

Thursday, 10 March 2022

HARBOUR COMMITTEE

A meeting of **Harbour Committee** will be held on

Monday, 21 March 2022

commencing at **5.30 pm**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Committee

Councillor Amil (Chairman)

Councillor Barrand

Councillor Ellery

Councillor Brooks

Councillor O'Dwyer

Councillor Carter

Councillor Mills

Councillor Dudley

External Advisors

Mr Day and Mr Young

Together Torbay will thrive

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Governance Support, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

HARBOUR COMMITTEE AGENDA

1. **Apologies**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 4 - 6)
To confirm as a correct record the Minutes of the meeting of the Committee held on 6 December 2021.
3. **Declarations of interest**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
4. **Urgent items**
To consider any other items that the Chairman decides are urgent.
5. **Work Programme 2022/2023** (Pages 7 - 8)
To confirm the Work Programme for the Harbour Committee for 2022/2023.
6. **Port Marine Safety Code and Health and Safety Matters**
To receive a verbal update from the Harbour Master on Port Marine Safety Code matters.

(Note: The Committee are both individually and collectively responsible in accordance with the Code.)

- | | | |
|------------|---|--------------------|
| 7. | Tor Bay Harbour Budget Monitoring
To consider a report setting out the overall budgetary position for Tor Bay Harbour Authority as at February 2022 compared with approved budgets. | (Pages 9 -
16) |
| 8. | Tor Bay Harbour Operational Moorings and Facilities Policy 2022/2023
To consider a report on the proposed changes to the Operational Moorings and Facilities Policy following an annual review for 2022/2023. | (Pages 17 -
38) |
| 9. | Review of Delegated Powers to Tor Bay Harbour Master
To receive a report on a review of the delegated powers for the Tor Bay Harbour Master. | (Pages 39 -
40) |
| 10. | Torquay/Paignton and Brixham Harbour Liaison Forums
To note the minutes of the above Harbour Liaison Forums. | (To Follow) |

Meeting Attendance

Whilst national Covid-19 restrictions were lifted on 19 July 2021, Torbay Council has taken the decision to continue operating in a Covid-19 secure manner in order to protect staff and visitors entering Council buildings and to help reduce the spread of Covid-19 in Torbay. This includes social distancing and other protective measures (e.g. wearing a face covering (unless exempt), signing in and using hand sanitiser). Our public meetings will continue to operate with social distancing measures in place and as such there are limited numbers that can access our meeting rooms. Also, to help prevent the spread of the virus, anyone attending meetings is asked to take Covid lateral flow test the evening before - if you have a positive test result please follow the Government's guidelines and do not attend the meeting.

If you wish to attend a public meeting please contact us to confirm arrangements for your attendance.

Minutes of the Harbour Committee

6 December 2021

-: Present :-

Councillor Amil (Chairwoman)

Councillors Barrand, Brooks, Carter, Dudley (Vice-Chair), Ellery, O'Dwyer and Mills

External Advisors: Mr Day and Mr Ellis

128. Minutes

The Minutes of the meeting of the Harbour Committee held on 28 June 16 September 2021 were confirmed as a correct record and signed by the Chairwoman.

129. Urgent items

The Committee received the following updates from the Director of Place:

- 1) Appointment of Harbour Master; the Director of Place informed the Committee that Rob Parsons had been appointed to the position of Harbour Master effective from 20 December 2021;
- 2) Pilotage Arrangements; the Director of Place provided an update on the arrangements for pilotage, he advised the Committee that a 12 month contract had been put in place with Teignmouth Pilotage Service which would provide the time for the new Harbour Master to review the requirements for a pilotage service.

130. Thank you to Retiring External Advisors

The Chairwoman informed Members that this would be Mr Mike Ellis' last meeting as an External Advisor to the Harbour Committee. She advised the Committee, that Mr Ellis had held the position for two terms and would therefore be retiring. The Chairwoman on behalf of the Harbour Committee expressed her sincere thanks to Mr Ellis for his service.

131. Harbour Budget 2022/23 and Schedule of Fees and Charges

The Harbour Committee considered a report which set out the Harbour Budget for 2022/24 and Schedule of Fees and Charges. The Director of Place informed the Committee that the Budget Review Working Party met on 16th November 2021 to consider the in-year financial position and to set a budget for 2022/23. It also agreed the broad principles for the 2022/23 schedule of charges, dues and fees.

The Director of Place advised Members, that officers were recommending an overall 4% increase in mooring fees. With the exception being the Town Dock, which was recommended to increase by 7.5% in order to pay for the Town Dock improvements, the borrowing for which was agreed by Council in September 2021.

Members sought clarification as to the reasoning for increasing the fees for the Town Dock and recognised the Town Dock improvements would replace existing infrastructure rather than improving the facilities or providing additional services.

Resolved:

- i that the Tor Bay Harbour Authority Schedule of Charges, Dues & Fees for 2022/23, in line with the current level of inflation and the views of the Budget Review Working Party, being a representative average increase of 4.0%, as set out in Appendix 1 be approved subject to the Town Dock increase also being a representative average increase of 4% and not 7.5%;
- ii that the proposed Harbour Authority budget for 2022/23 as set out in Appendix 2 (circulated at the meeting) be approved subject to the figures being adjusted to reflect a 4% increase and not 7.5% for the Town Dock.
- iii Given the decision in 3(ii) above to approve the Harbour Authority budget for 2022/23 and the subsequent impact of a £134,000 reduction in the contribution to the Council's General Fund, Cabinet are requested to review the adequate resourcing of the Harbour function, as per the Council decision on 29 July 2021.

132. Budget Monitoring December 2021

Members considered a report that provided an update on the overall budgetary position for Tor Bay Harbour Authority as at September 2021 compared against the budget approved on 21st December 2020.

The Director of Place informed Members the original budget considered by the Harbour Committee included a proposed £200,000 reduction in the contribution to the Council's General Fund. The overall Council budget approved on 11 February 2021 provided a £100,000 reduction in the contribution to the Council's General Fund and funding was also provided directly from the General Fund, for the salary of a Health and Safety post within the harbour team.

The Council also agreed that the planned borrowing of £150,000 for dredging at Brixham Harbour would also be funded via a contribution from the General Fund. Furthermore, the Council also approved the transfer of a corporate outturn 2020/21 balance of £122,000 to the Harbour Reserve fund.

Members were advised that repair and maintenance pressures were likely to overspend the budget this year. Income from moorings was down due to reduced deep water chain facilities at Brixham, however this had been mitigated by increased expectations for property rents. Recharged utilities income had also been re-assessed downward.

As a consequence of these and other adjustments the harbour revenue account was projected to make a deficit at year end, which was slightly worse than previously reported.

Members questioned the impact the Fish Tolls would have on the overall budget position of the Harbour Authority. Members were advised that the winter fish were just starting to be landed, therefore it was too early predict what impact Fish Tolls would have.

Resolved:

That the Harbour Committee noted:

- i. the amended outturn projections and the adjustments to the Harbour Reserve Fund, as set out in Appendix 1;
- ii. the revised level of the Harbour Reserve Fund as of September 2021;
- iii. the Head of Tor Bay Harbour Authority's' use of delegated powers to make decisions in relation to the harbour budget; and
- iv. the Harbour Master's use of delegated powers to waive certain harbour charges which to date amounts to £1,834.12.

133. Port Marine Safety Code Compliance

The Harbour Committee noted the Internal Audit Report on the Port Marine Safety Code 2021/22. The Director of Place confirmed that despite not having a Harbour Master in post Internal Audit had full and unfettered access to the Harbour staff. The Director of Place welcomed the Internal Audit opinion that the Harbour Authority was compliant with the requirements of the Port Marine Safety Code and informed Members the resulting action plan was draft and would be reviewed by the Harbour Master once in post.

