

PORT MARINE SAFETY CODE

1.0 EXECUTIVE SUMMARY

- 1.1 This report provides an update on ongoing initiatives to ensure compliance with the Port Marine Safety Code (PMSC).
- 1.2 The contract to provide Designated Person services is being renewed and tender returns are currently being reviewed with colleagues in Procurement. The existing contract with Marico Marine will be terminated on 31 August this year.
- 1.3 A copy of the Designated Person's latest audit report (July 2020) is attached in Appendix A to this report.
- 1.4 The approved Marine Safety Plan (MSP) document is available on the Council web site; this ensures all users can review the document. The published Safety Plan shows how the standards in the Code are being measured. Appendix B lists all activity targets and how well these have been achieved. 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 – see attached.
 - There has been no major incident due to pilotage error.
 - Consultation with users at User Groups – Face-to-face meetings, of late, have not taken place due to Covid-19 restrictions, but it is hoped that meetings (making use of modern technology) can be recommenced in the near future.
 - Training of marine personnel continues and is recorded in a training matrix – a group has been set up to review harbourmaster training. Further work on this aspect is to be carried out.

- 1.5 Members are asked to:-

Consider this report, including the achievement of performance targets in the Marine Safety Plan.

PORT MARINE SAFETY CODE

2.0 INTRODUCTION

- 2.1 This report provides an update on ongoing initiatives to ensure compliance with the Port Marine Safety Code (PMSC).
- 2.2 A copy of the Designated Person's latest audit report (July 2020) is attached in Appendix A to this report.

3.0 RECOMMENDATIONS

- 3.1 Members are asked to:-

Consider this report, including the status of performance targets in the Marine Safety Plan.

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 contract to provide DP services is being renewed and tender returns are currently being reviewed with colleagues in Procurement. The existing contract with Marico Marine will be terminated on 31 August this year.
- 4.3 The Council's 'Safety Management System' document has just recently been updated – in May 2020. It is a live document and a copy can be found here:-

<https://www.argyll-bute.gov.uk/marine-safety-management-system>
- 4.4 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. The Plan, along with details of targets, is attached to Appendix B in this report.

5.0 PORT MARINE SAFETY CODE AUDIT FINDINGS

5.1 Notable issues raised in the Designated Person's report and their current status are as follows:-

- DP Report (Section 1) - Designated Person Contract / further audits and review of Navigational Risk Assessments -
 - Tenders have been returned and a new contract is due to be awarded.
 - Post contract award, the DP will be invited to carry out an in-depth audit and review of all marine documentation.
 - Through the Northern Roads Collaboration, Angus Council (Arbroath Harbour) will share DP services under the same contract. There are no cost implications to the Council by sharing DP services, but likely to be a benefit in terms of knowledge by working more closely with another authority.
- DP Report (Section 2) - Byelaws and Local Legislation
 - As previously reported, Legal Services is working on a draft Consolidation Order. They have just recently entered into discussions with the Council's solicitors 'Brodie's' with a view to completing a draft order in the near future.
- DP Report (Section 3) – Harbour Board Meetings and PMSC Compliance
 - At the last Harbour Board Meeting, Members agreed '*to instruct Officers to promote the correct usage of the traffic lights in Rothesay Harbour by circulating information to clubs, also making them aware of the actions that can be taken in the event of failing to comply with the regulations.*' A letter was issued by the Rothesay harbourmaster on 23 July 2020 to all local marinas to remind mariners of the restrictions at Rothesay and to advise that anyone in contravention of the rules would be denied future access to the harbour.
- DP Report (Section 4) – Consultation and Communication
 - User Group meetings, have of late, been curtailed due to Covid-19 restrictions. Whilst restrictions over face-to-face meetings remain in place, efforts will be made to re-introduce meetings with users using modern technology.
- DP Report (Section 7) – Emergency Preparedness
 - Emergency Plans are in place for our main ports; these documents will now be rolled-out to cover marine facilities of lesser importance.
- DP Report (Section 10) – Pilotage

- 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. Discussions between the QHM and Marine Operations Manager are continuing with a view to revising the current Memo of Understanding between the QHM and Council.
- DP Report (Section 13) – Professional Qualifications and Competencies
 - A group is being set up within Marine Services to develop a training strategy for harbourmasters and their assistants.
- DP Report (Section 14) – Accident Reporting and Investigation
 - Steps will be taken to encourage users of Council marine facilities to report dangerous incidents.

