



Public Document Pack

North Devon Council
Brynsworthy Environment Centre
Barnstaple
North Devon EX31 3NP

K. Miles
Chief Executive.

HARBOUR BOARD

A meeting of the Harbour Board will be held in the Ilfracombe Centre - Ilfracombe on **TUESDAY, 15TH NOVEMBER, 2022 at 2.00 pm.**

Members of the Harbour Board

Councillor Fowler (Chair)

Councillors Campbell, Turton and Wilkinson

Co-opted Members:

Martin Cleary, Bert Gear, Tim Gibbs and Nigel Thomas

AGENDA

1. Apologies for Absence
2. To approve as a correct record the minutes of the meeting held on 9th August 2022 (Pages 5 - 12)
(attached).
3. Items brought forward which in the opinion of the Chair should be considered by the meeting as a matter of urgency
4. Declarations of Interest
(Please complete the form provided at the meeting or telephone Corporate and Community Services to prepare a form for your signature before the meeting) Items must be re-declared when the item is called, and Councillors must leave the room if necessary)
5. To agree the agenda between Part 'A' and Part 'B' (Confidential Restricted Information)

PART 'A'

6. **Quarterly Designated Person Port Marine Safety Code Audit Report - Ilfracombe and Lynmouth Harbours** (Pages 13 - 16)
Report by Health and Safety Adviser (attached).
7. **Ilfracombe and Lynmouth Harbour's Budget Trading Accounts** (Pages 17 - 18)
Report by Accounts Manager (attached).

8. **Ifracombe Harbour Marine Safety Management System (MSMS) Review**
(Pages 19 - 64)
Report by the Harbour Master (attached).
9. **Harbour Enforcement and Prosecution Policy Review** (Pages 65 - 76)
Report by the Harbour Master (attached).
10. **Ifracombe Harbour Charges Review 2023-2024** (Pages 77 - 78)
Report by the Harbour Master (attached).
11. **Aids to Navigation**
Harbour Master to report.
12. **Infrastructure Update**
Harbour Master to report.
 - (a) Environmental Consideration
Harbour Master to report.
13. **Future Projects**
Harbour Master to report.
14. **Harbour Community Forum**
Harbour Master to report.
15. **To consider future dates of the Harbour Board**
 - Due to the District elections taking place in May there is no scheduled meeting in May 2023
 - Tuesday 8 August 2023 at 2 pm
 - Tuesday 7 November 2023 at 2 pm
 - Tuesday 6 February 2024 at 2pm

PART 'B'

Nil.

If you have any enquiries about this agenda, please contact Corporate and Community Services, telephone 01271 388253

7.11.22



North Devon Council protocol on recording/filming at Council meetings

The Council is committed to openness and transparency in its decision-making. Recording is permitted at Council meetings that are open to the public. The Council understands that some members of the public attending its meetings may not wish to be recorded. The Chairman of the meeting will make sure any request not to be recorded is respected.

The rules that the Council will apply are:

1. The recording must be overt (clearly visible to anyone at the meeting) and must not disrupt proceedings. The Council will put signs up at any meeting where we know recording is taking place.
2. The Chairman of the meeting has absolute discretion to stop or suspend recording if, in their opinion, continuing to do so would prejudice proceedings at the meeting or if the person recording is in breach of these rules.
3. We will ask for recording to stop if the meeting goes into 'part B' where the public is excluded for confidentiality reasons. In such a case, the person filming should leave the room ensuring all recording equipment is switched off.
4. Any member of the public has the right not to be recorded. We ensure that agendas for, and signage at, Council meetings make it clear that recording can take place – anyone not wishing to be recorded must advise the Chairman at the earliest opportunity.
5. The recording should not be edited in a way that could lead to misinterpretation or misrepresentation of the proceedings or in a way that ridicules or shows a lack of respect for those in the recording. The Council would expect any recording in breach of these rules to be removed from public view.

Notes for guidance:

Please contact either our Corporate and Community Services team or our Communications team in advance of the meeting you wish to record at so we can make all the necessary arrangements for you on the day.

For more information contact the Corporate and Community Services team on **01271 388253** or email **memberservices@northdevon.gov.uk** or the Communications Team on **01271 388278**, email **communications@northdevon.gov.uk**.

This page is intentionally left blank

NORTH DEVON COUNCIL

Minutes of a meeting of Harbour Board held at the Ilfracombe Centre - Ilfracombe on Tuesday, 9th August, 2022 at 2.00 pm

PRESENT: Members:

Councillor Fowler (Chair)

Councillors Campbell and Wilkinson

Co-opted Members:

Bert Gear, Tim Gibbs and Nigel Thomas

Officers:

Ilfracombe Harbour Master and Designated Person/Director of Resources and Lynton and Lynmouth Town Council Clerk

14. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Turton and Mr Cleary.

15. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE MEETING HELD ON 3RD MAY 2022

RESOLVED that the minutes of the meeting held on 3rd May 2022 (circulated previously) be approved as a correct record and be signed by the Chair.

16. DECLARATIONS OF INTEREST

The following declarations of interest were announced:

Councillor Fowler – Personal interest in all items as was a boat owner and a trustee of the Ilfracombe Yacht club.

Councillor Campbell – Personal interest in all item as has worked for the Landmark trust and worked on Lundy Island.

17. QUARTERLY DESIGNATED PERSON PORT MARINE SAFETY CODE AUDIT REPORT - ILFRACOMBE AND LYNMOUTH HARBOURS

The Board considered the Quarterly Designated Person Port Marine Safety Code Audit report (circulated previously), by the Health and Safety Manager.

The Designated Person gave the Board the following update:

- The quarterly audits were carried out at both Ilfracombe and Lynmouth harbours on 14th July 2022 in the presence of the Senior Engineer (North Devon Council), Town Clerk and Finance Officers (from Lynton and Lynmouth Town Council), the Harbour Master, the Health and Safety Officer (North Devon Council) and the Director of Resources/Designated Person (North Devon Council).

Ilfracombe – Actions Completed

- The new composite hand rails had been quoted for and were in the process of being procured and the Harbour Master was currently arranging for when these were to be fitted at Old Quay Head.
- Costings had been obtained for the installation of the new electrical conduit on the Cove.
- An Ecology survey had been undertaken in respect of fencing along Marine Drive, below the cliff face, to prevent public access close to the Cliff face.
- Approval had been received from consultees on the revised Oil Spill Contingency plan and was now with the Maritime and Coastguard Agency (MCA) for their approval.
- Stone Bench had catchment netting fitted to pin back the bulging stonework and further work would be carried out after the summer season ended. There was evidence that the stonework had moved further out since the catchment netting had been fitted.

Lynmouth – Actions Completed

- Quotes for new composite handrails had been received and would be fitted in conjunction with the Ilfracombe handrail works.
- A survey of all mooring ropes and ladders had been carried out.
- New mooring rings (14) could now be installed.
- All boat owners had completed checks of their mooring chains and upgraded them where required.

Lynmouth – Risk Management

- During an internal audit, some recommendations were made in respect of the Marine Safety Management System.
- A contractor had now visited the site in preparation for the new handrails being installed.
- The ownership of May bridge still had not been determined but Devon County Council had sent Contractors to visit the bridge and agreed to repair the railings. The Contractors had reduced the pedestrian width of the bridge to make good the immediate risks.

The Board noted the findings of the Quarterly Designated Person Port Marine Safety Code audit report.

18. ILFRACOMBE AND LYNMOUTH HARBOUR'S BUDGET TRADING ACCOUNTS FOR Q4 2021 TO 2022

The Board considered the Ilfracombe and Lynmouth Harbour's Budget Trading Accounts for Q4 of 2021 to 2022 report (circulated previously), by the Accountant.

The Director of Resources and Deputy Chief Executive gave the Board the following updates:

- The cost of the CCTV upgrade works had an effect on the increase in expenditure in 2021 to 2022 and also the income from the external grant received.
- Works carried out in the Harbour along with the reduced fees in 2021 to 2022, as a result of the impact of Covid, were also factors in increase to net expenditure.
- Visiting ships income was up on the previous year figures.
- The fuel recharge had a slight net surplus which contributed to overall harbour costs.
- There were no financial concerns overall.
- In Lynmouth additional expenditure had been incurred due to emergency works carried out
- Significant investment had taken place at Ilfracombe harbour with further works on replacing and upgrading fenders, acquisition of booms, to have on site in the event of an oil pollution, and the upgrade to the CCTV system.

The Board noted the accounts for Q4 of 2021 to 2022.

18a Ilfracombe and Lynmouth Harbours Trading Accounts Q1 of 2022 to 2023

This item was considered following item 26..

19. MARINE SAFETY PLAN - HARBOUR POLICY AND PLANS NEW AND REVIEWED

The Board considered the Harbour Policy/Plans New and Reviewed report (circulated previously), by the Harbour Master.

The Harbour Master gave the Board the following updates:

- The addition of a security section in the Marine Emergency Plan within the harbour in respect of the International Ships and Port Security (ISPS) status was on hold and would be discussed at the next Port Security committee meeting, due to be held in December 2022.
- The Environment Management plan had not been changed as a result of the review. This plan had not had to be deployed either.
- The new Winter Storage Plan set out activities that were expected of Harbour users over the winter months. The Harbour was not a dock yard and therefore it was unreasonable for boat owners to expect the harbour to facilitate major winter works and the need to tent their vessels.

The Board members discussed the new Winter Storage Policy and considered adding an amendment to point 3.2 of the policy stating that whilst unattended boats must not be plugged into the electricity supply.

RESOLVED that;

- a) the review of the Marine Emergency Plan and Environmental Management plans be approved,
- b) the new Winter Storage Policy (Appendix C) be adopted,
- c) Point 3.2 of the new Winter Storage Policy, found in the agenda, be highlighted to all users of the Harbour; and
- d) Point 3.2 of the Winter Storage Policy be reviewed at a future Board meeting after the winter of 2022.

20. HARBOUR BOARD ANNUAL REPORT 2021 TO 2022

The Board considered the Harbour Board Annual report (circulated previously), by the Harbour Master.

The Harbour Master gave the following highlights from the report:

- The Oil Spill Plan was with the Maritime and Coastguard Authority (MCA) awaiting their approval.
- The plan would be digital i.e. there would be no need for a printer to print off PDF's links in the plan would take a user to a digital form to be completed on any mobile device.
- One of the Category 2 responders, required under the oil spill plan, was leaving the employment of the Council. The Insurance company were happy for members outside of the Local Authority to step into this role as long as a waiver was signed confirming there would be no remuneration for the position.
- The Port Waste Management Plan had been received by the MCA and was awaiting approval.
- Trinity House had confirmed any Harbour with Navigation lights should be signed up to their online database:- Providers Aids to Navigation Availability Reporting Database (PANAR).
- A new Harbour Revision Order (HRO) was to be submitted. This sought to reorganise the current set up of the Harbour.
- Once the new HRO was approved, the rescinded byelaws would be replaced with General Directions.
- Diving activities had increased over the last year with most users adhering to the Diving policy.
- Tombstoning, the activity of jumping off a high vantage point into the sea, could not be stopped but needed to be managed. The newly appointed Police Community Support Officer (PCSO) was educating young people about the dangers of this activity.
- This positive intervention made by the PCSO had seen young people were making a considered choice about where to jump into the harbour and would move on if requested to do so.
- The Property Manager had given an update on progress of the Water Sports Centre to the Town Council. It was anticipated that the café and clubs to be in the building by the end of the year, 2022.

The Board noted the Annual Harbour update report.

21. AIDS TO NAVIGATION

The Board received an update on Aids to Navigation from the Harbour Master.

The project to switch to solar panels on the navigation lights was progressing.

22. INFRASTRUCTURE UPDATE

There was no update given on Infrastructure.

23. ENVIRONMENTAL CONSIDERATION

The Board received an update on Environmental Consideration from the Harbour Master.

The Board heard the following updates:

- There were Companies who specialised in carrying out surveys looking for invasive species.
- Most of the visitors to the Harbour were from within our waters.

24. FUTURE PROJECTS

The Board received an update on Future Projects from the Harbour Master.

The Board received the following updates:

- Three applications had been made to the Marine Management Organisation's Fisheries Fund under the Fisheries and Seafood Scheme element:
 - (a) An application for an electric 500kg Crane for all to use and in addition five bespoke swing davits erected on stand-alone metal posts, to replace those already in use and alleviate any further damage to the wooden pile fenders they were currently attached to.
 - (b) An application for new composite harbour ladders with protective fendering and the installation of additional fishermen's storage compounds along the section of Marine drive that was to have the catchment erected. This would potentially bring in revenue to offset some of the revenue lost when the car parking spaces were lost due to the catchment netting.
 - (c) An application for further Polymarine fendering. A commercial trawler had purchased a third boat, which gave rise to the need for more fenders.
- Additional seating would be of benefit to the community and visitors situated in the Lower Cove car park area that runs along the rear sea wall. By realigning the car park spaces this would allow three extra benches to be installed.
- The proposal to turn the unused area at the base of the statue Verity, which was currently tidal, into a retained sea water pool area had been discussed at the Ilfracombe Regeneration Board and was a potential candidate for the Devon County Council funded communities review being undertaken by Hardisty Jones.
- It was hoped that a Royal Yachting Association (RYA) Practical and Theory training Centre, based at the waiting room on the Pier, would be open for courses starting in the winter of 2022.

- The Centre was looking to provide, initially, those courses in high demand, namely Short Range Radio courses, First Aid, Radar and Yachtmaster theory with Powerboat levels 1 and 2 practical courses.
- Once recognised by the RYA these courses could be added to with the potential to have a full range of courses available to interested parties in the North Devon region as well as offering training holidays on a national basis.

25. LYNTON AND LYNMOUTH TOWN COUNCIL - MINUTES OF HARBOUR SUB-COMMITTEE

The Board considered the Lynton and Lynmouth Town Council – minutes of the Harbour Sub-Committee.

The Lynton and Lynmouth Town Clerk gave the Board the following updates:

- The Sub-Committee had now set the dates of their meetings 6 weeks ahead of the Harbour Board meetings.
- This would allow Harbour users and Sub-Committee members to give feedback and ideas to be relayed to the Harbour Board for feedback.

The Harbour Master provided the Board with the following update:

- The Harbour Master had advised the current Ilfracombe Harbour Forum Chair to disband the current forum.
- An email was to be sent to current forum members advising of the disbandment and that a new forum would be put together in a new format.
- User groups of the new Water Sports Centre would need to be included as members of a new forum.

26. HARBOUR COMMUNITY FORUM

The Board considered a letter from a member of the Lynton and Lynmouth Harbour Forum.

The Harbour Master gave the Board the following updates:

- The letter received outlined ideas for repair works to the Causeway at Lynmouth. The Causeway had suffered damage over one winter and a large section of the Causeway had been lost.

The Lynton and Lynmouth Town Clerk added that the legal team were looking at the Codicils in respect of the gifting of the Causeway to the town and whether the lost part of the Causeway had to be replaced in keeping with the Codicils. A survey had been carried out and the conclusion of which found that no further damage would be sustained to the Causeway if not repaired.

The Board noted the contents of the letter and expressed confirmation to the Harbour Master to investigate the matter further.

27. ILFRACOMBE AND LYNMOUTH HARBOURS TRADING ACCOUNTS Q1 OF 2022 TO 2023

The Board considered the Ilfracombe and Lynmouth Harbour's Trading Accounts Q1 of 2022 to 2023 report (circulated previously) by the Accountant.

