Local Protocol – Members of Harbour Committee

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1. Introduction

1.1 The Harbour Committee provides an open, accountable and fit for purpose body for the strategic management of Tor Bay Harbour. In turn the Committee provides an expert and more responsive form of governance. It also provides harbour management with the appropriate level of independence and flexibility.

1.2 It's terms of reference have been revised in the light of the Government's publication 'Ports Good Governance Guidance' and following a comprehensive review of this document by the Municipal Ports Working Party. The terms of reference of the Harbour Committee and its composition (including external non-voting advisors) seeks to ensure that Tor Bay Harbour is playing a full and accountable part of the local and regional economy.

1.3 This protocol compliments the Committee's terms of reference and outlines the roles and relationships of the Leader of the Council, Council members, external advisors, Officers and the Harbour Liaison Forums, together with the appointment process for the advisors.

2. Specific Objectives of the Harbour Committee

2.1 The overall objective of the Harbour Committee is to maintain, protect and enhance the harbour whilst at the same time deriving sustainable economic and social benefit, as outlined in the Tor Bay Harbour and Maritime Strategy.

2.2 The specific objectives of the Harbour Committee are:

a) to act as the 'Duty Holder' and be individually and collectively accountable for compliance with the Port Marine Safety Code and their performance in ensuring safe marine operations in the harbour and its approaches;

b) to review and be aware of the Committee's existing powers under local and national legislation and seek additional powers if required to promote safe navigation;

c) to appoint a Designated Person to provide independent assurance about the operation of the marine safety management system;

d) ensure all marine risks are formally assessed and are eliminated or reduced as low as reasonably practicable in accordance with good practice;

e) monitor, review and audit the risk assessment and marine safety management system on a regular basis;

f) publish a safety plan showing how the standards of the Port Marine Safety Code will be met and report performance against that plan at least every three years;

g) ensure the effective financial management of the harbour;

h) have an appropriate awareness and regard for relevant environmental considerations;

i) maintain and develop the harbour infrastructure;

j) support the local economy;

k) provide a positive contribution towards the character and attraction of Tor Bay;

l) comply with legal and regulatory requirements as listed in the Head of Tor bay Harbour Authority and Tor Bay Harbour Master specific delegations;

m) provide open and transparent governance;

n) develop harbour employees;

o) produce a business plan that looks at the future prospects of the harbour and how it will meet the requirements of the stakeholders, who should be fully involved in its development

p) make a positive contribution to the social wellbeing of the local community.

3. Proportionality

3.1 Ideally the composition of the Committee will provide representation from all parts of the harbour and relevant areas of expertise.

3.2 The Harbour Committee is appointed by the Council each year at the Annual Council meeting. The Committee shall be politically balanced and will include specific membership, as far as the proportionally rules allow, as set out the Committee's terms of reference (Schedule 4 of this Constitution) In addition, the Harbour Committee will appoint up to 6 non-voting external advisors.

4. The Role of Committee Members

4.1 As harbour management is a specialist area and requires specialist knowledge, ideally the councillors who will be appointed to the Committee will have a particular interest and experience in the maritime sector and will be willing to serve for a number of years on the Committee. In this way a body of expertise will be developed and continuity maintained.

4.2 Committee members shall be aware of the need for decisions relating to Tor Bay Harbour to be based on sound advice from officers who have a clear understanding of the special needs of ports and harbours and the circumstances in which they operate.

5. Appointment of Advisors

5.1 The Harbour Committee will appoint a Harbour Appointments Sub-Committee. The role of the Sub-Committee will be to consider applications for the five external advisor positions on the Harbour Committee and recommend to the Harbour Committee the persons who should be appointed to those posts.

5.2 Advisors will normally be appointed for a term of 3 years. However, initial appointments will be of varied durations to ensure that vacancies occur on a rolling programme, for example at least one advisor will retire each year.

5.3 A recruitment exercise will be undertaken for the appointment of advisors to the Committee and will be made following open advertisement and an appropriate recruitment exercise. Appointments will be merit based, but have regard to the

desirability of securing reasonable representation from stakeholders. In addition, advisors will have appropriate skills and experience relevant to harbour functions for example:

a) boardroom experience and strategic thinking;

b) a business background in the marine leisure industry;

c) recent and relevant commercial expertise;

d) recent and relevant health and safety expertise;

e) experience of company management;

f) business background in shipping, fishing or cargo activity;

g) experience in finance and management accounting;

h) recent and relevant legal expertise;

i) recent and relevant environmental expertise; and

j) other relevant experience.

5.4 Before recruiting, the Harbour Appointments Sub-Committee will undertake a skills audit to assess the balance of skills required to effectively govern the harbour and deliver against the business plan. These skills should be considered for both councillor members and advisors. The results of the skills audit will then identify the skills gap and inform the recruitment process.

6. Role of Advisors

6.1 Although external advisors to the Harbour Committee do not have voting rights, they play an important role in providing guidance and advice to the Committee. Also the advisors contribute to the mixture of skills on the Committee and bring relevant expertise, local representation and independence.