6.0 PORT MARINE SAFETY PLAN TARGETS

6.1 The approved Marine Safety Plan (MSP) document is available on the Council web site; this ensures all users can review the document.

6.2 The published Safety Plan shows how the standards in the Code are being measured. Appendix B lists all activity targets and how well these have been achieved. 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 – see attached in Appendix A.
- There has been no major incident due to pilotage error.
- Consultation with users at User Groups – Face-to-face meetings, of late, have not taken place due to Covid-19 restrictions, but it is hoped that these meetings can be recommenced in the near future.
- Training of marine personnel continues and is recorded in a training matrix – a group has been set up to review harbourmaster training. Further work on this aspect is to be carried out.

6.3 The current version of the Marine Safety Plan is due for renewal. This task will be carried under the supervision of the Designated Person once the new contract is in place.

7.0 CONCLUSION

7.1 The Council's Designated Person's latest report makes the following statement:-

'While the council wrote to the MCA in March 2018 to confirm that, overall, compliance with the PMSC could not be confirmed, considerable progress has been made since that date, and it is anticipated that compliance is likely to be achieved,

at least for the larger ports, before the next compliance confirmation is required by the MCA in March 2021...

This report provides Members with an update on a number of key issues previously identified by the DP.

8.0 IMPLICATIONS

8.1	Policy	None directly arising from this report
8.2	Financial	The appointment of Marico Marine as Designated Person has been met through operational budgets.
8.3	Legal	Any failure to implement the PMSC could have legal consequences in the event that there should be a marine incident.
8.4	HR	None
8.5	Fairer Scotland Duty	
8.5.1	Equalities – protected characteristics	None directly arising from this report
8.5.2	Socio-economic Duty	None directly arising from this report
8.5.3	Islands	See risk below
8.6	Risk	The Council is undertaking to carry out actions to minimise risk to Council as a result of the operation of our Ports and Harbours
8.7	Customer Services	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 - Designated Person Audit Report – Jul 2020

APPENDIX B - Marine Safety Plan Targets

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July 2020

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APPENDIX A

DESIGNATED PERSON AUDIT REPORT – JUL' 2020

ARGYLL AND BUTE COUNCIL

**DESIGNATED PERSON REPORT TO THE ARGYLL AND
BUTE HARBOURS BOARD - JULY 2020**



Report Number: 14UK1046-July 2020

Issue: 01

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Ports
Association



International
Harbour Masters
Association



MARINE AND RISK CONSULTANTS LTD

ARGYLL AND BUTE COUNCIL

DESIGNATED PERSON REPORT TO THE ARGYLL AND BUTE HARBOURS BOARD - JULY 2020

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EXECUTIVE SUMMARY

In January 2015 Argyll & Bute Council (A&BC) appointed Marine and Risk Consultants Ltd (Marico Marine) to provide an independent Designated Person (DP) service, as required under the Port Marine Safety Code (PMSC), on a three-year contract.

By mutual agreement between A&BC and Marico Marine the 3-year contract has been extended until 31 August 2020 at which point a new contract (which has been put out to commercial tender) will commence.

William Heaps is currently the named Designated Person and has established an effective relationship with A&BC marine operational staff and management team.

This report covers the period between 1 January and 15 July 2020.

Following an introduction, sections 2 to 14 of the report give more detail on the current status of compliance with each aspect of the Port Marine Safety Code, related to the relevant chapters of the accompanying Guide to Good Practice.

The following key observations are noted:

- Due to the uncertainties surrounding contract renewal since late 2018, the annual audit visit due for 2019 was postponed and it is unlikely to be completed before the current contract expires due to travel restrictions;
- During most of the period covered by this report, business has been significantly affected by the response to the global Covid-19 pandemic. However, notwithstanding these challenges, the core marine team has maintained oversight of the main harbours and continued to submit monthly reports which have been reviewed by the DP;
- It was previously recommended that an audit visit takes place as soon as possible. This recommendation remains relevant, and it is suggested that it should be taken forward by the new contract holder as soon as circumstances permit;
- There have been no amendments published to either the PMSC or the accompanying Guide to Good Practice since February 2018;
- The DP is pleased to note that the Board is reviewing PMSC matters and encourages members to continue setting clear policies to guide operational decisions by the Council's officers;
- The marine plan has now been approved by the Harbours Committee and published on the Council website. The Committee is urged to keep progress against this plan under review and to refresh it as targets are achieved and closed off;

- A&BC has a well-developed manual entitled “Argyll and Bute Marine Safety Management System”. The manual has been updated during the period covered by this report, with the version currently published on the website being v.11, dated May 2020;
- it is recommended that attempts continue to be made to formalise the Campbeltown pilotage MOU as soon as possible;
- Development of a Marine Training matrix is still outstanding; and
- The very low traffic levels throughout most of 2020 (winter period followed by Covid restrictions) has helped ensure that few significant marine incidents have been reported.

