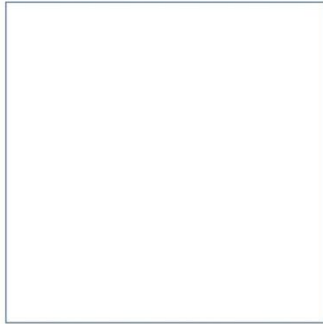
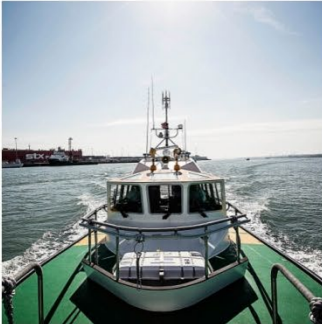
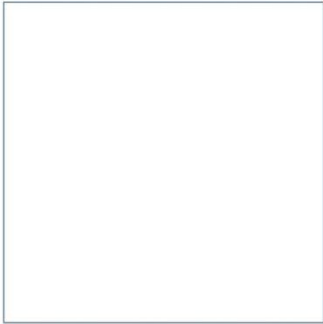
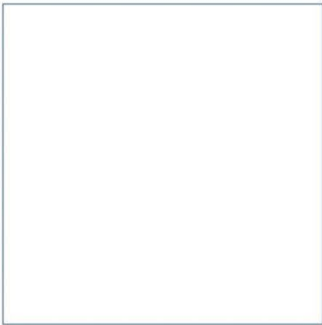


# Argyll and Bute Council

## Designated Person (PMSC)

Annual Report 2023

February 2023



Innovative Thinking - Sustainable Solutions

# Designated Person (PMSC)

Annual Report 2023

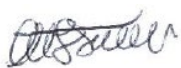


February 2023



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# 1 Introduction

This report is provided by ABPmer to Argyll and Bute Council and is written to inform the Harbour Board and Duty Holder of their current status in respect of compliance with the Port Marine Safety Code (PMSC) published by the Department for Transport (DfT) and regulated through the Maritime and Coastguard Agency (MCA). The Port Marine Safety Code is referred to within this report as 'the Code' and the accompanying Guide to Good Practice is abbreviated to 'the GtGP' (DfT, 2018). This report summarises activities carried out by ABPmer as the supplier of Designated Person services between 01 January 2022 and 31 December 2022.

## 2 Port Marine Safety Code

The Code sets out a national standard for every aspect of port marine safety (DfT, 2016). The aim of the Code is to enhance safety for everyone who uses or works in the UK port marine environment. In order to successfully implement the requirements of the Code, ten key measures are identified as relevant for all Harbour Authorities to consider. These are summarised below:

**Table 1. Port Marine Safety Code Ten Key Measures**

| No | Ten Key Measures Required for Successful Implementation of the Code |   |
|----|---|---|
| 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. |
| 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.                                |
| 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.  |
| 4  | Duties and Powers   | Comply with the duties and powers under existing legislation, as appropriate.   |
| 5  | Marine Risk Assessment  | Ensure all marine risks are formally assessed and are eliminated, or as low as reasonably practicable in accordance with good practice.   |
| 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.                               |
| 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.                                   |
| 8  | Competence  | Use competent people (i.e., trained, qualified and experienced) in positions of responsibility for managing marine and navigation safety.   |
| 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 three-years.  |
| 10 | Aids to Navigation  | Comply with directions from the General Lighthouse Authorities and supply information and returns as required.  |

## 2.1 Argyll and Bute Council and the Code

Argyll and Bute Council is a **Statutory Harbour Authority** at five locations and a **marine asset owner** at a further 34 marine facilities located throughout the Council area. The Council's Statutory Harbour Authorities are namely:

- **Oban North & South Pier**, by virtue of the 'Oban Pier and Harbour Orders 1862 to 1988'.
- **Dunoon Harbour**, by virtue of 'The Pier and Harbour Orders Confirmation Acts 1895 to 1906'.
- **Rothesay Harbour**, by virtue of the 'Rothesay Harbour Acts and Orders 1831 to 1937'.
- **Campbeltown Harbour**, by virtue of 'Campbeltown Harbour Acts and Orders 1846 to 2011'.
- **Craignure Harbour**, by virtue of the Argyll County Council (Arinagour and Craignure Piers, etc) Order 1961.

The Council is the marine asset owner and, in most cases, operator of 34 piers, wharves and slipways. Some of these marine assets are located within the jurisdiction of a Statutory Harbour Authority (for example, Kilcreggan and Helensburgh Piers are located in Clydeport's harbour). Others are located outside of Harbour Authority boundaries (for example, Iona and Fionnphort). In all situations, the Council is responsible for marine safety and must manage these facilities in compliance with the requirements of the Code.

