



Meeting: Harbour Committee

Date: 5th December 2017

Wards Affected: All wards in Torbay

Report Title: Tor Bay Harbour Pilotage Directions

Executive Lead Contact Details: Non-Executive Function

Supporting Officer Contact Details: Kevin Mowat
Executive Head of Assets & Business Services
Tor Bay Harbour Master
☎ Telephone: 01803 292429
✉ Email: Kevin.Mowat@torbay.gov.uk

1. Purpose

1.1 The Pilotage Directions for Tor Bay Harbour need to be reviewed on a regular basis as part of the Council's ongoing compliance with the Port Marine Safety Code.

2. Proposed Decision

2.1 **That, having considered the recommendation of the Pilotage Review Working Party, the Harbour Committee agree that following a recent review of the existing Tor Bay Harbour Pilotage Directions, which were published on 1st June 2015, no further amendments are required to the Directions.**

2.2 Action Needed

2.3 The Harbour Committee needs to consider the recommendation made by the Pilotage Review Working Party that the existing Tor Bay Harbour Pilotage Directions, which were published on 1st June 2015, do not need further amendment at this time.

3. Summary

4.1 Torbay Council, as the Tor Bay Harbour Authority, and the Competent Harbour Authority for the purposes of the Pilotage Act 1987, has powers under Section 7 of the Act to make Pilotage Directions. A pilotage service must be provided if required in the interests of safety.

4.2 Competent harbour authorities have specific powers under the Pilotage Act to enable them to discharge the duties imposed under that Act.

4.3 A competent harbour authority has specific powers and duties for marine pilotage and must issue pilotage directions if it decides, based on its assessment of the risks, that pilotage should be made compulsory. The directions must specify how

and to which vessels they apply. Ship owners and any other interested parties who use the port on a regular basis, must be consulted before the directions are implemented. Current operational risk assessments indicate the need for compulsory pilotage for specific vessels in certain weather conditions.

- 4.4 Tor Bay Harbour Authority is committed to complying with its legal obligations and to complying with the Port Marine Safety Code. After a period of consultation and having considered all the relevant comments, the Authority is recommended to adopt the new Pilotage Direction and to publish the same in accordance with Section 7 (6) of the Pilotage Act, so as to bring it to the notice of those persons likely to be interested.
- 4.5 It is essential that Tor Bay Harbour Authority has Pilotage Directions that are fit for purpose. Keeping such Directions under regular review reflects national best practice.

Supporting Information

4. Position

- 4.1 On 30th March 2000 the Harbours Sub-Committee received a report on the newly published Port Marine Safety Code. The Committee resolved that the requirements of the Code be implemented, as specified, by the end of 2001. Consequently a Marine Safety Risk Review was undertaken for Tor Bay Harbour Authority by Willis (UK) Ltd. Willis identified the need for a formal review of the existing Pilotage Directions, including consultation with all relevant stakeholders. It was specifically stated that the issue of pilotage provision in bad weather should be addressed. Options for consideration included the withdrawal of compulsory pilotage, part withdrawal (zoning) of compulsory pilotage, reduction of the waters controlled by Tor Bay Harbour Authority, investment in a radar controlled system and pilotage resources to ensure diligent regulation of compulsory pilotage.
- 4.2 During the winter of 2002/03 further work was undertaken to review the Pilotage Directions with the Harbour Masters and consultants Marine Enforcement Limited. This work concluded with a consultation exercise on a new draft Pilotage Direction. Following the consultation period a revised set of Tor Bay Harbour Pilotage Directions were approved in July 2003.
- 4.3 In September 2014 the most recent set of Pilotage Directions were approved by the Harbour Committee and these were published in June 2015.
- 4.4 A Pilotage Review Working Party was appointed by the Harbour Committee in June 2017 – *“to work alongside Officers to review the Pilotage arrangements for Tor Bay Harbour and to recommend to the Harbour Committee any amendments to the Pilotage Directions as and when appropriate”*.
- 4.5 Each year the Harbour Committee receives a report with details of the annual Port Marine Safety Code compliance audit undertaken for the Council, as the Harbour Authority, by the Devon Audit Partnership.
- 4.6 The Harbour Committee, on behalf of the Council, is the ‘Duty Holder’ under the

Port Marine Safety Code (PMSC) and the Devon Audit Partnership are the appointed 'Designated Person'.

- 4.7 Under the Port Marine Safety Code Authorities should determine, through risk assessment whether any and, if so, what pilotage services need to be provided to secure the safety of ships (including those carrying dangerous goods or harmful substances) navigating in or in the approaches to its harbour; and whether in the interests of safety, pilotage should be compulsory for ships navigating in any part of that harbour or its approaches and, if so, for which ships and in which circumstances and what pilotage services need to be provided for those ships.
- 4.8 Each competent harbour authority should provide such pilotage services as is necessary.
- 4.9 Authorities must grant a bona fide master or deck officers of any vessel a 'pilotage exemption certificate', if they demonstrate they have sufficient skill, experience and local knowledge to pilot the vessel within the harbour. The requirements for granting an exemption must not exceed or be more onerous than those needed for an authorised pilot.
- 4.10 Each competent harbour authority may authorise suitably qualified pilots in its area. Authorisations may relate to ships of a particular description and to particular parts of the harbour. The authority determines the qualifications for authorisation in respect of medical fitness standards, time of service, local knowledge, skill, character and otherwise. It may also after giving notice and allowing a reasonable opportunity to make representations suspend or revoke an authorisation if it appears to the authority that the authorised person is guilty of any incompetence or misconduct affecting his capability as a pilot, or has ceased to have the required qualifications or failed to provide evidence that he still has them. An authorisation may also be suspended or revoked, on reasonable notice, if any contract or other arrangement under which the services of pilots are provided is terminated.

5. Possibilities and Options

- 6.1 To continue using the existing Tor Bay Harbour Pilotage Directions and task the Pilotage Review Working Party to keep the Directions under review.
- 6.2 Withdrawal of compulsory pilotage within Tor Bay would present unacceptable safety and environmental risks.
- 6.3 The Harbour Committee will keep the Authority's pilotage responsibilities under review as part of the Council's ongoing statutory duty as a Competent Harbour authority and following its commitment to compliance with the requirements of the Port Marine Safety Code.

6. Preferred Solution/Option

- 6.1 To approve the recommendation of the Pilotage Review Working Party and keep using the existing Tor Bay Harbour Pilotage Directions without any amendments.

7. Consultation

- 8.1 No consultation has been undertaken because no changes are being proposed.

8. Risks

- 9.1 There are no key risks associated with taking this decision.
- 9.2 The adoption of clearly stated Harbour Pilotage Directions will enhance the Harbour Committee's reputation for transparency and accountability in respect of its function as Tor Bay Harbour Authority, on behalf of Torbay Council.

Appendices

None

Additional Information

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

The Pilotage Act 1987

The Port Marine Safety Code – November 2016 (DfT & MCA)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/564723/port-marine-safety-code.pdf

A Guide to Good Practice on Port Marine Operations – March 2015 (DfT & MCA)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/417662/guide-good-practice-marine-code.pdf

Tor Bay Harbour Authority – Port Marine Safety Code Safety Management System

The Tor Bay Harbour Act 1970

Existing Tor Bay Harbour Pilotage Directions – June 2015

<http://www.tor-bay-harbour.co.uk/torbay-pilotage.pdf>