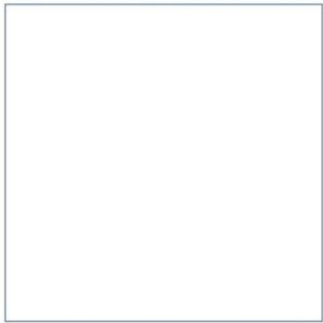
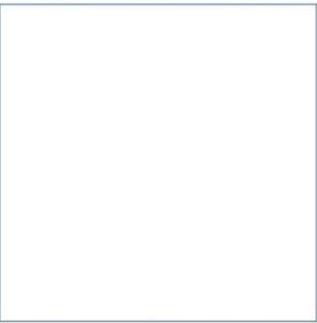
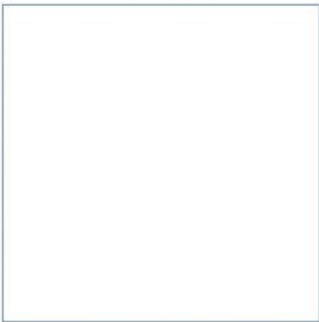


North Devon Council

Port Marine Safety Code

Audit: Lynmouth Harbour 2023

August 2023



Innovative Thinking - Sustainable Solutions

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Port Marine Safety Code




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1 The Port Marine Safety Code

The Port Marine Safety Code ('the Code') sets out a national standard for every aspect of port marine safety. Its aim is to enhance safety for everyone who uses, or works in, the UK port marine environment. It is authored by the UK Government, supported by the devolved administrations and representatives from across the maritime sector and, whilst the Code is not mandatory, these bodies have a strong expectation that all harbour authorities will comply. The Code is applicable both to Statutory Harbour Authorities and to other marine facilities, which may not have statutory powers; these are collectively referred to throughout the Code as 'organisations' (DfT/MCA, 2016).

In reading this audit report, the Council should note the following extract from the Code:

"The Code does not contain any new legal obligations but includes (amongst other things) references to the main legal duties which already exist. Failure to comply is not an offence in itself. However, the Code represents good practice as recognised by a wide range of industry stakeholders and a failure to adhere to good practice may be indicative of a harbour authority being in breach of certain legal duties. Moreover, the organisation may suffer reputational damage if it has publicly committed to the Code's standards and then fails to meet them."

(DfT/MCA, 2016)

In order to measure compliance with the Code, the table below sets out the 10 Duty Holder responsibilities, and corresponding cross-references with sections of the Code, which this audit has considered.

No	PMSC Duty Holder Responsibilities		PMSC Section Reference
1	Duty Holder	Formally identify and designate the Duty Holder, whose members are individually and collectively accountable for compliance with the Code and their performance in ensuring safe marine operations in the harbour and its approaches.	1.6-1.8, 1.10, 1.16-1.17
2	Designated Person	A 'Designated Person' must be appointed to provide independent assurance about the operation of the marine safety management system. The designated person must have direct access to the Duty Holder.	1.11-1.12
3	Legislation	The Duty Holder must review and be aware of their existing powers based on local and national legislation; seeking additional powers if required in order to promote safe navigation.	2.3-2.6, 4.3-4.5
4	Duties and Powers	Comply with the duties and powers under existing legislation as appropriate.	1.3-1.5, 1.9, 1.13-1.15, 3.1-3.14, 4.2, 4.6-4.20, 4.25-4.32
5	Risk Assessment	Ensure all marine risks are formally assessed and are eliminated or as low as reasonably practicable in accordance with good practice.	2.7-2.11
6	Marine Safety Management System	Operate an effective marine safety management system which has been developed after consultation, is based on formal risk assessment, and refers to an appropriate approach to incident investigation.	2.12-2.17, 2.19-2.23, 2.25, 2.29
7	Review and Audit	Monitor, review and audit the risk assessment and marine safety management system on a regular basis – the independent designated person has a key role in providing assurance for the Duty Holder.	2.2, 2.24, 2.30-2.32
8	Competence	Use competent people (i.e., trained, qualified and experienced) in positions of responsibility for managing marine and navigation safety.	2.18
9	Plan	Publish a safety plan showing how the standard in the Code will be met and a report assessing the performance against the plan at least every 3 years.	2.26-2.28
10	Aids to Navigation	Comply with directions from the General Lighthouse Authorities and supply information and returns as required.	4.21-4.24

1.1 About the Harbour Authority

North Devon Council (NDC) is the owner and operator of Lynmouth Harbour located on the northern edge of Exmoor. The harbour is managed as part of the 'Lynton Agency Agreement' by Lynton and Lynmouth Town Council. The harbour is located at the mouth of the River Lyn, down-river of the confluence of the East Lyn and West Lyn rivers. The harbour is accessed through a narrow channel which is scoured and maintained by river flow. A low-lying causeway borders the channel and acts as an informal training wall, the causeway was historically used as a low water landing area. The navigation channel is marked with wooden pile-markers, the entrance to the harbour's berthing area is marked with port and starboard posts with navigation lights. Given the open nature of the harbour mouth, at high water, swell waves can penetrate up-river and into the harbour's berthing area.

The harbour itself is comprised of a stone pier on the west side, which is also the location of 'Rhenish Tower' a reconstruction of a historic landmark and Aid to Navigation. To the east, the harbour is bounded by a harbour arm forming a semi-enclosed harbour. The harbour arm structure also serves to separate the harbour berthing area from the River Lyn. The harbour dries at low water and is accessible approximately two hours either side of high water (depending on the tidal state and vessel draught).

The harbour accommodates approximately 30 to 40 small craft; nearly all vessels are locally owned recreation craft with occasional visiting vessels during summer months. As the harbour dries, vessels must be able to safely take the bottom. The harbour is also used by one wildlife tour operator running two boats and a shellfish potting vessel. Many of the harbour users are members of the Lynmouth Sailing Club (LSC), the club also operates two rowing gigs which are launched and stored on the grass banks up-river of the harbour entrance. The harbour has two slipways, one at its landward end and one running along the inner side of the Pier. These slipways provide access for tenders and trailer launched craft. Navigation up-river is restricted by the air draught of the footbridge connecting the east and west sides of Lynmouth.