## 2.2 Assurance audits

The primary role of the Designated Person is to provide independent assurance about the operation of the marine safety management system. This is achieved through assurance auditing at ports, harbour, piers and other marine facilities. The following audits were conducted during 2022:

- 06 September 2022: Oban North and South Pier PMSC audit.
- 29 September 2022: Craignure Harbour PMSC audit.
- 29 September 2022: Bunessan Pier PMSC audit.
- 29 September 2022: Fionnphort Pier and Slipway PMSC audit.
- 29 September 2022: Iona Slipway PMSC audit.

## 3 Audit Outcomes

The following section provides the outcome of the audits as a comparison against the Code's ten key measures. The following colour coding is used:

|  |   |
|--|---|
|  | A red identifies a <b>non-compliance</b> with the requirements of the Code or a breach of legal obligations; which may also compromise marine safety, environmental safety or presents a significant reputational risk. |
|  | An amber is an Opportunity for Improvement, such as an update to information, procedural change, or a non-conformity with local operating instructions; addressing these items may improve the overall system standard. |
|  | A green indicates an area of the Code which is delivered satisfactorily.  |
|  | Areas of best practice have also been identified as part of the audit's outcome.  |

Table 2. Oban North and South Pier Audit

| No | Ten Key Measures Required for Successful Implementation of the Code |   | RAG    |
|----|---|---|--------|
| 1  | Duty Holder   | The Duty Holder is the Council's Executive Director of Development and Infrastructure Services. The Harbour Board provides policy direction to the officers of the Authority.                           | Green  |
| 2  | Designated Person   | Argyll and Bute Council has appointed Monty Smedley of ABPmer as its Designated Person, the DP provides an annual briefing to the Duty Holder and Board.  | Green  |
| 3  | Legislation   | The Marine Safety Management System <b>does not list relevant Acts or Orders</b> for Oban North Pier, nor are the harbour limits mapped as described in Section 22 and 18 of the 1896 Act.              | Red    |
| 4  | Duties and Powers   | Annual exercises of both the Oil Pollution Response Plan and Emergency Plan at Oban would be beneficial. Use of Direction Powers and enforcement processes are not clearly laid out.                    | Yellow |
| 5  | Marine Risk Assessment  | The <b>MSMS does not stipulate review frequency, risk assessment review with stakeholders should be recorded.</b> Marine risk assessments for Oban North Pier are in place and current.                 | Red    |
| 6  | Marine Safety Management System                                     | The Council produces a Marine Safety Management System [version 11, May 2020]. The MSMS is presented as a manual with supporting Annexes for individual ports, harbours and piers.                      | Green  |
| 7  | Review and Audit  | The Council has an external and internal audit structure in place. The last internal audit was carried out at Oban in August 2022 and was a comprehensive check against the GtGP.                       | Green  |
| 8  | Competence  | Training policy requires review and approval by the Board. The training matrix should be expanded to include all roles. Storing of qualifications should be reviewed (i.e., local office or centrally). | Yellow |
| 9  | Plan  | A 'Marine Safety Plan' for 2021 to 2023 is in place. <b>The previous plan for the years 2018 to 2020 has not been assessed</b> and the Organisation's performance published as required by the Code.    | Red    |
| 10 | Aids to Navigation  | As the Local Lighthouse Authority, the Council meets and exceeds the availability criteria: Category 2 = 99.8% (target is 99.0%), Category 3 = 100% (target is 97.0%)                                   | Green  |

Items of best practice noted during the Oban audit include the following topics:

- Provision and maintenance of Aids to Navigation is recognised as an area of best practice with a 100% availability for Category 3 and 99.8% for Category 2 Aids.
- At the time of audit, all 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.
- The Oban North Pier pontoons, Oban Times Slipway and Oban North Pier are well maintained, managed and run by a dedicated team of harbour operatives lead by the Harbour Master. The Pier and Pontoons are considered to be a safe and efficient marine operation.

