



# MARINE SAFETY MANAGEMENT SYSTEM

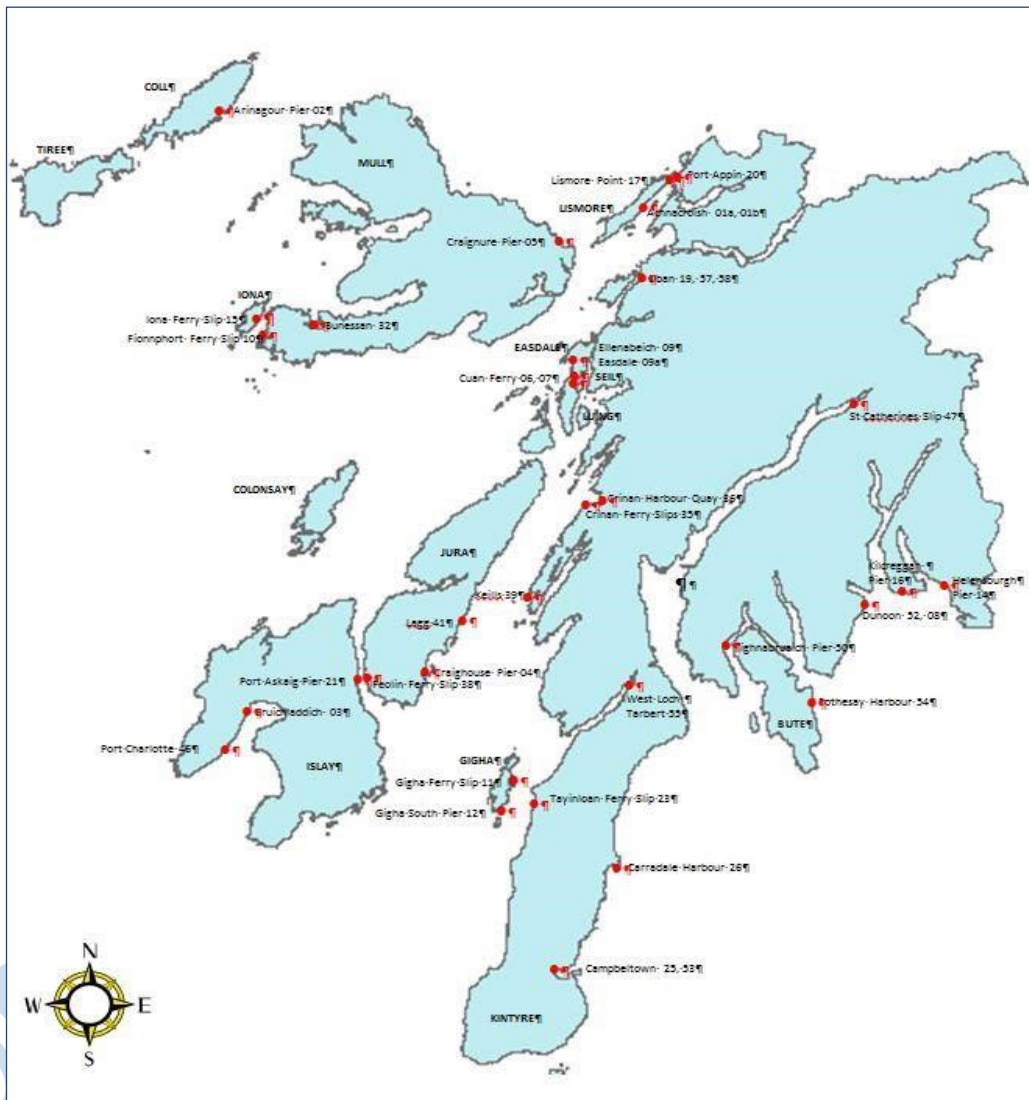
Volume I

POLICIES & STATEMENTS





## MARINE SAFETY MANAGEMENT SYSTEM



### DOCUMENT APPROVAL

Designation	Name	Signature	Date
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## MARINE OPERATION PROCEDURES – DISTRIBUTION LIST

