

Meeting: Harbour Committee

Date: 28 June 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

Supporting Officer Contact Details: Adam Parnell, Harbour Master, 01803 853321, adam.parnell@torbay.gov.uk

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 04 March 2021 (date of last report) and 10 June 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 04 March 2021 (date of last report) and 10 June 2021

1. Port Marine Safety Code issues arising

Issue	Action taken
4x incidents of a moored vessel in Brixham damaged by adjacent mooring buoy	Review & reduction of max permissible vessel length on some moorings Consider replacing hard mooring buoys with softer alternative
1x vessel fire alongside Brixham	Electrical system on board upgraded
2x small vessels sinking	1 st was due to lack of maintenance by owner who has since had facility withdrawn; 2 nd due to mooring in inappropriate spot: owner rebriefed
5x near miss reports by same fast RIB	After investigation these were found to be false alarm with good intent
1x pollution incident (cill failure and hydraulic oil leak)	Cill repaired and maintenance plan reviewed
1x UXO brought ashore	Low-order detonated by RN BDU; vessel skipper rebriefed by HM

2. Health and Safety issues arising

Issue	Action taken
Near Miss: short-comings in Fire Risk Assessment across all offices	All items have been addressed
Release of refrigerant gas (environmental hazard)	RIDDOR reportable. Chiller unit repaired and repressurised
Entrapment at Beacon Cove gate of person in wheelchair	Gate inspected and auto-close system altered
Fall occasioning MoP breaking wrist at Preston Beach	Steps inspected and minor defects repaired
Near Miss: Brixham South Quay railings deemed insufficient	New railings are on order and will be fitted on receipt

3. Other issues. The Harbour Authority’s dedicated Health and Safety Officer started on 01 April 2021.