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**PORT MARINE SAFETY CODE**

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**1.0 EXECUTIVE SUMMARY**

- 1.1 This report provides an update on ongoing initiatives to ensure compliance with the Port Marine Safety Code (PMSC). In particular, this report lists key issues highlighted by the Designated Person in his last audit report which either require addressing or have been addressed. The report also provides a review of targets achieved in the Marine Safety Plan and an update on the review of overtime working within Marine Services.
- 1.2 At the last meeting of the Harbour Board in March of this year, the ten findings from the Designated Person's audit (carried out in January 2019) were discussed in some detail. Of the ten audit findings originally raised, five had been completed by the time of the last Harbour Board meeting; only two now remain outstanding. For details of actions / updates etc. see Appendix A of this report. The two findings outstanding are as follows: - Harbour Regulations & Limits of Jurisdiction (see process details in Appendix B) and Pilotage at Campbeltown.
- 1.3 The approved Marine Safety Plan (MSP) document has now been placed on the Council web site to ensure users are aware of the document – as requested by the DP. The published Safety Plan shows how the standards in the Code are being measured. Appendix C lists all activity targets and how well these have been achieved. In all circumstances, targets have been met. To summarise, the situation is as follows:-
- There have been no navigational incidents.
  - Hydrographic surveys continue at all major ports on a rolling calendar basis.
  - PMSC audits by the DP continue on an annual basis.
  - There has been no major incident due to pilotage error.
  - Consultation with users at User Groups continues.
  - Training of marine personnel continues and is recorded in a training matrix.
- 1.4 The Council appointed 'Marico Marine' to provide an independent "Designated Person" (DP) service, as described in the PMSC - initially on a three year contract - which has recently been extended; it is, however, due for renewal and documentation will be issued for tender purposes in the very near future. Members of the Northern Collaboration Board have been invited to be party to this contract; one other authority has expressed some interest to date.

- 1.5 A report was presented to the Harbour Board in April 2016 regarding marine staff shift patterns and overtime working. The report explained that overtime payments for marine staff were high, although, it was pointed out that shift patterns were arranged to provide cover during lengthy operating times at the Council's main piers and harbours. Appendix D provides a list of piers and harbour staff with operating hours for each staffed port.
- 1.6 Following the 2016 report, a complete review of shift arrangements and staffing levels was carried out. As part of the review, meetings took place with both staff and union representatives to consider alternative methods of working. The review considered a number of aspects.
- 1.7 A number of options for shift patterns / rotas etc. were considered for each of the main ports. The review concluded that, without exception, the current shift patterns utilised at our main piers and harbours are an efficient and cost-effective way to manage our resources. As the current arrangement meets the requirements of the working hours regulations, and potential alterations may have cost implications for the Council, no changes will be implemented for the time-being.
- 1.8 Members are asked to:-
  - a) note this report, including the achievement of performance targets in the Marine Safety Plan and
  - b) approve the actions outlined in Appendix A to this report to ensure continuous improvement.

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**2.0 INTRODUCTION**

- 2.1 This report provides an update on ongoing initiatives to ensure compliance with the Port Marine Safety Code (PMSC). In particular, this report lists key issues highlighted by the Designated Person in his last audit report which either require addressing or have been addressed.
- 2.2 The report also provides a review of targets achieved in the Marine Safety Plan and an update on the review of overtime working within Marine Services.

**3.0 RECOMMENDATIONS**

- 3.1 Members are asked to:-
- a) note this report, including the achievement of performance targets in the Marine Safety Plan and
  - b) approve the actions outlined in Appendix A to this report to ensure continuous improvement.

**4.0 BACKGROUND**

- 4.1 In order to comply with the Port Marine Safety Code, the Council must develop and operate an effective marine 'Safety Management System' (SMS). Each harbour authority must appoint a DP to provide independent assurance directly to the "Duty Holder" that the Marine SMS is working effectively; their main responsibility is to determine, through assessment and audit, the effectiveness of the Marine SMS in overall compliance with the Code.
- 4.2 The Council's 'Safety Management System' document is live and a copy can be found here:-
- <https://www.argyll-bute.gov.uk/marine-safety-management-system>
- 4.3 The Marine Safety Management System must incorporate a regular and systematic review of its performance. To demonstrate the Council's commitment to marine safety, a Marine Safety Plan was produced and approved by the Harbour Board in 2017. See section 6 in this report for further information on performance targets.