Lynton is located 150 m above Lynmouth. The Town Council offices, which provide the services and functions for the harbour are located at Lynton Town Hall.

2 Purpose and Method

2.1 Purpose of the audit

NDC has contracted ABPmer to provide a Port Marine Safety Code compliance audit for Lynmouth Harbour. This audit seeks to establish if NDC is compliant with the requirements of the PMSC (the Code) for its marine facilities in Lynmouth. The scope of the audit includes a review of NDC's performance against the standard laid out within the latest edition of the Code. Any aspects that do not comply with, or fully address, the requirements of the Code will be identified, and recommendations for improvement will be made.

2.2 Audit outcomes

The following definitions are used in the audit report:

Non-compliance: is a failure to adhere to a legal requirement such as an Act, Order or its Regulations. The Port Marine Safety Code requires organisations to confirm compliance with the requirements of the Code. Therefore, Port Marine Safety Code audits are designed to test the requirements of the Code with any failure to comply identified as a 'non-compliance'.

Non-conformity: is an opportunity for the management system to improve through the identification of a requirement that is not met. Non-conformities are not regulatory but relate to the port or harbour's own operational instructions which are not met or fully met. Any non-conformities identified through the audit process are identified in bold text in the report.

Evidence: Non-compliances and Non-conformities are identified through factual evidence sampled during the audit.

2.2.1 Outcomes

The audit report uses the following outcomes:



Non-Compliance: a non-compliance with the requirements of the Code which are a breach of legal obligations or may compromise marine safety, environmental safety or present a significant reputational risk. Recommendations for addressing non-compliances are identified in red.



Observation: refers to an improvement opportunity such as an update to information, procedural change, or a non-conformity with local operating instructions. Whilst observations are defined as improvement opportunities, addressing them may improve the overall system standard. Recommendations for addressing observations are identified in yellow.



Satisfactory: a system component that meets or exceeds the requirements of the Code. Items of best practice are identified in bold.

Not applicable: part of the Code that is not relevant to the Organisation being audited.

2.3 Audit date and criteria

The audit was carried out via Microsoft teams on the 20 June 2023 and remotely, using the Microsoft Teams video conferencing facility. The latest version of the PMSC, and the accompanying Guide to Good Practice (GtGP), has been used as the benchmarking standard. The Appendix tables to this report contain the test questions and evidence, noting down compliance, non-compliance and observational remarks. The audit tables also identify the paragraph numbers from the Code (DfT, 2016) and relevant sections of the Guide to Good Practice (DfT, 2018), for cross reference purposes.

2.4 Auditors

The following auditors conducted this audit.

Team Member:	Initials	Company, Designation
Harry Aitchison	HJA	ABPmer, Maritime Consultant Internal Auditor for Quality Management Systems (QMS ISO 9001)

2.5 Auditees

The following individuals participated in the audit.

Team Member:	Initials	Role/Designation
Kevin Harris	KH	Town Clerk
Malcolm Wilkinson	MW	Councillor and Harbour Board (Vice-Chair)
Jon Triggs	JT	North Devon Council Designated Person (PMSC)

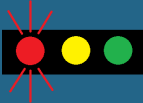


3 Audit Summary

This audit has been conducted based on information available to the Auditor. It is known from records provided by His Majesty's (HM) land registry that the Council is the owner of a large proportion of the harbour's built assets and infrastructure.

The Council's records do not confirm if Lynmouth is a 'Statutory Harbour Authority' (SHA). This audit has therefore been conducted on the basis that the Council is an 'Organisation' as specified within the Code, in that: *"The Code is applicable both to statutory harbour authorities and to other marine facilities which may not have statutory powers and duties. These are collectively referred to throughout the Code as 'organisations'"*.

Furthermore, *"It is strongly recommended that organisations or facilities which are not a statutory harbour authority, such as marine berths and terminals, seek a proportionate compliance with the Code through the adoption of a formal risk assessment process and the implementation of a marine safety management system"*.

This Audit has been conducted on the basis that Lynmouth Harbour is not a SHA and the full range of duties and powers of a SHA are not applicable. The summary presented below identifies that an 'organisation' running a marine facility, the Council at Lynmouth Harbour is **found to be non-compliant** with the requirements of the Port Marine Safety Code.

Number	Key Measures Ten-point 'health check'			
1	Duty Holder	0	2	9
2	Designated Person	0	0	2
3	Legislation	0	0	8
4	Duties and Powers	0	2	13
5	Risk Assessment	0	5	6
6	MSMS	2	1	32
7	Review and Audit	0	0	3
8	Competence	1	2	3
9	Plan	1	5	5
10	Aids to Navigation	0	1	2
Total		4	16	83

The following items do not meet the requirements laid out in the Code:

1. The Lynmouth Harbour Safety Management System document does not contain any safety performance or Key Performance Indicators (KPI) expectations.
2. The Lynmouth Harbour Safety Management System document does not contain a policy on training, revalidation or maintenance of qualifications.
3. The Organisation cannot evaluate the objectives of the plan [set within the Section 2.2 of the Lynmouth Harbour Safety Management System] as none are set.
4. There is no Harbour Environmental Policy or guidance to port users on minimising damage to the marine environment for Lynmouth. Section 7.0 of the MSMS states that there is one.

These non-compliances can be addressed with revisions to policies and plans making them fit for purpose for Lynmouth Harbour and minor changes to the Safety Management System document. The council may also wish to organise these policies so they are more accessible and ensure training is adequately filed and accessible for the officers of the harbour.

The PMSC audit identified 16 observations relating to improvement opportunities for management consideration. The following points identify the more significant items, the detailed findings being presented in Appendix A. The following are noted:

- Modifications to the risk management spreadsheet to capture additional details.
- Introduce KPI's for the marine safety plan.
- Consider including a representation for Lynmouth Harbour on the harbour board.
- Update plans and policies for Lynmouth Harbour and have them accessible on the North Devon District Website, similar to other marine ports.
- Ensure training records are maintained for all harbour employees.