The Director of Resources and Deputy Chief Executive gave the Board the following updates:

- The quarter one income for both harbours was higher than last year.
- The maintenance expenditure was in line with last year.
- Overall quarter 1 position was more positive than last year.

The Board noted the figures.

Chair

The meeting ended at 3.38 pm

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.

This page is intentionally left blank

Agenda Item 6

HARBOUR BOARD MEETING: 15th November 2022

Quarterly Designated Person Port Marine Safety Code Audit Report – Ilfracombe & Lynmouth Harbours

Ilfracombe - 6th October 2022 Captain Georgina Carlo-Paat (Harbour Master)
Jon Triggs (Director of Resources & Deputy Chief Executive)
Tara Jenkins (Senior Engineer)
Trevor Hill (Larkstone Hub Support Officer)
Pamela Charles (H&S Adviser)

Lynmouth - 6th October 2022 Captain Georgina Carlo-Paat (Harbour Master)
Jon Triggs (Director of Resources & Deputy Chief Executive)
Kevin Harris (Lynton & Lynmouth Town Council, Town Clerk)
Tara Jenkins (Senior Engineer)
Pamela Charles (H&S Adviser)

1. PURPOSE OF REPORT

- 1.1 To advise Members of the Harbour Board of the outcome of the quarterly audits.
- 1.2 The quarterly audits are carried out to fulfil the responsibility placed upon the Designated Person (DP) to ensure the Marine Safety Management System is working correctly in compliance of the Port Marine Safety Code.

2. ACTIONS COMPLETED FROM PREVIOUS INSPECTIONS- ILFRACOMBE

- 2.1 New composite handrails had been installed along the edges of the steps on Old Quay Head
- 2.2 The Harbour Master has obtained costings for the installation of the remaining new electrical conduit on the Cove. Works should be completed by Jan 2023.
- 2.4 Maritime and Coastguard Agency have now approved the Oil Spill Contingency Plan, which will be implemented until the next review is due in 2027.
- 2.5 The lower Leading Light that was relocated due to the Watersports Centre build work has now been returned to its original position. The characteristics have been surveyed and remain unchanged.

3. RISK MANAGEMENT- ILFRACOMBE

- 3.1 An internal audit of the following topics was carried out this quarter.
One minor non-conformity of applicable aspects as below:
 - (i) Legislation, (Acts, Harbour Revision Orders, Byelaws) and Directions,
 - (ii) Conservancy (survey, dredging) - *Harbour Master to provide latest survey information to UK Hydrographic Office*
 - (iii) Duty Holder and DP Function

(iv) Competency and Training

- 3.2 New composite handrails still to be fitted along RNLI steps. Work to be carried out in 2023.
- 3.4 Although the catchment netting fitted to Stone Bench to pin back the bulging stonework is holding well, there is some evidence of further movement and also cracks in the stone wall adjacent to the netted area. The Senior Engineer will arrange to obtain a quote for the remedial works that are required.
- 3.3 A vertical crack has appeared in the end wall of Old Quay Head. The Senior Engineer will arrange for a survey to be carried out to determine the cause and provide options for repair.
- 3.4 Work to the top rails along the wall on Quay Road and installation of new mooring rings for visiting boats to use is still outstanding funding not having been secured. The paperwork required by the Environment Agency has been completed, submitted and accepted

4. ACTIONS COMPLETED FROM PREVIOUS INSPECTIONS- LYNMOUTH

- 4.1 A new composite handrail had been installed on the wall of the slipway.
- 4.2 Remedial work to the quoins along the top edge of the slipway wall was in the process of being carried out at the time of the inspection.
- 4.3 The new composite hand rail on the slipway has been installed and the rail for the steps will be fitted imminently.
- 4.4. A member of the public raised an issue of health and safety regarding the mooring pegs along the concreted edge of the causeway, citing them as a trip hazard, particularly to children using the causeway. Following a risk assessment of these pegs, they are not deemed to be any more of a trip hazard than anywhere else along the causeway. The pegs are placed very near to the edge of the causeway, where it would be unadvisable to walk as there is a sizeable drop, from this edge, on to the beach below. The causeway surface is generally uneven, made up of rocks and concrete and the beach is covered with rocks and pebbles of varying sizes. Walking along the causeway or over the beach should be done only with care. The cost of removing the mooring pegs would be disproportionate to any safety benefit gained.

5. RISK MANAGEMENT – LYNMOUTH

- 5.1 An internal audit of the following topics was carried out this quarter, although many do not apply, given the current non-statutory status of the harbour. The Ilfracombe Harbour Master is currently reviewing the Lynmouth Marine Safety Management System.
 - (i) Legislation, (Acts, Harbour Revision Orders, Byelaws) and Directions,
 - (ii) Conservancy (survey, dredging) - *Harbour Master to provide latest survey information to UK Hydrographic Office*
 - (iii) Duty Holder and DP Function
 - (iv) Competency and Training
- 5.2 Two mooring balls on the Harbour Arm still require painting white to highlight their positions and prevent trip hazards

Agenda Item 6

- 5.3 New composite poles for the new Aid to Navigation lights have been purchased and are in storage. The poles will be installed once the new solar powered lights have been procured.
- 5.4 Devon County Council have completed repairs to the May Bridge.
- 5.5 The Ilfracombe Harbour Master is reviewing the Marine Safety Management System.

6. CONCLUSIONS

- 6.1 Health and Safety at Ilfracombe Harbour continues to be proactively managed by the Harbour Master, with works on site being completed and no new safety concerns arising at this audit.
- 6.2 It remains difficult to audit Lynmouth harbour whilst its status as a Statutory Harbour Authority is still not formal, however there is good progress in completing the on-site works that have been of concern.

Pamela Charles
H&S Adviser
Oct 2022

This page is intentionally left blank

Agenda Item 7

Ilfacombe Harbour

	Budget	Quarter 1 - Actual	Quarter 2 - Actual
Operating Income	(98,750)	(63,043)	(29,025)
Operating Expenditure & Maintena	218,737	40129.7	57,874
Overheads	39,250	9812.5	9812.5
	<u>257,987</u>	<u>49,942</u>	<u>67,687</u>
Operating Deficit / (surplus)	159,237	-13100.62	38661
Contribution to reserves			
Bad Debt movements			
Interest			
	<u>159237</u>	<u>-13100.62</u>	<u>38661</u>
Net Deficit / (Surplus)	<u>159237</u>	<u>-13100.62</u>	<u>38661</u>

Lynnton & Lynmouth Harbour

	Budget	Quarter 1 - Actual	Quarter 2 - Actual
Operating Income	(4,418)	(3,922)	0
Operating Expenditure & Maintena	7233	1048	192
Overheads	24393	6059	6119
	<u>31626</u>	<u>7107</u>	<u>6311</u>
Operating Deficit/ (Surplus)	27,208	3185	6311
Net Deficit / (Surplus)	<u>27208</u>	<u>3185</u>	<u>6311</u>

Agenda Item 7

Quarter 3 - Forecast	Quarter 4	Forecast	Total
(3,341)	(3,341)	(98,750)	
60,366	60,366	218,737	
9,813	9812.5	39,250	
<u>70,179</u>	<u>70,179</u>	<u>257,987</u>	
66838	66838	159237	

<u>66838</u>	<u>66838</u>
--------------	--------------

<u>66838</u>	<u>66838</u>
--------------	--------------

Quarter 3 - Forecast	Quarter 4	Forecast
0	0	
1371	3371	
6282	6282	
<u>7653</u>	<u>9653</u>	

<u>7653</u>	<u>9653</u>
-------------	-------------

<u>7653</u>	<u>9653</u>
-------------	-------------



North Devon Council

Report Date: 15th November 2022

Topic: Ilfracombe Harbour Marine Safety Management System (MSMS) Review

Report by: Ilfracombe Harbour Master

1. INTRODUCTION

- 1.1. The Port Marine Safety Code (PMSC) states in section 2 that a Harbour Authority should implement a Marine Safety Management System (MSMS) and in 2.14 the MSMS should be internally audited on an annual basis.
- 1.2. Ilfracombe Harbours MSMS is audited quarterly to ensure within a 12 month period all aspects are audited and the MSMS is also internally reviewed on an annual basis.
- 1.3. The internal annual review is now complete with only minor amendments and the document fully adapted for accessibility.

2. RECOMMENDATIONS

- 2.1. That the internal annual review findings are adopted by the Harbour Board.

3. REASONS FOR RECOMMENDATIONS

- 3.1. To comply with the obligations under the PMSC

4. REPORT.

- 1.1. The internal annual review of the MSMS is undertaken to ensure the document is fit for purpose and reflects any changes over the previous 12 months.

5. RESOURCE IMPLICATIONS

- 5.1. There is a no financial implication contained within this report.
- 5.2. There are no manpower implications contained within this report

6. EQUALITIES ASSESSMENT

- 6.1. There are no equalities implications anticipated as a result of this report.

7. ENVIRONMENTAL ASSESSMENT

- 7.1. Having undertaken the Environmental Assessment Checklist. There are no environmental implications arising from these policy proposals.



8. CORPORATE PRIORITIES

8.1. What impact, positive or negative, does the subject of this report have on:

8.1.1. The commercialisation agenda: N/A

8.1.2. Improving customer focus and/or : N/A

8.1.3. Regeneration or economic development :N/A

9. CONSTITUTIONAL CONTEXT

9.1. Appendix 5, 6(a)

9.2. Delegated Power

10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report:
(The background papers are available for inspection and kept by the author of the report).

11.1 Port Marine Safety Code and accompanying Guide to Good Practice

11.2 Marine Safety Management Code

12. STATEMENT OF INTERNAL ADVICE

12.1. The author (below) confirms that advice has been taken from all appropriate Councillors and Officers:

12.2. Capt. Georgina Carlo-Paat MBE - Ilfracombe Harbour Master

ILFRACOMBE HARBOUR

MARINE SAFETY MANAGEMENT SYSTEM

(MSMS)

Version 3.2

Adopted by Harbour Board: *Draft*

<i>Document Control</i>	6
<i>Record of Review/Amendments</i>	6
<i>Part 1 – The Harbour Board and Ilfracombe Forum</i>	7
<i>Harbour Board Members [in alphabetical order by surname]</i>	7
<i>Officers</i>	7
<i>Designated Person</i>	7
<i>Ilfracombe Harbour Community Forum</i>	7
<i>Part 2 – THE MANUAL</i>	8
<i>1. Introduction</i>	8
<i>1.1 Port Marine Safety Code Requirements</i>	9
<i>1.2 Scope of the MSMS</i>	9
<i>1.3 System Components</i>	9
<i>2. Policy</i>	13
<i>2.1 Statements of Commitment</i>	13
2.1.1 North Devon District Council (NDC): Ilfracombe Harbour Authority	13
2.1.2 The Harbour Board	13
<i>2.2 Safety Plan for Marine Operations</i>	14
<i>2.3 Policy & Plan Reviews</i>	15
2.3.1 Policies	15
2.3.2 Plans	15
<i>3. Organisation and Responsibilities</i>	16
<i>3.1 Resources, Roles, Responsibility and Authority</i>	16
3.1.1 Ilfracombe Harbour Authority	16
3.1.2 The Duty Holder	18
3.1.3 The Harbour Board	19
3.1.4 The Designated Person	19

3.1.5 Harbour Master	21
<hr/>	
3.1.6 Deputy Harbour Master [DHM]	21
<hr/>	
3.1.7 Consultative Forum	21
<hr/>	
3.1.8 Harbour Users	21
<hr/>	
3.2 <i>Training, Awareness and Competence</i>	22
<hr/>	
3.2.1 Ilfracombe Harbour Staff Training Matrix	22
<hr/>	
3.2.2 Training Policy	23
<hr/>	
4. <i>Legislation</i>	23
<hr/>	
4.1 <i>Register of Legislation and Regulations</i>	23
<hr/>	
4.2 <i>Legislation Compliance Evaluation</i>	23
<hr/>	
4.3 <i>Review of Powers</i>	23
<hr/>	
4.4 <i>Enforcement of Compliance</i>	24
<hr/>	
4.5 <i>Prosecution Policy</i>	24
<hr/>	
4.5.1 Enforcement & Prosecution Policy	25
<hr/>	
4.6 <i>Drugs & Alcohol</i>	25
<hr/>	
5. <i>Consultation</i>	25
<hr/>	
6. <i>Risk Assessment</i>	26
<hr/>	
6.1 <i>Procedure</i>	26
<hr/>	
6.1.1 Definitions of Hazard and Risk	27
<hr/>	
6.1.2 Stage 1. Problem Identification [Information Gathering]	27
<hr/>	
6.1.3 Stage 2. Hazard Identification	27
<hr/>	
6.1.4 Stage 3. Risk Analysis	28
<hr/>	
6.1.5 Stage 4. Assessment of Existing Measures	28
<hr/>	
6.1.6 Stage 5. Risk Control	28
<hr/>	
6.1.7. Use of Consultants and External Advice	29
<hr/>	
6.2 <i>ALARP Defined</i>	29
<hr/>	
6.3 <i>Ilfracombe Harbour Risk Assessments</i>	30
<hr/>	
6.4 <i>Third Party [External] Risk Assessments</i>	31

6.5 Risk Assessment Reviews	31
6.5.1 Proactive	31
6.5.2 Reactive	31
<i>7. Implementation and Operation</i>	32
<i>7.1 Procedure</i>	32
<i>7.2 Standard Operating Procedures</i>	32
<i>7.3 Harbour Marine Policies and Procedures</i>	33
7.3.1 Conservancy: Buoys, Aids to Navigation and Surveys	33
<i>7.4 Dredging</i>	34
<i>7.5 Provision and Control of Moorings</i>	34
<i>7.6 Not Always Afloat but Safely Aground [NAABSA] Berths</i>	34
<i>7.7 Maintenance of Property and Harbour Infrastructure</i>	35
<i>7.8 Environmental and Waste Management</i>	35
<i>7.9 Wreck Marking/Removal</i>	35
<i>7.10 Communications- Local Port Service (LPS)</i>	35
<i>7.11 MARINE SERVICES</i>	35
7.11.1 Bunkering	35
7.11.2 Diving	36
7.11.2 Launch permits	36
7.11.3 Hot Works	36
<i>7.12 Towage</i>	36
7.12.1 Routine Towage	36
7.12.2 Non –Routine Towage Internally within the Harbour JURISDICTION	36
7.12.3 Non-Routine Towage entering the Harbour Jurisdiction	36
<i>8. Management of Navigation</i>	37
<i>8.1 Setting of Byelaws, Licences and Revision Orders</i>	37
<i>8.2 Directions and Notices to Mariners</i>	37
8.2.1 Special Directions	37

8.2.2 Dangerous Vessel Directions	37
8.2.3 Notice to Mariners	38
8.3 Security	38
8.4 Marine Emergency Plan	38
8.5 Oil Spill Contingency Plan [OSCP]	38
9. Incident Reporting	39
10. Performance Monitoring	41
10.1 Measuring Performance	41
10.2 Objectives	43
11. Corrective Action	43
11.1 Compliance Evaluation	43
11.2 Non-conformity, Preventative and Corrective Action	43
12. Audit and Review Programme	44

This is a controlled document which is subject to annual review and amendment.

Major changes will be issued as a new version with all minor amendments to that version annotated by a decimal point e.g. V2 will become V2.1, V2.2 etc.