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7	Vicki McKenzie – Oban Harbour Master (for sharing with all harbour staff)
8	Paul Lambert – Dunoon Harbour Master (for sharing with all harbour staff)
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13	HB Member
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## MARINE SAFETY MANAGEMENT SYSTEM – DOCUMENT RECORD

Revision No.	Amendment Date	By	Revision History
Draft	Jan 2023	SR	Document created – Draft for approval

01	TBC	MS	DP comments
02	TBC	KF	Duty Holder comments
03	TBC	HB	Harbour Board approval
04	TBC		Web Version for Public Viewing

## ABBREVIATIONS

Abbreviation	Detail
<b>A &amp; B C</b>	Argyll and Bute Council
<b>ALARP</b>	As Low As Reasonably Practicable
<b>CHA</b>	Competent Harbour Authority
<b>DP</b>	Designated Person
<b>DRA</b>	Dynamic Risk Assessment
<b>FSA</b>	Formal Safety Assessment
<b>HSE</b>	Health & Safety Executive
<b>MAIB</b>	Marine Accident Investigation Branch
<b>MCA</b>	Maritime and Coastguard Agency
<b>MOM</b>	Marine Operations Manager

<b>MSMS</b>	Marine Safety Management System
<b>NRA</b>	Navigation Risk Assessment
<b>NLB</b>	Northern Lighthouse Board
<b>PMSC</b>	Port Marine Safety Code
<b>SHA</b>	Statutory Harbour Authority

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## 1. Introduction

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.

Argyll and Bute Council manage these piers and harbours and as Competant Harbour Authority (CHA), Statutory Harbour Authority (SHA) or Marine Asset Owners and has responsibilities and duties under the Port Marine Safety Code, health and safety, environmental and maritime legislation & guidance.

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, 2016).

## 1.0 Argyll and Bute Council

Argyll and Bute Council is the Harbour Authority or Asset Owner recognised under 'The Code' for the following locations:

### 1.0.1 Bute, Cowal & Clyde

- Rothesay
  - Tighnabruaich
- Dunoon
- Kilcreggan
  - Helensburgh

### 1.0.2 Kintyre, Islay, Gigha and Jura.

- Campbeltown
  - Carradale
  - Tayinloan
  - Gigha
  - West Loch Tarbert
  - Port Askaig
  - Feolin
  - Bruichladdich
  - Port Charlotte
  - Craighouse

### 1.0.3 Oban, Lorn & The Isles

- Oban Harbour
  - Appin
  - Lismore Point
  - Easdale
  - Ellenabeach
  - Cuan North
  - Cuan South
  - Craignure
  - Bunessan
  - Fionnaphort
  - Iona

Other slipways for recreational use are maintained by Argyll & Bute Council



## 1.1 PMSC Requirements

The Port Marine Safety Code sets out a Standard for Marine Safety in UK Ports and Harbours

To ensure compliance with The Code, Harbour Authorities must address the following measures:

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

The Marine Safety Management System (MSMS) procedures and guidelines fulfil the requirements of the Port Marine Safety Code (PMSC) including but not limited to, the following:

- Making risk control the basis of all marine activities, procedures and regulations applied to or required of port users;
- Using risk assessment to identify the requirement for navigation aids;
- Applying risk assessment to all harbour works;
- Subjecting wrecks to risk assessment and programming periodic review;
- Maintaining systems to implement the findings of risk assessments;
- Identifying and designating safe pilot boarding and landing areas;
- Applying and adhering to current pilot transfer arrangement regulations;
- Reporting deficiencies on visiting vessels;

- Providing procedural advice for giving Directions in relation to dangerous vessels or substances;
- Regulating the use of harbour craft;
- Maintaining and developing a competence based training scheme to support delivery of all marine functions;
- Maintaining appropriate plans and procedures for emergency response and associated training/exercises.

## 1.2 Scope of the Marine Safety Management System (MSMS)

The Port Marine Safety Code requires Harbour Authorities to demonstrate compliance with the Code by the development and implementation of Policies and Procedures commensurate with Marine Operations that take place within their jurisdiction. The MSMS, as administered and managed applies to marine operations and activities within The Council statutory areas of jurisdiction.