It should also be noted that a number of best practice approaches are being used at Lynmouth Harbour, these include:

- A training matrix is presented in the MSMS which determines the essential and optional training requirements for each of the officer's position within Lynmouth Harbour.
- Internal auditing functions are conducted effectively at Lynmouth Harbour. Evidence from internal audits and the engagement of the Designated Person is an area of best practice.
- There has been a legal review into the legal powers for Lynmouth which helped determine the need for further work on creating fit for purpose local legislation.

4 References

DfT, 2016. Port Marine Safety Code, Department for Transport (DfT), November 2016.

DfT, 2018. A Guide to Good Practice on Port Marine Operations Prepared in conjunction with the Port Marine Safety Code 2016, Department for Transport (DfT), February 2018.

ISO 9001: Quality Management Systems. International Organization for Standardization.

4.1 Websites

<http://southwest.coastalmonitoring.org>

<https://democracy.northdevon.gov.uk/ieListDocuments.aspx?CId=300&MId=955&Ver=4>

<https://northdevon.gov.uk/business/ilfracombe-harbour/ilfracombe-harbour-board>

<https://www.gov.uk/government/publications/marine-licensing-exempted-activities>

<https://www.lyntonandlynmouthtowncouncil.gov.uk/lynmouth-harbour/port-marine-safety-code/>

<https://www.northdevon.gov.uk/business/ilfracombe-harbour/ilfracombe-harbour-visiting-boat-information>

<https://www.northdevon.gov.uk/media/378812/environmental-plan-new-issue-aug-18.pdf>

<https://www.visitmyharbour.com/harbours/bristol-channel/lynmouth-harbour>

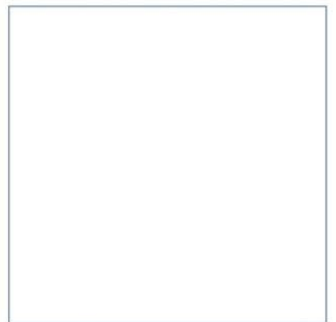
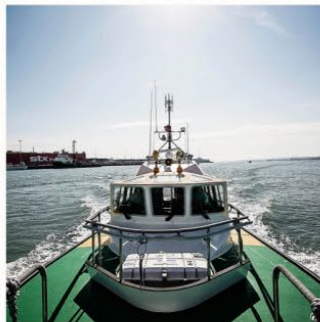
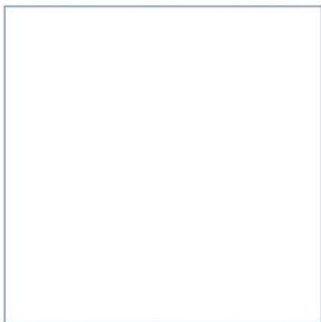
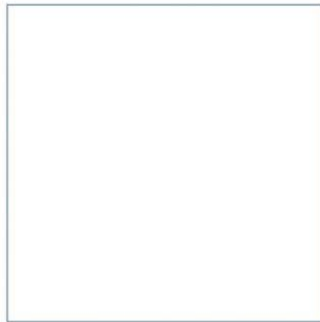
5 Abbreviations/Acronyms

AtoN	Aid(s) to Navigation
CERS	Consolidated European Reporting System
CHA	Competent Harbour Authority
DfT	Department for Transport
GLA	General Lighthouse Authority
GtGP	Guide to Good Practice on Port Marine Operations
HEO	Harbour Empowerment Order
HM	Her Majesty's
IMO	International Maritime Organization
ISO	International Organization for Standardization
JCB	Construction Equipment/Plant
KPI	Key Performance Indicator
LH-SMS	Lynmouth Harbour Safety Management System
LLA	Local Lighthouse Authority
LLTC	Lynton & Lynmouth Town Council
LPS	Local Port Service
LSC	Lynmouth Sailing Club
MAIB	Marine Accident Investigation Branch
MCA	Maritime and Coastguard Agency
MGN	Marine Guidance Notes
MMO	Marine Management Organisation
MSMS	Marine Safety Management System
n/a	Not Applicable
NDC	North Devon Council
OPRC	International Convention on Oil Pollution Preparedness, Response and Co-operation
PEC	Pilotage Exemption Certificates
PMSC	Port Marine Safety Code
QMS	Quality Management System
SAC	Special Areas of Conservation
SHA	Statutory Harbour Authority
SOSREP	Secretary of State's Representative
SPA	Special Protection Area
UK	United Kingdom
UKHO	United Kingdom Hydrographic Office
VTs	Vessel Traffic Service

Cardinal points/directions are used unless otherwise stated.

SI units are used unless otherwise stated.

Appendix



Innovative Thinking - Sustainable Solutions

A Detailed Audit Findings

A.1 PMSC Section 1 – Accountability for Marine Safety

PMSC /GtGP Reference	Subject	Evidence Required For Compliance	Evidence of Compliance	Recommendation	Evidence Reference	Auditor
1.3-1.5	Duties and Powers	Is the Organisation's Duty of Care for users of the harbour, port of facility stated?	Satisfactory – the 'Lynmouth Harbour Safety Management System (LH-SMS) states that: <i>"Lynton and Lynmouth Town Council, as Agents for North Devon District Council are cognisant of their responsibility for the management and running of the harbour plus its environs in relation to marine operations and port undertakings within its control. LTC understands its statutory and common law duties which include an obligation to conserve and facilitate the safe use of the harbour and an express duty to take such action it considers necessary for the maintenance, operation, improvement and conservancy of the harbour."</i>		HJA_001	HJA
		Are local Acts and Orders identified?	Satisfactory – from Council records, there is no known Harbour Empowerment Order (HEO) or other relevant harbour Acts or Orders. HM Land Registry identifies Council owned assets. Anecdotal information identifies that the Highways Agency and NDC own or operate the remainder of the built harbour assets in Lynmouth. The Council is therefore a marine facility owner and operator of these facilities.		HJA_002	HJA
		Is the Harbour, Docks and Piers Clauses Act 1847 incorporated into local Acts and Orders?	Not applicable – as there is no known SHA nor other relevant harbour Acts or Orders, the provision of 'The Harbour, Docks and Piers Clauses Act 1847' are not applied at Lynmouth.		n/a	HJA