134. Port Marine Safety Code

Members noted the submitted report which set out the accident/incidents recorded across Tor Bay Harbour. Members were advised that the report covered accidents and incidents that the Maritime and Coastguard Agency would expect to be reported and recorded, with future reports also to include land based accidents and incidents.

135. Torquay/Paignton and Brixham Harbour Liaison Forums

The Minutes of the Torquay, Paignton and Brixham Harbour Liaison Forums were noted.

Chairman

Harbour Committee Work Programme – 2022/2023

Meeting	Standing items to be considered	Type of Report
20 th June 2022	1. To update the Committee on Port Marine Safety Code issues and HM recommendations	Decision/To note
	2. To review the Harbour Committee's Terms of Reference as per the Council's Constitution	Decision
	3. To appoint the external advisors: <ul style="list-style-type: none"> a. Harbour Asset Review Working Party b. Harbour Budget Review Working Party d. Pilotage Review Working Party 	Decision
	4. To consider the Budget outturn for previous financial year	To note

Meeting	Standing items to be considered	Type of Report
	1. To update the Committee on Port Marine Safety Code issues and HM recommendations	Decision/To note
26 th Sept 2022	2. Annual Performance Report of the Tor Bay Harbour Authority Business Unit (SPAR.Net)	To note
	3. To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report	To note
	4. To update the Committee on Port Marine Safety Code issues	To Note
	5. To review and approve the Tor Bay Harbour Asset Management Plan	Decision
	6. To agree the Tor Bay Harbour Authority Business Plan	Decision

Meeting	Standing items to be considered	Type of Report
	1. To update the Committee on Port Marine Safety Code issues and HM recommendations – verbal update	Decision/To note
5 th December 2022	2. To consider the Tor Bay Harbour Authority Budget and Setting of Harbour Charges	Decision
	3. To consider the Annual Compliance Audit of the Port Marine Safety Code	Decision
	4. To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report	To note

Meeting	Standing items to be considered	Type of Report
27 th March 2023	1. To review the delegated powers of the Head of Tor Bay Harbour and Harbour Master	Decision
	2. To agree the Tor Bay Harbour Authority Business Plan 2023/24	Decision
	3. To review the Operational Moorings Policy	Decision
	4. To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report	To note
	5. To agree the Harbour Committee Work Programme for 2023/24	Decision
	6. To review and approve the Tor Bay Harbour Asset Management Plan 2023/24	Decision
	7. Port Marine Safety Code and Safety Issues and HM recommendations – verbal update	Decision/To note

Meeting: Harbour Committee

Date: 21st March 2022

Wards affected: All wards

Report Title: Tor Bay Harbour Budget Monitoring 2021-22

Cabinet Member Contact Details: Not a Cabinet function

Director/Assistant Director Contact Details

Rob Parsons, Harbour Master - Head of Harbour Authority & Services 01803 208433,
rob.parsons@torbay.gov.uk

Pete Truman, Principal Accountant, 01803 207302, pete.truman@torbay.gov.uk

1. Purpose of Report

- 1.1 This report updates the Committee on the overall budgetary position for Tor Bay Harbour Authority as at February 2022 compared against the budget approved on 21st December 2020.

2. Reason for Proposal and its benefits

- 2.1 As a standing agenda item, this report is presented to each Committee meeting to enable appropriate oversight and action to contain expenditure and maintain the harbour reserve at an appropriate level.

3. Recommendation(s) / Proposed Decision

The Committee is asked to note:

- i. the amended outturn projections and the adjustments to the Harbour Reserve Fund, as set out in Appendix 1;
- ii. the revised projected level of the Harbour Reserve Fund as of February 2022.

- iii. the Head of Tor Bay Harbour Authority's' use of delegated powers to make decisions in relation to the harbour budget;
- iv. the Harbour Master's use of delegated powers to waive certain harbour charges which to date amounts to £1,834.12.

Appendices

Appendix 1: Harbour Revenue Accounts 2021-22

Background Documents

[Ports Good Governance Guidance - Department for Transport \(March 2018\)](#)

[Good governance guidance for ports - GOV.UK \(www.gov.uk\)](#)

1. Introduction

- 1.1 The 2021/22 Tor Bay Harbour Authority budget was approved by the Harbour Committee on 21st December 2020. This is the fourth and final budget monitoring report for the 2021/22 financial year.

2. Options under consideration

- 2.1 Appendix 1 to this report provides the Harbour revenue account statement with projected outturns and associated notes.

3. Financial Opportunities and Implications

- 3.1 The original budget approved by the Harbour Committee included a proposed £200k reduction in the contribution to the Council's General Fund. The overall Council budget approved on 11th February provided a £100k reduction in the contribution to the Council's General Fund and funding was also provided, directly from the General Fund, for the salary of a Health & Safety post within the harbour team.
- 3.2 The Council also agreed that the planned borrowing of £150k for dredging at Brixham Harbour will now be funded via a contribution from the General Fund. Furthermore, the Council also approved the transfer of a corporate outturn 2020/21 balance of £122,000 to the Harbour Reserve fund.
- 3.3 Repair & maintenance pressures are likely to overspend the budget this year. Income from moorings is down due to reduced deep water chain facilities at Brixham, however this is mitigated by increased expectations for property rents. Recharged utilities income has been re-assessed downward.
- 3.4 The Harbour account has benefitted from one-off windfalls in the latter part of the year:
- The audited accounts for the Marina turnover rents for 2020/21 have revealed a much more benign impact from Covid-19 than estimated, resulting in an additional £60k income.
 - An insurance claim for the removal of the sunken vessel Sea Beast has substantially covered costs including early costs of £60k previously charged to the Harbour Account in 2020/21.
- 3.5 As a consequence of these and other adjustments the harbour revenue account is now projected to make a surplus at year end, which reverses the previously reported deficit position:

	Original Budget £000	Revised Budget £000	Projected Outturn £000
Operational Surplus/(Deficit)	45	(63)	55

3.6 Residual spending on the Harbour Light and Brixham Infrastructure capital schemes will require funding from the Harbour Reserve.

3.5 Prudential Borrowing

The Harbour's outstanding borrowing liability is:

Capital Scheme	Amount Borrowed	Start of Repayments	Principal outstanding
Town Dock (Torquay Harbour)	£1,140,000	2008/09	£420,898
Haldon Pier (Torquay Harbour)	£1,200,000	2010/11	£782,094
Brixham Harbour New Fish Quay Development	£4,750,000	2011/12	£3,555,897
Torquay Inner Harbour pontoons (Inner Dock)	£800,000	2014/15	£632,985
Brixham Harbour Jetty	£840,000	2020/21	£818,611
TOTAL			£6,210,485

3.6 Debt Position

The aged debt position is set out below. A significant proportion of the high level of <60 days for corporate debt represents one invoice for the rental due on Brixham Marina, for which settlement is anticipated soon.

	Corporate Debtor System		Harbour Charges	
	< 60 days	> 60 days	< 60 days	> 60 days
Debt outstanding	£167k	£77k	£46k	£27k
Bad Debt Provision	£13k			

4. Legal Implications

- 4.1 The Harbour finances are currently not being run in accordance with the DfT's 'Ports Good Governance Guidance' (March 2018), section 4.19 page 39 ~ ***“some SHAs have assured accounts, whereby surplus funds are protected from being transferred to other parts of the local authority not connected with the port. These can be beneficial in allowing the port the ability to plan for the long-term, to have funds available for maintenance and development, but also to be able to cope with unexpected events where funds are required at short notice. Potential further benefits include not being dependent on the council, or not needing to compete with other council services for funds”***. While not a statutory publication this is considered national 'best practice' for the ports industry.