While the council wrote to the MCA in March 2018 to confirm that, overall, compliance with the PMSC could not be confirmed, considerable progress has been made since that date, and it is anticipated that compliance is likely to be achieved, at least for the larger ports, before the next compliance confirmation is required by the MCA in March 2021. It is therefore essential that an audit is completed in advance of the due date for the compliance letter to confirm compliance or otherwise.

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1 INTRODUCTION

In January 2015 Argyll & Bute Council (A&BC) appointed Marine and Risk Consultants Ltd (Marico Marine) to provide an independent Designated Person (DP) service, as required under the Port Marine Safety Code (PMSC), on a three-year contract.

By mutual agreement between A&BC and Marico Marine the 3-year contract has been extended until 31 August 2020 at which point a new contract (which has been put out to commercial tender) will commence.

William Heaps is currently the named Designated Person and has established an effective relationship with A&BC marine operational staff and management team.

This report covers the period between 1 January and 15 July 2020.

1.1 VISITS / AUDITS UNDERTAKEN DURING THE REPORTING PERIOD

During the reporting period the following activity took place:

- Regular communications with the Marine Operations Manager and Harbour Masters / Marine Team members.

Note, that due to the uncertainties surrounding contract renewal since late 2018, the annual audit visit due for 2019 was postponed and it is unlikely to be completed before the current contract expires due to travel restrictions.

1.2 COVID-19

During most of the period covered by this report, business has been significantly affected by the response to the global Covid-19 pandemic. This has prevented travel by the DP and is the main reason that the planned audit is unlikely to be completed. Furthermore, as the Harbour Board will be very aware, the normal day to day business and commercial activities at all of the A&BC ports and marine facilities has been severely and adversely impacted, with greatly reduced commercial and leisure traffic and the need to reduce manning to save costs.

However, notwithstanding these challenges, the core marine team has maintained oversight of the main harbours and continued to submit monthly reports which have been reviewed by the DP. This report is therefore necessarily limited in scope, but well informed by the continuing communications with the Harbours team.

PLAN FOR FURTHER WORK

It was previously recommended that an audit visit takes place as soon as possible, and the audit should particularly review the following aspects of PMSC compliance:

- Ensuring that the MSMS is fit for purpose, and evidence can be shown that it is being followed;
- Ensuring that the progress made at the larger ports is transferred to the safe management of marine activities at the outlying locations (jetties and slipways); and
- A full review of risk assessments and incident reports at all locations.

These recommendations remain relevant, and it is suggested that they should be taken forward by the new contract holder as soon as circumstances permit.

2 THE LEGAL BACKGROUND

There have been no amendments published to either the PMSC or the accompanying Guide to Good Practice since February 2018.

The MCA has recently filled the vacancy for a Port Liaison Officer (after a long vacancy), and it is expected that the new incumbent will pick up reviews of the Code and GTGP, as well as re-invigorating the process of Health Checks (external audit).

2.1 BYELAWS AND GENERAL AND DIRECTIONS

Previous reports have highlighted the importance of reviewing and updating the local legislation applicable to each marine facility (including byelaws and directions). The previous advice still stands, and the DP is not aware of any progress in this regard, other than the ongoing discussion in Oban regarding the establishment of a new Trust Port.

2.2 LIMITS OF JURISDICTION

The geographical limits of the Council's Statutory Harbour Areas are unclear in a number of locations and it is understood that work to develop a single Harbours Order is now well advanced.

The possible establishment of a new Trust Port in Oban has been considered by the Harbour Authority but requires considerably more work before a Harbour Revision Order is likely to be promoted. Until that time, the Council is operating Oban North Pier within the declared limits of jurisdiction and

continuing to liaise with existing local stakeholders including the Oban Community Harbour Development Association (OCHDA).

