



ILFRACOMBE HARBOUR

MARINE SAFETY MANAGEMENT SYSTEM

(MSMS)

Version 3.1

Adopted by Harbour Board *Draft*

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DOCUMENT CONTROL

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.

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

Harbour Master

Mr E Simpson

Deputy Harbour Master

DESIGNATED PERSON

Mr Jon Triggs

Director of Resources and Deputy Chief Executive
for North Devon Council

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
Harbour Association

Y Sail

Harbour Development Group

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.’

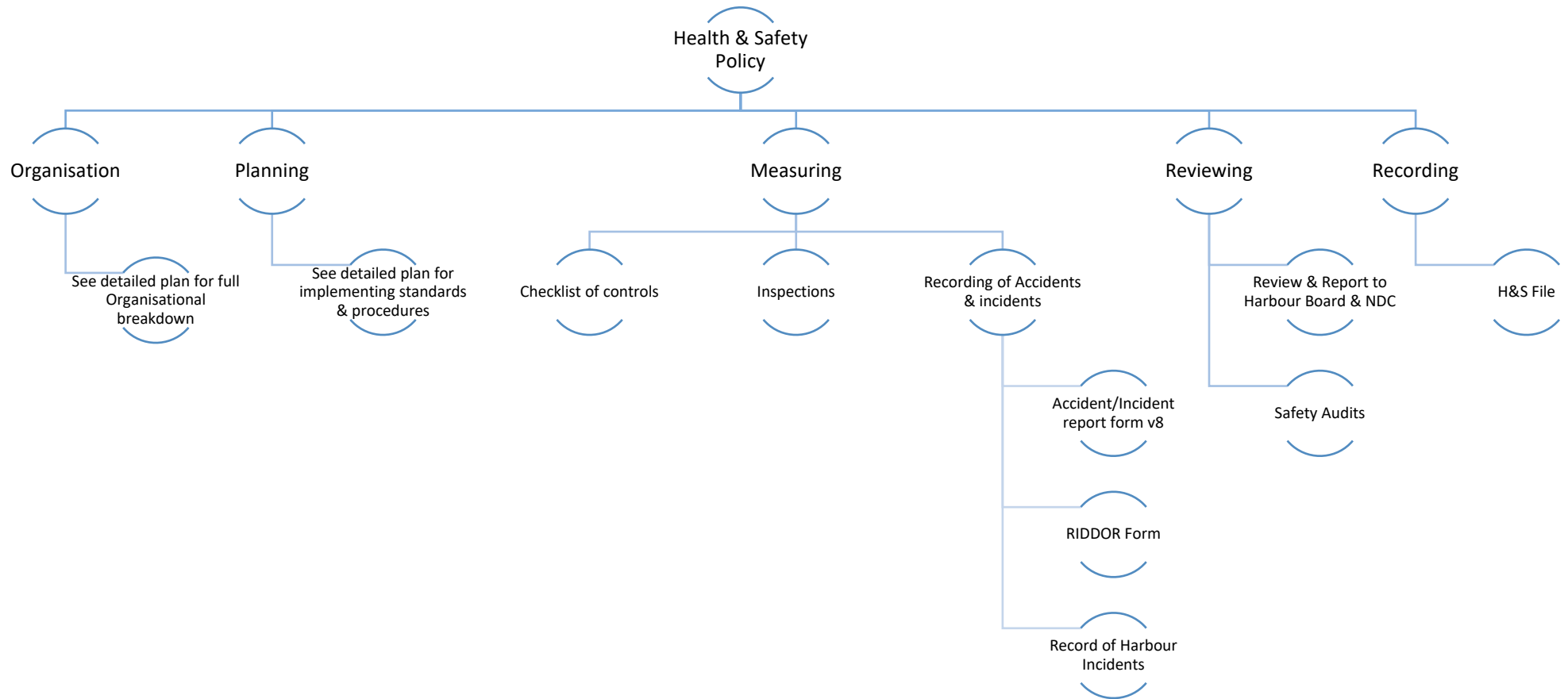
1.2 SCOPE OF THE MSMS

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

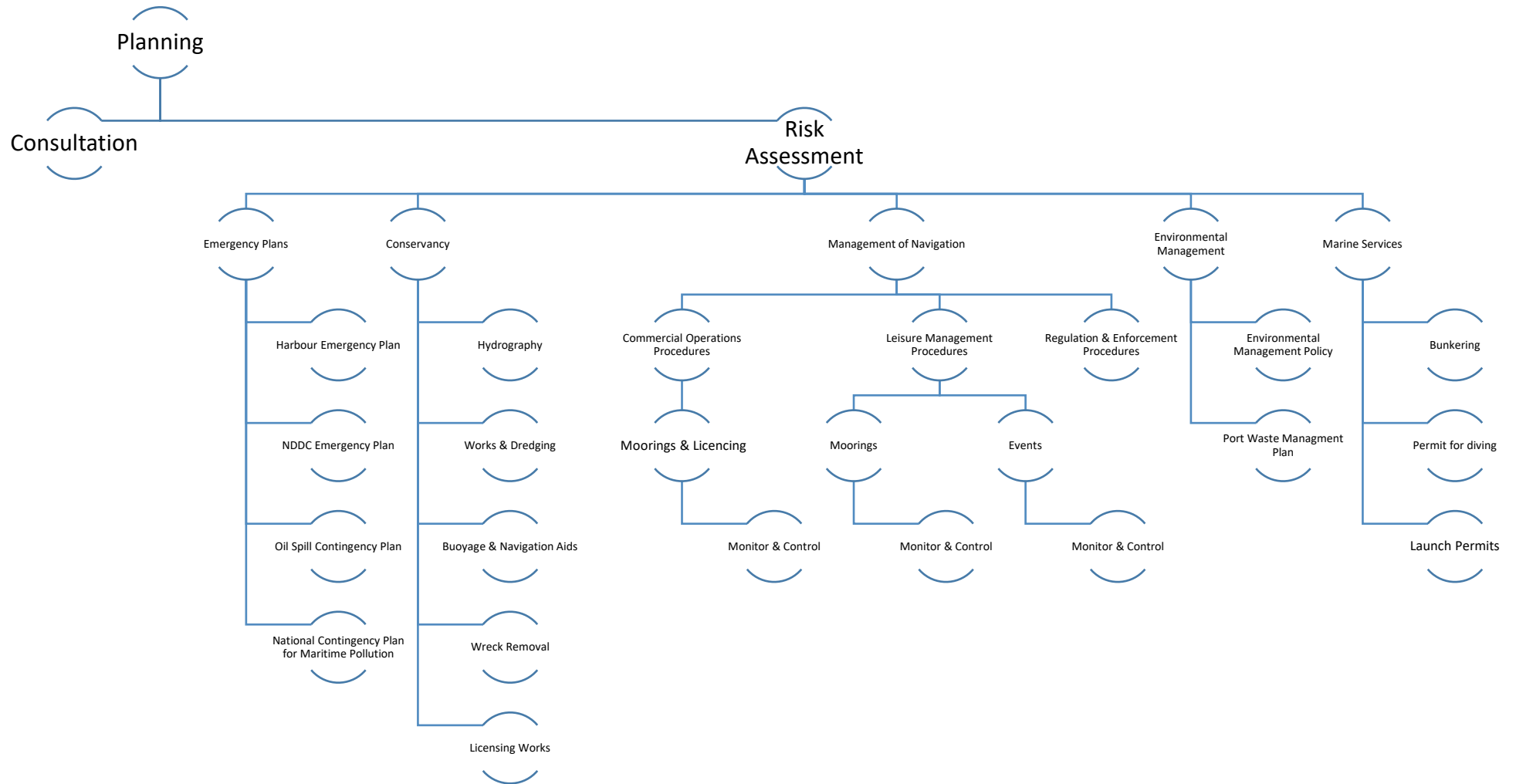
1.3 SYSTEM COMPONENTS

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;