5. Engagement and Consultation

- 5.1 Feedback from harbour users and the two Harbour Liaison Forums.
Feedback from the Harbour Committee's Budget Review Working Party.
Feedback from fishing industry leaders.

6. Purchasing or Hiring of Goods and/or Services

- 6.1 Not applicable.

7. Tackling Climate Change

- 7.1 Not applicable.

8. Associated Risks

- 8.1 With the Harbour Reserve Fund at a low level there is a risk that the Harbour Authority will require a General Fund precept to retain a balanced budget.
- 8.2 If quayside facilities and services do not remain aligned with user need/requirements then there is a risk that some income streams will decline.

9. Identify the potential positive and negative impacts on specific groups

9.1 Not applicable.

10. Cumulative Council Impact

10.1 Not applicable.

11. Cumulative Community Impacts

11.1 Not applicable.

HARBOUR REVENUE ACCOUNTS 2021/22 - BUDGET MONITORING

NOTES

- 1 A new Health & Safety designated post included in the original 2021/22 committee budget is now being funded directly from the corporate Council budget. There will be in-year savings during temporary arrangements for the vacant Head of Tor Bay Harbours post. Further savings are anticipated on seasonal staff arrangements and vacancies.
- 2 Budget pressures have arisen from the Torquay bridge & cill, pontoon works and traffic barrier at Paignton and Town Dock repairs.
- 3 New metering arrangements are reducing water services costs at Brixham.
- 4 Fish Market cleaning costs are expected to transfer to the lessee
- 5 Increased premium costs on marine insurance cover
- 6 Significant works have been necessary to the work boat at Brixham to ensure full compliance with statutory operating requirements.
- 7 The projected outturn reflects costs of improved broadband facilities at all three harbours.

	Budget	Projected
	2021/22	outturn
	£k	£k
Torquay Town Dock	81	81
Torquay Inner Harbour pontoons	54	54
Torquay Haldon Pier	81	81
Brixham Harbour Regeneration	282	282
Brixham Harbour Jetty	38	38
Harbour Light (interest only)		16
Dredging works (now funded from Gen Fund)	11	
	<u>547</u>	<u>552</u>

- 9 The pilot arrangement for a dedicated police presence is being re-assessed and the budget has been withdrawn.
- 10 Transfer of the contributions from the General Fund to Reserve (see note 15). The Brixham dredging works may not be implemented within the current year and will be earmarked specifically within the Reserve balance.
- 11 The original budget approved by Harbour Committee included a proposed £200k reduction in the contribution to the General Fund. The overall Council budget approved on 11th February provided a £100k reduction (along with funding of a health & safety salary post directly from the General Fund - see note 1).
- 12 Revised rental expectations include the new Brixham Fish Market lease and the full rent from the Harbour Light restaurant (offsetting capital charges now at note 6).
- 13 The revised projection for turnover rents was originally revised based on the actual levels for 2019/20. The figures for 2020/21 have been recently received and reveal a more benign affect from Covid-19 than anticipated.
- 14 Budget projections are now apportioned to reflect the charging structure approved by Harbour Committee in December 2021
- 15 Targets for utilities recharges have been re-assessed particularly in light of reduced water services costs (see note 3).
- 16 Council approved contribution of £122,000 to the Harbour Account from 2020/21 outturn balances together with funding of dredging works at Brixham Harbour of £150,000. These amounts have been transferred to the Harbour reserve at note 8.
- 17 Costs of the safe break up and removal of a sunken vessel at Brixham Harbour have been held in suspense pending an insurance claim which has now been received and also funds earlier costs charged to the Harbour Account in the previous year.
- 18 Residual costs incurred on the Harbour Light and Brixham Harbour Infrastructure capital schemes will be charged to the Reserve.

TOR BAY HARBOUR AUTHORITY

OPERATIONAL MOORINGS AND FACILITIES
POLICY

TOR BAY

HARBOUR

Version 18

Tor Bay Harbour Authority

Operational Moorings and Facilities Policy

Introduction

Tor Bay Harbour is a strategic asset of the Bay and of fundamental importance to the economic and cultural wellbeing of the area. Torbay Council is the Statutory Harbour Authority which discharges the duties and responsibilities detailed in the Tor Bay Harbour Act 1970. This Act is in turn based upon the Harbours, Docks and Piers Clauses Act 1847, which confers certain powers upon the Harbour Master concerning management of the Harbour.

The provision and management of mooring facilities within Tor Bay is one of the Harbour Authority's core activities.

The purpose of this policy is to guide the management of the Harbour Authority whenever it takes decisions on issues relating to the provision of mooring or berthing facilities within Tor Bay. It also ensures that a consistent, fair and equitable approach is applied to new, existing and potential facility users in Tor Bay and upon the harbour estate. The policy does not form part of Torbay Council's strategic policy framework.

Every decision regarding mooring facilities will be based upon a number of factors, the principal factors being:

- Safety and efficiency;
- The requirements of safe navigation;
- Conservation of the environment.

This policy is not a legal document and the Harbour Authority reserves the right to exercise its absolute discretion over any decision and reserves the right to amend and or republish the conditions at any time.

Subject to the Council's Port Masterplan, nothing within this policy shall interfere with the Harbour Master's overall ability to allocate or regulate the number, location, size and type of facilities being used at any time within Tor Bay Harbour. It supplements the Tor Bay Harbour Act 1970 (and subsequent amending legislation), the associated harbour bye- laws, and the facility agreement conditions.

We have tried to include all situations and circumstances, however if an issue arises that has not been considered I will undertake to ensure that an open, fair and just resolution is sought.



Rob Parsons

Tor Bay Harbour Master & Head of Tor Bay Harbour Authority

<u>Contents</u>	Page No
Introduction	1
Definitions	4
Types of facility	5
Facility charges	5
Facilities allocation	5-8
<ul style="list-style-type: none"> • Private Moorings/Facilities Waiting List • Waiting List Priority • Torquay Town Dock & Inner Dock Pontoons Priority • Commercial Moorings • Heritage Vessels • Boat Park Spaces • Duration of Facility Agreement • Renewal of Allocation • Cancellation/determination of Facility Agreement 	
Risk, liability, insurance requirements and recommendations	8-9
Vessels ‘Injurious to the Amenity of the Harbour’	9
Prohibitions on assigning or sub-letting facilities	9-10
Size of Vessel	10
Inheritance	10
Vessel identification	10
Change of vessel	10
Vessel not on facility	10
Partnerships	11
Use of facilities	11
Abandoned Vessels and Property	11-12
Fuel and refuelling	12
Pollution	12

Moorings and vessel protection	12
<ul style="list-style-type: none"> • Fitting of moorings • Buoyant rope • Removal of moorings • Vessel Monitoring • Propeller covers 	
Fendering	13
Mooring, berthing and anchoring in the Harbour	13
<ul style="list-style-type: none"> • Vessels to be moored as directed • Vessels not to anchor in Fairway • Vessels not to make fast to unauthorised objects • Vessels not to obstruct free passage • Vessels to be properly secured • Vessels not to obstruct steps or slipways 	
Conduct	13
Compliance	14
Disabled access	14
Young people	14
Visitor moorings	14
Appendix 1: Facility agreement form conditions	15-17
Appendix 2: Waiting list procedure	18-19
Appendix 3: Mooring exchange - Torquay Town & Inner Docks	20-21