The scope of the MSMS includes:

- Port and Harbour Operations
- Commercial shipping operations;
- Marine leisure and sports activities; and
- Marine operations undertaken by any support or service organisation; including dredging, ship and craft towage, pilot boarding and landing, mooring and line handling and other marine services.

## 1.3 Structure of the MSMS

The Argyll and Bute Council's Marine Safety Management System consists of:

**Volume I - Policies & Statements:** This Section sets out the Safety and Environmental Policies, Marine Safety Management Procedures and the Roles and Responsibilities of office holders and staff concerned with ensuring the safety of Marine Operations within the Councils area of responsibility.

**Volume II – Maritime Assets:** This Section contains Port specific information and standard Processes and Procedures applicable across Council Marine Assets.

**Volume III – System Documentation:** This Section contains Port Specific Processes and Procedures which although tailored to each individual Port will follow a common structure to ensure consistency across all assets.

## 1.4 National and Local Legislation

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.

Argyll and Bute Council is committed to ensuring its operations are carried out in full compliance with all relevant National and Local Legislation. The Council will provide high quality and efficient services and will regulate the activities throughout its Piers and Harbours ensuring that all National Legislation, Local Bylaws and Directions are enforced and complied with.

## 1.5 Training

Argyll & Bute Council will ensure that everyone who has responsibilities or is involved with the safety of navigation, is qualified and competent to do the job; and will ensure staff meet the nationally agreed standards of competence, or alternatively be able to show that their local competency standards are fully equivalent.

The general principles in relation to staff competence and development as outlined in the PMSC are:

- Systems developed by an authority with the aim of making best use of appropriate powers are likely to fail unless those people assigned any role in the system are competent and trained to nationally agreed standards;
- The foundation to these standards is an understanding that securing port safety is a team operation demanding an appreciation of the work of other specialists;
- Harbour authorities should assess the fitness of all persons appointed to positions with responsibility for the safety of navigation; and
- Harbour authorities should adopt a training strategy that develops a shared understanding of their safety management systems and promote the involvement of port users in training programmes.

### 1.5.1 Argyll & Bute Council Training Policy

It is Argyll and Bute Council policy that officers and staff are to be suitably trained to be 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.

Appropriate and effective training and the associated knowledge and skill of marine personnel are essential elements that enable the facilitation and management of navigational safety. To that end, and in compliance with the requirements of the PMSC, the Argyll and Bute Council Harbour Board shall:

- Ensure new staff receive induction training;
- Ensure that the annual training requirements, including in-house, emergency and counter-pollution training, for each member of staff will be assessed and a programme implemented; and
- Training needs will be considered during job appraisal;
- Adopt the levels of knowledge and skill for marine personnel associated with the international, national and local standards in support of the PMSC or demonstrate and document that any standards adopted are fully equivalent;
- Ensure that adequate resources are made available to maintain the established standards of knowledge and skill required by marine personnel;
- Assess the suitability of all persons appointed to positions with responsibility for safety of navigation to ensure the required standards of knowledge and skill are met;
- Ensure that all marine personnel are competent to perform the duties allocated to them and are encouraged to develop their skills and expertise beyond that immediately necessary to perform their primary functions so that they are well equipped and prepared for further advancement and career development;
- Establish and maintain an appropriate and effective ongoing schedule of marine training for marine staff;
- Promote the involvement of port users, allied services and other stakeholders in Argyll and Bute Council training programme as necessary;
- Facilitate and encourage exchange training and familiarisation between different marine disciplines as required;
- Establish and maintain an effective ongoing schedule of emergency management and response training and exercises;
- Establish a regular review and assessment programme of all Argyll and Bute Council marine training to ensure that standards are maintained, and that training is appropriate, relevant and cost effective;

- Ensure that personnel involved in the design and facilitation of training and assessment are appropriately qualified; and
- Ensure that appropriate training records are maintained.