## 5.0 PORT MARINE SAFETY CODE AUDIT FINDINGS

5.1 At the last meeting of the Harbour Board in March of this year, the ten findings from the Designated Person's audit (carried out in January 2019) were discussed in some detail. Of the ten audit findings originally raised, five had been completed by the time of the last Harbour Board meeting; only two now remain outstanding. For details of actions / updates etc. see Appendix A of this report.

The two findings outstanding are as follows:-

- Harbour Regulations / Limits of Jurisdiction –
  - Plans have been developed indicating proposed harbour limits for all of Argyll and Bute Council's 39 piers / harbours / slips – written descriptions will now be developed to allow Legal Services to re-produce details in their draft Consolidation Order. The new order will include the power to make Harbour Directions. For details of the consolidation order process, see Appendix B.
- Pilotage at Campbeltown –
  - The DP has highlighted concerns over the lack of control that the Council, as harbour authority, has over the Admiralty pilots currently operating within Campbeltown Harbour waters at the MOD facility.
  - The Queen's Harbourmaster's (QHM's) view is that an Admiralty Pilot should be in control for a berthing at a MoD facility, particularly as MOD facilities operate strict security regimes whereby personnel without clearance would not be permitted access - a ship secured to the jetty is regarded as part of the facility. For the time-being, a Memo of Understanding, between the QHM and Council, remains in force.
  - Our DP initially recommended that we should remove the role of the Admiralty Pilots and provide our own pilots; the DP's most recent advice is that the Council should 'authorise' MOD pilots; this would involve the provision of training to MOD pilots by Campbeltown Harbour Staff. A meeting with the QHM has been arranged to discuss this issue further.

Updates on the three findings, completed since the last meeting are as follows:-

- Accountability of the Duty Holder –
  - The DP takes the view that the position of 'Duty Holder' should be assigned to the Harbour Board – both collectively and individually – as opposed to the Executive Director, with responsibility for Marine Operations. Advice has been sought from our in-house legal team and based on that the DP has been advised that the Harbour Board is a fully constituted Council Committee and the position of Duty Holder will remain with the Executive Director.

- Licensing of small commercial vessels –
  - The DP raised concerns over the lack of inspections or direct licensing carried out by harbour staff on small vessels. Since small vessel licencing is nationally coordinated, the current arrangement cannot be altered by the Council. Harbour staff now check, against the Council list, to ensure that all small craft operating within Council harbours appear on the list of certificated vessels. No physical checks will be carried out by Council harbour staff.
- Incident Reporting –
  - The DP considered that there had been some under-reporting in relation to dangerous incidents. Harbourmasters have raised this issue at User Group meetings to ensure that future incidents are recorded – this will be a continuing action.

## **6.0 PORT MARINE SAFETY PLAN TARGETS**

- 6.1 The approved Marine Safety Plan (MSP) document has now been placed on the Council web site to ensure users are aware of the document – as requested by the DP.
- 6.2 The published Safety Plan shows how the standards in the Code are being measured. Appendix C lists all activity targets and how well these have been achieved. In all circumstances, targets have been met. To summarise, the situation is as follows:-
- There have been no navigational incidents.
  - Hydrographic surveys continue at all major ports on a rolling calendar basis.
  - PMSC audits by the DP continue on an annual basis.
  - There has been no major incident due to pilotage error.
  - Consultation with users at User Groups continues.
  - Training of marine personnel continues and is recorded in a training matrix.

## **7.0 DESIGNATED PERSON – CONTRACT**

- 7.1 The Council appointed 'Marico Marine' to provide an independent "Designated Person" (DP) service, as described in the PMSC - initially on a three year contract - which has recently been extended; it is, however, due for renewal and documentation will be issued for tender purposes in the very near future. Members of the Northern Collaboration Board have been invited to be party to this contract; one other authority has expressed some interest to date.

## **8.0 PIERS AND HARBOURS STAFF – OVERTIME WORKING**

- 8.1 A report was presented to the Harbour Board in April 2016 regarding marine staff shift patterns and overtime working. The report explained that overtime payments for marine staff were high, although, it was pointed out that shift patterns were

arranged to provide cover during lengthy operating times at the Council's main piers and harbours. Appendix D provides a list of piers and harbour staff with operating hours for each staffed port.