Definitions (extracts from the Tor Bay Harbour Act 1970 & Harbour Byelaws)

1. “Harbour” means the limits of Tor Bay Harbour as comprised in the areas in Part I and Part II in the Schedule of Byelaws. “Enclosed Harbours” means at Torquay the area of water enclosed by an imaginary line drawn from the western end of Haldon Pier to the south eastern end of Princess Pier; at Paignton the area of water enclosed by an imaginary line drawn from the eastern end of North Quay to the northern end of Eastern Quay; and at Brixham the area of water enclosed by the Breakwater, an imaginary line from the northern end of the Breakwater to Battery Point and the shore.
2. “Harbour Estate” means the piers, wharves, quays, jetties, stages, berths, slipways, roads, sheds, and other works and conveniences and the lands, buildings and property of every description and of whatever nature which are for the time being vested in or occupied by the Harbour Authority and used for the purpose of the Harbour undertaking.
3. “Harbour Master” means the Harbour Master appointed by the Council and includes his authorised deputies, assistants and any other person authorised by the Council to act in that capacity.
4. “Inner part of Brixham Enclosed Harbour” means the area of water enclosed by an imaginary line drawn from the eastern end of New Pier to Kings Quay.
5. “Quays” means any quay, wharf, jetty, dolphin, landing stage or structure used for berthing or mooring vessels, and includes any pier, bridge, roadway or footway immediately adjacent and affording access thereto adjoining the Enclosed Harbours.
6. “Master” when used in relation to any vessel, means any person having the command, charge or management of the vessel for the time being.
7. “Vessel” means every description of water craft however propelled or moved including non-displacement craft and everything constructed or used to carry persons or goods by water.
8. “Council” means Torbay Council.
9. “Authority” means the Tor Bay Harbour Authority.
10. “Facility” means any mooring, berth, boat-park space, tender rack, locker, store etc.
11. “Facility holder” means the person or persons allocated the use of a facility subject to the conditions of use written on the appropriate Facility Agreement Form.
12. “Loss, injury or damage” means any loss, injury or damage, which may occur to any person, vessel, vehicle or their contents, or to any other goods or things.
13. “Facility Form Agreement and conditions” shown in Appendix 1.

Types of facility

“Swinging Mooring” – a means to secure a vessel to a heavy ground chain on the seabed, via a single riser chain. The arrangement allows the vessel to move so that it will head into the wind or the tide – whichever is the stronger.

“Trot Mooring” – a means to secure a vessel fore and aft via separate riser chains. This arrangement does not allow the craft to move freely with the wind/tide and this enables many more boats to be moored in the same area. The fore and aft element of the mooring is tied together, via a single pick-up buoy, even when the facility is unoccupied.

“Pontoon Mooring” – a means to secure a vessel fore and aft alongside a pontoon or a ‘finger pontoon’ secured thereto. Some pontoons are connected to the shore and are known as “walk ashore” pontoons.

“Running/Outhaul Moorings” - used to tether small craft (< 16ft) to a looped line running from the shore to a fixing, on a riser chain, secured to the harbour fundus. The boat can be pulled in and out using the running line.

“Tender rack” are racks into which small and light craft may be stored on end.

“Kayak rack” are racks into which canoes or kayaks can be securely stored.

“Boat Park Space” refers to an allocated quayside space for the dry storage of boats/dinghies on trolleys/trailers which are launched and/or recovered via a slipway.

“Berthing” means tying up against a harbour wall or pontoon.

Facility Charges

All fees and charges can be found in the extant ‘Tor Bay Harbour Authority Schedule of Charges, Dues & Fees’.

Facilities Allocation

Private Facilities (Non-Commercial) Waiting Lists

A non-commercial mooring or facility can only be offered and allocated to the person whose name is next on the appropriate waiting list subject to the priority definitions below. A non-refundable registration fee is required to join a waiting list. Lists will be closed if they are over-subscribed, to prevent unduly lengthy waiting time for a facility. Waiting list procedures can be found in Appendix 2. Under normal circumstances the applicant will only be given two offers of a facility, all subsequent offers will only be made in exceptional circumstances. Any applicants that decline two offers of a harbour facility will have their name removed from waiting lists.

Waiting List Priority

Allocation of facilities from the waiting lists adheres to the following priority, subject to the restrictions listed below:

- 1st Council tax payers whose main or principle residence is within the Torbay Council administrative area. Proof of such residence may be required eg current utility bill.
- 2nd Other Council tax payers within the Torbay Council administrative area (ie those with second homes).
- 3rd All other areas within Devon to be agreed by the Harbour Master.

Torquay Town Dock Allocation Restrictions

The Torquay Town Dock waiting lists names will only be accepted from those with a primary address in the TQ1 to TQ5 postcode areas, on a first come first served basis, to be confirmed by a check of Council Tax records and/or Electoral Register information.

Town Dock and Torquay Inner Dock Pontoon berths will only be allocated to people outside the TQ1 to TQ5 postcode areas but within Devon if no waiting list exists.

Mooring Exchange Scheme - Torquay Town & Inner Dock

Customers with existing 6 metre, 8 metre, 9.14 metre and 10 metre berths on the Town Dock or Inner Dock at Torquay, may be able to exchange their facility for an alternative sized berth. Further details including eligibility criteria can be found in Appendix 3.

Commercial Moorings Waiting Lists

Waiting lists exists for a number of specified commercial moorings. Currently these can be split into specific numbers of facilities for passenger carrying craft and other moorings identified for commercial craft such as fishing vessels. To avoid over-capacity the Council has an established policy to restrict the number of annual moorings/berths for passenger carrying craft at each of the enclosed harbours. Restrictions also exist to limit the number of commercial and fishing vessel moorings at Torquay and Paignton harbours. These restrictions will be managed by the Harbour Master. This policy allows the transfer of use of a commercial mooring facility to the new owner of a commercial boat. i.e. where a commercial boat ceases to operate at any Harbour and the operator sells his/her business, the Harbour Master may transfer the mooring facilities to the new owner. This mooring transfer does not apply to all commercial moorings but would normally apply if the owner has already received the benefit of this transfer policy. A specific number of fishing vessel moorings exist at Torquay and Paignton harbours.

Entry onto a commercial moorings waiting list requires a non-refundable registration fee.

Given the obvious demand for this type of mooring and the significant contribution made by passenger carrying boats to the English Riviera tourism product, the Harbour Authority will operate a “use it or lose it” policy. If a commercial or passenger boat owner does not put a vessel on the allocated mooring facility for two consecutive years, or in the view of the Harbour Master the commercial vessel is only infrequently and irregularly operated, the mooring facility will be allocated to the next appropriate applicant on the waiting list. In this context, a commercial vessel operated for fewer than 10 days in a year would be considered to be infrequently or irregularly operated.

Facilities for Heritage Vessels

A limited number of 'Heritage' vessels are permitted, with the Harbour Master's consent, to berth on the Town Pontoon in Brixham Harbour, provided they have alternative bad weather mooring facilities within the harbour. The Council's agreed criteria against which vessels could be measured for inclusion within the "fleet" of heritage boats based at Brixham Harbour is as follows :-

"that a heritage boat in Torbay be defined as a vessel which is British built, 40 feet or more in length and built prior to 31st December 1935 and that, at the absolute discretion of the Council, is considered to have an historical relevance to Tor Bay and its operation and general activity is considered to be beneficial to the local community; and that compliance with the approved definition of a heritage boat should form the basic criteria against which vessels can be measured for inclusion within the "fleet".