## 1.5.2 Training Plan Responsibilities

**Table 1: Training Plan Responsibilities**

<b>Post</b>	<b>Training Responsibility</b>
Head of Roads and Amenity Services	Executive Director
Marine Operations Manager	Head of Roads and Amenity Services
Harbour Masters	Marine Operations Manager
Technical Officers	Marine Operations Manager
Assistant Harbour Masters	Harbour Masters
Pier Operatives	Harbour Masters
Ferry Operatives	Marine Operations Manager

## 1.5.3 Training Matrix

The Marine Operations Department shall maintain a training matrix for all staff and the respective line managers are responsible for keeping it up-to-date.

## 2. Policies

Argyll and Bute Council has developed Policies to ensure its Marine Operations are safe and in compliance with the Port Marine Safety Code. The primary purpose of these Policies is to provide an overall standard for marine operations throughout Argyll and Bute Council areas of jurisdiction. They also provide a reference point for a variety of operational decisions including the selection of resources and the design and implementation of safe working practices.

The Policies are:

- Council Health and Safety Policy
- Consultation Policy
- Risk Assessment Policy
- Environmental Policy
- Training Policy
- Navigation Safety Policy
- Safety of Navigation Policy
- Hydrographic Policy
- Pilotage Policy
- Enforcement Policy

### 2.1 Policy Review

The Marine Management Team shall undertake a formal review of all marine policies on a three yearly basis or as circumstances dictate. See Safety Management Plan.

### 2.2 Commitment Statement

The Executive Director, Development and Infrastructure Services as “Duty Holder” and the person with ultimate responsibility, has committed to compliance with the requirements of the PMSC. Furthermore, it is committed to ensuring that adequate resources are available to discharge its navigational safety obligations.

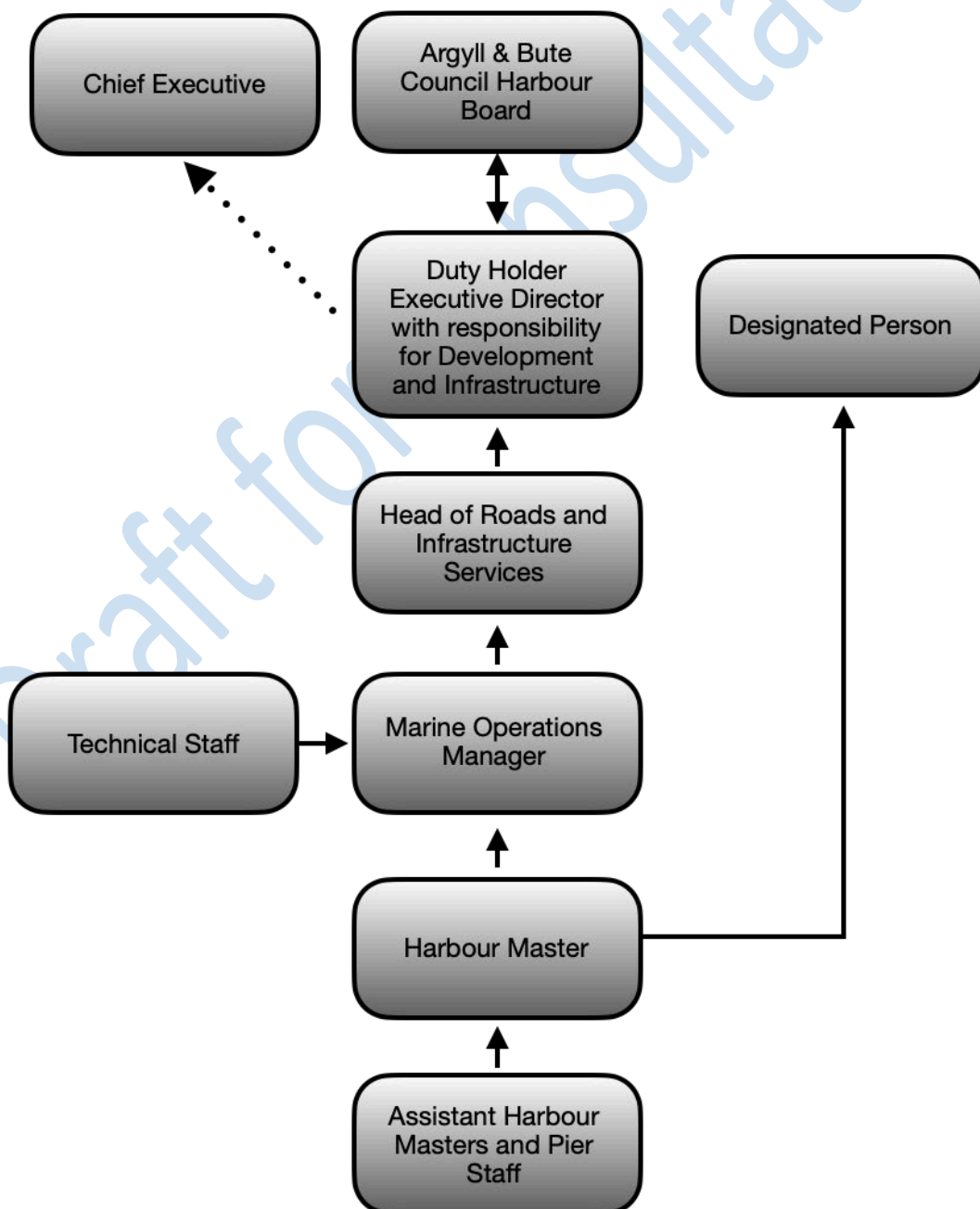
The purpose of this document is to show a link between the policies set by the Argyll Bute Harbours Board and the management arrangements, controls and provisions that discharge those policies.