Amendment proposals should be sent to the Harbour Master using the following means:

Email: harbourmaster@northdevon.gov.uk

Phone: 01271 862108

Post: Harbour Masters Office, the Pier, Ilfracombe EX34 9EQ

RECORD OF REVIEW/AMENDMENTS

Review (R) or Amendment (A)	Date	Page	Description of changes
01/19 (A)	02/08/19	20,35,40,44	Minor–Reference DP Audit July 2019
02/20 (A)	07/01/20	19	Minor - Duplication of points deleted 3.1.2
03/20	08/11/20		Major – inclusion of observations from ABPmer audit & DP audits – New Version 3.0 issued
04/21 (R&A)	16/09/21	7, 16, 21, 23,31	Minor – Part 1 Change of job Title for DP, 2.3.2 Inclusion of Marine Safety Plan, 3.1.4.1 Change of job title for DP, 3.2.1 – update of training matrix, 6.3 deletion of any hazman references. Adapted for Accessibility.
05/21 (A)	28/10/2021	22	3.2.2 Training Policy web link added.
06/21 (R)	10/11/2021		No Changes
07/22 (R &A)	05/10/2022	7, 12, 15, 19, 22, 30, 43	Part 1 – Change of Board name & Inclusion of additional Officer. 1.3.3 Reformatted. 2.3 Updated Policy & Plan Table. 3.1.3 Change of name Inclusion of new team member into training matrix. 6.3 Updated Risk Assessment procedure. 10.2 Updated Objectives.

HARBOUR BOARD MEMBERS [IN ALPHABETICAL ORDER BY SURNAME]

Councillor J Campbell

Mr M Cleary

Councillor G Fowler (Chair)

Mr T Gibbs

Mr B Gear

Councillor D Turton

Councillor M Wilkinson (Vice Chair)

OFFICERS

Captain G Carlo-Paat MBE

Harbour Master

Mr E Simpson

Deputy Harbour Master

Mr T Hill

Larkstone Hub Support Officer

DESIGNATED PERSON

Mr Jon Triggs
and Deputy Chief Executive for North Devon Council

Director of Resources

ILFRACOMBE HARBOUR COMMUNITY FORUM

Members to include representatives from the following stakeholder groups

Commercial Fishing boats	RNLI	Licensees/Restauranteurs
Passenger Boats	Ilfracombe Yacht Club	Environmental Management
Angling Charter Boats	Ilfracombe Anglers Association	North Devon Aqua Club
Dive Charter Boats	Ilfracombe Town Council	Residents including Lantern Court
Crab/Lobster Boats	Ilfracombe & District Tourist Association	Ilfracombe Pilot Gig Club
Private Independent Owners	Y Sail	Harbour Development Group

PART 2 – THE MANUAL

1. INTRODUCTION

North Devon District Council (NDC) is the Statutory Harbour Authority (SHA) for Ilfracombe Harbour. The harbour is a Municipal Harbour Authority with executive officers of the Authority reporting to the North Devon Council (full Council) who are collectively the Duty Holder. The SHA is charged with the managing, maintaining and improvement of Ilfracombe Harbour within its duly nominated limits. This carries a number of duties which include but are not limited to:

- I. A duty to keep the Harbour open for shipping & unshipping of goods, the embarking & landing of passengers (on payment of dues) also known as 'Open Port Duty'. This duty is incorporated into The Pier & Harbour Orders Confirmation Act 1847 under Schedule of Orders 3.21

[Harbour, Docks & Piers Clauses Act 1847 - <https://www.legislation.gov.uk/ukpga/Vict/10-11/27/section/33>]

- II. A duty as the Local Lighthouse Authority (LLA) to provide, as necessary, Aids to Navigation (AtN) this encompasses both Lights and buoyage.

[Merchant shipping Act 1995 –Part VIII Lighthouses/201- Powers of Harbour Authorities - [Merchant Shipping Act 1995 \(legislation.gov.uk\)](#)]

- III. A duty to the Environment to exercise its applicable functions with regard to nature conservation and other environmental considerations.

[Environmental Protection Act 1990 - <https://www.legislation.gov.uk/ukpga/1990/43/contents> : The Natural Environment and Rural Communities [Natural Environment and Rural Communities Act 2006 \(legislation.gov.uk\)](#)- Section 48A of the Harbours Act 1964 -[Harbours Act 1964 \(legislation.gov.uk\)](#)]

- IV. A Common Law Duty of care to all those who may use the harbour, having a general duty for the safe and efficient running of port marine operations. Having regard to the efficiency, economy and safety of operation of the services and facilities provided as well as ensuring that appropriate resources are made available for discharging their marine safety obligations.

[Port Marine Safety Code (PMSC) -

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918935/port-marine-safety-code.pdf]

1.1 PORT MARINE SAFETY CODE REQUIREMENTS

Section 2 of the PMSC requires that the Harbour Authority implements a Marine Safety Management System (MSMS).

‘An MSMS should be in place to ensure that all risks are identified and controlled – the more severe ones must either be eliminated or reduced to the lowest possible level, so far as is reasonably practicable (that is, such risks must be kept as low as reasonably practicable or “ALARP”). Organisations should consult, as appropriate, those likely to be involved in, or affected by, the MSMS they adopt. The opportunity should be taken to develop a consensus about safe navigation. The MSMS should refer to the use of formal risk assessment which should be reviewed periodically as well as part of post incident/accident investigation activity.’

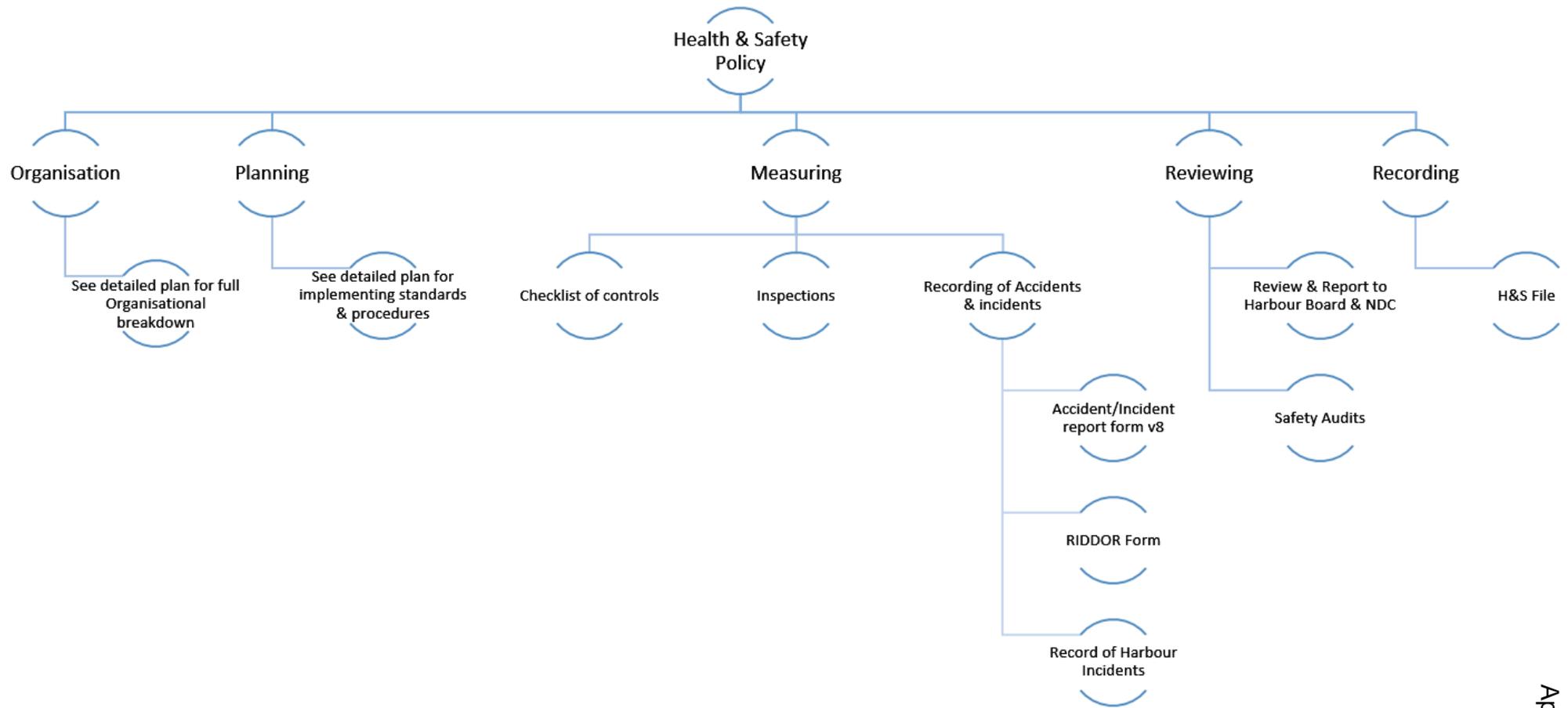
1.2 SCOPE OF THE MSMS

This MSMS sets out to cover all operations and activities undertaken within the defined limits of Ilfracombe Harbour.

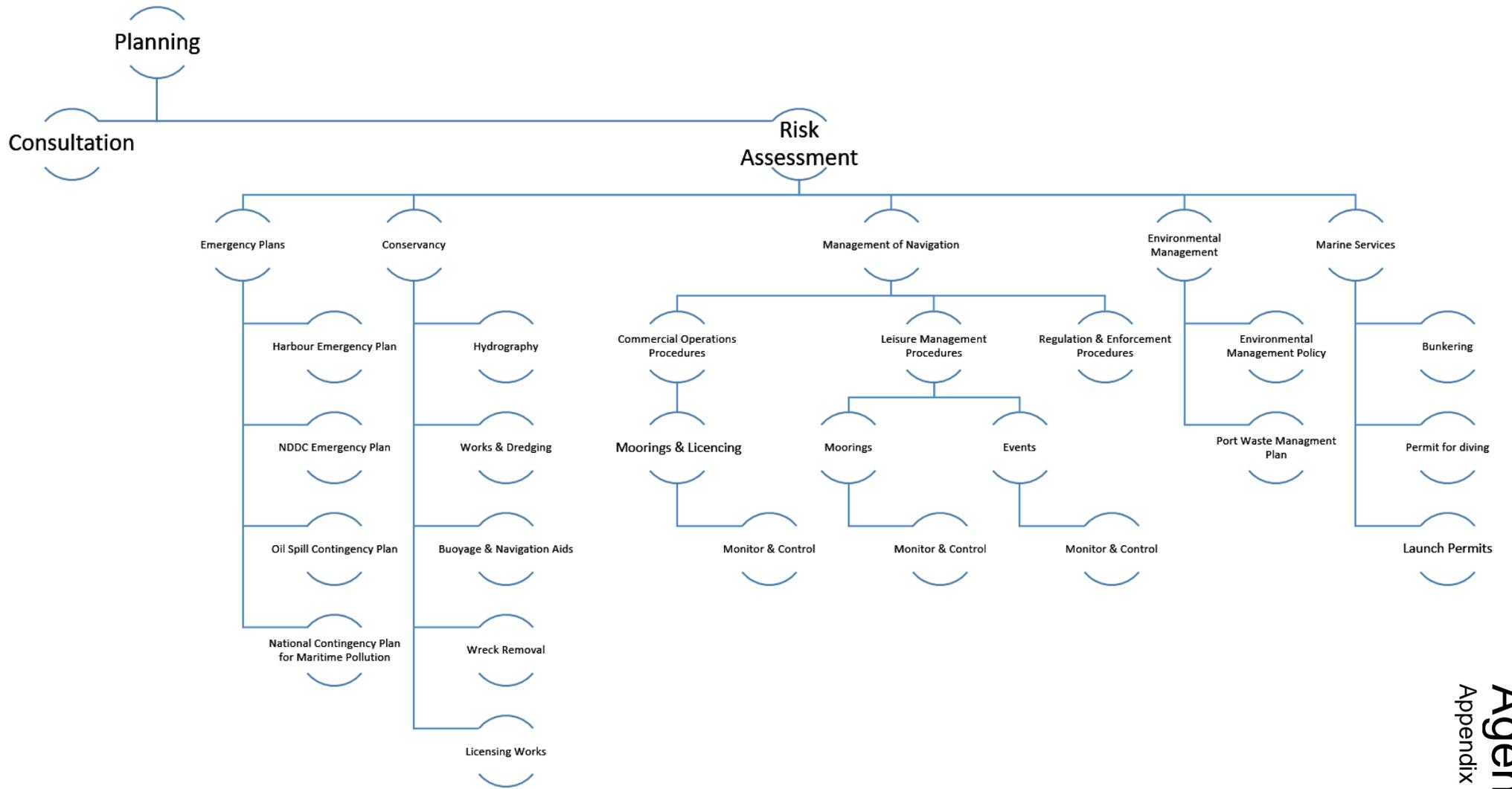
1.3 SYSTEM COMPONENTS

This MSMS which manages the hazards and risks along with any preparations for emergencies must be developed, implemented and revised periodically. The Ilfracombe Harbour Authority components include the following;

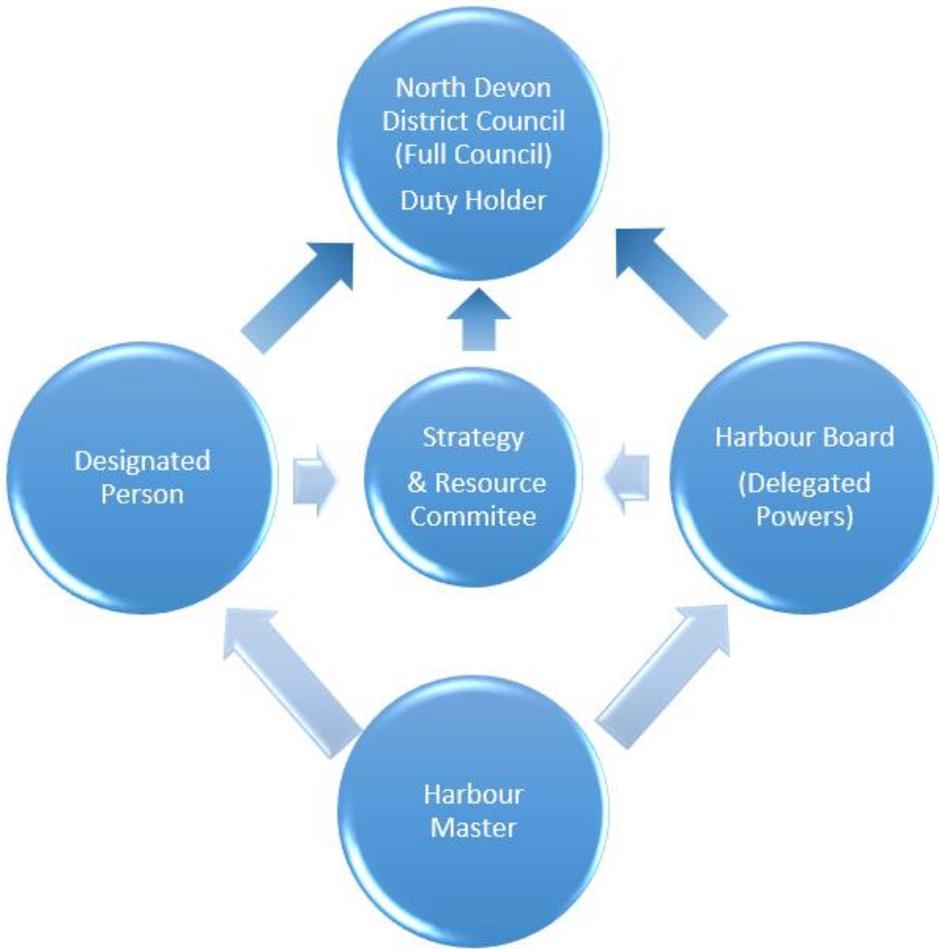
1.3.1 ILFRACOMBE HARBOUR MARINE SAFETY MANAGEMENT SYSTEM COMPONENTS



1.3.2 ILFRACOMBE HARBOUR PLANNING



1.3.3 ILFRACOMBE HARBOUR ORGANISATIONAL BREAKDOWN



2.1 STATEMENTS OF COMMITMENT*2.1.1 NORTH DEVON DISTRICT COUNCIL (NDC): ILFRACOMBE HARBOUR AUTHORITY*

NDC commitment to Health & Safety is set out in the Council's Health & Safety Policy which has been signed by the Leader of the Council and the Chief Executive.