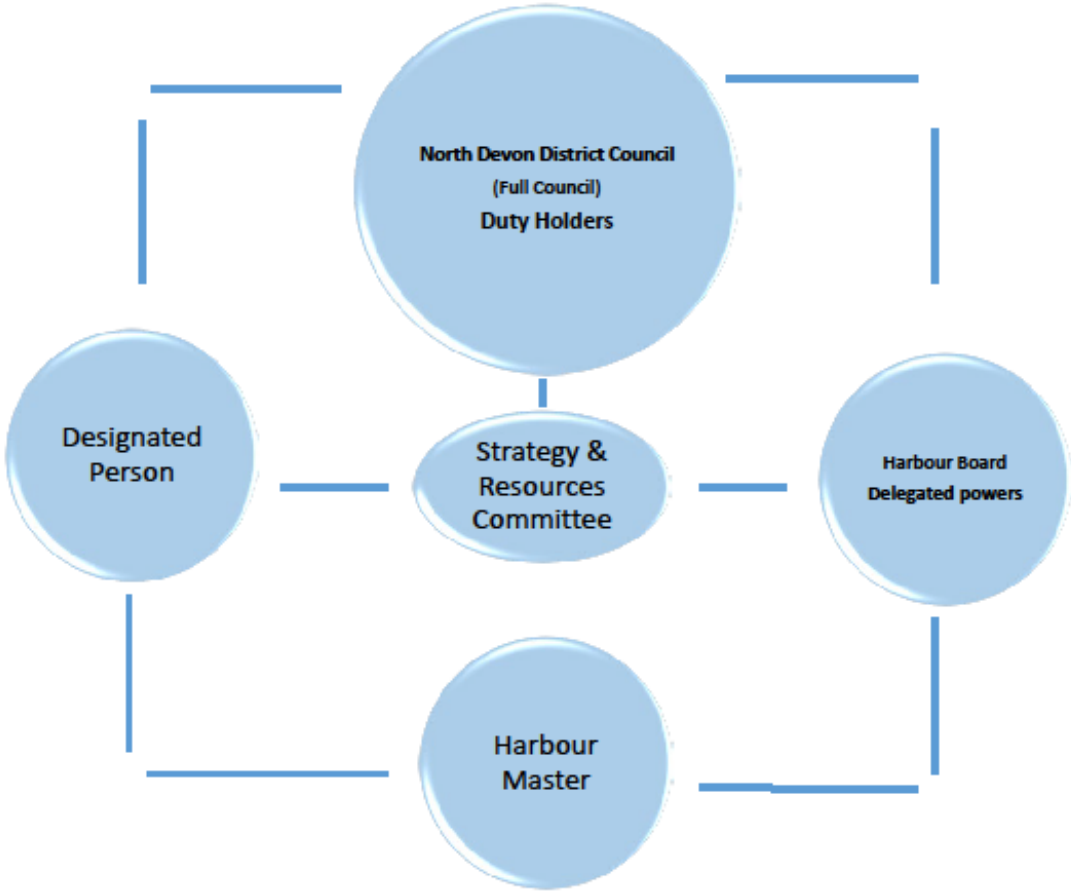
1.3.1 ILFRACOMBE HARBOUR MARINE SAFETY MANAGEMENT SYSTEM COMPONENTS



1.3.2 ILFRACOMBE HARBOUR PLANNING



1.3.3 ILFRACOMBE HARBOUR ORGANISATIONAL BREAKDOWN



2. POLICY

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 ILFRACOMBE HARBOUR BOARD

The Ilfracombe Harbour 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 POLICY 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 Policy 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.

2.3 POLICY & PLAN REVIEWS

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

2.3.2 PLANS

- Environmental Plan – 2 Yearly
- Oil Spill Contingency Plan – 5 Yearly
- Waste Management Plan – 3 Yearly
- Marine Emergency Plan – Annually
- Marine Safety Plan – 3 Yearly