6.2 Advisors are expected to demonstrate the following personal skills and competencies:

a) drive, vision, independence and confidence;

b) challenging and proactive approach to committee business;

c) ability to motivate and engender respect;

d) negotiating and communication;

e) impartiality and integrity;

f) interpersonal skills – the ability to develop good relations inside and outside of the Committee;

g) ability to work as a team member and to be supportive of colleagues;

h) ability to make a constructive contribution to group discussion e.g. able to give

a clear expression of ideas;

i) analytical approach to problem solving;

j) ability to formulate strategy; and

k) have a grasp of priorities.

6.3 Harbour Committee advisors are not subject to the Code of Conduct for Members and are not required to register their interests. However, advisors must ensure that they do not unfairly seek to secure an advantage or disadvantage for any person. Advisors shall act and/or advise only for and on behalf of the harbour as a whole.

6.4 Advisors shall consider whether they have individual interests on matters being considered by the Committee and declare such interests (including details of those interests) at Committee meetings. When an advisor has declared an interest, it will be recorded in the minutes, but the advisor may normally remain in the meeting and speak on the matter unless the Committee resolves otherwise.

6.5 Whilst carry out their duties, in relation to the Harbour Committee advisors shall:

a) promote equality by not discriminating unlawfully against any person (including grounds of gender, race, disability, sexual orientation, religion, belief or age);

b) treat others with respect; and

c) not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of the Council.

6.6 A Harbour Committee advisor must not disclose information given to him/her in confidence by anyone, or information acquired which he/she believes is of a confidential nature, without the consent of the Harbour Committee or the Council's Monitoring Officer, or unless he/she is required by law to do so. Harbour Committee advisors access to exempt or confidential reports shall be at the discretion of the Chair and advisors shall be permitted to remain in the meeting when consideration is given to such matters where the press and public would be excluded. Any report of this nature given to the advisors must be returned to the Governance Support Officer at the end of the meeting and the advisors must not divulge the contents of the report to any third party. At the end of each meeting of the Committee where confidential/exempt information has been disclosed in the presence of the advisors, a formal undertaking must be signed by each of the advisors to adhere to the requirements of this Protocol with respect to the non-disclosure of such information. The Harbour Committee may resolve to exclude the Harbour Committee advisors, should they consider it necessary, following advice from the Monitoring Officer or his/her representative.

7. Role of the Head of Tor bay Harbour Authority and Tor Bay Harbour Master

7.1 The role of the Head of Tor bay Harbour Authority and Tor Bay Harbour Master is to ensure the safe and efficient operation of the statutory harbour of Tor Bay (including the harbour estate) and its enclosed ports and to undertake the day to day management of Marine Services in support of that role. The Head of Tor bay Harbour Authority and Tor Bay Harbour Master also carries out all the statutory duties of Harbour Master for Tor Bay Harbour, these duties are outlined in the Officer Scheme of Delegation.

7.2 In relation to the Harbour Committee, the role of Head of Tor bay Harbour Authority and Tor Bay Harbour Master is to provide advice and guidance to the Harbour Committee, such as:

a) assisting in the recruitment process for the advisors;

b) providing the Committee with strategic advice to inform its decision-making;

c) providing the Committee with clear financial and operational reports to enable the Committee to make accurate and balanced decisions; and

d) being responsible for ensuring that the Harbour's statutory and legislative framework is fully fit for purpose.

7.3 The Harbour Committee shall not seek to interfere directly in the day to day management of Tor Bay Harbour. However, the Committee should understand how its decisions impact on the running of Tor Bay Harbour and the wider economy.

8. Role of the Harbour Liaison Forums and Relationship with the Harbour Committee

8.1 Two Harbour Liaison Forums have been established namely Torquay/Paignton Harbour Liaison Forum (covering Torquay and Paignton Harbours) and Brixham Harbour Liaison Forum (covering Brixham Harbour). The membership of the Forums includes a full range of stakeholders such as harbour users and others who derive direct benefit from Marine Services, together with those who derive an indirect benefit.

8.2 The role and remit of the Forums is to provide a method of consultation on day to day management and operational issues in relation to the three enclosed harbours. They also used for consultation on strategic matters.

8.3 The Harbour Committee will have regard to the views expressed by the Harbour Liaisons Forums by receiving the minutes of Forum meetings. Further details of consultation are set out in paragraph 10 below.

8.4 As part of the Harbour Committee's terms of reference, it will recommend the format, composition and governance of the Harbour Liaison Forums and keep the arrangements under review. The Harbour Committee will seek to encourage openness and transparency in the Forums' selection of their membership.

9. Training on the Functions of the Harbour Committee

9.1 All members and advisors will undertake appropriate training. This training will cover port and harbour operation, statutory and regulatory obligations, the role of the Duty Holder under the Port Marine Safety Code and governance issues. The training will also link to the Members' Development Programme.

10. Consultation

10.1 In light of the overall and specific objectives of the Committee, it is important that, at all times, a balance is struck that respects all stakeholders (not just one group). In achieving this the Committee will take into account what constitutes the common good for all stakeholders (current and future) and the harbour itself. This will ensure that the needs and views of both beneficiary and non-beneficiary stakeholders are

not overlooked or discounted. This balance is met by ensuring a representative of the Committee is a member on the Harbour Liaison Forums and by the Harbour Committee receiving the minutes of the Harbour Liaison Forums (as referred to in paragraph 8.3 above).