<https://www.northdevon.gov.uk/media/379099/ndc-hs-policy-2017-002.pdf>

2.1.2 THE HARBOUR BOARD

The Harbour Board (The Board) have adopted a health & safety management system in compliance with the principles set out in the Port Marine Safety Code.

The Board have adopted practices and put in place controls to ensure that, wherever possible, the harbour is operated safely and efficiently so as to safeguard the harbour, its users and stakeholders and that those measures protect the whole environment of the harbour.

The H&S management system includes policies for emergency planning, conservancy & environment, management of navigation and marine service.

The board will, within the limits of their jurisdiction, provide a safe Harbour which is open to the public for recreation and the transportation of passengers and goods. It will ensure the safety of Ilfracombe Harbour by exercising its statutory functions to a high standard.

The board will regulate the use of the Harbour by maintaining appropriate byelaws and ensuring that these and other statutory regulations are enforced. The board will ensure that such marine services as required are available and are maintained and operated for the safe use of the Harbour.

The board will ensure that up to date plans are available to deal with emergency situations and that the resources, as required, to implement these plans are maintained and exercised.

The board has incorporated input from Council Officers, Harbour Staff and Harbour Users as the high standards of safety can only be reasonable achieved through communication and co-operation.

The Harbour plans, policies and/or reports will be published as a means of improving the accountability and transparency of the Harbour Authority.

Existing powers will be reviewed periodically to avoid any failure to discharge duties or to risk exceeding such powers.

2.2 SAFETY PLAN FOR MARINE OPERATIONS

The Full Council of NDC hold ultimate responsibility for the safety of its employees and those affected by its operations. However, the Harbour Board have delegated authority for Harbour safety management.

The Marine Safety Plan provides a co-ordinated statement of intent regarding matters affecting the harbour that relate to safety, incident management, marine management and the environment.

All Harbour operations are conducted giving due regard to the North Devon Council (NDC) Health and Safety Policy, which itself is in accordance with the requirements of the Health and Safety at Work Act and other related regulations.

As an employer, NDC recognises and accepts its responsibilities for providing safe and healthy workplaces and working environments for all of its employees, and/or persons working on its behalf, and to all other persons who may be affected by the usual work of the Council, or by its acts or omissions.

This policy augments the Health & Safety Policy provides a more focussed approach to Marine related safety.

The Harbour Authority & Harbour Board are committed to:

- Managing its assets safely & efficiently;
- Ensuring that staff and harbour responders are properly trained for emergencies & contingencies;
- Recruiting & Training operational staff to nationally agreed standards;
- Maintaining relevant harbour equipment to agreed industry standards;
- Complying with all legal requirements.

In making these commitments the Harbour Authority have appointed the Harbour Master to fulfil the role of Marine Operations Safety Officer and is responsible for the following:

- Ensuring that the Harbour Authority complies with the Port Marine Safety Code;
- Ensuring that all risks are assessed and mitigating under the principles of ALARP (As Low As Reasonably Practicable);
- Conducting routine safety inspections and dynamically re-assessing risks as appropriate;
- Investigating, reporting & recording all incidents & accidents and ensuring that the 'lessons learnt' are disseminated to persons, bodies & institutions as appropriate.

All Policies and Plan are reviewed periodically, as set out below, by the Harbour Board. The Ilfracombe Harbour Authority maintains the following Policies and Plans:

2.3.1 POLICIES

- Safety policy – 3 Yearly
- Edge Protection Policy – 3 Yearly
- Powered Watercraft Policy – 3 Yearly
- Advertising Policy – 3 Yearly
- Commercial Operators Advertising Policy – 3 Yearly
- Enforcement and Prosecution Policy – 2 Yearly
- Training policy – 3 Yearly
- Winter Storage Policy – 2 Yearly

2.3.2 PLANS

- Environmental Plan – 2 Yearly
- Oil Spill Contingency Plan – 5 Yearly (MCA approval required)
- Waste Management Plan – 3 Yearly (MCA approval required)
- Marine Emergency Plan – Annually
- Marine Safety Plan – 3 Yearly

3.1 RESOURCES, ROLES, RESPONSIBILITY AND AUTHORITY*3.1.1 ILFRACOMBE HARBOUR AUTHORITY*

North Devon Council (NDC) as the SHA, is governed by Acts of parliament prescribing its duties and responsibilities drawn from the Ilfracombe Harbour Act and Orders 1870 to 2019, relevant statute laws, common laws and fiduciary duties.

The Ilfracombe Harbour Acts and Orders are namely the 'Pier and Harbour Orders Confirmation Act' made in the years 1870, 1897 and 1900. The Ilfracombe Harbour and Improvement Act 1905, the Ilfracombe Harbour Revision Order 1996 and the Ilfracombe Harbour Revision Order 2019. Plus the Ilfracombe Harbour Revision Order 2019 and the North Devon District Council Harbour Authority (Removal of Pilotage Functions) Order 2019. Within the MSMS, these Acts and Orders are referred to as 'the Ilfracombe Harbour Act and Orders 1870 to 2019'.

Ilfracombe Harbour is also the Local Lighthouse Authority (LLA) under the requirements of the Merchant Shipping Act, 1995 (Section 193), with respect to Navigation for Aids.

3.1.1.1 NATIONAL LEGISLATION AND REGULATIONS

- I. Harbours, Docks and Piers Clauses Act 1847
- II. Harbours Act 1964
- III. Local Government Act 2010
- IV. Local Authorities (England)(Property etc.) Order 1973
- V. Police and Criminal Evidence Act 1984
- VI. Health and Safety (Display Screens Equipment) Regulations 1992
- VII. Manual Handling Operations Regulations (as amended)1992
- VIII. Workplace (Health, Safety and Welfare) Regulations 1992
- IX. Personal Protective Equipment at Work Regulations 2002 & 1992 (as amended)
- X. Merchant Shipping Act 1995 (as amended)
- XI. Provision and use of Work Equipment Regulations 1998
- XII. MCA Oil Spill Regulations (OPRC) 1998 (as amended)
- XIII. Management of Health and Safety at Work Regulations 1999
- XIV. Oil Storage Regulations for Businesses 2015 (as amended)
- XV. Control of Substances Hazardous to Health Regulations 2002
- XVI. The Control of Noise at Work Regulations 2005
- XVII. Fire Safety Order 2005
- XVIII. Merchant Shipping and Fishing Vessels Regulations 1997

3.1.2 THE DUTY HOLDER

- The nominated Duty Holder as defined in the PMSC is the full council of North Devon District Council who have delegated certain responsibilities to the Ilfracombe Harbour Board as stated in 3.1.2.
- The Duty Holder is collectively and individually accountable for complying with the Code.
- The role of duty holder includes:
 - Maintaining strategic oversight and direction of all aspects of the Harbour operation, including marine safety.
 - Responsibility for the development of policies, plans, systems and procedures for safe navigation.
 - Develop and maintain a Safety Management System to safeguard the harbour, its users, the public and the environment.
 - Ensuring that assessments and reviews are undertaken as required to maintain and improve marine safety.
 - Ensuring that the Harbour Authority seeks and adopts appropriate powers for the effective enforcement of their regulations, and for setting dues at a level which adequately funds the discharge of all their duties.
 - Consult with Staff and relevant Stakeholders with regard to safety issues.
 - Having used risk assessments to identify hazards and risks put in place appropriate controls to reduce them to a level which is as low as is reasonably practicable (ALARP).
 - Ensure that emergency and contingency plans are in place.
 - Ensure that personnel are trained and qualified to the required level.
 - Provide adequate resources to carry out the required functions.
 - Promulgate marine safety information to Harbour Users who will also be made aware of their own safety responsibilities.
 - Undertake as required hydrographic surveys and dredging operations to ensure that the advertised depths within the harbour are maintained.
 - Provide aids to navigation and ensure that they are available in accordance with the requirements as laid down by Trinity House.
 - Regularly review the Safety Management System, evaluate safety performance and ensure that external audits are carried out.
- The Duty Holder is to be familiar with the content of the PMSC, and aware of its responsibilities in responding to it.

3.1.3 THE HARBOUR BOARD

- The Harbour Board has delegated authority from the Full Council of NDC to perform the following role & functions:
- To exercise the functions of the Harbour in accordance with all relevant legislation, regulations, Harbour Orders and bye-laws.
- To discharge the functions of the Harbour within the overall policies set by Council and within the financial estimates set by Council.
- To prepare a Port Safety Plan for consideration of Council and thereafter keep the same under review and from time to time as necessary make recommendations to Council for its amendment.
- To prepare annual estimates for the management of the Harbour for consideration and approval by Council.
- To properly discharge the duties and powers of a Statutory Harbour Authority relating to marine safety and to facilitate the safe use of the Harbour by vessels including the direction of shipping and the regulation of safety in the Harbour, the maintenance of aids to navigation and the safe use of all harbour lands, and the prevention of pollution and nature conservation.
- To prepare a long-term development plan for the Harbour including feasibility, costings and funding availability for consideration and approval by Council.
- To have due regard to the needs and changing needs of the marine sector and other users and stakeholders.
- To establish and maintain an Ilfracombe Harbour Consultative Group to establish strong links with users, stakeholders and the community.
- To have due regard to the interests of the local community in the running of the harbour and in particular recognising the contribution the harbour makes to the economic wellbeing of the District.
- All members of Harbour Board are required to sign to the effect that they understand their responsibilities under the PMSC, against which they are held to account during Harbour Board meetings.

3.1.4 THE DESIGNATED PERSON

The Designated Person provides independent assurance directly to the Duty Holder that the MSMS, for which the Duty Holder is responsible, is working effectively. The main responsibility of the Designated Person is to determine, through inspection, assessment and audit, the effectiveness of the MSMS in ensuring compliance with the PMSC.

The Designated Person must have a thorough knowledge and understanding of the requirements of the Code (and supporting Guide to Good Practice) and associated Port and Marine legislation. This knowledge and understanding will allow the designated person to take appropriate measures to determine whether individual elements of the MSMS meet the requirements under the Code.

These measures will include:

- Monitoring the thoroughness of the risk assessment process and the validity of the assessment conclusions.

- Monitoring the thoroughness of the incident investigation process and the validity of the investigation conclusions.
- Monitoring the application of lessons learnt from individual and industry experience and incident investigation.
- Assessing the validity and effectiveness of indicators used to measure performance against the requirements and standards of the Code.
- Assessing the validity and effectiveness of consultation processes used to involve and secure the commitment of all appropriate stakeholders.

The role of the Designated Person does not absolve the duty holder and its board members of their individual and collective responsibility for compliance with the Code.

3.1.4.1 ILFRACOMBE HARBOURS DESIGNATED PERSON

The NDC Full Council as Duty Holder has appointed Mr Jon Triggs the Director of Resources and Deputy Chief Executive for North Devon Council as their Designated Person.

3.1.5 HARBOUR MASTER

The Harbour Master, appointed by NDC, is responsible for the day-to-day management of the safe operation of navigation and other marine activities in the Harbour area, and for its compliance with all legislation concerning health & safety, marine safety and the environment.

The Harbour Master is responsible for:

- As the nominated Health & Safety Officer for the Harbour, ensuring compliance with all applicable health and safety, and marine safety, legislation and associated policies including the Port Marine Safety Code;
- Ensuring that the Environmental Policy is implemented and environmental objectives and targets are monitored and met;
- As the principal officer holding delegated responsibilities for safety: attending Harbour Board meetings & Duty Holder meetings as required;
- Overseeing the implementation of Harbour Authority policies and decisions and having responsibility for the safety of operations and staff;
- Reporting on the performance of the MSMS to the Harbour Board for review and as a basis for continual improvement of the system;
- Preparing an annual report evaluating the health, safety and environmental aspects of the Harbour's activities.

3.1.6 DEPUTY HARBOUR MASTER [DHM]

The DHM is a nominated Safety Manager and responsible for ensuring that the MSMS is being followed and to take preventative or corrective action should breaches be identified. In particular the DHM responsible for:

- Deputising for the Harbour Master in their absence;
- Supervising tasks with regard to compliance with the MSMS;
- Reporting, and if necessary investigating, health and safety incidents to the Harbour Master;
- Ensuring that all safety equipment is in good condition;
- To be subject matter experts on moorings, maintenance and office safety as appropriate;
- Ensuring that contractors are aware of the Harbour's safety and environmental policies and explaining that they will be expected to adhere to these.

3.1.7 CONSULTATIVE FORUM

A well established and formal consultation mechanism which comprises a number of fora ensures that the Ilfracombe Harbour Board has strong and direct links with both Harbour users and the local community.

This forum is collectively known as the Ilfracombe Harbour Community Forum.

This forum provides valuable insight and information into customer requirements, and the safety and environmental wellbeing of the harbour. In particular, this forum seeks consensus about safe navigation.

3.1.8 HARBOUR USERS

Harbour users are responsible for their own health and safety and that of other harbour users who may be affected by their acts or omissions. They must comply with bylaws, directions and other regulations aimed at ensuring the safe use of the harbour.

It is policy that all Officers and staff are suitably trained, competent and qualified up to a minimum national standard to fulfil their roles within the organisation and can demonstrate competence in critical areas of harbour safety.

All staff need to fully understand the rationale behind the MSMS and understand what is expected of them to maintain and improve the system. This will initially be achieved by full staff meetings to explain the importance of the MSMS and their responsibilities, and regular team briefings. Every year the training requirements of each member of staff will be assessed and a training programme initiated. All staff are appraised with respect to competence.

The training needs of all new members of staff will be assessed and a bespoke induction and training programme put into action. No member of staff will be expected to undertake any role or take on any responsibility for which they are not correctly trained or qualified. Mentoring and supervision will also be provided from within the Harbour staff.

Training will be scheduled into the programme and adequate records, including certificates or other documentation, maintained to provide an audit trail of qualification and competence. 'On the job' training and Continuous Professional Development (CPD) are also key elements of the training policy. All staff will receive training in emergency procedures.

3.2.1 ILFRACOMBE HARBOUR STAFF TRAINING MATRIX

Course	Harbour Master	Deputy Harbour Master	Larkstone Hub Support Officer	Duty Holder
<i>Oil Spill Clearance – On Scene Commander (IMO Level 2) MCA 4P Port Facility Security Officer</i>	YES	YES	N/A 2P Responder recommended	N/A
<i>First Aid at Work</i>	YES	YES	YES	N/A
<i>Short Range Radio Operator's Certificate (SRC) / GMDSS GOC</i>	YES	YES	YES	N/A
<i>Marine Risk Assessment training</i>	YES	Optional	Optional	N/A
<i>PMSC Duty Holder Training</i>	Optional	Optional	Optional	YES
<i>Marine Incident Investigation</i>	YES	Optional	Optional	N/A
<i>Harbour Master Training (options include):</i>				
<i>I. IDG Maritime Harbour Master Training</i>				
<i>II. International Diploma for Harbour Masters</i>	YES	YES	N/A	N/A
<i>III. Certificate of Competence UK Harbour Masters' Association</i>				

Iffracombe Harbours Training Policy can be found using this link; [TRAINING POLICY \(northdevon.gov.uk\)](http://northdevon.gov.uk)

4. LEGISLATION

4.1 REGISTER OF LEGISLATION AND REGULATIONS

Compliance with statute is a fundamental requirement of any safety or environmental management system. The Harbour Master is responsible for ensuring that the Legislation Register remains up to date by annual review as well as relevant publications and bulletins etc. Appropriate action is then taken to ensure compliance; this may involve revision of operational procedures or training updates.