### 3. The Council Marine Safety Management System

The Safety Management System is based on Formal Safety Assessment and is subject to a continual Hazard monitoring and Risk Assessment Process. The Safety Management System is subject to continual review to monitor its application and effectiveness

#### 3.1 Marine Safety Management.

Structure of Marine Operational Management.



## 3.2 Responsibilities

Roles that are important to the provision and delivery of the Council Safety Management System are listed as follows:

### 3.2.1 Argyll and Bute Council Harbour Board

Argyll and Bute Council recognises that under the requirements of the Port Marine Safety Code, it is the Statutory Harbour Authority for all piers and harbours under its ownership and has delegated that function to the Harbour Board. The members of the Harbour Board have responsibility for providing policy direction to the officers and others involved in the operational management and use of these facilities, and for scrutinising the implementation of these.

The members of the Harbour Board have received specialist training to enable them to discharge their duties in respect of the Port Marine Safety Code.

The Argyll and Bute Harbour Board has assigned the post of Duty Holder to the Executive Director, Development and Infrastructure Services.

The Duty Holder has the responsibility for ensuring that Argyll and Bute Council's duties and powers as Harbour Authority are met. The Argyll and Bute Harbour Board is responsible for the proper exercise of its legal duties as a Harbour Authority.

Argyll and Bute Council, as Harbour Authority has powers to appoint personnel, including the Marine Operations Manager and Harbour Masters, to manage the operation of the harbour area. Argyll and Bute Council also exercises a number of its functions as Harbour Authority through the Development and Infrastructure Director. However, Argyll and Bute Council through the Argyll and Bute Harbour Board retain ultimate accountability as the Statutory Harbour Authority.

Argyll and Bute Council as Harbour Authority along with the Duty Holder have a number of powers, duties and responsibilities:-

Duty to ensure an effective Safety Management System is in place as defined by the Port Marine Safety Code. This duty embraces:-

- Development and maintenance of its harbours and areas to meet the requirements of port users and safe operation of its harbour areas;
- Development and implementation of appropriate policies, plans and procedures;
- Ensuring that risk assessments and reviews of the Safety Management System are undertaken as required;



- Duty to adopt appropriate powers as required for effective enforcement of its statutory duties (Harbour Bye-laws & directions)
- Responsibility for setting harbour dues at a level, which adequately funds the discharge of their duties.
- Powers to appoint a Harbour Master / Port Marine Operations Manager
- Duty to provide marine services and facilities to meet their obligations as Harbour Authority.

