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Internal Audit

Internal Audit Report

Port Marine Safety Code

Tor Bay Harbour Authority

November 2019

Official



Support, Assurance & Innovation

Devon Audit Partnership

Devon Audit Partnership has been formed under a joint committee arrangement comprising of Plymouth, Torbay, Devon, Torridge and Mid-Devon councils and we aim to be recognised as a high quality public sector service provider.

We work with our partners by providing professional internal audit and assurance services that will assist them in meeting their challenges, managing their risks and achieving their goals. In carrying out our work we are required to comply with the Public Sector Internal Audit Standards (PSIAS) along with other best practice and professional standards.

The Partnership is committed to providing high quality, professional customer services to all; if you have any comments or suggestions on our service, processes or standards, the Head of Partnership would be pleased to receive them at robert.hutchins@devonaudit.gov.uk.

Confidentiality and Disclosure Clause

This report is protectively marked in accordance with the National Protective Marking Scheme. Its contents are confidential and, whilst it is accepted that issues raised may well need to be discussed with other officers within the organisation, the report itself should only be copied/circulated/disclosed to anyone outside of the organisation in line with the organisation's disclosure policies.

This report is prepared for the organisation's use. We can take no responsibility to any third party for any reliance they might place upon it.

1 Introduction

The 'Port Marine Safety Code (PMSC)' establishes a national standard for every aspect of port marine safety and aims to enhance safety for those who use or work in ports, their ships, passengers and the environment. The code applies to all harbour authorities in the UK that have statutory powers and duties.

The Devon Audit Partnership is the appointed 'Designated Person' for the Tor Bay Harbour Authority for 2019/20.

2 Audit Opinion

Based upon progress made against previous recommendations and agreed actions, and the findings of this year's Audit against the revised code requirements, in our opinion the Tor Bay Harbour Authority is compliant with the requirements of the Port Marine Safety Code.

3 Executive Summary

We have examined a restricted sample of records relating to the Tor Bay Harbour Authority and its compliance with the requirements of the Port Marine Safety Code and obtained such explanations and carried out such tests as we consider necessary.

To the best of our knowledge and belief, having carried out appropriate checks and considered responses provided to us by relevant Harbour staff, in our opinion the Tor Bay Harbour Authority is currently compliant with the Port Marine Safety Code. There remain concerns in relation to land-based Health and Safety (H&S), however these are outside of the scope of the Code and we understand are being investigated, managed and resolved through the Council's Health and Safety Team in conjunction with the Tor Bay Harbour Authority.

We have noted areas where action is required (refer to Appendix A).

For completeness we have also attached a summary of the current status of the previous audit report and any arising land-based issues (please refer to Appendix B).

The detailed findings and recommendations regarding these issues and less important matters are described in the Appendices. Recommendations have been categorised to aid prioritisation. Definitions of the priority categories and the assurance opinion ratings are also given (please refer to Appendix C).

4 Added Value

Compliance against the requirements of the Port Marine Safety code.

5 Assurance Opinion on Specific Sections

The following table summarises our assurance opinions on each of the areas covered during the audit. These combine to provide the overall assurance opinion at Section 2. Definitions of the assurance opinion ratings can be found in the Appendices.

Risk Covered		Level of Assurance
1	Non-Compliance with Port Marine Safety Code	Compliant with the requirements of the Port Marine Safety Code

The findings and recommendations in relation to each of these areas are discussed in the "Detailed Audit Observations and Action Plan" appendix. This appendix records the action plan agreed by management to enhance the internal control framework and mitigate identified risks where agreed.

6 Issues for the Annual Governance Statement

The evidence obtained in internal audit reviews can identify issues in respect of risk management, systems and controls that may be relevant to the Annual Governance Statement.

Following our review, we would suggest that the ongoing Health and Safety issues, although not relevant to Port Marine Safety code compliance, warrant inclusion within the Annual Governance Statement.

7 Scope and Objectives

Devon Audit Partnership as Designates Persons undertook a review and assessment of the Tor Bay Harbour Authority against the requirements as specified in the Department for Transport's Port Marine Safety Code, and the associated Port Marine Safety Code Guide to Good Practice.

8 Inherent Limitations

The opinions and recommendations contained within this report are based on our examination of restricted samples of transactions / records and our discussions with officers responsible for the processes reviewed.

9 Acknowledgements

We would like to express our thanks and appreciation to all those who provided support and assistance during the course of this audit.