8.2 The Council is responsible for 41 marine structures; of these, five facilities are manned by Council employees. In all, 28 full time members of staff are employed at the following locations:-

- Campbeltown
- Dunoon (casual and temporary staff also employed on occasion)
- Oban North Pier
- Rothesay (casual staff also employed on occasion)
- Kilcreggan

8.3 Following the 2016 report, a complete review of shift arrangements and staffing levels was carried out. As part of the review, meetings took place with members of staff and union representatives to consider alternative methods of working. The review considered a number of aspects, such as:-

- Working hours regulations
  - Although high levels of over-time are being worked, the Council appears to be compliant with the working hours regulations. At times where additional assistance is required, resources can be called in from operatives in Roads and Amenity Services.
- Cover for annual leave
  - There is sufficient cover built in to current staffing levels to allow cover for annual leave.
- Reporting lines
  - Some changes will be made to the Piers and Harbours structure – introduction of new Marine Wardens at Port Askaig and Craignure being the main additions.
- Stand-by arrangements
  - A formal stand-by regime at all main ports and harbours is now in place – harbourmasters and their assistants are on stand-by rotas.
- Contractual overtime
  - Contractual overtime is a relatively high percentage of over-time payments in Marine Services which reflects the consistency of the overtime hours being worked to provide a service at the Council's main piers and harbours.
- Benchmarking with other authorities
  - A benchmarking exercise was carried out to compare our methods with other local authorities. A number of authorities (Moray, Shetland, and Orkney) keep harbours open 24 hours per day – they set up rotas to suit. Shifts vary from 6 hours to 12 hours with differing staff rotational patterns.
- Options to reduce overtime
  - A number of options were considered as a means to reducing over-time – but see 8.4 below.

8.4 A number of options for shift patterns / rotas etc. were considered for each of the main ports. The review concluded that, without exception, the current shift patterns

utilised at our main piers and harbours are an efficient and cost-effective way to manage our resources. As the current arrangement meets the requirements of the working hours regulations, and potential alterations may have cost implications for the Council, no changes will be implemented for the time-being.

## 9.0 CONCLUSION

9.1 The Council's Designated Person's latest report states that '*the basic requirements for compliance with the Port Marine Safety Code are now in place*'. This report provides Members with an update on a number of key issues previously identified by the DP. All targets set in the Marine safety Plan, approved in 2017 by Members of the Harbour Board, have been achieved. No further action is currently planned to alter marine staff shift patterns.

## 10.0 IMPLICATIONS

10.1	<b>Policy</b>	None directly arising from this report
10.2	<b>Financial</b>	The appointment of Marico Marine as 'Designated Person' has been met through operational budgets.
10.3	<b>Legal</b>	Any failure to implement the PMSC could have legal consequences in the event that there should be a marine incident.
10.4	<b>HR</b>	None
10.5	<b>Equalities</b>	None
10.6	<b>Risk</b>	The Council is undertaking to carry out actions to minimise risk to Council as a result of the operation of our Ports and Harbours
10.7	<b>Customer Services</b>	Having a completed Safety Management System in place will assist port customers with the use of our Ports and Harbours and Council staff with their safe operation.