3 ACCOUNTABILITY OF THE DUTY HOLDER

This section reaffirms the Duty Holder's responsibilities under the PMSC. As the "Duty Holder", the Argyll & Bute Harbour Board are individually and collectively accountable for managing the safety of navigation as well as managing operations in A&BC ports and harbours, based on these general principles:

1. *'The Duty Holder is accountable for managing safe and efficient marine operations'* PMSC Article 1.1;
2. Harbour authorities *'should make a clear published commitment to comply with the standards laid down in the Code'* PMSC Article 1.1;
3. *'This Code represents the national standard against which the policies, procedures and performance'* of harbour authorities may be measured PMSC Article 1.1;
4. *'Executive and operational responsibilities for marine safety must be clearly assigned, and those entrusted with these responsibilities must be appropriately trained, experienced and qualified to undertake their duties and be answerable for their performance'* PMSC Article 1.1; and
5. *'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.'* PMSC Article 1.1.

The Duty Holder (Harbour Board) formally recognises their accountability for Port Marine Safety and has undertaken additional training in the form of a "Development Day" facilitated by the Designated Person in January 2019.

William Heaps of Marico Marine will fulfil the role of Designated Person until 31 August 2020 (and thereafter subject to re-appointment). Regular reports have continued to be received from all main harbours and during early 2020 the format and content of these was updated with the advice of the DP to make the reports more useful in terms of monitoring PMSC compliance. The DP has continued to provide advice and assistance under the terms of the extended contract.

3.1 HARBOUR BOARD MEETINGS

The DP accesses Harbour Board agendas, supporting papers and minutes from the Council website.

The Harbour Board met on 5 March 2020 and received a written report on PMSC matters and discussed the key issues raised.

The DP is pleased to note that the Board is reviewing PMSC matters and encourages members to continue setting clear policies to guide operational decisions by the Council's officers.

3.2 PMSC COMPLIANCE

While the council wrote to the MCA in March 2018 to confirm that, overall, compliance with the PMSC could not be confirmed, considerable progress has been made since that date, and it is anticipated that compliance is likely to be achieved, at least for the larger ports, before the next compliance confirmation is required by the MCA in March 2021. It is therefore essential that an audit is completed in advance of the due date for the compliance letter to confirm compliance or otherwise.

4 CONSULTATION AND COMMUNICATION

Occasional stakeholder meeting minutes continue to be received by the DP, confirming the observation made during the 2018 audit, and during attendance at Harbour Master meetings, that stakeholder consultation is most effective at the larger ports. It is, however, not surprising that such minutes have not been received during the period covered by this report, as Covid-19 restrictions have effectively precluded all such meetings. Consideration may need to be given to allowing remote participation in stakeholder meetings in the future.

Communication with the DP remains very effective, with all harbours regularly submitting monthly reports.

The marine plan has now been approved by the Harbours Committee and published on the Council website.

The Committee is urged to keep progress against this plan under review and to refresh it as targets are achieved and closed off.

5 NAVIGATIONAL RISK ASSESSMENT

Following recommendation made in 2018/19 all relevant staff have received training in the use of the MarNIS risk assessment and incident recording software supplied to the Council by ABPmer.

This should have greatly improved the quality of both assessments and incident reporting, but the DP has still not had the opportunity to review the current status, but notes that some harbours have used the opportunity presented by “lock-down” to devote time to reviews of risk assessments.

6 MARINE SAFETY MANAGEMENT SYSTEMS (MSMS)

A Marine Safety Management System comprises all the procedures, policies, documents, forms, systems and legislation which together are used to safely manage navigation and the day to day activities within a port, harbour or other marine facility. The term is, however, commonly used to describe the overarching manual describing all these components.

A&BC has a well-developed manual entitled “Argyll and Bute Marine Safety Management System”.

The manual has been updated during the period covered by this report, with the version currently published on the website being v.11, dated May 2020.

The review status of the manual, and evidence that the procedures within are both followed and effective, should be a focus of the next audit.

7 EMERGENCY PREPAREDNESS AND RESPONSE

At the larger ports, emergency plans are generally well developed and tested, though exercise programmes are not generally published.

Preparedness at the smaller locations could not be readily demonstrated (even to the extent that emergency response may be delegated to others, e.g. Police or Coastguard).

8 CONSERVANCY

Conservancy duties are generally well understood and now covered by procedures in the MSMS. Clarity of responsibilities will come with a full review of the extent of legal powers, and geographical extents of the SHA.

9 MANAGEMENT OF NAVIGATION

The regular Harbour Master’s meeting provides a useful forum to ensure consistent application of the Harbour Authority policies across all ports and facilities. However, such meetings have not been

possible recently due to Covid restrictions, but it is noted that the Harbour Masters remain in contact informally.