### 3.2.2 Duty Holder

The nominated Duty Holder is the Executive Director, Development and Infrastructure Services.

Marine responsibilities of the Duty Holder

In respect of marine navigational safety:

- Discharges the duties and exercises the powers given to it, both directly and by delegation, as it considers appropriate.
- Discharges the function of "Duty Holder" as defined in the PMSC by ensuring compliance with the Code, and the safe management of navigation.
- Makes recommendations to the Harbour Board and other appropriate committees within the Council.
- Reviews the performance of Argyll and Bute Council against its strategic and operational objectives, plans, and budgets.

### 3.2.3 Designated Person

In meeting its obligations under the PMSC, Argyll and Bute Harbour Board has appointed a 'Designated Person' (DP) from ABPmer, who maintains a right of direct access to the Duty Holder.

The role of the DP is to:

- Provide independent assurance that the Duty Holder has an effective and appropriate Marine Safety Management System; and
- Provide the Duty Holder with independent and professional advice regarding Argyll and Bute Council's overall compliance with the requirements of the PMSC.

### 3.2.4 Council Office Holders.

#### **Head of Roads and Amenity Services.**

- To lead the delivery and provision of Marine Operations ensuring that appropriate an Safety Management System are in place to deliver high quality services and best value to service users, and that agreed plans are implemented efficiently and effectively.
- To work cooperatively with others (including external organisations where appropriate) to meet and maintain the objectives of the Safety Management System.
- To provide effective management and team leadership.
- To proactively manage the health and safety of employees and ensure that all key elements of health and safety management are in place.
- To demonstrate resilience and integrity and lead through challenging circumstances.
- To develop service plans and continually review performance, striving to improve the quality and efficiency of Marine Operations.
- To recruit and train competent employees.

#### **Marine Operations Manager**

Responsible for the overall management of the Council's Marine services, ensuring that appropriate an Safety Management System is in place to deliver high quality services and best value to service users, and that agreed plans are implemented efficiently and effectively. In addition, introduce continuous improvement in the performance of the service, responding positively to statutory, and other external and internal requirements.

In relation to Marine operations, ensure that:

- All Council piers and harbours are safe for operational use by mariners, including infrastructure and navigational aids.
- All ferry vessels are compliant and certificated for public service, including arranging for the annual inspections and maintenance.
- Ferry crews are appropriately qualified.
- Ferry timetables meet the needs of relevant communities.
- Those facilities which are ISPS approved remain compliant.
- Any necessary actions are taken as a result of attending Port Security meetings.
- The Council has a validated oil pollution response plan for harbours and the coastal environment.

#### **Harbour Technical Officer**

Support the Marine Operations Manager to develop the team's strategic objectives and service plans by working in partnership with colleagues (within and outwith the service) and by taking personal responsibility for planning how these are delivered effectively and efficiently to service users. In particular, take responsibility for:

- a) Assisting the Marine Operations Manager in developing a strategy to grow the business and operate as efficiently as possible.
  - b) Engaging with Members and main users of the service.
  - c) Setting up systems to monitor service delivery and link in with the Performance Management System reporting system.
  - d) Continually reviewing how the service is delivered – by monitoring systems / consultation / market research.
  - e) Gathering information to assist in the production of service plans / reports.
  - f) Day to day management of ferry service delivery including conducting 'on the spot' audits, conducting internal audits of the Safety Management System, managing staffing rotas, arranging the provision of stores, spares and oils and monitoring contract delivery
  - g) Keep information relating to ferry time tables, fares and other general Marine Services activities listed on the Council website up to date and review published information on a regular basis.
  - h) Ensure ferry timetables meet the needs of relevant communities including regularly attending local Community Council and Ferry User Group meetings to provide updates and address concerns and queries.
  - i) Ensure ferry crews are appropriately qualified, fully inducted into the position held and receive relevant training to maintain qualifications and standards of customer care
  - j) Ensure all ferry vessels are compliant and certificated for public service, including arranging for the annual inspections and maintenance programme
  - k) Assist with the supervision of refits of the council ferries
  - l) Participate in a scheduled Designated Person Ashore rota as required by Marine Operations Manager
  - m) Assist with the design, implementation and control of management systems
  - n) Assist with the setting of appropriate and measurable performance targets and keep under review
  - o) Consult with stakeholders and, on occasion, carry out market research and community engagement exercises as directed
  - p) Compile reports to senior management and attend meetings as required.
  - q) Liaison with MCA for audits, refits and oil pollution incidents as required
- r) In addition, represent Marine Services on relevant external bodies/committees when appropriate and ensure that all regulations and procedures (including the Council's Standing Orders and Financial Regulations) are adhered to.