PMSC /GtGP Reference	Subject	Evidence Required For Compliance	Evidence of Compliance	Recommendation	Evidence Reference	Auditor
1.6 – 1.7	The Duty Holder	Has the organisation published and confirmed who the Duty Holder is?	<p>Satisfactory – the LH-SMS in Section 3.1.1 identifies the Duty Holder as the 'North Devon Full Council (NDC) as Lynmouth Harbours' owners hold the role of Duty Holder under the PMSC. Section 4.2 of the LH-SMS describes the function of the Harbour Board.</p> <p>Satisfactory – the LH-SMS in Section 3.1.3 described the responsibilities and function of the Harbour Board.</p> <p>Observation – the Governance of the 'NDC Harbour Board' includes four Councillors and four locally appointed individuals. If the Board's remit covers Lynmouth it may be appropriate to consider Lynmouth representation within the Board's membership.</p> <p>Observation – The Sub-Committee is not identified in the Lynmouth harbour organisational breakdown section 1.3.3. it is instead referred to as the Lynton and Lynmouth town council and within section 3.1.8 it is referred to as the harbour user group.</p>	<p>Recommend – Board Governance is reviewed at the next opportunity to include representation for Lynmouth Harbour.</p> <p>Recommend –there feels to be some confusion on the name and makeup of the Sub-committee in its purpose within the MSMS. Consider rewording and aligning the definitions within the report.</p>	<p>HJA_001 HJA_003 HJA_004</p> <p>https://northdevon.gov.uk/business/ilfracombe-harbour/ilfracombe-harbour-board/</p>	HJA
1.8	The Duty Holder	Are the Duty Holder's responsibilities for compliance with Code defined?	Satisfactory – the LH-SMS (in Section 3.1.1 identifies the Duty Holders' responsibilities under the Code.		HJA_001	HJA
1.10	The Duty Holder	Does the Duty Holder (Harbour Board members) have a clear understanding of the port's marine activities and MSMS?	<p>Satisfactory – reporting by the Town Clerk is made on maintenance matters.</p> <p>Satisfactory – the harbour is regularly inspected and audited; the findings are reported to the harbour board regularly.</p>		<p>HJA_001 HJA_006 HJA_007 HJA_008</p>	HJA

PMSC /GtGP Reference	Subject	Evidence Required For Compliance	Evidence of Compliance	Recommendation	Evidence Reference	Auditor
Cont. 1.10	Cont. The Duty Holder	Has the Duty Holder (Harbour Board members) been provided with a clear brief or training on their role under the requirements of the Code?	Satisfactory – the Lynton and Lynmouth Town Council Mayor has received Duty Holder training.		HJA_014	HJA
1.11-1.12	The Designated Person	Has the Harbour Authority appointed an individual as the Designated Person?	Satisfactory – the LH-SMS in Section 3.1.4.1 states: <i>"The role of Designated Person as defined in the Port Marine Safety Code is Jon Triggs the Director of Resources and Deputy Chief Executive for North Devon Council"</i> .		HJA_001	HJA
		Is the Designated Person's role explained in the MSMS?	Satisfactory – the LH-SMS in Section 3.1.4 identifies the role of the Designated Person for Lynmouth Harbour.		HJA_001	HJA
1.13	Chief Executive [or equivalent]]	Have executive and operational responsibilities for marine safety been clearly assigned?	Satisfactory – the 'Harbour Board' has assigned Lynton and Lynmouth Town Council as agents for NDC who have delegated authority over the harbour (asper section 1.0 of the MSMS).		HJA_001	HJA
		How is marine safety funded within the organisation?	Satisfactory – harbour staff have approved spending limits for maintenance. The Council property team also has planned and costed maintenance activities.		HJA_001	HJA
1.9, 1.14 – 1.15	Harbour Master	Have executive and operational responsibilities for marine safety been clearly assigned?	Satisfactory – there is no appointed Harbour Master as Lynmouth Harbour is not considered to be a SHA. The Harbour Master from Ilfracombe is the 'Marine Advisor' for Lynmouth. The town clerk is responsible for all matters related to marine safety (Section 3.1.5 of the LH-SMS).		n/a	HJA
		Does an officer with responsibilities for marine safety attend Board meetings?	Satisfactory – the Town clerk and the Ilfracombe harbour master (as the Lynmouth marine advisor) attend the Harbour board meetings.		HJA_015 HJA_016	HJA
1.16 – 1.17	The Organisation's Officers	Does the MSMS provide details of the organisation's Officers and their responsibilities for marine safety?	Satisfactory – the Authority's officers are identified in LH-SMS Section 3.1. The role of the Town Clerk, Council works foreman and staff, and marine advisor are all described with their responsibility to maintain marine safety under the code stated.		HJA_001	HJA

A.2 PMSC Section 2 – Key Measures Needed to Secure Marine Safety

PMSC/GtGP Reference	Subject	Evidence Required For Compliance	Evidence of Compliance	Recommendation	Evidence Reference	Auditor
2.2	Further guidance	Does the organisation review any of the following: <ul style="list-style-type: none"> MAIB digest / reports MCA health check trends 	Satisfactory – Harbour Master at Ilfracombe brings to the attention of the Town Clerk any matters of relevance from the MAIB digest or MCA Health Check trends.		Anecdotal	HJA
2.3 – 2.6	Review existing powers	Does the Harbour Authority have an understanding of local legislation?	Satisfactory – from Council records, there is no known HEO or other relevant harbour Acts or Orders. HM Land Registry information of asset ownership is held on file. The harbours legislation has been reviewed internally and externally with a decision made to undertake a HEO which is currently underway.		HJA_003	HJA
		Are local Acts and Harbour Orders referenced in MSMS?	Not applicable – Lynmouth Harbour is not a SHA so does not have any local Acts or Harbour Orders.		n/a	HJA
		Have the Harbour Authority's existing powers been reviewed?	Satisfactory – NDC commissioned an Acts and Order legal review which confirm Lynmouth Harbour has no local Acts or Orders. This is noted as a best practice approach. A HEO is being undertaken.		n/a	HJA
		Is the organisation's jurisdiction mapped and clear?	Satisfactory – HM Land Registry information of asset ownership is held on file.		HJA_018 HJA_019	HJA
2.7 – 2.11	Use of formal Risk Assessment	Have risks associated with marine operations been assessed and a means of controlling them deployed?	Satisfactory – the Council maintains a list of risk assessments for the harbour, which is managed by the Town Clerk. The current set of Risk Assessments are dated 2019 (version 5). In total, there are 15 risk assessments covering a range of hazards scenarios with summary actions by Council staff and the User Group. Given the type and size of the harbour operations, these assessments should be considered as a best practice approach. Anecdotal evidence for annual review.		HJA_001 HJA_009	HJA

