

PORT MARINE SAFETY CODE

1.0 EXECUTIVE SUMMARY

- 1.1 This report provides an update on progress being made towards compliance with the Port Marine Safety Code (PMSC). The Designated Person's Annual Report (January 2022) is attached in Appendix A of this report.
- 1.2 The Port Marine Safety Code (PMSC) represents 'good practice' as recognised by a wide range of industry stakeholders. The current list of 237 ports published by The Department for Transport as complying with the Code represents around 14% of UK ports and 30% of Statutory Harbour Authorities. Argyll and Bute Council is working to ensure that its ports and harbours continue to function safely at the highest operational standards and is making progress towards securing full compliance with the PMSC.
- 1.3 Argyll and Bute Council's route to full compliance with the PMSC is aided and guided by a Designated Person (DP). The primary role of the Designated Person is to provide independent assurance regarding the operation of the Marine Safety Management System and in September 2021 Assurance Audits were carried out at Helensburgh Pier, Kilcreggan Pier and Dunoon Harbour.
- 1.4 The Port Marine Safety Code uses ten key measures as a baseline with which to compare compliance. Three of these key measures were identified by the Designated Person as not being met at Helensburgh and Kilcreggan, while four were identified at Dunoon. This report will address the measures taken to eradicate the deficiencies. The Assurance Audit Report for 'Helensburgh and Kilcreggan Piers' is attached as Appendix B of this report and the Assurance Audit Report for 'Dunoon Harbour' is attached as Appendix C of this report.
- 1.5 The DP Audit reports also highlight three examples of best practice at Helensburgh and Kilcreggan and three examples of best practice at Dunoon Harbour.
- 1.6 The Designated Person will make a presentation to Members of the Harbour Board separate to this report.

- 1.7 The next scheduled external Assurance Audits by the Designated Person are planned for September 2022 at Oban, Craginure, Fionnphort, Iona ferry slip and Bunessan.
- 1.8 Internal Audits by Harbour Masters specifically for PMSC compliance and to aid preparations are planned in advance of the External Assurance Audits.

RECOMMENDATIONS:

Members of the Harbour Board are asked to consider and endorse this report.

PORT MARINE SAFETY CODE

2.0 INTRODUCTION

- 2.1 This report provides an update on the progress being made towards compliance with the Port Marine Safety Code (PMSC).
- 2.2 The PMSC (the code) sets out a national standard for every aspect of port marine safety and identifies ten key measures as a benchmark against which successful high-level implementation of the code can be compared.
- 2.3 A Designated Person (DP) must be appointed to provide independent assurance regarding the operation of the Marine Safety Management System and this position was awarded to ABPmer in November 2020 with Monty Smedley appointed as DP.
- 2.4 The PMSC uses ten key measures as a baseline with which to compare compliance. Three of these key measures were identified by the Designated Person as not being met at Helensburgh and Kilcreggan, while four were identified at Dunoon. This report will address the measures taken to eradicate the deficiencies.
- 2.5 The DP audit reports also highlight three examples of best practice at Helensburgh and Kilcreggan and also three examples of best practice at Dunoon Harbour.
- 2.6 The Assurance Audit Report for 'Helensburgh & Kilcreggan Piers' is attached as Appendix B of this report and the Assurance Audit Report for 'Dunoon Harbour' is attached as Appendix C of this report as reference is made to findings.
- 2.7 Close liaison is maintained between the Marine Management, Harbour Masters and the DP to facilitate real time compliance and advice. A Harbour Master Meeting was held virtually by TEAMS on 1st February 2022 at which the DP made a presentation and remedial action plan towards full compliance with the code was agreed.

3.0 RECOMMENDATIONS

- 3.1 Members of the Harbour Board are asked to consider and endorse this report.

4.0 DETAIL

4.1 The PMSC sets out a national standard and identifies ten key measures as a benchmark against which successful high-level implementation of the code can be compared. The ten key measures identified in the code are as follows:

1. Duty Holder
2. Designated Person
3. Legislation
4. Duties and Powers
5. Risk Assessment
6. Marine Safety Management System (MSMS)
7. Review and Audit
8. Competence
9. Plan
10. Aids to Navigation

4.2 On 22nd September 2022, the DP carried out an Assurance Audit at Helensburgh Pier and Kilcreggan Pier, attended by the Marine Operations Manager Scott Reid and Pier Master Gavin Walker.

4.3 The DP report found that the following measures were not being met:

- No 5. Marine Risk Assessment: There are no marine risk assessments for either Helensburgh or Kilcreggan Piers. There is no documented stakeholder engagement on marine risk assessments.
- No 6. Marine Safety Management System: Whilst the Council provides a Marine Safety Management System (MSMS) manual [version 11, May 2020]; there is no Annex for either Helensburgh or Kilcreggan Piers.
- No 9. Plan: A 'Marine Safety Plan' for 2021 to 2023 is in place. The previous plan for the years 2018 to 2020 has not been assessed and the Organisation's performance published as required by the Code.

4.4 Areas highlighted in the audit report as 'Best Practice' at Helensburgh & Kilcreggan Piers are:

- Provision of bathymetric surveys for the piers and their approaches is considered to be best practice and a commitment by the Council in its duty of care for pier users.
- An Oil Pollution Response Plan is in place, which has been approved by the MCA. Given the size of marine operations at Helensburgh and Kilcreggan Piers, a response plan is recognised as an area of best practice.
- At Kilcreggan Pier, the pedestrian access routes, on site management by the pier staff and waiting area at a dedicated pier building makes for safe and efficient marine operations. The pier buildings have been newly

refurbished, the layout and maintenance of the Kilcreggan Pier is considered to be an area of best practice.

