



Meeting: Harbour Committee

Date: 17th December 2018

Wards Affected: All wards


Report Title: Port Marine Safety Code – Annual Compliance Audit

Executive Lead Contact Details: Non-Executive Function

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Tor Bay Harbour Master

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1. Purpose

1.1 This report updates Members on the annual Port Marine Safety Code (PMSC) compliance audit undertaken for the Council, as the Harbour Authority, by the Devon Audit Partnership.

1.2 The Harbour Committee, on behalf of the Council, is the *Duty Holder* and the Devon Audit Partnership are the appointed *Designated Person*.

2. Proposed Decision

2.1 That the report, and its attached appendices, is noted.

Supporting Information

3. Position

3.1 Torbay Council, as the Statutory Harbour Authority, has implemented the requirements of the PMSC which offers a national standard for port safety in the UK with the aim to "improve safety for those who use or work in ports, their ships, passengers and cargoes, and the environment".

3.2 The PMSC is not mandatory and does not create any new legal duties. Failure to comply is not an offence, however, the Code represents good practice as recognised by a wide range of industry stakeholders and a failure to adhere to good practice may be indicative of a harbour authority being in breach of certain legal duties.

3.3 The Code states that statutory harbour authorities must consider the following 10 measures:

1. **Duty holder:** Formally identify and designate the duty holder, whose members are individually and collectively accountable for compliance with the Code, and their performance in ensuring safe marine operations in the harbour and its approaches.
2. **Designated Person:** A 'designated person' must be appointed to provide independent assurance about the operation of the marine safety management system. The designated person must have direct access to the duty holder.
3. **Legislation:** The duty holder must review and be aware of their existing powers based on local and national legislation, seeking additional powers if required in order to promote safe navigation.
4. **Duties and Powers:** Comply with the duties and powers under existing legislation, as appropriate.
5. **Risk Assessment:** Ensure that marine risks are formally assessed and are eliminated or reduced to the lowest possible level, so far as is reasonably practicable, in accordance with good practice.
6. **Marine Safety Management System:** Operate an effective MSMS which has been developed after consultation, is based on formal risk assessment and refers to an appropriate approach to incident investigation.
7. **Review and Audit:** Monitor, review and audit the risk assessment and MSMS on a regular basis – the independent designated person has a key role in providing assurance for the duty holder.
8. **Competence:** Use competent people (who are trained, qualified and experienced) in positions of responsibility for managing marine and navigation safety.
9. **Plan:** Publish a safety plan showing how the standards in the Code will be met and produce a report assessing performance against that plan at least every 3 years.
10. **Aids to Navigation:** Comply with directions from the General Lighthouse Authorities and supply information & returns as required.

3.4 All the officers involved in marine safety have been instructed to familiarise themselves with the updated PMSC and review any implications for marine operations in Tor Bay Harbour. It is strongly recommended that members of the Harbour Committee, acting as the 'duty holder', should also become familiar with the updated Code by reference to this report and by following the link identified in the Additional Information section below.

4. Consultation

4.1 The Brixham Harbour Liaison Forum and the Torquay/Paignton Harbour Liaison Forum were consulted at their December meetings. A meeting was also held with the Torquay Harbour Users Association.

5. Risks

5.1 Without a regular compliance audit programme there is a risk that emergent issues are not identified or addressed and the Harbour diverges from the high standards expected by the MCA.

Appendices

Appendix 1 - Port Marine Safety Code - Compliance Audit Report - November 2018

Appendix 2 – Table of Accident/Incident Statistics - December 2017 to November 2018

Additional Information

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

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

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

A Guide to Good Practice on Port Marine Operations – April 2018 (DfT & MCA)

<https://www.gov.uk/government/publications/a-guide-to-good-practice-on-port-marine-operations>