**APPENDIX A** - PMSC Audit Findings from Designated Person

**APPENDIX B** - Consolidation Order Process

**APPENDIX C** - Marine Safety Plan Targets

**APPENDIX D** - Piers and Harbours Staff

**Executive Director with responsibility for Roads and Infrastructure:** Pippa Milne

**Head of Roads and Infrastructure Services:** Jim Smith

**Policy Lead:** Councillor Roddy McCuish

2 September 2019

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**APPENDIX A**

**DP AUDIT FINDINGS**

SUBJECT	Action required and if so by whom and when	Progress	SMS updated	Comment	Target Date for completion
1) Harbour Regulations / Limits of Jurisdiction - Consolidation Order to be put in place.	S. Clark	Continuing progress - harbour location plans now complete and discussions now taking place with Legal Services.	SMS will be updated once legal process is complete.	See details in body of the September 2019 report to Harbour Board.*	*See comment
2) Accountability of the Duty Holder – The DP takes the view that the position of ‘Duty Holder’ should be assigned to the Harbour Board	S.Clark	n/a	No change to SMS	The Duty Holder will remain Pippa Milne, Executive Director of Development and Infrastructure Services	Complete
3) Marine Safety Plan (MSP). The latest version of the MSP was approved by Members at the Harbour Board meeting held in September 2017. The existence of this report is not widely known.	n/a	n/a	n/a	MSP now on Council website	Complete
4) Navigational Risk Assessments (NRA) – Need for an extensive review of NRA's. To be recorded in the Marine Information System known as MARNIS.	n/a	n/a	n/a	Review of NRA's will be carried out on an annual basis - this year's all complete for main ports.	Complete
5) Proactive Management of Navigation – There must be an auditable trail of how navigational risks are managed on a day-to-day basis. Weekly navigational meetings to be set up at all main ports; minutes to be recorded and stored in the MARNIS information system.	n/a	n/a	n/a	Weekly navigational meetings are now being held and recorded in all main ports.	Complete
6) Emergency Preparedness – Oil Spill Plan requires updating. The programme for future emergency exercises requires to be agreed and published.	n/a	n/a	n/a	Oil Spill plan revised and updated. Programme for oil spill exercises for next 4 years has been produced.	Complete
7) Pilotage at Campbeltown – The DP has highlighted concerns over the lack of control that the Council, as harbour authority, has over the Admiralty pilots currently allowed to operate within Campbeltown Harbour waters at the MOD facility;	S.Clark	Memo of Understanding currently in place.	SMS will be updated if required.	* The Queen's Harbour Master (QHM) has stated that only MOD pilots may pilot their vessels - this audit finding remains outstanding.	*Ongoing - see comments
8) Licensing of small commercial vessels – The DP has raised concerns over the lack of inspections or direct licensing carried out by harbour staff on small vessels.	S.Clark / Harbour Masters	Complete	No need to alter SMS - Agreed with DP that physical checks are not required.	Harbourmasters were given the list of small craft held by Legal Services and then checked to ensure all vessels were listed.	Complete
9) Qualifications / Training for Harbourmasters – The DP raised some concern over future training plans for Council Harbourmasters.	n/a	n/a	Yes	Training matrix updated. New courses arranged for all Harbourmasters.	Complete
10) Incident Reporting – The DP considered that there had been some under-reporting in relation to dangerous incidents.	Harbourmasters	Ongoing	n/a	Harbourmasters have reinforce message - but this will be an ongoing task due to the nature of this issue.*	*Complete - but see comments

**APPENDIX B**

**CONSOLIDATION ORDER**

## **Consolidation Order Process**

### **1 Harbour Order Procedure**

The main tasks relating to a Harbour Order are:

- Informal discussions with Transport Scotland in relation to the Council's proposals;
- Determination as to whether there are any Environmental Statements / Impact Assessments required;
- Consultation with communities and interested parties; and
- Consolidated Harbour Order formally advertised.

### **2 Pre-Application**

Following completion of the plan a draft order will be prepared by Legal Services, thereafter the draft will be submitted to Transport Scotland who can comment informally on draft orders. Any draft should be accompanied by purpose and effect notes detailing the reason for seeking each power and the legal basis for doing so.

### **3 Formal Applications**

Following the conclusion of informal discussions the Council require to formally submit the proposed Harbour Order which should include:

- Purpose and effect notes if not already provided;
- An electronic copy of the draft Order; and
- The fee.

The proposed Order should not include any provision which relates to reserved matters out-with the competence of Scottish Ministers.

### **4 Fees**

Fees for Harbour Orders are fixed based on the powers required in the Order and are payable when a formal written application for an Order is made. Current fees are:

- £2,000 for an order the sole purpose of which is to amend the borrowing powers of an existing authority;
- £4,000 for any other order that would not empower an authority to undertake works;

- £6,000 for an order which expressly empowers an authority to undertake works where an EIA is not required; and
- £10,000 for an order which expressly empowers an authority to undertake works where it is decided that an EIA is required.

## **5 Advertisement**

Thereafter, the Council must publish notice once in the Edinburgh Gazette and once in each of two successive weeks on or more local newspapers. The Notice is required to comply with the requirements of Schedule 3 of the 1964 Act and should give:

- Notice that application has been made Scottish Ministers decision on the application of the EIA directive (if appropriate) and whether an ES has been supplied and, if so, where it and the draft order and any related maps etc. can be viewed;
- A concise summary of the draft order;
- A general description of any works and any land proposed for compulsory acquisition if appropriate; and
- Information on how objections should be made within 42 days of the date the order was first advertised and details of the procedure for handling these.

Original copies of each publication containing the notice must be provided to Transport Scotland.

Transport Scotland provides a template notice which provides suitable text to advise any objectors or people making representations how their responses will be handled for Data Protection purposes.

## **6 Consultation**

Scottish Ministers may direct that copies of the draft order are served on parties specified by them. This would normally be done during the pre-application discussion but may be done on receipt of the application. In all cases where an Environmental Statement is required we would normally require service on the following bodies:

- Scottish Natural Heritage (SNH);
- Scottish Environment Protection Agency (SEPA);
- Local Planning Authority;
- Northern Lighthouse Board;
- Maritime and Coastguard Agency;
- UK Chamber of Shipping; and
- Royal Yachting Association.