Boat Park Spaces

Certain boat park spaces contain racking to permit more than one vessel to be stored in a single space. Racks provided by the Harbour Authority will be charged per rack in accordance with the extant 'Tor Bay Harbour Authority Schedule of Charges, Dues & Fees'. Recognised Youth Groups may apply to the Harbour Master for approval to erect their own racking and in these circumstances, if consent is granted; the charges will only apply to the quay space occupied by the racking.

Duration of Facility Agreement

These run for a maximum of 12 months commencing on the 1st of April and expiring on the 31st March of the following year. However, vacancies that arise after 1st April will be filled from the waiting list and run from the acceptance date up to the 31st March. The Harbour Master reserves the right to determine whether to renew an allocated facility and will review such allocation on an annual basis.

The Harbour Master may at any time designate to the facility holder an alternative location for such a facility, whereupon the applicant will move their vessel and/or any other possessions or chattels from the previous location to the appointed new location for such a facility forthwith.

Facility Renewals

At the beginning of each calendar year the Harbour Authority may invite existing facility holders to retain their facility(ies) via a rolling annual invoice contract detailing the appropriate fees and charges. Facilities that are not retained will be allocated to the next person on the appropriate waiting list.

Note that existing holders may not be invited to renew their facility if they:

- have failed to comply with harbour regulations
- have been abusive towards harbour staff
- have required repeated chasing for payment
- owe the Council or the Harbour Authority outstanding debts
- If the vessel is in a poor state of repair and therefore deemed injurious
- Insurance documents not provided upon request
- A discretionary facility being discontinued

Cancellation of Facility Form Agreement

The facility holder may request that their Facility Form Agreement is cancelled by giving 1 month written notice to the Council. If there are no monies outstanding when the request is received then the facility will be withdrawn immediately. However some customers (especially those who elect to pay by Direct Debit) may still owe money and will not have their request accepted until this money has been paid and the facility has been re-allocated. However, the fee already paid may be retained by the Council where no latent demand exists. If the annual facility agreement is not cancelled prior to April 1st, it will be assumed that the customer wishes to continue with the facility and the customer will be liable for the annual facility fees and charges.

The Council may terminate the Facility Form Agreement at any time by giving 1 months' notice in writing to the facility holders last known address. For the avoidance of doubt, the Harbour Master has delegated authority to terminate Facility Form Agreements on behalf of the Council. **A facility may be terminated and/or not renewed for a number of reasons and these may include but are not limited to; bad debt, failure to comply with harbour regulations, abuse towards harbour staff, injurious vessel, proof of insurance not provided and a discretionary facility being discontinued.**

Risk, Liability, Insurance Requirements and Recommendations **(Facility Agreement Conditions 1, 2, 3, 4 & 5)**

All reasonable care will be taken of the facility holder's property but whilst precautions will be taken to prevent loss and/or damage all vessels are berthed, moored, launched, moved and hauled out at the risk of the applicant. The applicant is therefore required to make sure that his/her vessel and property are adequately insured against all risks. Insurances shall be maintained and evidence that the vessel is insured shall be provided to Tor Bay Harbour upon request. Vessels found to be without insurances may have an allocated berth cancelled.

If the vessel sinks at the mooring or within the harbour limits it will have to be recovered and removed from the harbour by the vessel's owner. Failure to remove such a vessel from the harbour in such a period as shall be specified by the Harbour Master in his absolute discretion (including immediate notice) will result in the Council recovering and removing the vessel and the appropriate charges being made. Such charges shall be a debt due from the Facility Form Agreement holder to the Authority. It is therefore strongly recommended that your insurance policy includes a 'wreck removal' clause.

The facility holder shall indemnify the Council, their servants and agents against all actions, claims, costs and demands in respect of any injury or death of any person and any damage to any property which may arise out of the applicant's occupation and use of the harbour facilities including slipways, steps, jetties and staging and for this purpose shall maintain a Public Liability policy against such risks. Failure to maintain the appropriate insurance cover, evidence to be provided upon request by Tor Bay Harbour Authority, will result in the withdrawal of the mooring, launching and other facilities.

All facility holders using any part of the harbour facilities including slipways, steps, jetties and staging, for whatever purpose in connection with this application and whether by the Council's invitation or not, are expected to have due regard for their own safety and do so at their own risk.

The facility holder shall at all times be responsible for the safety of his/her vessel and shall be liable for any damage occasioned to the Council's property, howsoever caused, during the navigation of any vessel by the applicant or his/her servant or agents, or whilst the applicant's vessel is berthed, moored, or launched, or by the vessel slipping her berth, mooring or being cast adrift and will pay to the Council on demand any claim for reasonable compensation in respect of such damage.

The Council's Harbour Master and other authorised officers and servants, whilst acting in the course of their duty, shall not be responsible for any loss or damage which may occur as a result of compliance, or attempted compliance, with any lawful order or directions given by the Harbour Master, or such other officers or servants, nor shall the Council be liable for any loss or damage arising out of compliance, or attempted compliance, with the officers' lawful orders. The Council, its servants, agents or employees shall not be liable for injury to any person, except where such injury arises through the negligence of the Council.

This section applies equally to visitors and temporary users of the harbour and harbour estate, whether using a vessel, vehicle or trailer.

Vessels Injurious to the Amenity of the Harbour (see Section 23 – Tor Bay Harbour Act 1970)

If at any time the Harbour Authority are satisfied that a derelict vessel or structure moored in or lying in the water or on the foreshore of the harbour is in such a condition as to be seriously injurious to the amenity of that part of the harbour in which it is moored or lying, the Harbour Authority may by notice require the owner thereof within such time as may be specified in the notice (the period being not less than six weeks) to take such steps as may be necessary to abate the injury to amenity. A vessel may be considered to be injurious to the amenity of the harbour if it is badly dilapidated, seriously unkempt, unseaworthy and/or in danger of sinking, etc.)

For the avoidance of doubt, the Harbour Master is empowered, on behalf of the Harbour Authority, to determine whether a vessel is seriously injurious to the amenity of the harbour.

Failure to comply with such a notice issued by the Harbour Authority may result in the necessary action being taken directly by the Harbour Authority.

Prohibition on Assignment/Sub Letting of Facilities (Facility Agreement Conditions 12)

The facility is personal to facility holder and may not be shared, assigned, transferred, sub let or otherwise used or made available to anyone other than the facility holder. In the event that it is discovered that a facility holder is sub-letting the facility will be withdrawn with immediate effect. (This includes the renting of beds/berths on board vessels whilst using harbour facilities. e.g. via websites such as www.bedsonboard.com and www.airbnb.co.uk)

The facility granted may not be loaned without prior notification to, and agreement of the Harbour Master in writing. Written notification must also be provided to the Harbour Master from both parties to the loan. If the Harbour Master's consent is obtained in no circumstances will this be given for a period greater than 12 months. In agreed loan circumstances the owner of the vessel borrowing the facility must confirm that he holds the necessary required insurance, confirm acceptance of all conditions and Byelaws and be liable for the appropriate level of harbour dues.

Any individual boat owner will only be permitted to borrow a facility for two consecutive years, assuming that two separate facility holders and the Harbour Master are agreeable to such an arrangement. i.e. the maximum stay without a properly allocated facility is 24 months.

Size of Vessel

(Facility Agreement Conditions 17)

No vessel shall be placed on a facility of a different size than applied for. The facility is allocated according to the size of the vessel and the facility holder must not increase the size of his/her boat without ascertaining whether or not there is a suitable alternative mooring space available. The facility holder may lose the mooring without being offered a replacement. A vessel will be charged based on overall length, which includes any bowsprit, pushpit, stern davit, bathing platform, outboard engine, bumpkin or any other extension, etc. etc.