3. ORGANISATION AND RESPONSIBILITIES

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

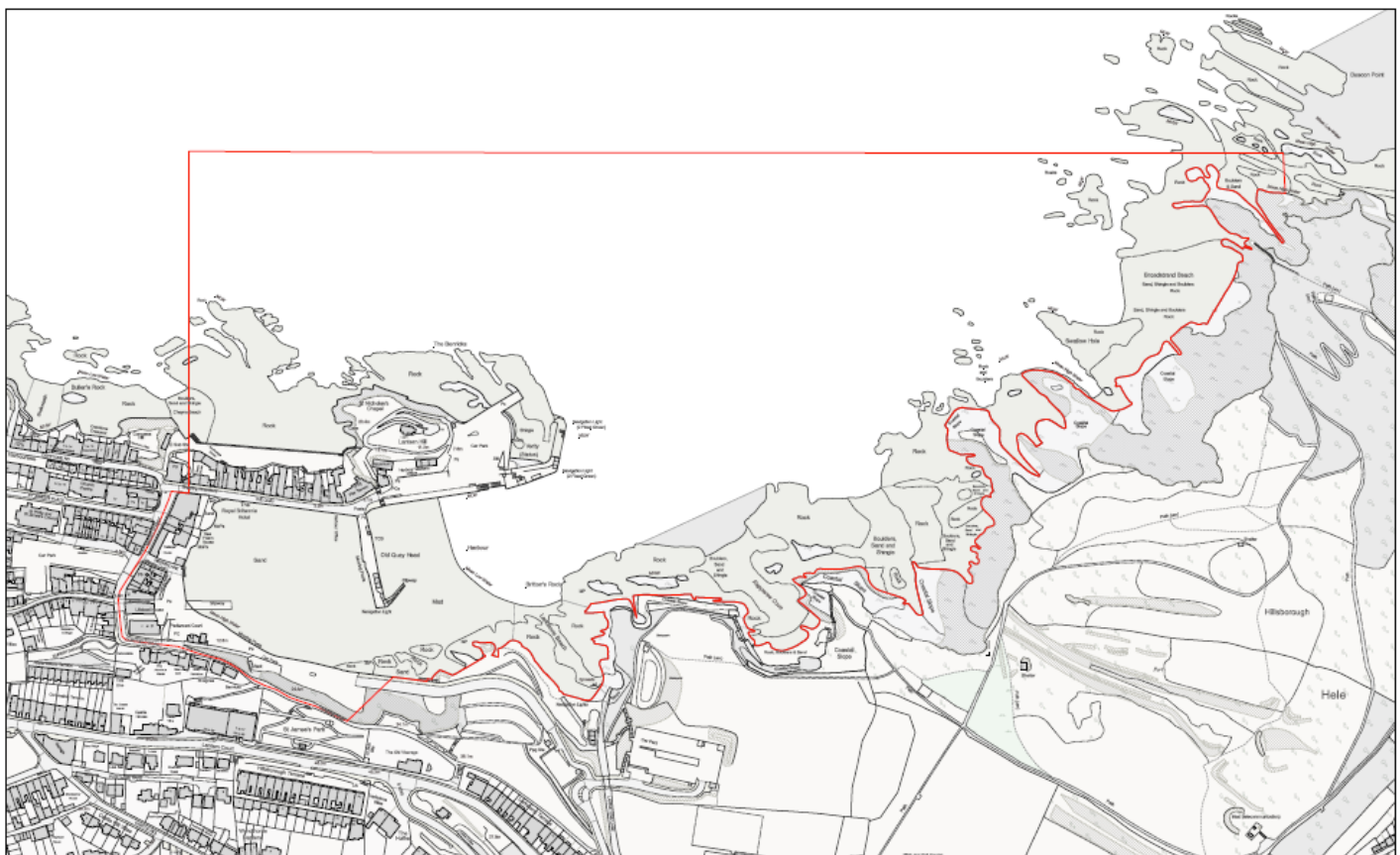
XIX. Dangerous Goods in Harbour Areas Regulations 2016

XX. Railways and Transport Safety Act 2003

3.1.1.2 LOCAL ACTS, ORDERS AND BYELAWS

- I. Pier and Harbour Orders Confirmation Act 1870
- II. Pier and Harbour Orders Confirmation Act 1897
- III. The Pier and Harbour Orders Confirmation Act 1900
- IV. Ilfracombe Harbour and Improvement Act 1905
- V. Ilfracombe Harbour Byelaw 1992
- VI. Supplemental Ilfracombe Harbour Byelaw 1994
- VII. Ilfracombe Harbour Revision Order 1996
- VIII. Ilfracombe Harbour Revision Order 2019
- IX. The North Devon District Council Harbour Authority (Removal of Pilotage Functions) Order 2019

3.1.1.3 HARBOUR LIMITS



Ilfracombe Harbour Order

Scale: 1:5,000
Date: 05 June 2019

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The harbour limits are defined in section 6(1) of the 'The Pier and Harbour Orders Confirmation Act 1900'. The limits are mapped as follows:

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 IFRACOMBE 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.

3.2 TRAINING, AWARENESS AND COMPETENCE

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

3.2.2 TRAINING POLICY

Ilfracombe 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 Ilfracombe Harbour Act and Orders 1870 to 2019'. This includes the Ilfracombe Harbour Byelaw 1992 and the Supplemental Ilfracombe 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

Ilfracombe 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.

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 working.

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

Ilfracombe 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.

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. IMPLEMENTATION AND OPERATION

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/>

7.3 HARBOUR MARINE POLICIES AND 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.

Ilfracombe Harbour Aids to Navigation are:

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

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 capsizing 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.

10. PERFORMANCE MONITORING

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 assessed in the Harbour Safety Management software HAZMAN. 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 annual business plan which is then formally reported to the Authority. These objectives are reviewed and updated on an annual 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.

12. AUDIT AND REVIEW PROGRAMME

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.