### **Harbour Masters**

Harbour Masters and their Assistants are appointed by the Authority to support the Marine Operations Manager to develop the team's service plans by working in partnership with colleagues (within and out with the service) and by taking personal responsibility for planning how these are delivered effectively and efficiently. In particular to take responsibility for:

- a) Implementing Argyll and Bute Council's Safety Management System.
- b) Marine Risk Assessments.
- c) Compliance with Port Marine Safety Code.

Harbour Masters and their Assistants will assist the Marine Operations Manager to ensure that high quality services and best value are delivered to service users by ensuring that all agreed plans are implemented efficiently and effectively. In particular:

- a) Local byelaws and General Directions.
- b) Compliance with the Safety Management System in their ports and harbours.
- c) Issuing Local Notices to Mariners.
- d) Advising mariners of available water depths on approaches and in berths.
- e) Health & Safety legislation.
- f) Control of berthing and departure, loading, unloading, mooring of vessels.
- g) The safety of all Harbour users, staff and members of the public.
- h) Keeping records of all shipping movements.
- i) To liaise with the Statutory Bodies as required.
- j) To liaise with the Emergency Services as required.
- k) Monitoring of Safety Traffic and Operation of VHF radio as required.
- l) To ensure harbour/pier is kept clean, tidy and safe for public use and that all safety equipment is in good working order.
- m) To inspect berths to ensure no obstruction to berthing.

#### **Assistant Harbour Masters**

The Authority appoints Assistant Harbour Masters who aid and support the Harbour Master in the operation of the port. The Assistant Harbour Masters are vested with the same statutory discretions as the Harbour Master and are authorized to deputise for the Harbour Master, in their absence.

## 4. Marine Operations and control of the Safety Management System

Marine Operations within the Argyll and Bute Council Areas are diverse and range from small leisure craft to large cargo vessels and numerous Passenger and Vehicle Ferry Services. Fishing Vessels are also regular Users of the, Council Ports of Campbeltown Oban and Rothesay, as well as some of the smaller quays within the Councils area of jurisdiction.

The Safety Management System aims to provide for the safe use of Piers, Harbours, Quays and slipways by all vessels and users.

The Safety Management System does not replace any appropriate legal or administrative requirements laid down by The Health and Safety Executive, Maritime and Coastguard Agency et al, it will nonetheless harmonise with other safety, emergency and environmental systems in place.

### 4.1 Review of the Safety Management System

The Review process will focus on the effectiveness of the Safety Management System by means of:

- Reviewing Internal PMSC Reports from all Ports on a regular basis
- Regular review of Risk Assessments
- Internal and external Audits
- Advice and Guidance from Statutory and Industry Bodies
- Applicable changes to Local and National Legislation reviewed and implemented
- Accidents / Incidents that occur being analysed to identify System strengths and weaknesses.

#### Periodical Review

Additional to the above the Safety Management System will be reviewed by the designated officers every 3 years and subject to The Designated Person conducting a Compliance Audit every 3 years.

#### 4.1.1 Internal Review

Marine Operations Manager will ensure the effectiveness and compliance of the Marine Safety Management System is reviewed on an annual basis corresponding to a formalised plan agreed with the DP and Duty Holder.