PMSC/GtGP Reference	Subject	Evidence Required For Compliance	Evidence of Compliance	Recommendation	Evidence Reference	Auditor
Cont. 2.7 – 2.11	Cont. Use of formal Risk Assessment	Cont. Have risks associated with marine operations been assessed and a means of controlling them deployed?	<p>Observation – whilst the second row of Sheet 1 is marked '2019 (v5)' and the document saved name indicates it was reviewed in 2023. Other than this there is no revision history. It is important to evidence a review history for assessments.</p> <p>Observation – the authoring and review of the assessments is not stated. It is important that those carrying out risk assessments are identified and have been trained to do so. This cannot be evidenced from the information presented.</p> <p>Observation – the risk assessment list does not contain certain marine risks such as 'marine pollution', 'vessel fire', 'grounding' etc. These are foreseeable risk in all harbours.</p> <p>Observation – the risk assessments summarise a 'level' of risk as H/M/L. For Likelihood this is not clear as all risk are 'L' with no definition of acronyms in the first cell.</p> <p>Observation – the Code's Guide to Good Practice recommends that assessments consider:</p> <ul style="list-style-type: none"> ▪ Effect to people; ▪ Effect to the environment; ▪ Effect/loss/damage to the Organisations property; and ▪ Effect on the business or amenity. 	<p>Recommend – consider adding a revision table either in a separate document or a separate sheet within the excel document. Record reviews and amendments to the risk assessment with a dated record.</p> <p>Recommend – in addition to adding a review table ensure there is a space to add who undertook the review of the risk assessments.</p> <p>Recommend – ensure that the risk assessments include marine related risk.</p> <p>Recommend – add H/M/L at the top of the column similar to the Level column to identify what the acronym means.</p> <p>Recommend – adding description that recognises the effect a certain hazard has on the four criteria mentioned in the guide to good practice section 4.3.18.</p>	HJA_001 HJA_016	HJA

PMSC/GtGP Reference	Subject	Evidence Required For Compliance	Evidence of Compliance	Recommendation	Evidence Reference	Auditor
Cont. 2.7 – 2.11	Cont. Use of formal Risk Assessment	How does the organisation ensure those undertaking marine risk assessment are competent in the role?	Satisfactory – the Council provides a health and safety risk assessment advisor; in addition, the harbour risk assessments are reviewed during internal audit. Satisfactory – the training matrix identifies that marine risk assessment training is essential for the marine advisor and Town clerk. Anecdotal evidence suggests both the Marine Advisor and Town Clerk have had risk assessment training in the past.		HJA_001 HJA_003	HJA
		Are stakeholders included in marine risk review/assessments?	Satisfactory – harbour risk assessments are periodically brought to the attention of the harbour user group. The risk assessment spreadsheet records: <i>"Lynton & Lynmouth Town Council (LLTC) manage the Harbour on a daily basis via a User Group; Chaired by a Councillor."</i>		HJA_009	HJA
		Does the MSMS prescribe the review frequency for risk assessments?	Satisfactory – the LH-SMS identifies a review frequency within section 13.0 as being <i>'Lynmouth 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'</i> .		HJA_001 HJA_009	HJA
		Is a system of Dynamic Risk Assessment used?	Satisfactory – dynamic risk assessment is address in the LH-SMS in section 13.1.		HJA_001	HJA
2.12-2.14	Implement a MSMS	Is there an MSMS? Does this incorporate policies and procedures? The MSMS must incorporate a regular and systematic review of its performance.	Satisfactory – an MSMS is in place (termed the LH-SMS within this audit). The latest edition from Council records is dated October 2022 and issued as Version 7. Observation – the document amendment record shows Version 7 as released October 2023; however this is also determined a draft version of the report.	Recommend – update with the website with the final version of the LH-SMS.	HJA_001 https://www.lyntonandlynmouthtowncouncil.gov.uk/lynmouth-harbour/port-marine-safety-code/	HJA
2.15	MSMS standards and KPIs	Does the MSMS detail KPIs and/or make a statement about performance in the organisation's annual report?	Non-compliant – the LH-SMS does not contain any safety performance or KPI expectations. Anecdotal evidence provided for a discussion to include KPIs but this has yet to be actioned upon.	Recommend – adding measurable marine safety performance criteria for Lynmouth Harbour.	HJA_001	HJA

PMSC/GtGP Reference	Subject	Evidence Required For Compliance	Evidence of Compliance	Recommendation	Evidence Reference	Auditor
2.16	MSMS assigning responsibility	Does the MSMS explicitly assign responsibility for appropriate safety/conservancy matters?	Satisfactory – the LH-SMS in Section 6.0 identified Conservancy Duty and Section 12.0 identifies the responsibility for incident reporting and investigation.		HJA_001	HJA
2.17	MSMS Consultation	Are forum/consultation meetings held?	Satisfactory – the harbour has an active Harbour User Group. The group's activities are fundamental to the safe and effective running of the harbour. Daily checks are carried out, evidence sighted. The Harbour User Group are referenced multiple times in the LH-SMS.		HJA_001	HJA
2.18	Competence standards	Are personnel qualified and trained for their marine safety role?	<p>Satisfactory – the LH-SMS in Section 4.0 titled 'TRAINING, AWARENESS AND COMPETENCE: <i>"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"</i>.</p> <p>Satisfactory – the LH-SMS Section 4.1 contains a training matrix that states the essential and optional training required for each council staff position. This is considered as an area of best practice.</p> <p>Observation – not all essential training has been undertaken for example the town clerk has not undertaken GMDSS training nor is there a port radio to use.</p>	<p>Recommend – ensure all essential training is undertaken as per the training matrix or re-evaluate the training required per role.</p>	HJA_001 HJA_003	HJA
		Is there a policy on revalidation or maintenance of qualifications in place?	Non-compliant – the LH-SMS states that the training policy should be held with the town clerk however a policy was not provided.	Recommend – ensure a policy exists and that it is excisable	HJA_001	
		Is there a list of the organisation's staff, training received, qualifications held and/or experience required for their role?	<p>Satisfactory – the Lynton and Lynmouth officer forms part of the council estate. Training for officers are identified within the LH-SMS.</p> <p>Observation – during the audit no form of training or qualifications determined by the MSMS could be identified for the Council staff at Lynmouth.</p>	Recommend – ensure all essential training is undertaken as per the training matrix and that a training record is kept up to date for the organisation.	HJA_001	HJA

