

Meeting: Harbour Committee

Date: 22 March 2021

Wards Affected: All

Report Title: Port Marine Safety Code and Health & Safety Report

Is the decision a key decision? No

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

Cabinet Member Contact Details: Not a Cabinet function

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1. Proposal and Introduction

1.1 This is a standing agenda item to update the Harbour Committee on PMSC and H&S matters.

2. Reason for Proposal and associated financial commitment

2.1 Torbay Council, as the Statutory Harbour Authority, adheres to the requirements of the PMSC (the national standard for port safety) to “Improve safety for those who work in ports, their ships, passengers and cargoes, and the environment”.

2.2 The Harbour Committee is the nominated *Duty Holder* and the Devon Audit Partnership are the nominated *Designated Person*.

2.3 This report does not commit the Harbour Authority or the Council to any financial commitments not already encompassed within the Harbour’s annual revenue budget that was agreed by the Harbour Committee in December 2020.

3. Recommendation(s) / Proposed Decision

3.1 That the report is noted.

Appendices

Issues arising between 21 Dec 20 (date of last Committee meeting) and 03 March 21

Background Documents

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

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

A Guide to Good Practice on Port Marine Operations – April 2018 (DfT & MCA)
<https://www.gov.uk/government/publications/a-guide-to-good-practice-on-port-marine-operations>

Health and Safety Policy - April 2019 (Torbay Council)
<https://sheasure.net/TorbaySMS/Portal/TorbayCouncilPortalzzR23492wHT713D/ModuleDetail/6785346#/information>
 DfT [Ports Good Governance Guidance](#)

Section 1: Background Information	
1.	<p>What is the proposal / issue?</p> <p>The Tor Bay Harbour Authority has formally committed to adhere to the Port Marine Safety Code (the 'Code'). The Harbour Committee - as the nominated Duty Holder - are individually and collectively accountable for marine safety.</p> <p>The Committee also has a statutory duty to “so far as reasonably practicable, [ensure] the health, safety and welfare at work of all employees.”</p> <p>To discharge these obligations, the Committee has a standing agenda item to provide oversight of port marine safety and also health and safety issues. By so doing, this agenda item fulfils the requirement for the undertaking to hold formal and minuted Safety Committee meetings.</p>
2.	<p>What is the current situation?</p> <p>The Department for Transport (DfT), and Maritime and Coastguard Agency (MCA), have published the Port Marine Safety Code (the 'Code') to <i>inter alia</i></p> <p style="padding-left: 40px;">“Improve safety for those who use or work in ports, their ships, passengers and cargoes, and the environment”.</p> <p>The responsibility for maintaining port marine safety is governed <i>inter alia</i> by marine legislation, such as the Merchant Shipping Act 1995, the Health and Safety at Work Act 1974 and the Corporate Manslaughter and Corporate Homicide Act 2007.</p> <p>While adherence is not a statutory obligation, the Code:</p> <p style="padding-left: 40px;">“Represents good practice ... and a failure to adhere ... may be indicative of a harbour authority being in breach of certain legal duties [and] ... may suffer reputational damage if it has publicly committed to the Code's standards and then fails to meet them”.</p>

3.	<p>What is the relationship with the priorities within the Partnership Memorandum and the Council’s Principles?</p> <p>A safe, healthy and environmentally responsible harbour positively contributes to the following priorities:</p> <ul style="list-style-type: none"> • Thriving People • Thriving Economy • A Council Fit for the Future
5.	<p>How does this proposal/issue contribute towards the Council’s responsibilities as corporate parents?</p> <p>Reducing foreseeable hazards ashore and afloat to as low as reasonably practicable contributes to our corporate parental role and to all members of the public that use the harbour estate.</p>
6.	<p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p> <p>Tor Bay harbour is a regional focus for maritime-related employment: it is a thriving maritime recreational and leisure hub of national renown and also accommodates the largest fishing port in England and Wales by value of catch landed.</p>
7.	<p>How does the proposal/issue impact on people with learning disabilities?</p> <p>No discernible impact.</p>
8.	<p>Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community?</p> <p>All harbour stakeholders, including maritime and non- maritime businesses are affected.</p> <p>Consultation is effected through regular harbour stakeholder liaison forums who are empowered to provide feedback via the Harbour Committee to the Council</p>

Section 2: Implications and Impact Assessment	
9.	<p>What are the financial and legal implications?</p> <p>While this report does not introduce new financial obligations itself, emergent H&S and PMSC issues may require additional expenditure to further improve safety delivery. Each of these will be the subject of a separate future report.</p>
10.	<p>What are the risks?</p>

	If the Harbour Authority does not fulfil its statutory and regulatory obligations there is a risk that it will face censure, prosecution or be directed to cease operations.
11.	Public Services Value (Social Value) Act 2012 N/A
12.	What evidence / data / research have you gathered in relation to this proposal? Feedback from harbour users and liaison forums Feedback from Committee members Feedback from fishing industry leaders Previous Harbour Committee reports
13.	What are key findings from the consultation you have carried out? Harbour stakeholders are keen to see continued infrastructure improvements
14.	Amendments to Proposal / Mitigating Actions Continue to deliver visible improvements to the harbour infrastructure.

Appendix 1

Issues arising between 21 December 2020 (date of last Committee meeting) and 03 March 21

1. Port Marine Safety Code issues arising

Issue	Action taken
Cruise vessel in Bay lost anchor and chain x3	MAIB investigation launched
Abandoned vessel sunk in Brixham and pontoon damaged	Vessel recovered. Pontoon repair under way. Requested quotes for disposal of vessel. Insurers will recover funds from owner
Fuel slick reported in Brixham harbour	Investigated and found to be less than one litre spilled. Monitored and evaporated.

2. Health and Safety issues arising

Issue	Action taken
Actions arising following Paignton harbour Fire Risk Assessment	Working through list of actions; expect to complete by end March
Minor fire on 'Dump End' in Brixham	Permit to work system reinvigorated Fuel station Risk Assessment and licence conditions under review
Quayside floodlights in Brixham MFV basin failed	Lights repaired but at end of serviceable life. Quotes for replacement system commissioned.
Officer slipped on ice on Brixham fish quay	Ice cleared away and area being monitored
Female fell from vertical ladder Brixham fish basin into water occasioning head injury	Taken to hospital by ambulance. Reported to MAIB and HSE; no further action
Male fell from steps in Brixham inner harbour occasioning 3 broken limbs	Taken to hospital by ambulance. Reported to MAIB and HSE - no further action Quotes for additional hand railing commissioned
Day boat landing pontoon Brixham harbour wood is rotten	Replacement wood ordered

3. Other issues. The Harbour Authority has recruited a permanent full time Health and Safety Officer who starts 01 April 2021. Initially they will be based at Brixham but will be providing HSE advice and assistance across all 3 ports and also to the Beach service.