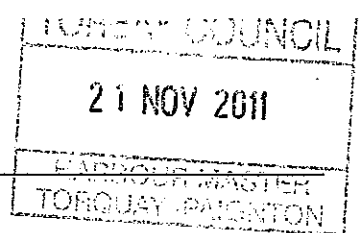




Nicholsons

Risk Management



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Capt K P Mowat
Executive Head Tor Bay Harbour Authority
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22 November 2010

Dear Kevin,

Enclosed is the formal audit report. I have emailed you the updated Safety Management System in compliance with the Port Marine Safety Code

While carrying out the audit the following issues were examined and noted.

1. Any changes in Tor Bay Harbour activities?

The new fish market at Brixham has attracted more business and at a time when fish prices have risen. Torquay and Paignton also increased income in the year ending April 2011 but income has since decreased. The finances at Torquay and Paignton benefited too from there being less maintenance expenditure in the year to April 2011.

At Paignton parking restrictions were imposed on the approach road and this alleviated congestion at the slipway this summer. The situation was also helped by the recession and high petrol prices bringing a reduction in speedboat and personal water craft activity.

Generally, though, the mix of fishing, commercial, ferry and leisure activities in Tor Bay has remained much as before.

2. What changes in standards expected or in legislation?

Though the process of selection is not yet quite complete, it is likely that the shoreline of Tor Bay will be designated as a Marine Conservation Zone.

The Consolidated European Reporting System (CERS) has been extended with a further reporting burden, but for Tor Bay Harbour this will be handled by the pilotage contractor/shipping agency.

3. What accidents and incidents have there been?

There were no fatalities reported as relating to the harbour.

The incident of the returning fishing vessel that hit Brixham breakwater last year was investigated by the MCA with the Harbour Authority, the skipper was prosecuted for negligence after working excessive hours and the prosecution was successful.

The incident causing some concern this year is that of a rigid-hull inflatable boat acting as chase boat following a model speedboat. It ran over a sea kayak and seriously injured the kayaker. A full investigation is in progress with statements made and an interview under caution.

The 86 accident and incident reports in the twelve months are rather more than the average of 66 for the previous three years. There was an increase in hospitalisations (from 6 last year to 12 this) and in navigational incidents (from 9 to 21). Some otherwise competent sailors are failing to follow the collision regulations, at times not keeping a good look out and generally falling below the standard of seamanship to which many of them have been trained. Customers need to be informed, educated and motivated to become better seamen.

4. Navigation

Consider, with Trinity House, re-assigning the 5-knot mark, which was hit by a powerboat on the evening of the firework display, at the entrance to Torquay harbour, with a port hand mark complete with light.

5. Are there any new concerns that have been raised?

There is considerable concern at the prospect of the closure of the Coastguard Station at Brixham.

Concerns also continue at the risk of some unprotected harbour edges where there may be a conflict between the safety of pleasure boat passengers, tourists and pedestrians on public walkways and those involved in commercial activity on the quays they pass through.

The Pilotage Review Working Group set up to examine regulations and procedures recommended that the requirement for pilotage in the deep waters of the bay be increased from 36m to 80m and that the renewal requirement for Pilotage Exemption Certificates be made more flexible.

The recommendations have been adopted.

Two anglers have been successfully prosecuted for refusing to comply with Harbour Byelaws at Torquay harbour.

To help resolve the difficulties of when to prosecute and when not to the Tor Bay Harbour Authority has refreshed its formal Enforcement and Prosecution Policy.

6. Are any additional risk assessments needed?

The existing fire risk assessments for the harbour office buildings need to be incorporated into the PMSC safety management system and the assessments need to be reviewed and updated to cover the use of premises occupied by tenants and neighbours in shared buildings on the harbour estate.

7. Is the policy statement clear and up to date?

There is a clear and up to date policy statement included in full in the PMSC compliance document adopted by the Tor Bay Harbour Committee (TBHC) published and given to senior managers.

The policy needs to be displayed in harbour offices.

8. Is there an organisation fit to manage the safety of these activities?

Yes - the organisation is unchanged.

9. Review the implementation and record of implementation of each risk control, Remove ineffective or introduce new controls

The risk assessments are reviewed regularly at the bi-monthly Harbour Masters Meeting. At each of these meetings a batch of specific risk assessments are reviewed and discussed. This process ensures that all risks are routinely reviewed throughout the year and the review recorded in the minutes.

Each risk control is assigned to a specific employee for responsibility, with review dates.