The British Ports Association, UK Harbour Masters' Association, British Marine Federation, Government Agencies and Departments such as DEFRA, Natural England, MMO, AONB and Maritime & Coastguard Agency (MCA) together with colleagues from within the Council are all sources of information regarding the introduction and subsequent updates to environmental legislation.

4.2 LEGISLATION COMPLIANCE EVALUATION

The Harbour Master is responsible for maintaining and electronically recording the MSMS Legal Register. They shall periodically evaluate compliance with relevant legislation via an audit process, interviews with relevant staff or by training and awareness events.

Where legal non-compliance is identified the Harbour Master shall raise a non-conformity report and seek proposals to address the non-compliance.

Legal compliance evaluation may also identify where practices do not comply with Environment Agency pollution prevention guidance (although not a strict legislative non-compliance, where such situations are identified the Harbour Master may raise a preventative action and seek proposals to improve the practice).

The Harbour Master is responsible for maintaining this register and electronically recording the information in the MSMS spreadsheet.

4.3 REVIEW OF POWERS

Existing powers should be reviewed on a periodic basis to avoid a failure in discharging the Harbour Authority's duties or exceeding its powers. These duties and powers are drawn primarily from local legislation contained in the Acts and Orders are referred to as 'the Iffracombe Harbour Act and Orders 1870 to 2019'. This includes the Iffracombe Harbour Byelaw 1992 and the Supplemental Iffracombe Harbour Byelaw 1994.

These will be formally reviewed internally on a 5 yearly schedule to ensure that they are fit for purpose, the output of this review will normally be tabled at the February Board meeting. Such a review should include an examination of the Legal Register to identify all appropriate legislation and regulations, and an audit of all in-force Harbour Byelaws and Special Directions. Where additions, amendments or deletions are identified, the appropriate procedure, set out in the appropriate legislative act, is to be followed.

4.4 ENFORCEMENT OF COMPLIANCE

The Harbour Authority has statutory powers, including Harbour Authority Byelaws and Special Directions, to regulate the conduct of vessels in the harbour's jurisdiction and to assist in managing the risks of marine operations. To these ends, enforcement action will sometimes be necessary to safeguard the safety of harbour users and the environment.

The Harbour Authority recognises that most harbour users want to comply with the law. Therefore, where it can, the Harbour Authority will help users to meet their legal obligations, without unnecessary expense, while taking firm action – including prosecution where appropriate – against those who flout the law or act irresponsibly.

The Harbour Authority will provide information and advice on the rules that apply and will disseminate it as widely as possible. Also, the Harbour Authority will provide encouragement and support to ensure that their legal powers are used appropriately to improve and safeguard public health, public safety and the environment. The purpose of any enforcement action is to protect the safety of residents, harbour users and visitors to Ilfracombe Harbour. The Harbour Authority has the options of negotiation, education and persuasion and, where a criminal offence has occurred, of cautioning or prosecuting the offender. The Harbour Authority will minimise the costs of compliance for users by ensuring that any action it takes is proportional to the risks.

The Harbour Authority will carry out its duties in a fair, equitable and consistent manner. It will seek to be clear, open and helpful in its approach to enforcement. The Harbour Authority will seek to target enforcement resources where they are most needed and will be informed by its other policies, aims and objectives. It will liaise with other authorities and enforcement bodies as appropriate.

4.5 PROSECUTION POLICY

The Harbour Authority's statutory powers of enforcement may, in some circumstances, require supporting prosecution action. Prosecution is a serious step and must be regarded as the ultimate sanction. A prosecution will only be initiated when the alleged conduct has been such that the Harbour Authority cannot impose an appropriate sanction itself and the matter therefore deserves the attention of the court.

The Harbour Authority is committed to assisting other enforcement agencies, including the Police, to pursue their statutory duties. The Harbour Authority will liaise with any enforcement agency that may also have an interest in any matter considered for prosecution.

Each case will be considered on its individual merits and a prosecution will only be initiated in accordance with this policy together with the Harbour Authority's Enforcement Policy. Having duly considered the Harbour Authority's internal policies due regard will be given to the Code for Crown prosecutors. Any decision to initiate a prosecution will be recorded in writing and the reasons for initiating the prosecution will be given.

Any investigation carried out by the Harbour Authority will be conducted pursuant to the Police and Criminal Evidence Act 1984 with due regard to the applicable Codes of Practice. In addition and where applicable, best practice will be observed as set out in national guidance issued by bodies such as the Department for Transport (Ports Division), the Maritime and Coastguard Agency and the Marine Management Organisation.

The Harbour Authority recognises that once a prosecution has been commenced much of the control of the matter is ceded to the Courts and the Criminal Justice System.

4.5.1 ENFORCEMENT & PROSECUTION POLICY

Ifracombe Harbours Enforcement & Prosecution Policy can be obtained from the Harbour Office or found on the Harbour website <https://www.northdevon.gov.uk/business/ilfracombe-harbour/procedures-policies-and-plans/>

4.6 DRUGS & ALCOHOL

The Harbour Authority has a duty to ensure the safety of Harbour users as best as is practicable.

4.6.1 AFLOAT

Ifracombe Harbour has zero tolerance for any person found under or suspected of being under the influence of drugs &/or alcohol whilst in charge or attempting to take charge of a vessel in a Professional capacity on or off duty or a non- professional who is exercising, or purporting or attempting to exercise, a function in connection with the navigation of the vessel.

Under the Railways and Transport Safety Act 2003 section 84 The Harbour Master and any duly authorised member of the harbour team have the power to detain any such vessel pending the arrival of a constable in uniform which will be requested immediately if such suspicion arises.

The Harbour Master also has the power under the Harbour Bye Laws to prosecute said offenders without the presence of a constable in uniform being required.

Ifracombe Harbour Bye Laws #35 - Navigation under influence of drink or drugs prohibited

“A person shall not navigate any vessel in the Harbour whilst under the influence of drink or drugs to such an extent as to be incapable of taking proper control of the vessel”

4.6.2 ASHORE

Ifracombe Harbour Team have no direct power to detain any person found or suspected of being under the influence of drugs &/or alcohol whilst within the Harbour Jurisdiction and on shore, however the duty of care to harbour users still applies and so in any case of any such suspicion that may give cause to being a public nuisance and or danger to themselves or others the Harbour Team will request a constable in uniform to attend and offer any assistance required.

5. CONSULTATION

The Harbour Authority complies with and maintains a Community Consultation Framework which delivers a clear and unambiguous consultation process. It is important that the Harbour operates as a regulated environment and that the rules of the Harbour and its commitment to safety are both accepted and observed by all. Safety is not just a matter for the Harbour Authority and its Officers, users are also required to minimise risk to themselves and others. In doing so they must be able to freely put forward their views on the development of safety policies and procedures. It follows that the Harbour Authority holds itself accountable to the local community and therefore needs to consult, as appropriate with the two main groups: harbour users, both commercial and leisure, and local interests and communities.

Port Marine Operations are technical matters best understood by experienced mariners. Therefore, whilst ensuring appropriate involvement of the wider community, the Harbour Authority must

safeguard its position, as the body responsible for safety management, through the appointment of experienced personnel to Operational Management of the Harbour. Appendix a

The Harbour Board has established and maintains close links with a consultative forum called 'The Harbour Community Forum'. The membership consists of wide-ranging stakeholder group representatives who meet regularly and feed directly to the Harbour Board.

The procedure for revising statutory powers, through Harbour Orders or byelaws, includes explicit guidance on consultation and rights of objection. Users have a specific right to be consulted where directions limit the right that they would otherwise be able to exercise freely, as they have no other convenient recourse against unreasonable directions. It is harbour policy to consult with those likely to be affected by such orders through early informal consultation, before formalising proposals.

The general aim of consultation in the risk assessment process is to give harbour users the opportunity to make contributions to both the identification of risk and its management. Risk management then depends less on formal regulation and more on winning the understanding of those whose activities create the risk, thus securing their agreement to safe behaviour.

Ilfracombe Harbour Authority is responsible for the establishment, maintenance and navigational marking of the approaches to and navigation within the harbour. It is therefore important that Harbour users remain fully engaged and consulted with regarding proposed development which may change the Harbour's operational environment.

6. RISK ASSESSMENT

An organisations safety policy should promote a positive safety culture, fostered by the visible and active leadership of senior management. Its aim should include the motivation and empowerment of staff to work safely, not just to avoid accidents. Policy and related procedures should be underpinned by effective staff involvement and participation and sustained by effective communication and promotion of competence.

The aim of a safety management system is to minimise risks. Risk assessment methods are used to decide on priorities and to set objectives for eliminating hazards and reducing risks. Wherever possible, risks are eliminated through selection and design of facilities, equipment and procedures. If risks cannot be eliminated, they are minimised by physical controls, or as a last resort, through systems of work. Performance standards are established and used for measuring achievement. Specific actions to promote a positive safety culture are identified.

It is the policy of North Devon Council that its powers, policies and procedures will be based on a formal assessment of hazards and risks, and that it will have a formal safety management system.

6.1 PROCEDURE

Ilfracombe Harbour Board has commissioned formal risk assessments of its marine operations to identify and record all hazards associated with activities and operations which occur within the harbour and to identify and enact appropriate control measures to eliminate or reduce the risk to ALARP.

There are two types of assessment: the planned, formal assessments which provide the framework to describe how all risk assessments are carried out in practice; and dynamic assessments which helps the individual to assess a situation which is constantly changing. The risk assessments contained within this MSMS are of necessity mainly concerned with the former, although a comprehensive working knowledge of these will assist in the 'on the spot' assessment of the latter type.

Formal risk assessment involves 5 stages:

1. Identifying the problem (data gathering)
2. Hazard identification
3. Risk analysis
4. Assessment of existing measures
5. Risk Control

6.1.1 DEFINITIONS OF HAZARD AND RISK

- A hazard is something with the potential to cause harm, loss or injury.
- A risk is a combination of frequency of occurrence (likelihood) and consequence (outcome).

6.1.2 STAGE 1. PROBLEM IDENTIFICATION [INFORMATION GATHERING]

The undertaking of a risk assessment starts by taking stock of the organisation, its culture, policies, procedures and priorities and assessing the existing safety management structure. This is the stage for informed consultation with those working in and using the Harbour. Taking stock covers a review of the following:

- The adequacy and completeness of any established incident database or similar records.
- Current management procedures, navigation management (including hydrography / conservancy, marine operations, etc.).
- Consider seeking advice from and sharing best practice with other ports. The exchange of risk information is encouraged to promote good practice and inclusivity.
- Review MAIB reports and other investigative reports which make recommendations about incidents which have taken place in a harbour.
- Those port users affected by a particular risk should be informed and involved.
- Auditing of selected marine/navigational safety procedures.
- Utilisation of a structured questionnaire to provide feedback on the value placed by staff and users on the various management systems in place.

It will consist of a structured process, involving interviews with management, and a broad sample range of port users and operators. It will aim to develop an initial list of hazards.

6.1.3 STAGE 2. HAZARD IDENTIFICATION

Any list of hazards will include those already known (for example from incident records) and the existing defence mechanism/safety management system relating to them. The collective process needs to identify new hazards which may have been ignored, created by new trade or changes in marine operations or overlooked in the past.

A harbour authority manages these events and minimises their opportunity for occurrence by use of control measures and risk mitigation measures. Within this process of hazard identification the Harbour takes due regard of the link between the Harbour Authority and the Harbour Users.

Structured meetings will to be held during this process involving relevant marine practitioners at all levels including harbour users, commercial operators, leisure users, and possibly other regulators and agencies, as required.

This stage should also identify the potential outcomes should the identified events happen. One useful approach is to consider both the most likely and the worst credible outcomes (set against likely frequency of the event happening). In each case this approach provides a more realistic and thorough assessment of risk, which reflects reality, in that relatively very few incidents result in the worst credible outcome.

6.1.4 STAGE 3. RISK ANALYSIS

Hazards need to be prioritised. A method which combines an assessment of the likelihood of a hazardous incident and its potential consequences should be used. This is likely to be a matter of judgement best taken by those with professional responsibility for managing the harbour. The assessments of others can be gathered by a further round of consultation on that judgement.

The frequency of incidents can be established in part using historical data identified in the first stage of the work. The likelihood of a hazardous incident and its potential consequences can often be determined with reference to historical data. It should be borne in mind that following an incident the risk of recurrence should have been reduced by management action. Therefore any assessment of frequency and consequence is likely to rely to a certain extent upon the judgement of the assessors or others capable of making such a qualified estimate. Historical data alone will not provide a true assessment of the risk of the current operations, nor will it necessarily reveal an extremely remote event.

Risks and the impact of identified outcomes should normally be assessed against four criteria; the consequence to:

- I. Life (public health & safety);
- II. The environment;
- III. Harbour and Harbour user operations (business, reputation etc);
- IV. Harbour infrastructure (damage)

Such an approach not only assesses the impact of hazards on harbour safety, but also their impact on other important areas of the harbour infrastructure. Ilfracombe harbour has been divided into 4 areas to aid this process. IMO Guidelines define a hazard as “something with the potential to cause harm, loss or injury” the realisation of which results in an accident. The potential for a hazard to be realised can be combined with an estimated (or known) consequence of outcome. This combination is termed “risk”. Risk is therefore a measure of the frequency and consequence of a particular hazard.

6.1.5 STAGE 4. ASSESSMENT OF EXISTING MEASURES

Risk assessment necessarily includes a review of existing hazards and their associated risk control measures. As a result, new risk control measures (or changes to existing risk control measures) may be identified for consideration, both where there are gaps in existing procedures and where risk controls need to be enhanced. Some control measures might also be relaxed so that resources can be re-designated to meet a new priority. Care should be taken to ensure that any new hazards created as a result are themselves identified and managed. The overall risk exposure of the organisation itself will be identified during this stage and will allow recommendations to be made to enhance safety.

6.1.6 STAGE 5. RISK CONTROL

All final decisions about risk control methods should take into account relevant legislation, which establishes minimum standards. Human factors should also be considered. The aim is to reduce risks as low as reasonably practicable. There is a preferred hierarchy of risk control principles:

1. Eliminate risks – by avoiding a hazardous procedure or substituting a less dangerous one.
2. Combat risks – by taking protective measures to prevent risk.
3. Minimise risk – by suitable systems of work

Agenda Item 8

If a range of procedures is available, the relative costs need to be weighed against the degree of control provided, both in the short and long term. The aim of assessing and managing marine operations in the harbour is to reduce risk as low as reasonably practicable ('ALARP'). Judgement of risk should be an objective one, without being influenced by the financial position of the authority. The degree of risk in a particular activity or environment can, however, be balanced on the following terms against the time, trouble, cost and physical difficulty of taking measures that avoid the risk. If these are so disproportionate to the risk that it would be unreasonable for the people concerned to incur them, they are not obliged to do so. The greater the risk, the more likely it is that it is reasonable to go to very substantial expense, trouble and invention to reduce it. But if the consequences and the extent of a risk are small, insistence on great expense would not be considered reasonable.