Robert Hutchins
Head of Partnership

Appendix A

Detailed Audit Observations and Action Plan

Risk Covered: Non-Compliance with Port Marine Safety Code	Level of Assurance
<p>Opinion Statement:</p> <p>Port details are recorded and published along with respective activities, usage and aspects which vary significantly between the three harbours. Of note, Paignton Harbour dries out at low tide and is well known for having an unconventional fairway approach. Unlike most harbours in Great Britain, the approach to Paignton is made on the port side of the fairway and not the starboard side. This unusual and interesting feature is marked by a 'N' or negative seasonal buoy and provides for a much safer harbour approach.</p> <p>The Maritime and Coastguard Agency (MCA) have recently undertaken a review / health check against the requirements of the Port Marine Safety Code, and we understand that an action plan has been agreed and is being progressed separately to this annual review. We would however suggest that this progression be monitored by and reported to the Harbour Committee.</p> <p>As Designated Person (DP), although outside of the direct remit of the Port Marine Safety Code, we have previously identified and reported upon several serious land-based H&S incidents. In addition, following several further land-based H&S issues and incidents, the HSE and the Council's Corporate H&S Team have undertaken further reviews, and again, resulting actions are being managed and progressed outside of this review.</p> <p>The Harbour Committee act as the 'Duty Holder' for the purposes of the Port Marine Safety Code. Board members and the associated structure and commitment to the code are clearly defined and published, with commitment being set out in the Safety Management System, which covers all necessary aspects of the code. A statement of PMSC compliance has been issued to MCA as required. However, the Committee terms of reference would benefit from an update regarding restrictions around delegation of authority. In addition to executive responsibilities, operational responsibilities for marine safety are clearly assigned.</p> <p>As detailed within the constitution under the scheme of delegation, the Harbour Authority has the power to make directions. The terms of reference for the harbour committee state that the power of directions will be reviewed annually with changes referred to council, however due to local elections and the resultant impact on the Committee membership this review was delayed and is yet to be completed. The Harbour Authority has kept under review their powers and the extent of their jurisdiction. Special and general rules of navigation have been subject to consultation and publication. The Harbour Authority have established and published byelaws.</p> <p>The Harbour Committee (Duty Holders) appoint the 'Designated Person' to undertake the PMSC audit. Within the MCA review we understand that comment was made in relation to an opportunity to increase the current DP's marine knowledge, and that agreement was made for the Harbour Master to pursue support from another Harbour Authority, although this is yet to occur.</p> <p>Consultation and communication with harbour users, employees and contractors is effective, with various methods being employed,</p>	<p>Compliant with the requirements of the Port Marine Safety Code</p>

ranging from structured forum meetings, physical displays (e.g. time times and hydrographic charts) to information sharing and notices being communicated via the internet and social media (for example, face book and twitter). Users also have the provision to request subscription to newsletters via the Harbour websites. Warnings to harbour users are issued, however as previously noted, the harbour user may not sign the form to confirm that the warning has been received by them, as in some cases, these are posted to the user. We accept that physical signature may not be possible in all cases.

Aids to navigation have been subject to the annual audit, and hydrographic surveys undertaken. The PMSC refers to the need for a VTS (Vessel Traffic Service) being established through a risk assessment. We understand that, although there is no formal risk assessment, the Tor Bay Harbour Master considers that the current activity would not warrant such a system.

Given the level of activity and traffic in and out of respective Harbours, collision avoidance could be better managed through the active use of the automatic identification system (AIS) which is available but not currently used. This would provide annual vessel movements.

MarNIS remains the port risk assessment system, holding risk assessments, accidents/incidents and training, and identifies those accidents/incidents that require manual reporting to the MAIB. MarNIS holds a number of the Harbour Authority's risk assessments, with land-based risk assessments held externally. Risk assessments should be subject to an annual review, however risk workshops with APBmer have been undertaken within which a review of all current risk assessments / causes, and controls was undertaken, along with identification of new / emerging risks. We understand that APBmer are currently formulating these into risk assessments which they will return to Tor Bay Harbour Authority. We have been advised that the internal review / update of risk assessments will be delayed until the output from the workshops has been received. Following this an associated update to SOP's will be required.

Harbour staff across all 3 harbours have undertaken various training courses and all details are logged in a training matrix however we noted that some elements of training required review and update.

Pilotage/Tug provision is not directly provided by the Harbour Authority, it remains contracted to MTS.

No.	Observation and implications		
1.1	AIS (automatic identification system) is available to the harbours however it is not currently used to determine the level of vessel movements on a annual basis.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.1.1	Given that vessel traffic is on the increase and the 3 ports are especially busy in the summer months it would be beneficial to have statistics relating to the level of vessel movements. This information could be used to determine if any action is required to minimise the risk of collision especially between vessels and people.	Medium	AIS is available to various Harbour staff. Greater use will be made of AIS as a vessel identification tool, especially vessel monitoring via a more frequent review of it. However meaningful statistical analysis will be problematic as the requirement to have it is based on factors such as vessel