PMSC/GtGP Reference	Subject	Evidence Required For Compliance	Evidence of Compliance	Recommendation	Evidence Reference	Auditor
2.19 – 2.22	Incident reporting and investigation	Does the MSMS identify the organisation's instruction regarding: <ul style="list-style-type: none"> reporting recording of incidents investigation enforcement (if relevant). 	Satisfactory – the LH-SMS in Section 12.0 'Incident Reporting and Investigation' identifies that: <i>"The Town Clerk will maintain a log of any incident or accident reported. If the incident is reportable this will be carried out under the RIDDOR regulations (to the HSE) or to the MAIB following Marine Guidance Note 564 'Marine casualty and marine incident reporting'".</i>		HJA_001	HJA
GtGP 13.2	Incidents involving Death or Crime	Are procedures in place for incidents involving death or crime?	Satisfactory – the LH-SMS section 12.0 identifies the actions to take in the event of Death or Crime.		HJA_001	HJA
GtGP 13.9	Incident publication	Does the Harbour Authority disseminate information from accident investigations?	Satisfactory – outputs from incident reports are made internally to the Council. There have been no MAIB reportable incidents.		HJA_001	HJA
2.23	Incident statutory reporting	Are procedures for reporting incidents to the MAIB in place?	Satisfactory – the LH-SMS in Section 12.0 'Incident Reporting and Investigation' states that: <i>"If the incident is reportable this will be carried out under the RIDDOR regulations (to the HSE) or to the MAIB"</i> . In addition, MGN 564 is referenced for guidance in marine incident reporting.		HJA_001	HJA
2.24	Monitoring performance and auditing	Has the MSMS been subject to audit (internal and/or external)?	Satisfactory – evidence of the last external PMSC Audit carried out by the ABPmer in 2021 was sighted. Evidence of internal audit carried out by the Health and Safety Adviser sighted. Audit reports are presented to the Harbour Board by the Health and Safety Adviser and the Designated Person. This is an area of best practice.		HJA_001 HJA_002 HJA_003 HJA_006 HJA_007 HJA_008	HJA
2.25	Enforcement	Are local officers aware of enforcement powers and responsibilities?	Satisfactory – from Council records, there is no known HEO or other relevant harbour Acts or Orders. The Council has no specific harbour enforcement powers at Lynmouth. Observation – the 'Lynmouth Sailing Club (LSC) Dinghy Park By-laws' are published on the Council's harbour website. The LSC document is a set of user rules.	Recommend – as there are no powers to issue Byelaws, the document title is misleading. The document should be renamed to avoid confusion.	https://www.lyntonandlynmouthtowncouncil.gov.uk/lynmouth-harbour/	HJA
Cont. 2.25	Cont. Enforcement	Is there a policy on enforcement and prosecution in place?	Not applicable – Lynmouth Harbour is not a SHA so does not have powers to enforce.		n/a	HJA

PMSC/GtGP Reference	Subject	Evidence Required For Compliance	Evidence of Compliance	Recommendation	Evidence Reference	Auditor
2.26	Publication of plans and reports	Does the organisation commit itself to developing policies and procedures to satisfy the requirements of the Code?	<p>Satisfactory – the Authority commits itself in Section 2.1 to ‘<i>adopted a health & safety management system in compliance with the principles set out in the Port Marine Safety Code</i>’ which involves putting in place controls, plans and policies for various marine operations or emergencies.</p> <p>Observation – within section 2.1.1 where the NDC commits to a health and safety policy. The link to the policy is inactive.</p>	<p>Recommend – update the link to the health and safety policy ensuring the policy is in place and up to date.</p>	HJA_001	HJA
2.27	Plan assessment	Is an assessment of the organisation’s performance against the plan published?	<p>Satisfactory – Section 2.2 is titled ‘Marine Safety Plan for Marine Operations’ This plan provides a statement of intent for the harbour and states its commitment to marine safety.</p> <p>Non-compliant – the plan does not identify the organisations performance against the plan nor is there published evidence of the performance as required by section 2.27 of the code.</p>	<p>Recommend – gather monitoring information for audits and set KPI’s to allow a performance review to take place.</p>	n/a	HJA
2.28	Safety plan for marine operations	Is a ‘Safety Plan for Marine Operations’ published (every three years).	<p>Satisfactory – the Authority commits itself in its ‘Safe Marine Operations Policy’ contained as Section 1 of the LH-SMS.</p> <p>Observation – the Code provides detail on the anticipated ‘Safety Plan for Marine Operations’. The ‘Marine Safety Plan for Marine Operations’ contained as Section 2.2 of the LH-SMS fulfils this requirement. However, there are no stated objectives.</p> <p>Observation – as the safety plan sits within the MSMS and is not dated it is hard to determine that it is reviewed on a three yearly basis.</p>	<p>Recommend – update the Marine Safety Plan for Marine Operations and include objectives for the harbour.</p> <p>Recommend – consider storing your safety plan separately or date within the MSMS so it can be reviewed on a three yearly basis.</p>	n/a	HJA
2.29	Consensus	Has the Harbour Board maintained consensus with harbour users and service providers about safe navigation?	See this Audit Report, Section 2.17.		n/a	HJA