Inheritance

The facility granted will be for one vessel only and is not transferable. Where a member of a family wishes to continue using the facility after the death or incapacity of the existing holder he/she must join the appropriate waiting list. The use of harbour facilities cannot be inherited other than by a legitimate 'partner' who meets the requirements of a partnership arrangement as set out elsewhere within this document.

Vessel Identification

(Byelaw 35)

All boats, trailers and tenders used within the harbour must have their names and current Harbour Authority plaques displayed to the satisfaction of the Harbour Master. The facility holder should also ensure that the name of the vessel or mooring number is clearly displayed on any mooring buoy not provided by the Council.

Change of Vessel

(Byelaw 33)

In the event of the facility holder selling or otherwise disposing of the vessel authorised to use the facility, the parties to the change shall ensure that immediate written notification is given to the Harbour Master

Vessel Not On Facility

If the facility holder does not have his/her own vessel on the authorised facility for a period of one year then the facility will be forfeit and reassigned from the waiting list.

Partnerships

Partnerships must have been registered with the Harbour Authority when the facility was first allocated. Any subsequent changes of ownership or partnership buy out **will not be recognised** or count towards facility allocation. The Harbour Authority will not recognise shared ownership beyond one third. i.e. a maximum of three partners inclusive of the applicant. All partners must be over the age of 18 and meet the local residence requirements detailed in this policy with regard to facility allocation priority.

Use of Facilities

Facilities must only be used for the purposes stated in the original application. Vessels using facilities must not be used for residential purposes. i.e. no living on board is permitted and boats must not serve as the sole or main residence of any individual or group. Customers are not expected to sleep on board their craft, whilst berthed in the harbour, unless that vessel has a suitable manufacturers holding tank for grey water and sewage. Facilities will be withdrawn from those customers who regularly breach this expectation. Customers are not permitted to rent any beds/berths on board their vessels. e.g. via websites such as www.bedsonboard.com and www.airbnb.co.uk. Such activity will be seen as sub-letting and facilities will be withdrawn from those customers who breach this condition.

The right to berth a vessel on a facility relates to a particular user and vessel. Tor Bay Harbour reserves the right to cancel an offer of berth if on inspection of the vessel it is considered unsuitable for berthing on the facility because of its dimensions, weight, method of construction, state of repair, type of fendering or other reason.

The Harbour Master may at any time berth a suitably sized vessel on any vacant mooring should the need arise. In these circumstances the berth holder will be notified and the berth will be made available when required by the berth holder.

Privately owned vessels paying harbour charges as private craft must not operate their craft on a commercial basis. The number of available commercial moorings is restricted under this policy (please refer to the 'Facilities Allocation' section in this document under the heading 'Commercial Moorings – Waiting List'). Consequently any owner who changes the use of their craft from a private vessel to a commercial vessel (either by conversion or replacement) will have their facility agreement terminated.

Privately owned fenders **must not** be fixed to harbour authority property (other than by rope) without the prior consent of the harbour authority. Installation of owner's 'dock fenders' will normally be permitted, subject to prior approval. Any fixing that requires drilling into steel, stone or concrete **must be undertaken** by harbour authority staff.

Privately owned 'dock boxes' **must not** be fixed to harbour authority property without the prior consent of the harbour authority and a charge may be applicable.

The use of power cables on pontoons is permitted provided the cable is within a protective cover to prevent a trip hazard and is not seen as a permanent connection. Any cables presenting a hazard of any nature will be removed and the credit on the meter will be cleared. Cable covers are available from the Harbour Office.

Abandoned Vessels and Property

Tor Bay Harbour shall have the power to remove and dispose of or sell vessels and property with reasonable notice given to the owner (to be determined on a case by case basis by the Harbour Master). If the owner is not known then Tor Bay Harbour

can remove and dispose or sell the vessel or property after leaving written notice on the vessel or property for a reasonable period of time.

Fuel and Refuelling

No fuel or combustible material is permitted to be kept on or within the allocated facility save in authorised storage tanks and containers.

Other than for small outboard engines, no petrol refuelling from cans or containers is permitted on the harbour side, pontoons, steps, slipways, or moorings. Petrol refuelling is permitted at a licensed marine fuel station or when using an approved siphoning/pumping device agreed specifically with the Harbour Master or at Paignton Harbour from cans onto moored vessels when the harbour has dried.

Any fuel spillage must be reported to the Harbour Master

Pollution

(Byelaw 91 and Byelaw 102)

Facility holders must not pollute the harbour by spillage, dumping of waste, effluent, human waste, detergent and/or fuel or otherwise deposit refuse or scrap on the harbour estate, in the waters of the harbour or on the harbour bed.

Moorings and Vessel Protection

Fitting of Moorings

(Facility Agreement Condition 16)

Any swivel, riser chain, mooring rope or buoy, not provided by the Council, shall comply with the Council's specification in that behalf and shall only be fitted by a person licensed by the Council to do such work or by the facility holder personally in respect of his/her allocated mooring. The Facility Holder shall as soon as any swivel, riser chain, mooring rope or buoy has become fitted, immediately notify the Harbour Master of the fact. The applicant shall also arrange for regular inspection and maintenance of such equipment not provided by the Council.

Buoyant Rope

(Byelaw 98)

No person shall within any enclosed Harbour use buoyant pick-up ropes on moorings.

Removal of Moorings

(Byelaw 100)

A mooring, buoy or similar tackle shall as soon as reasonably practicable be removed by its owner or any other person claiming possession of it if the Harbour Master so directs.

Vessel Monitoring

All vessels should be monitored by the owner or owner's agent, on a regular basis, particularly during periods of bad weather.

Propeller Covers

(Facility Agreement Conditions 22)

When moored outboard engines in the raised or tilted position must have the propeller and skeg covered with a plastic bucket or other approved protective

cover in order to prevent damage to other boats.

Provision of Proper Fenders

(Byelaw 46)

The facility holder shall ensure that his/her vessel is provided with a sufficient number of fenders adequate for the size of the vessel, and when berthing or leaving, or lying at a quay or against other vessels, the master shall cause the vessel to be fendered off from that quay or those other vessels so as to prevent damage to that quay, those other vessels or other property

Mooring, Berthing, Anchoring in the Harbour

Vessels to be Moored Etc as Directed

Masters of vessels in the harbour shall moor, anchor, berth and/or cease to moor, berth or anchor and be moved in accordance with directions given from time to time by the Harbour Master.

Vessels not to Anchor in a Fairway

(Byelaws 11 & 18)

No person shall anchor so as to obstruct a fairway.

Vessels not to be Made Fast to Unauthorised Objects, Navigational Buoys or Seasonal 5 Knot Buoys

(Byelaws 13 & 50)

The master of a vessel shall not make fast his/her vessel to or lie against any buoy, beacon or mark used for navigation. No person shall make a vessel fast to or interfere with any post, quay, ring, fender or any other thing or place not assigned for that purpose.

Vessels not to Obstruct Free Passage

The master of a vessel shall not cause or permit the vessel to manoeuvre, come to anchor or be moored or placed so as to intentionally obstruct in any manner whatsoever the passage of vessels in the harbour.

Vessels to be Properly Secured

No vessel shall be insecurely moored or improperly made fast within the harbour.

Vessels not to Obstruct Steps, Slipways

(Byelaw 26)

No person shall allow any vessel to obstruct any pontoons, steps or slipways or to lie at any pontoons steps or slipways without the permission of the Harbour Master.