4.5 On 23rd September 2022, the DP carried out an Assurance Audit at Dunoon Harbour attended by the Marine Operations Manager Scott Reid and Harbour Master Paul Lambert.

4.6 The DP report found that the following measures were not being met:

- No 3. The Harbour Authority does not hold a copy of its local legislation, specifically 'The Pier and Harbour Orders Confirmation Acts 1895 to 1906'.
- No 4. Appointment letters for statutory roles are not in place. Incorporation of the 'Harbour, Docks and Piers Clauses Act 1847 cannot be ascertained as local legislation is not held.
- No 5. Marine risk assessments for Dunoon are in place and current. The MSMS does not stipulate review frequency, nor does the document address Dynamic Risk Assessment.
- No 9. Plan: A 'Marine Safety Plan' for 2021 to 2023 is in place. The previous plan for the years 2018 to 2020 has not been assessed and the Organisation's performance published as required by the Code.

4.7 Areas highlighted in the audit report as 'Best Practice' at Dunoon are:

- Provision and maintenance of Aids to Navigation is recognised as an area of best practice with a 100% availability for Category 3 and 99.6% for Category 2 Aids.
- All eight Councillors of the Harbour Board, plus the Council's Executive Director of Development and Infrastructure Services (as Duty Holder) have attended Duty Holder Training. The Marine Safety Plan has an objective of 100% attendance for Duty Holder training.
- A set of 16 marine risk assessments are in place for the harbour, all assessments were in-date at the time of audit. Review dates are staggered throughout the year. The hazard scenarios cover a range of foreseeable eventualities based on current harbour activities and past incidents. This is considered to be an area of best practice.

4.8 Advice from the DP is being closely followed and internal audits carried out to eradicate the deficiencies as a priority. These actions will be evaluated during the external audit process which will continue in September 2022 at Oban, Craignure, Fionnphort, Iona ferry slip and Bunessan.

4.9 Remedial Measures Action Plan:

Item No	Deficiency	Remedy	Status
3	Not holding copies of the Harbour Orders legislation	Locate the relevant legislation and ensure copies held by Argyll & Bute Council legal team and local harbour offices.	Copies obtained from Parliamentary archives.
4	Appointment letters for Statutory Positions (Harbour Masters)	Issue Argyll & Bute Council appointment letters to Harbour Masters quoting relevant legislation	Appointment letters format obtained and awaiting Legislation reference confirmations before issue.
5	<ul style="list-style-type: none"> a. Risk assessments for each location. b. Document stakeholder engagement c. MSMS does not stipulate review period or address Dynamic Risk Assessment. 	<ul style="list-style-type: none"> a. Enable MARNIS databank is set up for all locations. b. Local stakeholder input to be kept on record or by email. c. MSMS to be reviewed with revisions. Dynamic Risk Assessment to be addressed in the document and at the locations. 	<p>ABPmer MARNIS support assisting with software set up of 'Location tabs'.</p> <p>MSMS wide review and systematic 'Masters Review of MSMS' as a fixed agenda item on Harbour Masters Safety Meetings.</p> <p>Dynamic Risk Assessment 'Cards' to be printed and issued to harbours for use in 'On site On day' Toolbox talks and Risk Assessment.</p>
6	MSMS has no annex for all locations.	MSMS to be reviewed with revisions. All locations to be included as individual standard format annex.	Wide review of MSMS format and structure is ongoing.
9	MSP not assessed and performance published.	Marine Safety Plan to be assessed and performance published.	Targets and performance criteria to be reviewed and developed.

4.10 Although this report has focused on the remedial actions to non-conformances, the audit also highlighted many more observations which Officers and Harbour

Masters will use to structure planning and formalise processes throughout the Piers and Harbours operations and procedures.

5.0 CONCLUSION

5.1 This report provides Members with an update on the progress towards full compliance with the PMSC. Further updates will continue as the auditing process continues.

6.0 IMPLICATIONS

6.1 Policy - None directly arising from this report.

6.2 Financial - None arising from this report.

6.3 Legal - Failure to comply with the PMSC could have legal consequences following a marine incident

6.4 HR - None.

6.5 Fairer Scotland Duty:

6.5.1 Equalities - protected characteristics - None directly arising from this report.

6.5.2 Socio-economic Duty - None directly arising from this report.

6.5.3 Islands - Compliance with the PMSC will help ensure safe and effective port operations.

6.6. Climate Change - Climate Change – due regard will be given to climate change with a view to minimising any climate change impact and these will be considered as and when they arise.

6.7 Risk - Compliance with the PMSC will minimise the risk of port operations.

6.8 Customer Service - Compliance with the PMSC will assure customers and port users; and assist council staff with safe operations.

Kirsty Flanagan, Executive Director with responsibility for Roads and Infrastructure

Jim Smith, Head of Roads and Infrastructure Services

Policy Lead, Councillor Rory Colville

February 2022

For further information contact:

Jim Smith, Head of Road and Infrastructure Services
Jim.Smith@argyll-bute.gov.uk

Scott Reid, Marine Operations Manager
Scott.Reid@argyll-bute.gov.uk

APPENDICES

Appendix A – Designated Person Annual Report 2022

Appendix B – Audit Report – Helensburgh & Kilcreggan Piers November 2021

Appendix C – Audit Report – Dunoon Harbour October 2021