Risks may be identified which are intolerable. Measures must be taken to eliminate these so far as is practicable. This generally requires whatever is technically possible in the light of current knowledge, which the person concerned had or ought to have had at the time. The cost, time and trouble involved are not to be taken into account in deciding what measures are possible to eliminate intolerable risk.

The application of environmental consequences to the Marine safety management system (and appropriate risk control measures) is essential.

6.1.7. USE OF CONSULTANTS AND EXTERNAL ADVICE

Iffracombe Harbour authority may, at times, choose to employ consultants. An external consultant is likely to be best employed as a facilitator. In this way, the commitment of management, the contribution by harbour users, and the consequential sense of ownership should be unaffected by the use of an external risk assessment expert.

The aim is to use sufficient expertise to secure a good outcome. The risk assessment and safety management system needs to be thorough, comprehensive and relevant, to the physical constraints of the harbour and the type, size, and frequency of vessel movements.

Consultants are especially useful for the hazard identification stage of formal risk assessment. They should apply a systems approach to the problem and not a situational approach which would normally be used by stakeholders close to the problem. Consultants will also encourage the inclusion of the widest range of stake holders' possible (especially external stakeholders) in the identification process.

6.2 ALARP DEFINED

Guidance offered by the Health and Safety Executive (HSE) defines the concept of ALARP as being at the heart of the British health and safety system. 'Reasonably practicable' involves weighing a risk against the trouble, time and money needed to control it, thus ALARP describes the level to which workplace risks are expected to be controlled.

The Court of Appeal (in its judgement in *Edwards's v National Coal Board* [1949]) defined "reasonably practicable" more narrowly than "physically possible" by introducing the concept of proportionality, judgement and flexibility in determining when a control results in a risk being 'as low as reasonably practicable'. Such determinations should consider the application of 'good practice' and discussion with stakeholders. Where there is a lack of 'good practice' then such determinations should be derived from first principles by applying common sense and/or exercising professional judgement or experience.

If for any reason the Marine safety management system identifies a control measure that is not effective the activity is to cease until suitable control measures are in place and the risk mitigated to as low as reasonably practical.

6.3 ILFRACOMBE HARBOUR RISK ASSESSMENTS

In line with Council policy and section 6.1, Ilfracombe Harbour's risk assessments are either reviewed as new risks emerge or identified; or following an incident in which our assessments have proven to be sub-optimal, or annually, whichever is the most frequent. Risk assessments are categorised under 4 titles these being

1. Marine based
2. Land based
3. Marine/Land Interface
4. Harbour Staff

All risk assessments pertaining to the Harbour are stored on the corporate drive.

6.4 THIRD PARTY [EXTERNAL] RISK ASSESSMENTS

All third parties seeking to conduct marine related activities or operations within the Harbour Limits must first submit a copy of their formal risk assessment to the Harbour Master for prior approval.

6.5 RISK ASSESSMENT REVIEWS

The review of hazards normally take 2 forms, those being Proactive and Reactive.

6.5.1 PROACTIVE

The proactive approach establishes a structured and regular review (frequency will be dependent upon the outcome of the risk assessment and whether hazards are deemed to fall within the ALARP band) of the identified hazards. This involves the re-assessment (review) of hazards, their potential frequency, outcomes and consequent risk and associated risk control measures.

6.5.2 REACTIVE

The reactive approach prompts a review and identifies new hazards (and/or changes to existing hazards) following a change in trade or the scope of marine operations in the port, or following an incident or near miss, where the hazard may or may not have been identified previously in the risk assessment.

7.1 PROCEDURE

The Harbour Master is responsible for the overall implementation of the MSMS, however, all staff are encouraged and expected to make positive contributions to improving safety and managing risks when delivering services. This may be through day to day activities, during team meetings or through specific improvements projects.

In particular all staff should:

- Ensure that they comply with safety procedures and that pollution or air, land and water does not occur as a result of their work;

Consider the sustainability of the way in which services are delivered.

7.2 STANDARD OPERATING PROCEDURES

Harbour Operations that require supporting procedures to enable their effective implementation fall under 5 distinct headings;

- I. Regulating the safe arrival, departure and movement of all vessels.
- II. Protection of the general public from dangers arising from marine activities.
- III. Conduct of all functions with special regard to their possible environmental impact.
- IV. Conduct of all activities for controlled works to include but not limited to the following;
Hot work; Diving; Bunkering Vessels / Craft; Dangerous Goods

All Standard Operating Procedures (SOP) can be obtained from the Harbour office or found on the Ilfracombe Harbour Website <https://www.northdevon.gov.uk/council/strategies-plans-and-policies/ilfracombe-harbour-procedures-plans-and-policies/standard-operating-procedures/>

All policies and procedures are published onto the Harbour Website

<https://www.northdevon.gov.uk/business/ilfracombe-harbour/procedures-policies-and-plans/> and are held in the Harbour Masters Office.

In addition to these the authority has the following duties:

7.3.1 CONSERVANCY: BUOYS, AIDS TO NAVIGATION AND SURVEYS

There is a public right of navigation in harbours upon the payment of Harbour Dues (Open Port) and the Harbour Authority has a duty to take reasonable care that those who lawfully use the Harbour may do so without danger to their lives or property.

The Authority shall provide users with adequate information about conditions within the harbour and also notify them of any changes, or new navigation dangers, by publication of Harbour Notices. Meteorological forecasts and tidal data are displayed at the Harbour Office.

7.3.1.1 HYDROGRAPHIC SURVEYS AND INFORMATION

The bathymetry of Ilfracombe Harbour and its approaches has not significantly altered over recent years. However, the Authority undertake to monitor any change, including the requirement for Hydrographic Survey, particularly if harbour operations are changed – for example the reception of larger vessels.

The Harbour Authority has effective arrangements to publish hydrographic information, especially warnings on recently identified navigational hazards. The authority will provide all information required for the amendment of the British Admiralty Chart in compliance with the Harbour Master's Guide to Hydrographic and Maritime information exchange (2016).

The results of any survey undertaken are shared with the UKHO thereby ensuring that the Admiralty Chart 1160 is maintained up to date.

7.3.1.2 BUOYAGE

The Harbour Authority has a duty to find, mark and monitor the best navigable channel into the Harbour. This is an essential part of the Harbour's formal Risk Assessment.

7.3.1.3 PROVISION OF AIDS TO NAVIGATION [ATONS]

The provision and level of aids to navigation provided will be based on formal risk assessment. The characteristics and availability of all aids to navigation should comply with internationally agreed guidelines, applied in consultation with Trinity House and the Hydrographic Office. The AtoNs at Ilfracombe are a mix of Category 2 lights requiring a 99% availability & Category 3 lights requiring 97% availability over a rolling 3 year period.

The Harbour Master maintains a system for monitoring the availability of aids. In addition Trinity House's availability recording system, PANAR, will be maintained.

AtoNs are inspected annually by Trinity House. Furthermore, the procedure for managing navigation aids and the resulting records are audited periodically by Trinity House.

PANAR Category	Location	Designation	Availability %
CAT 2	Lantern Hill	Harbour approach Lighthouse	99.0
CAT 2	Larkstone Leading Lights	Leading Lights for Channel	99.0
CAT 3	Pier North	Approach Limit Lights	97.0
CAT 3	Pier South	Approach Limit Lights	97.0
CAT 3	Old Quay Head	Approach Limit Lights	97.0

7.4 DREDGING

There is little call for dredging operations at Ilfracombe Harbour. The seabed has historically been very stable with only seasonal differences caused by weather and sea state patterns. Much of the Harbour can be assessed for erosion/build-up of seabed material visually at low spring tides.

7.5 PROVISION AND CONTROL OF MOORINGS

The permanent moorings at Ilfracombe Harbour are allocated from a waiting list. Having a large number of boats in a relatively small space has its challenges and moorings are allocated so that boats of similar characteristics are adjacent to one another wherever possible. This is to allow boats to float at about the same state of tide thus avoiding unnecessary contact and collision. This system of mooring allocation often means that it is not always the vessel at the top of the waiting list that is provided with the next available mooring, but for safety reasons it is more likely to be the most suitable boat.

The Harbour Authority provides the heavy ground tackle for all moorings and it is the responsibility of each mooring holder to provide and secure their own pick up tackle to ensure a safe and secure facility for their boat. Mooring holders are issued with a Mooring Licence which clearly details their responsibilities.

The harbour provides a number of visitors' moorings both in the inner and outer harbour. These are on the planned maintenance system (PMS) for regular inspection and replacement of parts when identified.

The harbour also provides a number of outer harbour moorings for the use of the commercial operators to better facilitate the working of the tides these are again on the PMS.

7.6 NOT ALWAYS AFLOAT BUT SAFELY AGROUND [NAABSA] BERTHS

Ship Berths in the Outer Harbour can sometimes dry at low water and ships berthed there often sit on the bottom. The Harbour Authority has a responsibility for ensuring that these berths are safe to use by visually inspecting the berths as the tide allows and removing any such obstructions that may be identified. Vessels must also have considered the fact that they will dry out in their berthing risk assessment.

7.7 MAINTENANCE OF PROPERTY AND HARBOUR INFRASTRUCTURE

A small maintenance budget for day to day operations is held by the Harbour Master. All other maintenance is provided for by NDC.

7.8 ENVIRONMENTAL AND WASTE MANAGEMENT

Ilfracombe Harbour has its own dedicated Waste Management Plan which is approved by the Maritime and Coastguard Agency. The plan is reviewed annually and submitted to the MCA for re-approval every 3 years.

7.9 WRECK MARKING/REMOVAL

Ilfracombe Harbour Authority undertake to carry out a formal risk assessment of any wreck which occurs within its designated area of authority.

The Merchant Shipping Act 1995 empowers Ilfracombe Harbour Authority, as the conservancy authority, to raise, remove, destroy and mark wrecks which lie in, or near any approach to the area within its control.

Sunken vessels, categorised as wrecks, should be marked by buoys in compliance with the international convention. However, such vessels at Ilfracombe would largely comprise of smaller commercial and leisure vessels.

Marking of wrecks will be conducted in consultation with Trinity House. Removal of wrecks will be carried out in consultation with the MCA, SOSREP and other agencies using, if necessary, statutory powers available to the Harbour.

A pollution incident emanating from a wreck will result in the activation of the Harbour Oil Spill Contingency Plan.

7.10 COMMUNICATIONS- LOCAL PORT SERVICE (LPS)

The designated harbour working channels are VHF 12 and 14. When manned the Harbour Office monitors Channels VHF 12, 14 and 16.

The Harbour also has a designated 24hr mobile phone number 07775 532606.

For more specific details on the LPS see SOP# 07 Local Port Services

7.11 MARINE SERVICES

Marine Services are administered by the Harbour Master's office. Application forms are available from the Harbour Website: <https://www.northdevon.gov.uk/business/ilfracombe-harbour/application-forms> or direction from the Harbour Master's Office.

7.11.1 BUNKERING

Bunkering in the harbour is controlled by the procedures laid down in the Harbour Bunkering Standard Operating Procedure # 05, which falls into 4 categories. 1. By road tanker, 2. Self-service at the fuel berth, 3. Harbour Team dispensing fuel at the fuel berth and 4. Bunkering by way of suitable petrol containers.

7.11.2 DIVING

Diving within the Harbour Jurisdiction is controlled by the procedures laid down in the Harbour Diving Standard Operating Procedures # 04, and is inclusive of Commercial and Recreational diving activities

7.11.2 LAUNCH PERMITS

Permits for launching are required for all powered craft wishing to launch from the main slipway and procedures for launching Personnel Watercraft are laid down in the PW Policy.

7.11.3 HOT WORKS

Hot Works are managed by the individual undertaking the hot work who must apply for a Hot Work Permit as laid down in the Hot Work Standard Operating Procedure # 03, prior to the works taking place.

7.12 TOWAGE

The Harbour itself does not have a water presence and so does not carry out any towage itself. However towage does occur on occasion as the Harbour is home to the RNLI, commercial fishermen, commercial day trip boats and recreational mooring holders.

7.12.1 ROUTINE TOWAGE

Routine towage does not generally occur within the Harbour jurisdiction.

7.12.2 NON –ROUTINE TOWAGE INTERNALLY WITHIN THE HARBOUR JURISDICTION

On occasion towage is required within the Harbour during the annual lifting of boats in or out of the harbour. On these occasions a dynamic Risk Assessment is undertaken and a vessel who is capable of towing the vessel in need is either handed a line by the vessel to be towed and this is securely attached to a strong point on the towing vessel and the strain taken gently or the 2 vessels are secured alongside each other. The pair then proceed either to the moorings or the lifting area until the towed vessel can either access their own moorings or shore side assistance to hold them alongside ready to be lifted.

For all other non- routine towage operations internally to the Harbour, operations must be discussed and a Risk Assessment must be made and permission granted by the Harbour Office prior to the tow taking place.

7.12.3 NON-ROUTINE TOWAGE ENTERING THE HARBOUR JURISDICTION

Ilfracombe Harbour is home to the RNLI and there are occasions when the RNLI bring vessels under tow into the Harbour, for these instances their own towage procedures are in force and a copy is held at the Harbour Office.

For all other non – routine towage operations entering the Harbour , operations must be discussed and a Risk Assessment must be made and permission granted by the Harbour Office prior to the vessel entering the Harbour.

8.1 SETTING OF BYELAWS, LICENCES AND REVISION ORDERS

The Harbour Authority has a duty to ensure the proper and effective use of its powers to facilitate the regulation of vessels navigating in their waters. The legislative framework within which the Harbour operates gives statutory force to the requirements of the Safety Management System.

The Council has issued byelaws which every harbour user must obey as a condition of their right to use the harbour. The Council and its Harbour Master recognise their duty to assess risks and make proper use of powers to make byelaws and to issue Special Directions to regulate vessel movements within harbour limits. These powers shall be exercised in support of policies and procedures developed in this MSMS and should be used to manage vessel navigation.

Powers of Special Direction shall be used to regulate the use of the Harbours facilities e.g. Moorings in appropriate cases. The Harbour and Council has clear policies on enforcement and should monitor compliance of issued Special Directions and byelaws.

Statutory powers contained within local legislation can be revised by means of a harbour revision order (HRO). HROs are forwarded to the Marine Management Organisation for approval.

8.2 DIRECTIONS AND NOTICES TO MARINERS

The Harbour Master and their Deputies have the necessary powers of direction to regulate the time and manner of a vessel's entry to, departure from and movement within the Harbour Authority's water space. These directions are defined in the following ways:

8.2.1 *Special Directions*

The Harbour Master and appointed Deputies of Ilfracombe Harbour Authority have the powers of Special Direction to regulate the time and manner of ships' entry to, departure from and movement within harbour waters. These powers are given for the purpose of giving specific directions to specific vessels or groups of vessels for specific movements.

Where Special Directions have been issued these are to be recorded in the Incident Log, along with a narrative explaining how that decision was reached.

8.2.2 *Dangerous Vessel Directions*

The Harbour Master may give directions (Dangerous Vessel Directions) prohibiting the entry into, or requiring the removal from, the harbour of any vessel if in their opinion the condition of that vessel or anything it contains presents a grave and imminent danger to the safety of persons or property or prejudice the use of the harbour by other vessels. Such directions may be over-ridden by the Secretary of State's Representative (SOSREP) who may issue contrary directions in the interests of safety.

The decisions of both Harbour Master and/or SOSREP are to be recorded in the Incident Log, along with a narrative explaining how that decision was reached.