10 PILOTAGE

Campbeltown is the only A&BC port where pilotage is provided. The status of the current MOU with the MOD regarding Admiralty Pilots operating within the A&BC Competent Harbour Area was discussed in the January 2019 report.

While progress was made during 2019 and further discussion held with the MOD, it is understood that the MOU has still not been renewed, and it is recommended that attempts continue to be made to formalise current arrangements as soon as possible.

11 TOWAGE OPERATIONS

Campbeltown is the only location with regular towage provision. Nothing to report during 2020.

12 MARINE SERVICES

The council provides few traditional marine services, but small vessel licensing was a concern for several harbours. This matter was discussed at the May 2019 Harbour Master's meeting, and the most recent edition of the MSMS Manual fully addresses this subject and the necessary procedures (at Section 13.1.1.5 - Small Craft Regulation).

13 PROFESSIONAL QUALIFICATIONS AND COMPETENCIES

Although harbour staff do have some appropriate qualifications, and are certainly experienced, the Harbour Authority has not given any special regard to required marine qualifications. It was previously recommended that a specific marine training requirement should be developed and approved by the harbour authority (e.g. a job role specific matrix of required skills and ongoing training needs). It is noted that work has commenced on this project with an initial matrix having been prepared for Oban, which will be used as a model for all locations.

14 ACCIDENT REPORTING AND INVESTIGATION

The very low traffic levels throughout most of 2020 (winter period followed by Covid restrictions) has helped ensure that few significant marine incidents have been reported.

Such incidents as do occur are included in the monthly Harbour Master reports, which are received for the larger ports.

It remains important that all incidents at all locations are recorded and followed up. It is still not clear that this is happening across all of the Council's marine locations. (This will be identified through review of the MarNIS system during future audits).

14.1 ROTHESAY

Comprehensive reports are received, including navigational incidents.

2 minor incidents involving same vessel in February (poor seamanship). Followed up with advice.

1 incident of mechanical (engine) failure on a small vessel (May) assistance quickly provided.

During June and following relaxation of Covid restrictions, incidents of leisure vessels entering harbour against lights (and at times in contravention of Covid guidelines) were experienced again.

14.2 OBAN

Regular reports received. No significant marine incidents reported.

14.3 DUNOON

Regular reports received.

30 January: Argyll Flyer suffered near miss due to equipment failure and overshot berth. No damage / injury.

20 March: MV Alicat moved on berth. Passenger boarding halted.

14.4 CAMPBELTOWN

Regular reports received. No significant marine incidents reported.

On 24 June, the MAIB published an investigation report regarding the fall of a suspended load on general cargo vessel ZEA Servant injuring 2 crew, which occurred in Campbeltown on 2 March 2019. The safety issues identified were:

- both injured crewmen were standing within the hazardous zone beneath a suspended load, but no action was taken to halt the operation; and
- the operation being undertaken had not been subject to a risk assessment and the storage areas was inappropriate due to the snagging hazards.

No recommendations were made to the port as this was entirely a vessel related event, but it will be recalled that the port activated their emergency plan to provide assistance to the injured crew members and assisted with the subsequent investigations.

14.5 JETTIES / SLIPWAYS

No reports concerning jetties or slipways received during this period.

APPENDIX B

MARINE SAFETY PLAN – TARGETS

Number	Service Provision	Activity Target	Targets Achieved – Jul 2020
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	<p>Aids to Navigation</p> <p>Meet the availability targets of IALA</p> <p>Hydrographic Surveys</p> <p>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.</p>	<p>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.</p> <p>A contract is in place with the hydrographer ‘Aspect’, to carry out Bathymetric surveys on a rolling 3 year basis at all major ports.</p>
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.	<p>Designated Person audits continue – last audit report produced in July 2020. Audit findings are addressed and the Harbour Board is advised of progress on all related matters.</p> <p>Designated Person contract currently out to tender (July 2020).</p>

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.
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Number	Service Provision	Activity Target	Targets Achieved – Jul 2020
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 have been curtailed of late due to Covid-19 related restrictions on travelling and face-to-face meetings. It is hoped that we can reinstate these meetings later in 2020. Consultation on major marine infrastructure schemes has continued with community groups.
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"> • MARNIS training • Marine Incident investigation • Auditing <p>Further work is being carried out on the training matrix to ensure that Harbourmasters and their staff are trained on latest harbour-related aspects.</p>