Reckless Conduct and Disorderly Behaviour

The facility holder shall not use the mooring facility in a reckless manner so as to cause danger to other users of the Harbour or damage to their property.

The facility holder (including any persons on board a vessel on the harbour facility) shall not cause unreasonable noise, nuisance or annoyance to other users of the Harbour.

Compliance with Statute, Byelaws and Directions of the Harbour Master

The facility holder and all persons having control or having charge of or being aboard his/her vessel shall observe and perform all statutory and other obligations relating to the Harbour including all Byelaws and Regulations made by the Council and Directions given by the Harbour Master.

In the event of the holder of the Facility Form Agreement, or their staff or crew failing to comply with the conditions of the Facility Form Agreement the Council may give notice to remove the vessel. Should this notice not be complied with or the conditions of the Facility Form Agreement not met within fourteen days of the sending of the notice to the last known address of the facility holder the Authority may remove the vessel to any place where so ever. The facility holder shall pay the cost of such removal, storage, mooring or berthing and subsequent replacement to the Authority. Such charges shall be a debt due from the facility holder to the Authority.

Disabled Access

The Harbour Authority provide a range of moorings and other facilities, which by their very nature, have various forms of access. Consideration has been given to providing facilities for disabled persons, wherever this is reasonably practicable, in accordance with the Disability Discrimination Act 1995/2005 (DDA). The Harbour Authority is obliged to make such adjustments as is reasonable to prevent disabled persons from being placed at a substantial disadvantage when compared to others.

Anyone who has a disability should assess the most suitable facility that meets their needs and if necessary join the relevant waiting list. The Harbour Authority staff can provide advice to anyone who is uncertain about which facility would be the most appropriate.

Young People

Young people are encouraged to use the harbour facilities and in certain circumstances they will be eligible for a 50% discount on applicable harbour charges. Please see the current 'Tor Bay Harbour Authority Schedule of Charges, Dues & Fees' for details. Unfortunately it is not lawful for the Harbour Authority to enter into a contract with a minor (under 18 years of age) and the facility form agreement will therefore be in the name of a responsible adult. Please note that this discount is discretionary.

Visitor Moorings

To avoid the abuse of visitor moorings by local vessels, all craft using visitor mooring facilities are normally restricted to a maximum stay of three weeks (21 days) with no return within one week (7 days).

Appendix 1

GENERAL CONDITIONS - TOR BAY HARBOUR. DUES, TOLLS, LEVY RENTS, FEES AND OTHER CHARGES ARE ACCEPTED ONLY ON THE FOLLOWING CONDITIONS:

Definition: The phrases 'loss, loss of, damage, injury or death' in these conditions shall mean any loss and / or loss of and / or damage and / or injury and / or death, which may occur to any vessel, vehicle, property or any person(s). Words denoting the singular and plural shall be interchangeable.

1. The Council will not be responsible for any loss and / or damage as occasioned to the applicant's vessel and / or property in the course of berthing, mooring, launching, moving or hauling out, unless as a direct consequence of the Council's negligence.
2. The applicant is required to possess "all risks" insurance for their vessel, which must include adequate third party liability cover and evidence that the vessel is so insured shall be provided by Tor Bay Harbour upon request.
3. The applicant shall indemnify the Council, their servants and / or agents where they are at fault for any injury and / or death of any person(s) and / or any loss of or damage to any property, which may arise out of the applicant's occupation or use of the harbour facilities.
4. All applicants using the harbour facilities, including but not limited to slipways, steps, jetties, pontoons and staging, for whatever purpose and whether or not by the Council's invitation, are expected to have due regard for their own safety and utilise the facilities entirely at their own risk, unless negligence can be proven against the Council.
5. The applicant shall at all times be responsible for the safety of their vessel and shall be liable for any loss of and / or damage as occasioned to the Council's and / or any third party's property and / or injury to and / or death of any person(s), howsoever caused, during the navigation of any vessel by the applicant or their servant or agents, or including but not limited to, whilst the applicant's vessel is being berthed, moored, launched, being slipped, being cast adrift or being worked upon and will indemnify the Council on demand any claim for compensation in respect of any such loss.
6. The Council's Harbour Master and / or other authorised officers and /or servants, whilst acting in the course of their duty, shall not be responsible for any loss of or damage and / or injury and / or death which may occur as a result of or arising from compliance, or attempted compliance, with any lawful order or directions given by the Harbour Master, and / or such other officers and / or servants and / or agents, unless negligence can be proven against the Council.

7. The lawful orders and / or directions of the Council's Harbour Master and other authorised officers must always be obeyed promptly and at all times.
8. The Council may terminate this agreement at any time during the contract period, by giving one month's notice in writing to the applicant, at their last known address.
9. Following the termination of this agreement, the applicant shall forthwith remove their vessel and / or any other possessions from the Council's property.
10. The Council will, upon receipt of payment in accordance with this account, allocate a facility to the applicant as described in this account in a location in Tor Bay Harbour determined at the sole discretion of the Harbour Master and the Harbour Master may at any time re-designate the applicant to an alternative location for such a facility, whereupon the applicant will be required to move their vessel and / or any other possessions from the previous location to the appointed new location within a reasonable time period.
11. This facility as provided to the applicant is on the basis that the applicant agrees it will not be **shared, assigned, transferred, sublicensed or sub let** or otherwise used by or made available to anyone other than the applicant, unless with the prior written consent of the Harbour Master.
12. The facility as provided to the applicant shall not be used other than for the purpose described in the Schedule of Charges, Dues & Fees.
13. The Council has the right to exercise a general lien upon any vessel, and / or gear and / or equipment and / or property, whilst in or upon the harbour premises, or afloat, until such time as the monies due to the Council from the applicant in respect of such vessel and / or gear and / or equipment and / or property, whether on account of storage, mooring, berthing, slipping charges or otherwise, shall have been paid. Should these charges remain unpaid, the Council reserves the right to dispose of the applicant's vessel and / or gear and / or equipment and / or property and pay to the applicant the funds net of any charges as due.
14. The applicant shall also arrange for regular inspection(s) and maintenance of such mooring equipment.
15. The applicant shall not place a vessel on a mooring prescribed in the mooring scheme as prepared by the Council, which is of a different size than that for which the application was made, unless with the prior written consent of the Harbour Master.
16. The applicant must also ensure that the name of the vessel or a mooring number is clearly displayed on any mooring buoy not provided by the Council.
17. Any mooring position and type shall be subject to the Harbour Master's prior approval. Failure to obtain such approval will result in the vessel being moved at the owner(s) expense, to a suitable location and the latter shall be at the sole discretion of the Harbour Master.

18. No attachment whatsoever is to be affixed to the mooring chain provided by the Council, without the prior approval of the Harbour Master.
19. Outboard engines must be in a raised position when vessel(s) are moored and have the propeller and skeg covered with a plastic bucket or other approved protective cover, in order to prevent damage to other boats.
20. The storage of petroleum spirit and / or flammable substances and / or toxic chemicals and / or corrosive substances and / or noxious substances in storage lockers, is strictly prohibited.

Failure to comply with any of these terms and conditions will result in the owner being required to remove their vessel and / or gear and / or equipment and / or property from the Council's property. The Council retains the right to remove such items, should the applicant not do so, at the applicant's expense. If any part of these terms and conditions shall be held to be illegal, invalid or unenforceable this will in no way affect the validity of the remaining parts of these Terms and Conditions.

