



Public Agenda Item: **Yes**

Title: **Review of Delegated Powers**

Wards Affected: **All Wards in Torbay**

To: **Harbour Committee** On: **8 March 2012**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

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1. What we are trying to achieve and the impact on our customers

- 1.1 To review the powers delegated to the Executive Head of Tor Bay Harbour Authority – Tor Bay Harbour Master as contained within Torbay Council's Constitution.
- 1.2 Harbour customers and the wider community would expect the harbour authority to be fit for purpose and to review the powers delegated to its senior management.

2. Recommendation(s) for decision

- 2.1 **That, having reviewed the powers delegated to the Executive Head of Tor Bay Harbour Authority, as set out in Appendix 1, the Harbour Committee finds no reason to refer any proposed changes to the Council for determination.**

3. Key points and reasons for recommendations

- 3.1 The Terms of Reference for the Harbour Committee form part of Torbay Council's Constitution.
- 3.2 It is stated within those Terms of Reference that it is for the Harbour Committee to review annually the powers delegated to the Executive Head of Tor Bay Harbour Authority – Tor Bay Harbour Master and refer any proposed changes to the Council for determination. The Committee itself shall not authorise any changes.

For more detailed information on this proposal please refer to the supporting information attached.

**Kevin Mowat
Executive Head of Tor Bay Harbour Authority
Tor Bay Harbour Master**

Supporting information

A1. Introduction and history

A1.1 In November 2000, in '**Modern Ports – A UK Policy**', the Department for Transport promised a review of municipal ports management structures and practices to ensure that municipal ports were playing a full and accountable part in the local and regional economy.

A1.2 In May 2006 the Department for Communities and Local Government and Department for Transport jointly published '**Opportunities for Ports in Local Authority Ownership; A review of municipal ports in England and Wales**'.

A1.3 In the review they stated that within the current framework for decision-making in local government there is scope for responsive and dynamic management of municipal ports. The key findings identified in the Executive Summary of the review concerned:-

- 1 Accountability and decision making
- 2 Strategy and Business Planning
- 3 Management and Performance Review
- 4 Municipal Port Finances

A1.4 Furthermore the review document states that decisions relating to the Harbour are based on advice from officers who have a clear understanding of the special requirements of the Harbour.

A1.5 Following a report to the Harbour Committee in June 2006 it was resolved that a Municipal Ports Review Working Party be established to prepare an implementation schedule for review in relation to the review of Municipal Ports.

A1.6 This Working Party met on five occasions with the last meeting being held on 22 January 2007. The Working Party agreed and recommended that the best way forward to meet the requirements of the Municipal Ports Review is to have a fit for purpose Harbour Committee working for Tor Bay Harbour under new and more detailed Terms of Reference and a Protocol set by the Council, making it effectively a decision-making committee of the Council. Later in 2007 the Council adopted the Working Party's recommendations.

A1.7 It was a recommendation of the Working Party that the new Committee should be protected against short-term thinking and be subject to a coherent and consistent treatment by the Council.

A1.8 Appendix 1 of this report provides a list of the current powers delegated to the Executive Head of Tor Bay Harbour Authority and Appendix 2 shows the powers as they were when the Committee last reviewed them in March 2011. There has been a reduction in the number of specific powers delegated to Executive Head of Tor Bay Harbour Authority because several powers are generic and they

apply to all Executives Heads. The general powers delegated to the Commissioners and Executive Heads and the limitations on delegations to the Chief Executive, Commissioners, Executive Heads and all other officers, are now listed in Appendix 3.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

There is likely to be a reduction in risk by providing the Executive Head of Tor Bay Harbour Authority – Tor Bay Harbour Master with the appropriate level of delegated powers. If the governance arrangements for the harbour did not include an appropriate level of delegated powers there would be a significant risk that the Council would not have a fit for purpose form of governance that reflects national best practice.

A2.2 Although the Executive Head of Tor Bay Harbour Authority – Tor Bay Harbour Master has a significant level of delegated powers, the risks associated with the Executive Head of Tor Bay Harbour Authority – Tor Bay Harbour Master making such decisions is minimal as the powers are governed by restrictions as shown in Appendix 3. Also, the delegated powers can be revoked at any time by a revision of the Council's Constitution, although this would be an extreme option as it would go against national best practice.

A2.3 Remaining risks

The only remaining risk is that the Council could be criticised for not adopting the appropriate level of delegated powers for the Executive Head of Tor Bay Harbour Authority – Tor Bay Harbour Master as recommended by the Municipal Ports Review.

A3. Other Options

A3.1 Not to review the powers delegated to the Executive Head of Tor Bay Harbour Authority – Tor Bay Harbour Master.

A3.2 To recommend further changes to the powers delegated to the Executive Head of Tor Bay Harbour Authority – Tor Bay Harbour Master.

A4. Summary of resource implications

A4.1 There are no additional resources implications.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 Any changes to the powers delegated to the Executive Head of Tor Bay Harbour Authority – Tor Bay Harbour Master could delay or disrupt decision making which could cause a negative impact.

A6. Consultation and Customer Focus

A6.1 There are a number of stakeholder groups which are used to consult on the quality and performance of the harbour service these are the Brixham Harbour Liaison Forum, the Torquay/Paignton Harbour Liaison Forum, various

Community Partnerships, individual Harbour User Groups and the community wide Viewpoint Panel.

A6.2 All of these stakeholder groups have helped to influence the management arrangements in place for Tor Bay Harbour.

A7. Are there any implications for other Business Units?

A7.1 No.

Appendices

Appendix 1 Powers currently delegated to the Executive Head of Tor Bay Harbour Authority - updated and published on 24 August 2011.

Appendix 2 Powers previously delegated to the Executive Head of Harbour and Marine Services – reported to the Harbour Committee on 14th March 2011.

Appendix 3 General Powers delegated to Commissioners and Executive Heads and Limitations on delegations to the Chief Executive, Commissioners, Executive Heads and all other officers - updated and published on 24 August 2011.

Documents available in member's rooms

None

Background Papers:

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

Opportunities for Ports in Local Authority Ownership: A Review of Municipal Ports in England and Wales – Dept. for Communities & Local Government/Dept. for Transport (May 2006)

Modernising Trust Ports: A Guide to Good Governance – Dept. of the Environment, Transport and the Regions (Jan 2000)

Torbay Council's Constitution – Officer Scheme of Delegation (last updated and published on 24 August 2011)