PMSC/GtGP Reference	Subject	Evidence Required For Compliance	Evidence of Compliance	Recommendation	Evidence Reference	Auditor
2.30 – 2.32	Monitoring compliance	Has the Harbour Authority confirmed compliance with the PMSC for the port to the MCA within the last three years?	<p>Satisfactory – the Organisation has reported that Lynmouth is actively working towards compliance with the Code. NDC has written in February 2021 to confirm that Ilfracombe Harbour is Compliant with the Code.</p> <p>Observation – Lynmouth is currently stated as not being compliant with the code.</p>	<p>Recommend – once partial compliance can be confirmed it is suggested that the MCA is updated the status of Lynmouth Harbour.</p>	HJA_020	HJA
GtGP 2.2.3 (Also, Code Executive Summary)	Monitoring compliance	Has the Harbour Authority confirmed all organisations within its jurisdiction comply with the requirements of the Code?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA

A.3 PMSC Section 3 – General Duties and Powers

PMSC/GtGP Reference	Subject	Evidence Required For Compliance	Evidence of Compliance	Recommendations	Evidence Reference	Auditor
3.1 – 3.4	Safe and Efficient Port Operations	Does the Duty Holder have regard to efficiency, economy and safety of operation in respect to the services and facilities provided?	Satisfactory – the LH-SMS in Section 2 commits to delivering its responsibility for 'safe use of the harbour' and 'safe working practices'.		HJA_001	HJA
3.5	Open port duty	Is the port or harbour subject to Open Port Duty?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
3.6 – 3.6	Conservancy duty	How does the harbour authority conserve the harbour?: <ul style="list-style-type: none"> Survey as regularly as necessary Place navigation marks in optimum positions Keep 'vigilant watch' for any sea bed changes Keep hydrographic records Ensure hydrographic information is published Update UKHO with chart information. 	Satisfactory – from Council records, there is no known HEO or other relevant harbour Acts or Orders. However, the Council does have a common law duty of care to marine users of the harbour. Hence, conservancy responsibilities apply. The LH-SMS in section 6.0 addresses the following topics: <ul style="list-style-type: none"> Navigation Aids Wrecks Admiralty Charts Hydrography Dredging Notices to Mariners Satisfactory – Lynmouth Harbour has recently contracted a hydrographic survey by the same contactor as Ilfracombe and evidence has been sighted. Observation – it is stated that within the LH-SMS that Lynmouth harbour is the LLA, however without an Act or Order providing this function, this cannot be verified.	 Recommend – update the LH-SMS to remove reference to Lynmouth being an LLA until such status is acquired.	HJA_001 http://southwest.coastalmonitoring.org	HJA
3.7	Updates provided to UKHO	Does the organisation have an Agreement with UKHO, and/or do they provide survey information to UKHO?	Satisfactory – there is no specific Lynmouth Agreement with the UKHO. There is a bilateral agreement between Ilfracombe Harbour and UKHO (which could be extended to include Lynmouth Harbour).		n/a	HJA

PMSC/GtGP Reference	Subject	Evidence Required For Compliance	Evidence of Compliance	Recommendations	Evidence Reference	Auditor
GtGP 1.9.11, and 7.8	Licensing, Regulating Harbour Works and Dredging?	Does the harbour authority have the power to licence works?	Satisfactory – the Council conducts maintenance dredge activity once or twice a year using a JCB with dredge material placed on the foreshore to bolster the sea defence. There are no marine licences in place for Lynmouth to undertake this activity, however the MMO has been contacted and the MMO has deemed the quantity to be insignificant and not requiring a Marine Licence. It should be noted if greater quantity of material is removed from the seabed then the MMO should be further consulted on the activity.		HJA_001	HJA
3.8	Environmental duty	Does the Organisation understand its obligations: <ul style="list-style-type: none"> ▪ Nature conservation Section 48A of Harbours Act 1964 ▪ Obligations for SPA, SACs under Habitat Regs. ▪ Compliance with The Natural Environment and Rural Communities Act 	Satisfactory – Section 2.3 of the LH-SMS states that there is an environmental Plan which is taken from Ilfracombe and Section 7.0 states that there is an environmental protection policy. Observation – the environmental plan and policy were not located during the audit.	Recommend – consider updating the Lynmouth section of the NDC website with applicable plans and policies similar to that done for Ilfracombe, the plan that Ilfracombe has may be able to be shared with Lynmouth if it is relevant and referenced within the plan itself.	HJA_001	HJA
3.9	Civil Contingency & Emergency Plan	Does the MSMS include reference to marine emergencies?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
GtGP 6.2.4, 6.5	Emergency Planning / Pollution control	Does the MSMS include emergency planning and oil pollution response?	Satisfactory – the LH-SMS Section 11.0 identifies Emergency Response. Lynmouth does not have (or require) an OPRC Plan. However, the Council can access basic stocks of oil pollution equipment maintained locally by HM Coastguards based in Lynmouth.		HJA_001	HJA
		Does the port/harbour carry out emergency exercises?	Satisfactory – the Council exercises its wider contingency plans.		n/a	HJA
3.10 – 3.11	Powers and review	Has the Harbour Authority reviewed its powers?	See this Audit Report, Section 2.3-2.6.		n/a	HJA
3.12 – 3.14	Revising Duties and Powers	Evidence of Harbour Revision Orders, or Harbour Closure.	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA

A.4 PMSC Section 4 – Specific Duties and Powers

PMSC /GtGP Reference	Subject	Evidence Required For Compliance	Evidence of Compliance	Recommendations	Evidence Reference	Auditor
4.2	Appointment of Harbour Master	Is there a Harbour Master appointment for the port?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA. A Maritime Advisor is appointed by NDC to assist the Organisation's Officers with matters of Marine Safety.		n/a	HJA
4.3 – 4.5	Byelaws	Does the organisation have powers to make Byelaws, are these published?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
		Date of last byelaw review?	n/a		n/a	HJA
4.6 – 4.7	Special Directions	Are the Harbour Master's powers of Direction shown in the MSMS, how is delegation identified?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
4.8	General Directions	Are the powers of General Directions available to the Harbour?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
		When were General Directions last reviewed?	n/a		n/a	HJA
4.9	Harbour Directions	Are Harbour Directions used and published?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
4.10 GtGP 6.4	Dangerous Vessels	Does the MSMS (or other plan) make provision for giving directions to dangerous vessels?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
		Is the role of the SOSREP acknowledged?	n/a		n/a	
GtGP 6.2	Dangerous Substances/goods	Are there clear requirements for declaration of dangerous substances/goods?	Not applicable – the LH-SMS in Section 7.0 identifies that: <i>"Hazardous or dangerous cargoes are not currently handled at Lynmouth Harbour."</i>		HJA_001	HJA