			tonnage and as such many recreational vessels are not required to have AIS fitted (and thus do not) AIS cannot be used for collision avoidance, in addition to which collision avoidance responsibility lies with the individual vessels.
No.	Observation and implications		
1.2	As per the MCA Health check the Harbour Master was to arrange involvement of the Dartmouth Harbour Master in order to support Devon Audit Partnership in fulfilling the marine based aspects of their Designated Person role, however at the time of our review this remains outstanding.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.2.1	Tor Bay Harbour Master to pursue this support prior to the next PMSC compliance review.	Medium	Dart Harbour Master has agreed to this and their contact details have been passed to the DP
No.	Observation and implications		
1.3	Within the Duty Holders terms of reference, the PMSC requires a statement regarding the Duty Holders accountability in that they cannot re assign or delegate their accountability. This is currently not detailed.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.3.1	Update Duty Holders terms of reference to include the statement that 'Duty Holders cannot re-assign or delegate their responsibilities in relation to PMSC'.	Low	Will be incorporated at the next published change - AP
No.	Observation and implications		
1.4	The Harbour Authority has the power to make directions, this is detailed within the constitution under scheme of delegations. The terms of reference for the harbour committee states that once a year these will be reviewed with any changes referred to Council however this review has not been undertaken for the current year. The last review was undertaken in March 2018 where no changes were made. The next annual review would have therefore been due in March 2019 however at that time the Committee were awaiting the outcome of local elections prior to restructuring. We understand that the MCA have made some recommendations in relation to Powers of Direction within their report, which forms part of an overall action plan.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.4.1	As per the Harbour Committee terms of reference, the power of directions should be reviewed and logged and changes referred to Council.	Low	Will be incorporated at the next published change in March 2020 - AP

No.	Observation and implications		
1.5	A risk workshop was held with APBmer to review all current risk assessments, the causes and controls along with identifying a number of new / emerging risks. APBmer have taken these away to formulate then into completed risk assessments which they will then be returned to Harbours. It was agreed that the review / update of risk assessments would not be undertaken until the output from the workshops had been received from APBmer. As this process will have identified new/emerging risks and potentially updated existing risks, the supporting SOP's will also require further review and associated update or formulation.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.5.1	Once the new / reviewed risk assessments have been received and input into MarNIS, then the corresponding SOP's should be reviewed to ensure they align with them. Additionally, for any new risk assessments new SOP's should be drawn up where applicable	Medium	Will be actioned once feedback from APBMer received – AP/SP
1.5.2	We recommend that a risk assessment of the need for a Vessel Traffic Service be undertaken to support the current decision that one is not required and that AIS is sufficient.	Medium	Risk Assessment for VTS will be completed by end Dec 2019 - AP
No.	Observation and implications		
1.6	A SOP has been established for 'Pilotage and Defective Vessel Notification' however this does not include details of reporting to MCA should there be a defective vessel. It was also noted that there is no risk assessment for defective vessels (injurious vessel) within the harbour limits, this was identified at the workshop and a new RA is being formulated which APBmer.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.6.1	Once the new risk assessment has been received and put into MarNIS it should be determined if a new SOP should be drawn up or the existing one amended. As a minimum the existing SOP will require updating to include reporting procedures.	Medium	Noted Will be actioned once feedback from APBMer received – AP/SP
No.	Observation and implications		
1.7	Harbour staff across all 3 harbours have undertaken various training courses and all details are logged in a training matrix. It was noted that whilst a number of staff had received training in manual handling / working at heights etc, however these were completed several years ago.H&S have confirmed that best practice is for this training to be refreshed every 3 years. It was also noted that the SOP for lone working states that staff are trained, and that refresher training should be undertaken at regular intervals. In addition, the training should be logged in the training matrix. Our review found that this was not undertaken or recorded.		

	Recommendation	Priority	Management response and action plan including responsible officer
1.7.1	A full review should be undertaken to see what training / refresher training is required for all staff. Additionally, lone working training should be provided to and undertaken by all applicable staff, and the training matrix updated accordingly.	Medium	This is 'business as usual' and reviewed annually Individual training undertaken should be added as completed, with an annual review and consolidation exercise undertaken. The next review is due shortly – KA - end Dec 2019

Appendix B

Action Plan – status against 2018-19 actions and recommendations and any arising land-based issues in 2019-20**Previous Years (2018-19) Re-reports**