Consultation should also take place with local communities and neighbours and user groups of the harbours, slips and piers.

**APPENDIX C**

**MARINE SAFETY PLAN – TARGETS**

Number	Service Provision	Activity Target	Targets Achieved – August 2019?
1	Navigational Incidents	No major incidents, serious injuries or serious pollution as a result of a failure of the Councils Marine Safety Management System. All incidents investigated in accordance with defined procedures and closed out within an agreed timeframe.	There have been no major incidents since the Safety Plan was approved in 2017.
2	Conservancy and Hydrographic Surveys	Aids to Navigation Meet the availability targets of IALA Hydrographic Surveys Ensure that the Ports and Harbours have an adequate plan of hydrographic surveys and that these are undertaken in line with the agreed schedule and that the results are published within the target timescales.	AtoN – A formal agreement is now in place (Service Level Agreement) between Marine Services and Street Lighting to ensure navigation lighting faults are dealt with expeditiously. The Northern Lighthouse Board (NLB) carries out an audit every 5 years – the last audit was in 2016 and we were found to be compliant.  A contract is in place with the hydrographer ‘Aspect’, to carry out Bathymetric surveys on a rolling 3 year basis at all major ports.
3	Audit of SMS	Ensure that the audit is carried out on annual basis by the Designated Person and any deficiencies are corrected in a timely manner. SMS to reflect lessons learnt from other ports and incorporate the recommendations and conclusions of any port related MAIB investigation as appropriate.	Designated Person audits continue – last audit took place in January 2019. Audit findings are addressed and the Harbour Board is advised of progress on all related matters.  An internal audit will also be carried out this year by one of the Harbourmasters.
4	Pilotage services	No major incident due to Pilot/PEC holder error.	There have been no major pilotage-related incidents since the Safety Plan was approved in 2017.

Number	Service Provision	Activity Target	Targets Achieved – August 2019?
5	Liaison and consultation with stakeholders	Ensure good communication on marine safety matters for new and existing activities with Harbour Users Groups.	User Group meetings are continuing. Special consultation meetings take place where major works are being planned i.e. Rothesay, Iona, Fionnphort and Craignure.
6	Training of marine personnel	Ensure continuous professional development	<p>A training matrix is held centrally and appropriate training is arranged accordingly. Next training courses being organised for harbourmasters will be:-</p> <ul style="list-style-type: none"> <li>• MARNIS training</li> <li>• Marine Incident investigation</li> <li>• Auditing</li> </ul>

**APPENDIX E**

**PIERS AND HARBOURS STAFF**

## PIERS AND HARBOURS STAFF

Port	Number and types of staff in attendance per shift	Total number and types of staff employed	Operating hours of port
Campbeltown	Harbourmaster - 1 No.	Harbourmaster - 1 No.	Variable - depending upon vessel movements
	Ass. Harbourmaster - 1 No.	Ass. Harbourmaster - 1 No.	
	Pier Operative - 2 No.	Pier Operative - 2 No.	
Dunoon	Harbourmaster - 1 No.*	Harbourmaster - 1 No.	06:30 to 01:30 To reflect ferry timetable
	* day shift	Ass. Harbourmaster - 1 No.	
	Ass. Harbourmaster or Snr.	Snr Pier Operative - 2 No.	
	Pier Operative - 1 No.	Pier Operative - 3 No.*	
	Pier Operative - 1 No.**	Casuals employed at times.	
	** (3 shifts)	3 additional Pier Operatives employed for Coruisk operating in winter.	
Oban	Harbourmaster and Assistant	Harbourmaster - 1 No.	Variable - depending upon vessel movements
	Harbourmaster - 1 No.	Ass. Harbourmaster - 1 No.	
Rothesay	Harbourmaster - 1 No.	Harbourmaster - 1 No.	06:00 to 22:45 To reflect ferry timetable
	(day shift only)	Ass. Harbourmaster - 4 No.*	
	Ass. Harbourmaster - 1 No.	Pier Operative - 8 No.	
	(3 shifts)		
Kilcreggan	Pier Operative - 4 No.	* 2 No. job share.	06:45 to 18:45 To reflect ferry timetable
	(2 shifts)	Casuals employed at times.	
Kilcreggan	Piermaster - 1 No.	Piermaster - 1 No.	06:45 to 18:45 To reflect ferry timetable
	(Mon - Thurs)	Pier Operative - 1 No.	
	Pier Operative - 1 No.		
	(Fri - Sat)		