8.2.3 Notice to Mariners

These are issued, but not limited to, when navigation within the Harbour is affected by scheduled events or unusual occurrences. They will identify the risk to harbour users and give direction to them to assist in the avoidance of danger. Notices will be sequentially numbered and displayed on the Harbour Notice Boards. They will also be distributed to the following:

- All Commercial operators
- All Fishing related operators
- RNLI
- Ilfracombe Yacht Club
- MS Oldenburg
- Lundy Company
- Waverley Excursions Ltd, as required
- Contractors, as required
- Any others as required

8.3 SECURITY

Ilfracombe Harbour is compliant with the International Ship and Port Facility Security (ISPS) Code to accommodate visiting cruise vessels. A comprehensive Port Facility Security Plan (PFSP) has been developed and multi-agency exercises are held or attended at least annually as required by the Code.

The harbour benefits from a recorded CCTV system which can be managed by both the harbour staff and the Council's CCTV team.

In the event of a visiting ISPS complainant passenger vessel external security is employed as per the PFSP.

8.4 MARINE EMERGENCY PLAN

The plan covers all aspects of Harbour Emergency procedures and liaison with the rescue and emergency services. On receipt of information relating to an incident the Harbour Master will activate a response in accordance with the plan. Ilfracombe Harbour Authority is a Category 2 'cooperating body' as detailed in the Civil Contingencies Act, 2004. This requires an active involvement in the Council's wider Civil Contingency planning.

8.5 OIL SPILL CONTINGENCY PLAN [OSCP]

The maintenance, revision and exercising of the Harbour OSCP is a statutory requirement. The plan is approved by the Maritime and Coastguard Agency after lengthy consultation with all interested parties including Environment Agency, Marine Management Organisation, Natural England, Devon County Council and Ilfracombe Harbour Users.

9. INCIDENT REPORTING

It is a statutory requirement that accidents involving or occurring on board any UK ship must be reported to the MAIB by the quickest possible means.

Extract from MGN 564 (M+F)

“The master / skipper of any ship must notify the MAIB of any marine casualty or marine incident if:

- The ship is within UK waters and carrying passengers to / from the UK, or
- The marine casualty or marine incident occurs within the jurisdiction of a UK harbour master.

The ship’s owner must notify the MAIB of any marine casualty or marine incident, unless s/he is satisfied that the master / skipper or senior surviving officer has made the report.

In addition to the above, the following must notify the MAIB of any marine casualty or marine incident, if it occurs in their area of responsibility:

- Harbour authorities, for occurrences in or adjacent to their harbour area.
- The person, authority or body having responsibility for an inland waterway.
- An official of the Maritime and Coastguard Agency (MCA), for all occurrences in UK waters.

The duty to notify does not apply to:

- Recreational craft hired on a bareboat basis
- Commercial craft or boats <8m length overall that are operating in a harbour or on an inland waterway, which are not carrying passengers;

Unless the marine casualty involves an explosion, fire, or capsize of a power driven vessel, or results in death, serious injury³ or severe pollution.

Note, there is no requirement for the master / skipper or owner of a pleasure vessel to notify the MAIB of a marine casualty or marine incident, unless it is being operated for temporary commercial use under the Intended Pleasure Vessels (IPV) Code. However, notifications relating to pleasure vessels (not operating commercially) are welcomed.”

The quickest reporting method is via the accident reporting line 02380 232 527 and an Accident Report Form completed. This may be completed online;

<https://www.gov.uk/government/publications/report-a-marine-accident>

Alternatively, a copy can be obtained through the Harbour office.

Records of all reportable incidents are held at the Harbour Master’s Office.

All reported incidents require initial investigation. The extent of subsequent investigation is determined by the initial findings together with the actual and potential consequences of the incident.

Initial investigation of an incident is conducted by the Harbour Master or, in absence, their Deputy to learn lessons to avoid future repetitions. The purpose of this investigation is not to apportion blame. For this reason, none of this evidence can be used in subsequent legal proceedings and this fact should be made clear to all witnesses so that they are not discouraged from coming forward.

Further investigation, if required, will involve the MCA, MAIB, Police, other statutory agencies and independent advisers.

If it appears that an offence has been committed then an entirely separate investigation will be conducted, under caution if required, but cannot refer to any of the evidence gathered in the former investigation. Evidence gathered during such an investigation must be collected, processed and preserved in accordance with the Police and Criminal Evidence Act 1984 (PACE) in order that it can be admissible in criminal court proceedings.

The Police will take primacy in any investigation involving death or crime. If someone dies in a work-related incident, a number of different organisations will require to work with the Police to ensure that the reasons for the death are understood. Different organisations have different but important roles in this process and good co-ordination is vital.

The legal framework for incident investigation is summarised in the Memorandum of Understanding between the MCA, MAIB and HSE for health and safety enforcement activities at the water margin and off-shore:

- The MCA is responsible for implementing the Government's maritime safety policy.
- The MAIB investigates accidents related to ships and crew.
- The HSE investigates land-based accidents.

Harbour Staff who witness or become aware of an incident, collision or grounding within the harbour will record it in the Incident Log in the first instance. The Masters of all craft involved in an incident are required to submit a written statement as soon as is reasonably practicable after the incident as part of the reporting procedure as contained in Harbour Byelaw No.10.

Investigation of Environmental incidents is detailed within the Ilfracombe Harbour Oil Spill Contingency Plan and the Marine Emergency Plan. Guidance is given within those plans on the reporting procedures, investigation and requirements for action to be taken.

All other incidents of a reportable nature but not pertaining to the requirements of the above are reported using the NDC internal reporting system.

The Port Marine Safety Code states that the Safety Management System should include a means of active self-monitoring to ensure that it is functioning.

10.1 MEASURING PERFORMANCE

Ilfracombe Harbour adopts a number of methods for measuring performance these include:

- Putting this and other documentation into the public domain so that our performance is subject to public scrutiny;
- Reporting against established Performance Indicators (PIs) at Harbour Board meetings, to which the public are invited;
- Using Active and Reactive systems;
- Being subject to external assessment and reporting.

10.1.1 PERFORMANCE INDICATORS [PI]

NDC monitor performance targets through PENTANA software and the Harbour Master is responsible for collecting, collating and rendering this data on a quarterly basis.

These should be reviewed and adapted on a regular basis.

10.1.2 ACTIVE SYSTEMS

The Harbour Staff perform periodic formal checks and maintenance to ensure that the procedures documented within the Harbour's Safety Management System are functioning. Logs detailing Daily Safety Checks and Incidents are kept at the Harbour Office. A maintenance management schedule is also produced which details when each element of harbour maintenance is due.

It is the responsibility of the Designated Person to provide independent assurance to the Duty Holder & Harbour Board that the Safety Management System is working effectively and to audit compliance with the Port Marine Safety Code not less than an annual basis.

10.1.3 REACTIVE SYSTEMS

Reactive monitoring is performed in response to reports of accidents, incidents, near misses and non-conformances.

On receipt of a report the Harbour Master or their Deputy will initiate an investigation to determine whether any immediate response is required. The findings of this initial investigation will be recorded in the Incident Log and if required an NDC Incident Report will be completed and forwarded to the Health & Safety Adviser.

Newly identified risks will be formally adopted and a Risk Assessment will be generated. Any actions to mitigate the risk and Incident Reports raised will become part of the e-record.

10.1.4 EXTERNAL ASSESSMENT

The authority is subject to multiple external assessments by, but not limited to, those listed below

- The Designated Person (for Safety Management)
- The MCA (for compliance with the PMSC, our oil spill contingency readiness and waste facility management)
- Trinity House (as a General Lighthouse Authority)
- The Environment Agency (for water quality and pollution incidents)

10.1.5 AIDE MEMOIR CHECKLIST

The table shown below assists in monitoring performance in a variety of areas. The table is reviewed periodically to meet emerging needs and requirements.

Marine SMS Section	Procedure/Item to be checked
Management of Navigation	<ul style="list-style-type: none"> • Notice to Mariners promulgated in a timely fashion • Tide checks carried out for all visiting ships • Ship movements recorded • List of vessels banned from EU Ports kept current
Conservancy	<ul style="list-style-type: none"> • AtoN inspected in accordance with MMS • Performance of AtoN reported as per Trinity House availability requirements: Category 2 = 99.0% Category 3 = 97.0% • NAABSA berths - Harbour seabed visually surveyed whenever possible and any significant movements/obstructions noted and removed where necessary • Tide gauge operational checks
Harbour Personnel	<ul style="list-style-type: none"> • Appraisal carried out • Training needs identified • Job descriptions in line with responsibilities
Marine Services	<ul style="list-style-type: none"> • Confirm commercial operators and crews properly qualified • Confirm certification of boats operating in Harbour • Ensure Standard Operating Procedures are current and practical
Risk Assessment	<ul style="list-style-type: none"> • Confirm that risk assessments are being carried out for unusual or irregular occurrences • Ensure reviews are carried out as per HAZMAN
Emergency Response	<ul style="list-style-type: none"> • Emergency exercises being carried out in accordance with plans • Harbour and NDC personnel appropriately trained for emergency response • Appropriate debriefing of exercises taking place • Follow up actions implemented
Incident Reporting	<ul style="list-style-type: none"> • Incidents being reported to correct agencies • Follow up written reports from Masters being received • Remedial actions appropriately carried out • Information circulated to interested parties
Document Control	<ul style="list-style-type: none"> • Correspondence log kept up to date • E-mails and responses correctly recorded
Maintenance Management System	<ul style="list-style-type: none"> • Daily, Weekly and Monthly procedures being adhered to and correctly recorded • Missed maintenance correctly recorded and remedial action planned

Marine SMS Section	Procedure/Item to be checked
Safety Checks	<ul style="list-style-type: none"> • Daily Safety Checks properly conducted and shortcomings logged • Safety pick up actions followed through and closed out
Fuel Control	<ul style="list-style-type: none"> • Daily download of fuelling transactions successful • Monthly fuelling accounts submitted to NDC for raising of Invoices • Fuel prices correctly calculated • Customs and Excise return submitted
Mooring Provision	<ul style="list-style-type: none"> • Mooring applications properly logged and waiting list effectively managed • Vacated moorings reallocated in a timely fashion as required by Performance Indicator

10.2 OBJECTIVES

The Harbour Board sets its objectives within the Marine Safety plan which is then formally reported to the Authority. These objectives are reviewed and updated on a tri annual (3 yearly) basis or sooner if required.

11. CORRECTIVE ACTION

11.1 COMPLIANCE EVALUATION

The Harbour Master is responsible for managing the evaluation of compliance with relevant legislation and other requirements as listed above. Such evaluation is carried out during internal audits and by routine monitoring and inspection of relevant activities and sites. Evidence of evaluation is recorded and maintained by the Harbour Master.

11.2 NON-CONFORMITY, PREVENTATIVE AND CORRECTIVE ACTION

Whenever non-compliance or potential non-compliance of work instructions results in (or is likely to result in) an incident then the following procedures will be undertaken:

- I. The Harbour Master/ DHM will initiate corrective and/or preventive action which may include cessation of the activity.
- II. If the activity results in a possible problem for a harbour user/business then that user/business shall be contacted by the person in (I) above to advise them of the situation and to inform them of the corrective action being undertaken.
- III. Where an activity requires corrective action the Harbour Master/DHM shall determine the cause, restore compliance and ensure no reoccurrence of the detrimental activity.
- IV. Once the corrective action has been undertaken the Harbour Master will be required to assess any damage to equipment or the environment, calling upon specialist agencies if required.

If required, Standard Operating Procedures will be reviewed to ensure the incident does not reoccur.

The Marine Safety Management System is audited periodically to ensure that Ilfracombe Harbour's control systems are appropriate and fit for purpose.

The Board will monitor & review the efficacy of the MSMS so that lessons are identified from relevant experience and are effectively applied.

Performance of the MSMS will be assessed against internal performance indicators and where appropriate by benchmarking against other ports that have adopted good practice. In light of these reports the Harbour Master and the Board will review and where necessary amend working practices and make appropriate recommendations to North Devon Council.

The audit programme of the MSMS will be undertaken as follows:

- Annual internal by the Harbour Master.
- Quarterly external by Designated Person & Health & Safety Advisor.
- Tri-annually (3 Yearly) the Duty Holder will report the harbour's compliance against the PMSC to the MCA.
- Tri-annually (3 yearly) by an External Consultant depending on performance. An interim external consultant audit can be carried out more frequently in response to specific incidents or the results of internal audit.

The method used to collect the required information for the audit and review would be interview, consultation and MSMS records.

All audit findings are formally reported to the Harbour Board at the quarterly board meeting and included within their quarterly report to the Duty Holders.



North Devon Council

Report Date: 15th November 2022

Topic: Harbour Policy Reviewed

Report by: Ilfracombe Harbour Master

1. INTRODUCTION

1.1. As a Statutory Harbour, Ilfracombe Harbour is obliged to have certain policies and plans in place under the Port Marine Safety Code (PMSC) and the accompanying guide to good practice. These policies and plans are subject to periodic reviews and amendments. From time to time when deemed necessary for Harbour management a new policy or plan will be put in place.

2. RECOMMENDATIONS

2.1. That the board accepts the review of the Enforcement and Prosecution Policy presented.

3. REASONS FOR RECOMMENDATIONS

3.1. To fulfil the requirement of periodic review and to fulfil the requirement under the Marine Safety Management System to implement policies to aid in Harbour management.

4. REPORT

4.1. Since the implementation of the PMSC in 2000 following the lessons learnt from the grounding of the Sea Empress in 1996 Statutory Harbour Authorities who comply with the code are committed to produce policies and plans covering a wide range of subjects and to review these documents on a regular timescales to ensure they continue to be fit for purpose.

4.2. The review of these documents take into account current legislative regulations and relevant guides to good practice

4.3. There is one, 1, document that has been reviewed as per review schedule this being the Harbour Enforcement and Prosecution Policy. This now requires a final review at board level before being adopted.

4.4. There are no other options to be considered.

4.5. There are no risks in adopting the recommendation.

4.6. I have concluded that the above documents have been reviewed/ formulated and are in line with current accepted guidance and uphold the current legislative regulations.

4.7. There is no impact on the community in adopting the recommendations.



5. RESOURCE IMPLICATIONS

5.1. There are no financial or manpower implications contained within the documents

6. EQUALITIES ASSESSMENT

6.1. There are no equalities implications anticipated as a result of this report

7. ENVIRONMENTAL ASSESSMENT

7.1. Having undertaken the Environmental Assessment Checklist. There are no environmental implications arising from these policy proposals.

8. CORPORATE PRIORITIES

8.1. What impact, positive or negative, does the subject of this report have on:

8.1.1. The commercialisation agenda: N/A

8.1.2. Improving customer focus and/or : N/A

8.1.3. Regeneration or economic development :N/A

9. CONSTITUTIONAL CONTEXT

9.1. Appendix 5,6(a)

9.2. Delegated power

10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

11.1 Port Marine Safety Code and accompanying Guide to Good Practice

11.2 Marine Safety Management Code

12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers:

Capt. Georgina Carlo-Paat MBE, Ilfracombe Harbour Master



ILFRACOMBE HARBOUR

ENFORCEMENT AND PROSECUTION POLICY

Version 1.1

Adopted by Harbour Board: *Draft*

CONTENTS

1.0 Document Control	1
1.1 Record of Review & Amendments.....	1
2.0 Enforcement Policy	2
2.1 Introduction.....	2
2.2 Aims	2
2.3 Guiding Principles	2
2.4 Clear Standards	4
2.5 Consistency.....	4
2.6 Targeting and Proportionality	5
2.7 Enforcement Action	5
2.8 Monitoring.....	5
2.9 Working with Others	6
3.0 Prosecution Policy	6
3.1 Legal Proceedings Decision Sheet.....	7

1.0 DOCUMENT CONTROL

This plan is subject to a biannual (2 Yearly) review and periodic amendment as required

Major changes will be issued as a new version with all minor amendments to that version annotated by a decimal point e.g. V2 will become V2.1, V2.2 etc.