PMSC /GtGP Reference	Subject	Evidence Required For Compliance	Evidence of Compliance	Recommendations	Evidence Reference	Auditor
GtGP 8.4	Vessel Traffic Management	Is vessel traffic managed within the port area, how is this achieved?	Not applicable – there is no requirement to actively manage vessel traffic as Lynmouth Harbour is not considered to be a SHA.		HJA_001 https://www.visitmyharbour.com/harbours/bristol-channel/lynmouth-harbour	HJA
Cont. GtGP 8.4	Cont. Vessel Traffic Management	Cont. Is vessel traffic managed within the port area, how is this achieved?	Satisfactory – There is sufficient information for visiting vessels on the approaches and the harbour in the Nautical Almanac. Observation – it may be useful to publish a guide or information for visiting vessels on the website.	Recommend – consider updating the Lynmouth section of the NDC website with information for visiting vessels.	HJA_001 https://www.visitmyharbour.com/harbours/bristol-channel/lynmouth-harbour	HJA
		Is vessel traffic monitoring information passed to the MCA by quickest means?	Not applicable – there is no CERS requirement.		n/a	HJA
		Has the need for VTS/LPS been reviewed recently?	Not applicable – there is no requirement to manage vessel traffic as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
GtGP 13.2.2	Drink and drugs	Do staff know what to do if they suspect that a mariner (master, pilot, seaman) has committed an offence whilst on duty?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
4.11 GtGP 9.0	Pilotage	Is the port a CHA?	Not applicable –Lynmouth Harbour is not a CHA.		n/a	HJA
		Has the requirement for pilotage been reviewed?	Not applicable – this is not relevant as Lynmouth Harbour is not a CHA.		n/a	HJA
4.12 GtGP 9.4	Pilotage Directions	Are Pilotage Directions issued?	n/a		n/a	HJA
		Were stakeholders consulted during the drafting phase of the most recent Pilotage Direction?	n/a		n/a	HJA
4.13 GtGP 9.4	Authorisation of pilots	Is the process for appointing Pilots referenced to in the MSMS?	n/a		n/a	HJA

PMSC /GtGP Reference	Subject	Evidence Required For Compliance	Evidence of Compliance	Recommendations	Evidence Reference	Auditor
4.14 GtGP 9.4.31	Pilot Training	Does the CHA implement the international regulations on the training and certification and operational procedures for pilots contained within International Maritime Organisation (IMO) resolution A960?	n/a		n/a	HJA
GtGP 9.5.43	Pilotage	Does the authority operate an effective Pilot Fatigue Management System?	n/a		n/a	HJA
4.15 – 4.16 GtGP 9.5	Pilot Exemption Certificates	Is a clear process for the issuing of PECs published?	n/a		n/a	HJA
Cont. 4.15 – 4.16 GtGP 9.5	Cont. Pilot Exemption Certificates	Are the requirements equivalent to those for an authorised pilot?	n/a		n/a	HJA
GtGP 8.10	Recreational navigation	Are recreational users of the harbour considered?	See this Audit Report, Section 8.4		n/a	HJA
GtGP 8.7.15 – 8.8.10	Port Passage Plan	Is there a published passage plan?	See this Audit Report, Section 8.4		n/a	HJA
4.17 – 4.20	Collecting Dues	Are dues clearly defined?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
4.21-4.23	Aids to Navigation (AtoN)	Are defects and rectification of defects recorded?	Satisfactory – Aids to Navigation are inspected by harbour staff. Evidence of harbour inspections sighted.		HJA_001 HJA_013	HJA
4.24	GLA returns	Are returns made to the General Lighthouse Authority (GLA)?	Satisfactory – the last Trinity House (GLA) inspection was carried out in February 2023. The Inspection report and letter was provided as evidence. The Aids to Navigation were found to be in good and efficient order.		HJA_012	HJA
4.25-4.32	Wrecks, Abandoned or unserviceable vessels	Does the MSMS refer to powers for dealing with wrecks?	Satisfactory – the LH-SMS Section 6.2 details the process for addressing wrecks in the harbour in coordination with the relevant regulators.		HJA_001	HJA
GtGP 9.4.17 - 9.4.21	Pilot Launches	Do pilot boats meet statutory requirements and appropriate Codes?	Not applicable – pilot boats do not operate out of Lynmouth Harbour.		n/a	HJA

PMSC /GtGP Reference	Subject	Evidence Required For Compliance	Evidence of Compliance	Recommendations	Evidence Reference	Auditor
GtGP - 10	Towage Operations	Does the organisation produce towage guidelines?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
		Is there a process for approving towage providers?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
		Are non-routine tows pre-approved / managed by the organisation?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
GtGP 1.9.11	Licensing Harbour Tugs?	Does the harbour authority have the power to licence tugs?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
GtGP - 10.4	Diving Operations (commercial)	Is there a process for managing commercial diving?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
GtGP - 10.4	Diving Operations (recreational)	Is there a process for managing recreational diving?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
GtGP - 6.7.3	Hot Work Permits	Is there a process for managing Hot Works?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA
GtGP – 6.7.3	Bunkering	Is there a process for managing Bunkering?	Not applicable – small scale refuelling of recreational vessels occurs in the harbour (from hand-held fuel containers). There are no bunkering facilities.		n/a	HJA
GtGP – 11.3, 11.4	Regulation of Port Craft, Pilot Launches and Workboats	Does the Authority have a procedure for regulating port craft?	Not applicable – this is not relevant as Lynmouth Harbour is not considered to be a SHA.		n/a	HJA

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