

Meeting: Harbour Committee

Date: 18 March 2019

Wards Affected: All

Report Title: Enforcement and Prosecution Policy

Is the decision a key decision? No

When does the decision need to be implemented? N/A

Executive Lead Contact Details: Non-Executive function

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1. Proposal and Introduction

1.1 Tor Bay Harbour Authority has for a number of years published an enforcement and prosecution policy, which is regularly reviewed by the Harbour Committee. This report updates the Committee on the policy and seeks their re-endorsement thereof.

2. Reason for Proposal and associated financial commitment

2.1 The Tor Bay Harbour Authority has statutory powers to regulate the conduct and movement of vessels within Tor Bay Harbour, and to assist in managing the risks of marine operations. It also has the power to make and enforce byelaws and harbour directions, and to initiate prosecutions if these are transgressed in order to protect the safety of harbour users.

2.2 The original enforcement and prosecution policy was published in 2004 and periodically reviewed by the Harbour Committee thereafter; the latest occasion being 2014. It is thus timely that the policy is again reviewed and endorsed.

2.3 The adoption of a clearly stated Enforcement and Prosecution Policy will enhance the Council's reputation for transparency and accountability in respect of its delivery of its harbour authority function

2.4 There are no new financial commitments associated with the adoption of this plan.

3. Recommendation(s) / Proposed Decision

3.1 **That the Harbour Committee note and approve the enforcement and prosecution policy.**

Section 1: Background Information

1.	<p>What is the proposal / issue?</p> <p>1.1 The Harbour Authority has statutory powers to regulate the conduct of vessels in the harbour's jurisdiction and to assist in managing the risks of marine operations. To these ends, enforcement action will sometimes be appropriate.</p> <p>1.2 Adoption of a clearly stated Enforcement and Prosecution Policy will assist harbour stakeholders understand our approach to crime and disorder within the limits of the harbour. Furthermore it should reduce or eliminate any unlawful discrimination, direct or indirect, regarding enforcement and prosecution action undertaken by the harbour authority.</p> <p>1.3 The existing policy was last reviewed since 2014 and it is thus deemed timely that it again be scrutinised by the Harbour Committee.</p>
2.	<p>What is the current situation?</p> <p>2.1 The purpose of any enforcement action is to protect the safety of residents, harbour users and visitors to Tor Bay Harbour. The Harbour Authority has the options of negotiation, education and persuasion and, where a criminal offence has occurred, of cautioning or prosecuting the offender.</p> <p>2.2 The Enforcement and Prosecution Policy covers the following areas ;-</p> <ul style="list-style-type: none">• Aims of the Policy• Guiding Principles• Clear Standards Consistency• Targeting & Proportionality• Monitoring
3.	<p>What options have been considered?</p> <ul style="list-style-type: none">- To continue with the existing policy. Although there are no proposed changes, the reliance on an increasingly aged policy could diminish our credibility in any future court action.- To no longer publish an enforcement and prosecution policy. This is not recommended as it would not be considered best practice.
4.	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</p> <p>Not applicable.</p>

5.	<p>How does this proposal contribute towards the Council's responsibilities as corporate parents?</p> <p>The publication of a clear and concise policy contributes towards our responsibilities as corporate parents by articulating the expected standards.</p>
6.	<p>How does this proposal tackle deprivation?</p> <p>Not applicable.</p>
7.	<p>How does this proposal tackle inequalities?</p> <p>The use of a published enforcement and prosecution policy, which is uniformly, equitably and transparently applied will mitigate against any inequalities arising from enforcement or prosecution.</p>
8.	<p>How does the proposal impact on people with learning disabilities?</p> <p>Not applicable</p>
9.	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>The Enforcement and Prosecution Policy is a well-established policy that has been available to the public, via the website, for many years. As there are no meaningful nature, no external consultation has been undertaken.</p>
10.	<p>How will you propose to consult?</p> <p>Using existing consultation channels such as the Harbour Fora.</p>

Section 2: Implications and Impact Assessment

11.	<p>What are the financial and legal implications?</p> <p>Legal The Council, as the nominated Statutory Harbour Authority, has <i>inter alia</i> powers arising from:</p> <ul style="list-style-type: none"> • Tor Bay Harbour Act 1970; • Harbour Docks & Piers Clauses Act 1847; • Harbours Act 1964; • Tor Bay Harbour Byelaws 1994. <p>Financial</p> <p>There are no new financial commitments arising as a result of this report</p>
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12.	<p>What are the risks?</p> <p>Without an enforcement and prosecution policy it will be more difficult to defend decisions as to whether to pursue prosecutions as well as rebutting accusations of bias or inequality when dealing with transgressors.</p>
13.	<p>Public Services Value (Social Value) Act 2012</p> <p>Not applicable</p>
14.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <ul style="list-style-type: none"> • Documentary review of extant legislation and regulations; • Stakeholder consultation feedback.
15.	<p>What are key findings from the consultation you have carried out?</p> <ul style="list-style-type: none"> • The current enforcement and prosecution policy is appropriate for Tor Bay Harbour.
16.	<p>Amendments to Proposal / Mitigating Actions</p> <p>None.</p>

Appendix 1: The Tor Bay Harbour Authority Enforcement and Prosecution Policy.

Background Documents

None