Amendment proposals should be sent to the Harbour Master using the following means:

Email: harbourmaster@northdevon.gov.uk

Phone: 01271 862108

Post: Harbour Masters Office, The Quay, The Pier, Ilfracombe EX34 9EQ

1.1 RECORD OF REVIEW & AMENDMENTS

Review (R) /Amendment (A)	Date	Description of changes
R	05/10/2022	NO CHANGES, FORMATTED FOR ACCESSIBILITY

2.0 ENFORCEMENT POLICY

2.1 INTRODUCTION

The Harbour Authority for Ilfracombe Harbour is North Devon Council (NDC) and as such are responsible under the Port Marine Safety Code for the effective enforcement of its regulations, which are adopted in order to assist in managing the safety of navigation within the port. In this Policy, enforcement comprises the promulgation of regulation and guidance, effective surveillance, incident investigation, and where appropriate formal warning and prosecution.

Our policy is based on education in the first instance and generally only reverts to prosecution for repeat offenders, for offences bringing significant risk of serious injury or loss of life or for when users threaten or abuse our Harbour Officers and Staff [The Harbour Team]. Where appropriate, and where empowered to do so, the Harbour Authority will prosecute offenders for committing criminal offences, including those set out in the Merchant Shipping Act 1995 and in ancillary regulations.

2.2 AIMS

The Harbour Authority:

- Seeks to achieve compliance in a fair, consistent, proportional, transparent and targeted manner;
- Has a clear, open and helpful approach to enforcement;
- Targets enforcement resources at areas of highest risk, including non-compliant Harbour businesses and individuals;
- Conducts itself in a way that supports those they regulate to comply and improve;
- Acts in accordance with national guidance and standards, and other supplementary local policies.

2.3 GUIDING PRINCIPLES

The Harbour Authority shall adhere to these principles when undertaking its regulatory & enforcement role:

1. Enforcement action will be impartial and objective, and will not be influenced by race, gender, politics, sexual orientation, disability or religious beliefs of any alleged offender, victim or witness;
2. Decisions will not be affected by improper or undue pressure from any source;
3. The Harbour Authority believes that the majority of individuals and businesses wish to comply with legal requirements, and should be assisted to do so;
4. We will give positive feedback wherever possible, to encourage and reinforce good practices;
5. The Authority's actions will be proportionate to the scale, seriousness and intention of any non-compliance;

6. There will be consistency of enforcement, whilst recognising that there are different, satisfactory solutions to each issue. We will refrain from being over-prescriptive whenever possible;
7. We will provide a variety of opportunities for those we regulate to engage with us;
8. This policy is built around a process of escalation. Except in the most serious cases such as a serious breach or where advice/warnings have not been heeded, adequate opportunity will be given to rectify non-compliance before formal legal action commences;
9. Prosecution will normally only be considered where it is in the public interest to do so and where there have been serious breaches or where other enforcement measures have failed;
10. Regard shall be had to the relevant legislation and codes of practice which protect the rights of the individual and guide enforcement action (e.g. Human Rights Act, Code for Crown Prosecutors, Regulators Code);
11. Regard shall be had to the Council/Harbour Authorities own policies in respect of Customer Care, Equal Opportunities, etc.
12. Maintain through regular reviews, a regulatory framework, which is integrated with relevant national legislation and includes local regulation (i.e., Bylaws & Special Directions) resulting from risk assessment, or as otherwise made necessary;
13. Develop and maintain effective enforcement procedures, which comply with relevant national legal requirements and guidelines;
14. Develop and maintain effective investigation procedures for use in the event of a navigational incident, which support the Harbour Authorities enforcement procedures, but also meet the requirements of the Marine Safety Management System in respect of identifying and promulgating any 'lessons learned';
15. Ensure that all team members involved in an incident investigation, or who are required to follow The harbour Authorities enforcement procedures, receive effective and relevant training;
16. Maintain an effective surveillance and spot check regime, to monitor compliance with, and detect breaches of, relevant national and harbour regulations;
17. Respond to breaches of regulation, where justified by the evidence and other circumstances, by the use of formal warnings and legal prosecution; and
18. When bringing prosecutions, observe the requirement of the Crown Prosecution Service and evidential Codes in so far as appropriate.

2.4 CLEAR STANDARDS

1. All matters relating to enforcement and regulation will be dealt with promptly;
2. The duly appointed Harbour Authority investigating Officers will announce themselves on arrival in all instances even if the persons are known to them and show identification. Officers will always explain the purpose of their visit/enquiry;
3. Officers will provide their name and contact details to those persons or businesses with whom they are in contact concerning a regulatory or enforcement matter;
4. Complaints relating to enforcement or regulatory matters will normally only be dealt with if the name and address of the complainant is given. Any such identification will be treated in confidence, but may need to be disclosed (with prior consent) should formal legal proceedings be taken against the person or business to which the complaint relates. Anonymous complaints may however be investigated if the matter relates to a serious health & safety or navigational issue.
5. Officers cannot act as consultants or legal advisors to individuals or businesses, but are permitted to discuss general issues or matters of specific enforcement with the aim of assisting or guiding compliance.
6. Officers will be professional, courteous and helpful in their conduct of regulatory or enforcement matters, and wherever possible will seek to work with individuals and businesses towards compliance.
7. Officers will provide advice in a clear and simple manner and where any corrective or remedial action is necessary, an explanation will be given as to why it is necessary, and over what timescale it is required. Where non-compliance may result in further enforcement action or prosecution clear evidence of any action as stated in 2.7 will be held on file.
8. Officers will generally seek an informal resolution to cases of non-compliance except where immediate formal enforcement action is required. (E.g. serious issues relating to the safety of the harbour or harbour estate, including the control of pollution, etc.);
9. Where there is known to be an involvement of any other enforcement agency, or any case involves joint enforcement arrangements, the Harbour Authority will consult and share intelligence with that other agency prior to taking any formal enforcement action;
10. Any dissatisfaction with the quality and/or advice given or any complaint concerning the harbour authority's failure to comply with procedures, rules, statutory obligation or published service standards will be dealt with under the Council's Corporate Complaint procedure. Copies of this procedure are available from offices of the Council, or by accessing the Council's Website [<https://northdevon.gov.uk/council/feedback-complaints-whistleblowing-and-insurance/complaints-procedure/>]

2.5 CONSISTENCY

1. Consistent enforcement action is desirable, but uniformity in approach would not always recognise individual circumstances. We will encourage consistency of approach by:
2. Providing appropriate training and supervision of the Harbour Team;
3. Ensuring compliance with the standards set out in this policy;
4. Recognising that we should not normally take formal enforcement action or prosecution in the case of minor infringements;
5. Recognising that in some situations, we have no legal discretion but to pursue enforcement action;
6. Taking into consideration the guidance issued by Government Departments and other national agencies, e.g. Department for Transport, Maritime & Coastguard Agency, Health and Safety Executive, etc.

2.6 TARGETING AND PROPORTIONALITY

We will not initiate formal enforcement procedures without a clear need to do so. We believe that through a positive, proactive approach, we can achieve higher compliance rates and better overall outcome than by using reactive enforcement action.

Formal enforcement procedures will:

1. Aim to change the behaviour of the offender;
2. Aim to eliminate any financial gain or benefit to the individual or business from noncompliance;
3. Be responsive and consider what the most appropriate sanction is for the particular offender and regulatory issue;
4. Be proportionate to the nature of the offence and the harm caused;
5. Aim to deter future non-compliance.

Our greatest enforcement effort will be where an assessment shows that both:

1. A compliance breach or breaches would pose a serious risk; and
2. There is a high likelihood of non-compliance.

2.7 ENFORCEMENT ACTION

Enforcement action can take the form of;

1. A warning – by way of education, given by an authorised member of the harbour staff should they observe a contravention of the bylaws.
2. A written warning explaining the way in which a bylaw has been contravened and the implications should the offender re-offend. This is not a caution for the purposes of criminal records.
3. Suspension or revocation of a licence issued in accordance with the bylaws or such other licences issued by the Harbour Authority E.g. Mooring licences
4. Prosecution – as an ultimate sanction.

Or a combination of any of the above.

2.8 MONITORING

To ensure that this policy is effective, a number of monitoring and feedback mechanisms will be utilised:

1. Opportunities for businesses and members of the public to comment on the policy;
2. Feedback welcomed through the Ilfracombe Harbour website or NDC Feedback system;
3. Periodic consultation with harbour stakeholders, e.g. the Harbour Forum;
4. Though open discussion with the public and elected members as part of the Harbour Authorities cycle of business.

2.9 WORKING WITH OTHERS

The Harbour Authority works closely with other Council services to provide a streamlined service.

We are part of a much wider regulatory system in North Devon and have good working relationships with other regulators such as the Maritime & Coastguard Agency, Environment Agency, Police, Border Force etc. and this enables us to have a much more joined up and consistent service. This includes sharing information and data on compliance and risk, where the law allows, to help target regulatory resources.

3.0 PROSECUTION POLICY

Any decision to prosecute is a serious one, having implications for the defendant, for witnesses, sometimes for the Harbour Authority and wider still, for the consistent and effective maintenance of standards. Prosecution will be considered only when:

1. There is sufficient admissible and reliable evidence to provide a realistic prospect of conviction; and
2. It is in the public interest to do so.

Prosecution will normally be in the public interest when one or more of the following criteria are satisfied:

1. Unlawful acts or omissions have seriously or repeatedly compromised the safe and efficient use of the harbour/harbour estate or the environment;
2. The offending created/posed a risk to public safety or to the environment;
3. Through blatant action or inaction risks causing pollution have been exacerbated;
4. Where there is disregard for safe practice;
5. The offence involves a failure to comply in full or in part with a statutory notice, including a Harbour Master's direction;
6. The offender has relevant previous convictions or has been cautioned for a relevant matter;
7. The offender has flagrantly breached harbour bye-laws or other harbour legislation and has ignored advice or requests to remedy breaches of such legal requirements;

8. The offender obstructs an Officer of the Harbour Authority carrying out statutory duties or where the offence involves the failure to supply information or the supply of false or misleading information upon lawful request;
9. The offence, whether or not serious in itself, is widespread in Ilfracombe Harbour;
10. The Harbour Authority is under a statutory duty to enforce legislation.

The above list is not exhaustive and the decision whether to prosecute will be taken having regard to the legal proceedings sheet and the individual circumstances of each case.

Regard will be had to the Code for Crown Prosecutors at all stages of proceedings.

3.1 LEGAL PROCEEDINGS DECISION SHEET

	For Prosecution (= -1)	Against Prosecution (=+1)	Score
1	Serious Incident	Minor Incident	
2	Deliberate act or potential to cause injury or damage through reckless disregard	Unforeseeable/Accidental / Minor error of judgement	
3	Inadequate control systems in place.	Adequate control systems in place	
4	Previous advice already given to the company / individual	No precise information given by the harbour authority previously	
5	Company/individual aware of the risk involved in their action.	Company/individual could not have been aware of the risk involved in their action.	
6	Management/supervisor responsible for the incident.	Employee or supplier responsible for the incident.	
7	Poor confidence in management / individual	Good confidence in management / individual	
8	Previous prosecution for a similar offence	First offence	
9	No remedial action taken / proposed	Remedial action already taken	
10	Management / individual obstructive in the investigation.	Management / individual cooperative with the investigation	
11	Attempt to cover up the true facts	Attitude open and honest.	
12	Harbour Authority/Council reputation tarnished if prosecution is not pursued	Prosecution may be seen as over-zealous enforcement	
13	Prosecution will secure definite results, e.g. raise harbour safety standards	No obvious improvements in standards will result from prosecution	
14	Prosecution will resolve an important legal issue	Prosecution will not clarify a legal issue.	
15	Harbour Authority identified problems on a previous occasion	Harbour Authority did not identify problems on a previous occasion	
		TOTAL	

If statements in column 1 are true, score -1. If statements in column 2 are true, score +1. If neither statements are true, or not applicable, score nil. A total minus score will favour a prosecution

However, a prosecution must be justifiable by a logical argument, including such reasons as:

Appendix a

1. The protection of employees or members of the public;
2. To remedy deficiencies due to incompetent or irresponsible activities.

This page is intentionally left blank



North Devon Council

Report Date: 15th November 2022

Topic: Ilfracombe Harbour Charges Review 2023-2024

Report by: Ilfracombe Harbour Master

1. INTRODUCTION

- 1.1. The Harbour Board have delegated authority to recommend changes to Harbour mooring and relevant miscellaneous charges to Full Council and it is considered that there are sufficient grounds to raise Harbour charges for the 2023-2024 season.
- 1.2. Rising maintenance costs and continuing pressure on the public purse require due consideration.

2. RECOMMENDATIONS

- 2.1. It is recommended that all mooring dues are increased by 5% and relevant miscellaneous charges are increased by 15%

3. REASONS FOR RECOMMENDATIONS

- 3.1. The continuing rises in the cost to repair, upgrade and to maintain the Harbour facilities for stakeholders and visitors have been mainly borne by NDC resources. It is felt that users of the Harbour and its facilities should continue to help bear part of these incurred costs.

4. REPORT

- 4.1. Harbour charges are reviewed annually by the Harbour Board. The CPI for September 2022 was 10.1% and this is reflected in the recommendation of charges for the coming financial year.
- 4.2. It is recommended that some charges are rounded to enable easier on site collection.
- 4.3. Options Considered :
 - 4.3.1. Hold Charges at 2023-24 rates for all charges.
 - 4.3.2. Increase charges in line with 2022 CPI figure of 10.1%
- 4.4. Reasons for rejecting options :
 - 4.4.1. Rejecting 4.3.1, holding charges at 2022-23 rates has been rejected as it fails to take into account the increasing financial burden of Harbour costs and improving services.
- 4.5. Consultation:
 - 4.5.1. Consultation will be carried out after approval by the Board.



4.6. Conclusion :

4.6.1. The income generated by the Harbour needs to increase to keep pace with inflation and increasing maintenance and service provision costs.

4.6.2. This is not considered to be a key decision.

5. RESOURCE IMPLICATIONS

5.1. The recommendation will increase revenue at or above the rate of inflation and will help Ilfracombe Harbour to keep in touch with its competitors.

5.2. There are no manpower implications contained within this report

6. EQUALITIES ASSESSMENT

6.1. There are no equalities implications anticipated as a result of this report

7. ENVIRONMENTAL ASSESSMENT

7.1. Having undertaken the Environmental Assessment Checklist. There are no environmental implications arising from these policy proposals.

8. CORPORATE PRIORITIES

8.1. What impact, positive or negative, does the subject of this report have on:

8.1.1. The commercialisation agenda: Positive

8.1.2. Improving customer focus and/or : N/A

8.1.3. Regeneration or economic development :N/A

9. CONSTITUTIONAL CONTEXT

9.1. Appendix 5,6(a)

9.2. Delegated power

10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

11.1. 2022-23 Harbour Charges

12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers:

Capt. Georgina Carlo-Paat MBE, Ilfracombe Harbour Master