10. Are the "customers" requirements being satisfied?

The Harbour Authority continues to hold quarterly consultation meetings (Harbour Liaison Forums), has held a meeting with passenger boat (ferry) operators and a representative from the sailing clubs.

There is an annual users' survey. There were just 77 responses to the 2011 survey, but it did show that over 96% (2010: 93%) of those who responded believed that Tor Bay Harbour Authority is properly managing the safety of the harbour.

11. Where actions were identified last year to bring the risks to As Low as Reasonably Practical [ALARP], what has been completed?

1. Make sure that all accidents and incidents are properly and promptly reported and logged on the accident/incident database.
2. At the new premises in Brixham display the statutory safety poster.
3. Include the number of pollution incidents, if any, as a specific item in the annual summary of accidents and incidents.

12. Policy of continuous improvement,

The following actions have commenced and are ongoing: -

Structural Improvement

The Phase 1 works to Haldon Pier are now complete and they have included sprayed concrete on the seaward face, additional rock armouring and some emergency repairs to the inside wall. An initial application for external funding from the Environment Agency was successful and

the grant of approximately £1.3m will be used for Phase 2 which will commence in the winter of 2011/12. Work towards a further bid of approximately £7m of external funding from the Environment Agency is now underway and is expected to be submitted in March 2012. The Environment Agency approved a grant of £40,000 to produce a more detailed structural report of the Brixham Breakwater. Work has started on a bid for further Environment Agency funding from their 2012/13 capital plan. Additional wave modelling results and an economic appraisal will form part of the bid process and in the meantime the approved £150,000 capital work has been postponed.

A business case is being prepared to implement the Technical Proposal for a new North Arm Breakwater at Brixham, as this would greatly improve the safety of the moorings. Also at Brixham, plans are needed to repair and update the inner harbour.

The Slipway at Paignton.

There remains the conflict of pedestrians (including children) and commercial vehicles (which include articulated lorries and forklift trucks) trying to share the same area. Finding a long term solution may involve redevelopment of the whole area.

Harbour Edge Protection

A policy is being developed for edge protection around the harbours based on the trial work undertaken at Paignton. This involves erecting fences and/or painting yellow and white lines and suitable notices such as "Mind The Edge".

Promote safe seamanship,

There is a need to maintain, refresh, improve and emphasise the advice already being given through notices, brochures, emails, the website, in person from harbour patrols and through sea schools.

The following further actions identified a year ago are still not completed,

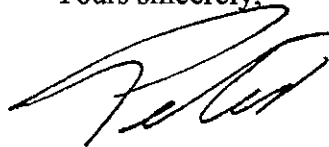
1. Passenger Pier at Brixham: The specific plan for improving the safety of the passenger pier at Brixham, not yet completed, needs to include, as well as the edge protection measures the removal of vehicles and fishing gear.
2. Draw up a harbour specific file of Standard/Safe Operating Procedures. e.g. from the syllabus and notes of training courses. Where appropriate adopt the procedures already written in the Council's Health & Safety Manual. These procedures will serve as additional control measures for a range of risk assessments but in particular No. 41, Workshops.
3. Training records to be kept up to date and then expanded to include the dates when either external training or internal instruction was given. Make more effective use of the Training Matrix to help establish the need for a specific training programme for each member of staff.
2. Complete the Brixham Harbour office move with the siting of fire extinguishers and the posting of fire notices. Tor Bay Harbour Authority Safety Policy and the insurance certificate for employer's liability needs to be displayed.
3. Use the website to inform harbour users of risks and have a system for displaying actual weather on the World Wide Web, with links from the Council, Tor Bay Harbour and marina web sites.

The following further actions are planned,

1. The LPG store at Brixham harbour needs a notice on the passenger pier and to be made safe from any possibility of ignition from the public passing nearby.
2. Make sure each accident/incident record or investigation is kept under review until it is formally closed off on the database and any lessons learnt are promulgated.
3. Fire risk assessments are needed for all harbour estate premises to set out the risks, the controls in force, whether the risks are as low as reasonably practical and if not what further measures need to be taken.
4. Have a review of the safety of Brixham Yacht Club's dinghy slipway; establish liability and possible improvement measures, including the display of a danger warning notice similar in many ways to the one posted at the nearby Oxen Cove slipway.
5. Publication: Include on the website the Safety Management System in compliance with the Port Marine Safety Code.

Many thanks to you and your staff. You have all been most helpful to me, as always, while I have been undertaking this review.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Peter Nicholson', written in a cursive style.

Peter Nicholson

