertaken, if it's due for renewal and when. It was noted that whilst some work has been done on the Brixham matrix it still needs to be fully updated, in particular it should state if retraining is needed and if not this should be reflected in the relevant field i.e. N/A. Issues with powerboat training have already been reported in 1.10 above.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.11.1	Work should continue on the Brixham Training Matrix to ensure it details all training undertaken including when and if training is to be renewed. Additionally management should continue to monitor what training is required and when to ensure certification and skill sets remain current.	Low	Agreed – KA Business Manager to update the Matrix before the end of December 2016.
No.	Observation and implications		
1.12	The newly updated PMSC states that 'A harbour authority has a duty to conserve the harbour so that it is fit for use as port, this duty covers several specific requirements' and goes on to state 'hydrographic information is published in a timely manner'. No reference to the publishing of hydrographic information could be found on the Tor Bay Harbour website.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.12.1	Links to the publication of relevant hydrographic information should be made available on the Tor Bay Harbour website.	Low	Agreed – SP Suitable links to be added to the website before the end of December 2016.

No.	Observation and implications		
1.13	<p>The recent Marine Accident Investigation Branch (MAIB) accident report into the grounding and capsizing of a fishing vessel in Dartmouth in March 2016 has highlighted some areas that the Harbour Authority / Committee may want to review to ensure that the Tor Bay Harbour Authority has appropriate measures in place.</p> <p>The findings of the MAIB concluded that;</p> <p>The Dartmouth Harbour Master should have taken steps to ensure himself that the skipper understood the limitations of the berth.</p> <p>It was identified that taking the ground, on the South Embankment, on a falling tide, was a potential hazard. However, there were no harbour procedures or method statements to give effect to the control measures identified in the risk assessments for the use of berths at the Quay.</p> <p>It was identified that the language barrier played a part in the incident and that although a list had been compiled of berth holders who could act as translators the Harbour Master and his Deputy were unaware of this list.</p>		
	Recommendation	Priority	Management response and action plan including responsible officer
1.13.1	<p>It would be advisable for the Tor Bay Harbour Authority to review the recommendations / findings of the MAIB report and ensure that they have the appropriate measures in place; in particular there should be a procedure to overcome any language barrier.</p> <p>It is thought that Torbay Council may have a translation service but this was not known to staff.</p>	Opportunity	<p>Agreed – KM</p> <p>Managers to be reminded at the December 2016 managers meeting of the Council's access to translation services.</p> <p>SP to produce a Standard Operating Procedure by the end of January 2017.</p>
No.	Observation and implications		
1.14	<p>In November 2016 the Port Marine Safety Code was updated, whilst it is acknowledged that this is a very recent update, we noted that the changes to the Code had not been disseminated at the time of the audit in November 2016.</p>		
	Recommendation	Priority	Management response and action plan including responsible officer
1.14.1	<p>Management should ensure that a copy of the updated Port Marine Safety Code is made available to all staff / Harbour Committee members and that they are informed of any changes made to the Code.</p>	Opportunity	<p>Agreed – KM</p> <p>Managers to be reminded at the managers meeting and Committee Members to be advised by email - December 2016.</p>

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

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.