No.	Recommendation	Priority	Management response / action plan / responsible officer
1.6.2	Further to the original recommendation regarding the forklift usage SOP and risk assessment, there is no mention of the limitations / restrictions on fork lift use. We recommend that the SOP and risk assessment are updated accordingly to include any restrictions in relation to use.	Medium	NOT AGREED – the risk assessment is activity based rather than for an individual item of plant. As the staff might have occasion to use different FLT's, and acquaint themselves with the limitations of each FLT on first and subsequent use. This information would be contained in the Operators manual, indications and limitations as signed on each FLT. This checking by the driver is not recorded.
No.	Recommendation	Priority	Management response / action plan / responsible officer
1.6.6	The Edge Protection Policy includes a risk assessment. We would recommend that the assessment be put into a standard risk assessment format to enable monitoring, evidence actions needed / undertaken and define responsibility	Low	NOT AGREED – the existing risk assessment does not easily fit into the standard template and there is a significant risk that vital information will be lost during reformatting. The Policy itself is taken from the ACoP and the Edge Audit spreadsheet provides assessment at multiple locations with the risks being different for each, which would then require multiple risk assessments to address each. The Edge Protection Policy is going back to committee in December 2019.
No.	Recommendation	Priority	Management response / action plan / responsible officer
1.9.2	As best practice, for completeness and ease, we would recommend that the Business Continuity Plan (BCP) contain a link to the physical and shared drive location of the Emergency Plan, as this is referenced frequently within the BCP.	Opportunity	Agreed – plan to be updated – LS/AP Nov 19
No.	Recommendation	Priority	Management response / action plan / responsible officer
1.12.1	As previously reported the MarNIS system used to record all risk assessments / accidents / incidents / training etc. has no system controls linked to access i.e. all staff have the same access. Tor Bay Harbour Authority should either continue to accept the risks (with the upgrade audit trail provision) or progress the modification to provide full system access controls	Medium	Risk accepted by management due to cost to update system

Arising Land Based Issues 2019-20

No.	Original observation and implications		
1.10	As previously noted, a Health and Safety (H&S) review of Tor Bay Harbours has been undertaken by the Council's H&S Team, and we understand that any arising issues are being progressed and managed separately. However, during our review of the Harbour's accident / incidents records as part of the PMSC Audit we noted that a drowning incident had occurred which instigated a subsequent review of practices. Measures had been put in place to reduce the risk of an occurrence and warnings had been issued and displayed to highlight the danger of alcohol consumption in conjunction with Harbour use. We are pleased to see that in this instance lessons have been learnt and steps taken to reduce the risk of further occurrence.		
	Recommendation	Priority	Management response / action plan / responsible officer
1.10.1	It is recommended that any supporting policies (both user and internal) related to trips and falls be updated to reflect any changes in Health and Safety practices.	Medium	Noted – this is a given that all related policies will be updated to cover H&S practices in relation to the hazards associated with trips and falls - AP

Definitions of Audit Assurance Opinion Levels

Assurance	Definition
High Standard.	The system and controls in place adequately mitigate exposure to the risks identified. The system is being adhered to and substantial reliance can be placed upon the procedures in place. We have made only minor recommendations aimed at further enhancing already sound procedures.
Good Standard.	The systems and controls generally mitigate the risk identified but a few weaknesses have been identified and / or mitigating controls may not be fully applied. There are no significant matters arising from the audit and the recommendations made serve to strengthen what are mainly reliable procedures.
Improvements required.	In our opinion there are a number of instances where controls and procedures do not adequately mitigate the risks identified. Existing procedures need to be improved in order to ensure that they are fully reliable. Recommendations have been made to ensure that organisational objectives are not put at risk.
Fundamental Weaknesses Identified.	The risks identified are not being controlled and there is an increased likelihood that risks could occur. The matters arising from the audit are sufficiently significant to place doubt on the reliability of the procedures reviewed, to an extent that the objectives and / or resources of the Council may be at risk, and the ability to deliver the service may be adversely affected. Implementation of the recommendations made is a priority.

Definition of Recommendation Priority

Priority	Definitions
High	A significant finding. A key control is absent or is being compromised; if not acted upon this could result in high exposure to risk. Failure to address could result in internal or external responsibilities and obligations not being met.
Medium	Control arrangements not operating as required resulting in a moderate exposure to risk. This could result in minor disruption of service, undetected errors or inefficiencies in service provision. Important recommendations made to improve internal control arrangements and manage identified risks.
Low	Low risk issues, minor system compliance concerns or process inefficiencies where benefit would be gained from improving arrangements. Management should review, make changes if considered necessary or formally agree to accept the risks. These issues may be dealt with outside of the formal report during the course of the audit.
Opportunity	A recommendation to drive operational improvement which may enable efficiency savings to be realised, capacity to be created, support opportunity for commercialisation / income generation or improve customer experience. These recommendations do not feed into the assurance control environment.

Confidentiality under the National Protective Marking Scheme

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Official: Sensitive	A limited subset of OFFICIAL information could have more damaging consequences if it were lost, stolen or published in the media. This subset of information should still be managed within the 'OFFICIAL' classification tier, but may attract additional measures to reinforce the 'need to know'. In such cases where there is a clear and justifiable requirement to reinforce the 'need to know', assets should be conspicuously marked: 'OFFICIAL-SENSITIVE'. All documents marked OFFICIAL: SENSITIVE must be handled appropriately and with extra care, to ensure the information is not accessed by unauthorised people.