**Table 3. Isles of Mull and Iona Audit (Craignure, Bunessan, Fionnphort and Iona)**

| No | Ten Key Measures Required for Successful Implementation of the Code |   | RAG    |
|----|---|---|--------|
| 1  | Duty Holder   | The Duty Holder is the Council's Executive Director of Development and Infrastructure Services. The Harbour Board provides policy direction to the officers of the Authority.                           | Green  |
| 2  | Designated Person   | Argyll and Bute Council has appointed Monty Smedley of ABPmer as its Designated Person, the DP provides an annual briefing to the Duty Holder and Board.  | Green  |
| 3  | Legislation   | The Marine Safety Management System <b>does not list relevant Acts or Orders for Craignure</b> . Bunessan, Fionnphort and Iona are marine facilities and do not have their own local legislation.       | Red    |
| 4  | Duties and Powers   | Consultation processes with local stakeholders is not in place (or formalised). Bunessan has no bathymetric survey which is a non-conformity with the Council's hydrographic policy.                    | Yellow |
| 5  | Marine Risk Assessment  | There are <b>no marine risk assessments</b> or incident recording for <b>Bunessan, Fionnphort and Iona</b> . Craignure assessments are in place. The MSMS does not stipulate review frequency.          | Red    |
| 6  | Marine Safety Management System                                     | Whilst the Council provides a Marine Safety Management System (MSMS) manual [version 11, May 2020]; there is <b>no Annex for Bunessan, Fionnphort and Iona</b> . Craignure is included.                 | Red    |
| 7  | Review and Audit  | External PMSC audits are scheduled. There is no evidence that the unstaffed facilities at Craignure, Bunessan, Fionnphort and Iona have been included in internal audits.                               | Yellow |
| 8  | Competence  | Training policy requires review and approval by the Board. The training matrix should be expanded to include all roles. Storing of qualifications should be reviewed (i.e., local office or centrally). | Yellow |
| 9  | Plan  | A 'Marine Safety Plan' for 2021 to 2023 is in place. <b>The previous plan for the years 2018 to 2020 has not been assessed</b> and the Organisation's performance published as required by the Code.    | Red    |
| 10 | Aids to Navigation  | As the Local Lighthouse Authority, the Council meets and exceeds the availability criteria: Category 2 = 99.8% (target is 99.0%), Category 3 = 100% (target is 97.0%)                                   | Green  |

Items of best practice noted during the Craignure, Bunessan, Fionnphort and Iona audits include the following topics:

- Provision and maintenance of Aids to Navigation is recognised as an area of best practice with a 100% availability for Category 3 and 99.8% for Category 2 Aids.
- At the time of audit, all 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.

### 3.1 Assurance audit outcome

From Table 2 and 3, it is evident that none of the audits established that the Code was fully implemented. Some of the identified non-compliances related to Council wide issues, such as the review of the previous marine safety plan. Others were specific to the location, such as the non-retention of local Acts and Orders. The full audit reports provide the Council with the detailed findings and recommendations for observations, non-conformance and non-compliances.



## 4 Delivery Plan and Activities

During 2022, the Designated Person has attended the following:

- Meetings:
  - 01 February 2022: Council Harbourmasters' meeting, attended via MS Teams.
  - 03 March 2022: Designated Person presentation to the Harbour Board via MS Teams.
  - 04 November 2022: Council Harbourmasters' meeting, attended via MS Teams.
  - 12 December 2022: Harbour Board Business Day, attended via MS Teams.
- Training:
  - 05 September 2022: Duty Holder training run onsite at Oban.

This section provides a generalised plan for the Designated Person; this plan can be adapted to any developing needs of the Authority. Target activity delivery dates are shown below:

- Designated Person audit schedule:
  - September 2023: Rothesay, Port Askaig, Port Charlotte Pier, Bruichladdich Pier.
  - September 2024: Campbeltown, Carradale Harbour, West Loch Tarbert Pier.

## 5 Designated Person Summary

The Council is responsible for five Statutory Harbour Authorities and 34 marine facilities; all of which are required to operate to the standard of the Port Marine Safety Code. The audits carried out at Oban, Craignure, Bunessan, Fionnphort and Iona during 2022 have identified that a number of the Code's requirements are met. It is concluded that the Council is not in compliance with the Code at this time.

It does not necessarily follow that other marine facilities will demonstrate a similar pattern, however some of the non-compliances and observations identified by the 2022 audits sit at Council level (for example, Marine Safety Plan review). Others are localised items which the relevant harbour team can address (for example, local Acts and Orders).

The Audits also identified areas of best practice, including training provision for Duty Holders, aids to navigation performance and the attentive site management by the harbour staff at Oban.

## 6 References

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

Department for Transport, 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.

## 7 Abbreviations / Acronyms

|      |                                 |
|------|---------------------------------|
| DfT  | Department for Transport        |
| DP   | Designated Person               |
| GtGP | Guide to Good Practice          |
| MCA  | Maritime and Coastguard Agency  |
| MS   | Microsoft                       |
| MSMS | Marine Safety Management System |
| PMSC | Port Marine Safety Code         |
| RAG  | Red/Amber/Green                 |
| UK   | United Kingdom                  |

Cardinal points/directions are used unless otherwise stated.

SI units are used unless otherwise stated.

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