Enquires, Arrangements to Pay & Failure to Pay

If you wish to speak to someone concerning this invoice or are unable to make payment in full please telephone the Harbour Office as detailed on the front of this invoice. If you fail to pay or arrange a monthly direct debit plan within 28 days and do not contact the Harbour Office, legal proceedings may be commenced, and the Council will claim a penalty for evading payment of charges equal to the debt due – See Section 30 of the Tor Bay Harbour Act 1970. Ultimately the Council may arrest your vessel under Section 30 of the Tor Bay Harbour Act 1970 and your boat may be sold to recover the debt. If you are experiencing financial difficulties, please contact your nearest Citizens Advice Bureau who offer free independent advice, or telephone the National Debtline on Freephone 0808 808 4000.

Fair Processing Notice

Torbay Council processes data in accordance with the General Data Protection Regulation (GDPR) and Data Protection Act 2018. We will only use your data for the purpose in which it was collected or for the purposes of ensuring that the information held on our systems is correct. It may be shared with third parties for the prevention and detection of crime/fraud or other applicable legislation. If you would like further details on how Torbay Council processes your data please go to the Data Protection pages at www.torbay.gov.uk/council/information-and-data/data-protection.

Appendix 2

WAITING LISTS

TOR BAY HARBOUR

WAITING LIST PROCEDURE

- 1) The waiting list registration fee is **£25** for private berths and £50 for commercial berths. On receipt of the appropriate fee, your name will be placed on the relevant list.
- 2) The waiting list entry will be dated the same day the fee is received.
- 3) The registration fee is **NOT REFUNDABLE OR TRANSFERABLE**.
- 4) Under normal circumstances the applicant will only be given two offers of a facility. A third offer will only be made in exceptional circumstances. All applicants will have their name removed from the list if they have declined two offers of a harbour facility.
- 5) When a facility is offered and accepted, it can only be allocated to the person whose name is on the waiting list. The facility is **NOT TRANSFERABLE**.
- 6) When a facility is offered and accepted and no boat is immediately available, then the applicant **must pay the full fee** for the size of facility applied for, and then has twelve months to place their craft on the facility.
- 7) Often a waiting list will be banded dependent on the size of the facility. It is therefore important that applicants are certain about the size of facility required. The length entered on the waiting list form will not be adjusted up at a later date and an adjustment down in size may result in a transfer to a new list with a new entry date.
- 8) Applicants who live locally will be given priority over those applicants who live outside the Torbay area. (see the Tor Bay Harbour Operational Moorings and Facility Policy)
- 9) Unfortunately applicants who have a disability do not have priority over other people on the waiting list.
- 10) From time to time applicants will be asked to provide written confirmation of their wish to stay on a particular waiting list. The applicant's details will be deleted from our records if written confirmation is **not** provided.
- 11) It is the applicant's responsibility to keep us advised of any change in the applicant's details, especially any **change of address**.
- 12) The terms and conditions of use of any facility are shown on the reverse side of any invoice/facility form agreement and are also found within the Tor Bay Harbour Operational Moorings and Facility Policy.

- 13) Partnerships must have been registered with the Harbour Authority when the facility was first allocated. Any subsequent changes of ownership or partnership buy out **will not be recognised** or count towards facility allocation. The Harbour Authority will not recognise shared ownership beyond one third. i.e. a maximum of three partners inclusive of the applicant. All partners must be over the age of 18 and meet the local residence requirements detailed in this policy with regard to facility allocation priority.

Note

Torquay Town Dock & Inner Dock pontoons Priority

The Town Dock waiting lists names will only be accepted from those people with a primary address in the TQ1 to TQ5 postcode areas, on a first come first served basis, to be confirmed by a check of Council Tax records and/or Electoral Register information. Town Dock and Torquay Inner Dock Pontoon berths will only be allocated to people outside the TQ1 to TQ5 postcode areas but within Devon if no waiting list exists.

Appendix 3

Mooring Exchange Scheme - Torquay Town Dock & Inner Dock

Customers with existing berths on the Town Dock or Inner Dock may be able to exchange their facility for an alternative sized berth within the facility area currently berthed in e.g Town Dock 6m exchanged to Town Dock 8m with prior agreement from the Harbour Master.

Customers may be eligible to exchange their allocated berth, so long as they fulfil the following conditions of exchange.

The 12 metre berths will not feature in this scheme.

Exchanged vessels must be of a length appropriate for the alternative sized berth requested.

Original Partnerships recognised during first allotment will remain exactly the same and cannot be added to.

Exchanges may only occur when 'pairs' are authorised by the Harbour Master. Customers will be notified when an exchange can be made, followed by any account for adjustment.

Requests for exchanges will be treated on a first come first served basis and each exchange will be appraised by the Harbour Authority to ensure correct use of facility and compatibility of vessels features.

An administration charge of £50 will apply per applicant and will feature in the account adjustment, when the exchange has taken place.

The decision to approve or decline an exchange request will be based, among other things, on maximising income for the harbour authority and will be at the Harbour Master's complete discretion.

Step 1

Complete form for existing berth to *move from*

Step 2

Enter details of preferred facility to *move to* – e.g. 6m 8m 9.14m or 10m

Step 3

Submit form and wait until a suitable 'pair' is made, then await acknowledgement and further details from the Harbour Office.

Step 4

Move your boat as directed by the Harbour Authority, then pay the balance or receive a refund for the new facility (subject to the inclusion of the administration charge).

The Harbour Authority will reserve any right to withhold an 'exchange' especially if customers have found to have been sub-letting, not conforming to the local TQ1-5 post code restriction or have a history of late payment.

Mooring Exchange Scheme – Application

(TOWN DOCK & INNER DOCK ONLY)

TOR BAY HARBOUR

Name:

Boat Name:

LOA

Facility Pontoon..... Number.....

I wish to move to a :- (circle)

6m 8m 9.14m 10m berth.

Signature

Date

Please return completed form to the Harbour Office

Meeting: Harbour Committee

Date: 21st March 2022

Wards Affected: All wards in Torbay

Report Title: Review of Delegated Powers

Executive Lead Contact Details: Non-Executive Function

Supporting Officer Contact Details: Adam Parnell

Head of Tor Bay Harbour

Tor Bay Harbour Master

 **Telephone: 07584142796**

 **Email: Rob.Parsons@torbay.gov.uk**

1. Purpose

1.1 To review the delegated powers pertaining to the Torbay Harbour Master

2. Proposed Decision

2.1 **That having reviewed the powers delegated to the Tor Bay Harbour Master, the Harbour Committee finds no reason to propose changes to the Council for determination.**

3. Action Needed

3.1 No further action required.

4. Summary

4.1 The Terms of Reference for the Harbour Committee which form part of Torbay Council's Constitution require it to review annually the powers delegated to the Tor Bay Harbour Master and refer any proposed changes to the Council for determination. The Committee itself shall not authorise any changes.

Supporting Information

5. Position

5.1 It is deemed that present delegated powers for the Tor Bay Harbour Master are sufficient, and no review is required. The Officer Scheme of Delegation (Torbay Council) - updated and published on 8th February 2018 is deemed sufficient.

6. Possibilities and Options

- 6.1 Not to review the powers delegated to the Tor Bay Harbour Master.
- 6.2 To recommend further changes to the powers delegated to the Tor Bay Harbour Master.

7. Preferred Solution/Option

- 7.1 Not to refer any proposed changes to the Council regarding the powers delegated to the Tor Bay Harbour Master.

8. Consultation

- 8.1 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.
- 8.2 All of these stakeholder groups have helped to influence the management arrangements in place for Tor Bay Harbour.

9. Risks

- 9.1 If the harbour's governance arrangements did not contain 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 which reflected national best practice as set out in the PMSC Port Good Governance Guidance.

Additional Information

None