Marine Staff will monitor and review the Marine Safety Management System to ensure its effectiveness and compliance with the Port Marine Safety Code.

The Review Process will include consideration of the following:

- Regular Marine Operations Staff meetings.

- Internal and external audits including follow up action points requiring review
- Changes to Council areas of responsibility
- Review of Risk Assessments
- Changes to applicable Legislation and Guidance
- Direction received from Statutory Bodies.
- Advice from the Designated Person

#### 4.1.2 Peer Review.

In compliance with Section 5.2 of the PMSC Guide to Good Practice, Peer reviews are carried out by one Council port on behalf of another, and are accepted as a suitable form of additional audit that ensures the Marine Safety Management System is functioning as required. Reviews are carried out by competent experienced persons who are independent of the asset being reviewed.

#### 4.1.3 External Audit of the Marine Safety Management System

An annual independent audit of the Safety Management System will be commissioned from the Designated Person. The audit report will be considered by the Harbour Board and the outcome of this consideration will be recorded.

All audits, internal and external, will commence in September with recommendations processed by December and included in an action plan reported regularly to the Duty Holder and Harbour Board along with the external audit reports. Amendments to the MSMS will be made available to the Duty Holder for sign-off in January / February and published after approval in March / April.

#### 4.1.3 Effectiveness of the Safety Management System

The effectiveness of the Safety Management System will be monitored by the following means:

- Accident and Incident Recording
- Independent Audit of the System by the Designated Person
- Publication of a Marine Safety Plan covering a 3 year period which informs the Councils performance against the previous Plan as required by the P.M.S.C.
- Annual report to the Harbour Board by the Marine Operations Manager for review and as a basis for continual improvement of the System.

#### 4.1.4 Measuring Performance

Argyll & Bute Council adopts two approaches for measuring its performance:

- **Active Systems:** - which are used to monitor the achievement of plans and the extent of compliance with any standards; and
- **Reactive Systems:** - which monitor accidents, ill health, incidents and other evidence of deficient health and safety performance, such as hazard reports.

## 4.2 Active Systems

Argyll & Bute Council performs periodic formal checks to ensure that the procedures documented within the MSMS are functioning.

Each Harbour Master must also perform:

- Random observation of work and behaviour to assess compliance with procedures, rules and systems. These activities will be aimed particularly at those directly concerned with the management of risk within the harbour; and
- Annual questionnaire surveys of managers and other employees to assess behaviour and attitudes towards marine safety within the harbour.

The results of any active monitoring will be documented formally and where appropriate the port will make comparison with previous monitoring exercises. The findings are reviewed with the Harbour Master along with details on any failings of the systems and recommendations for improvement. If required, an action list is prepared and managed by the Harbour Master to ensure that agreed responses are completed satisfactorily.

The ability to complete agreed responses satisfactorily and on schedule is also used as an indication of the overall performance of the harbour.

At the main Commercial Ports, Navigation Safety Management Groups meet to review and improve the safety and efficiency of navigation in the harbour area and to protect the marine environment and the surrounding Harbour area.

Operational matters considered will include the following:

- The operation of the Safety Management System in respect of Navigation safety, improving this where necessary and setting new targets;
- Incident investigation including Root Cause Analysis and the implementation of corrective action where required to achieve zero reportable accidents or incidents;
- Ensuring the effective communication of appropriate information in respect of navigational safety to all stakeholders;
- The group will identify action points where appropriate and report to the Marine Manager on a monthly basis on all aspects of navigational safety and incidents within the relevant harbour area.

## 4.3 Reactive Systems

Reactive monitoring is performed in response to reports of incidents/near misses and non-conformances that tend to be generated through an incident report.

On receipt of a report the Harbour Master will initiate an investigation to determine both the immediate and the underlying organisational causes of the event. This process is recorded using an incident report which also requires that any resulting actions be documented and a responsible person assigned. The Harbour Master manages this process to ensure that responses to the monitoring are completed satisfactorily. These records are retained for audit purposes.

All marine incidents are reviewed by the Marine Safety Committee at the quarterly Harbour Master meetings. A summary of all incidents is made to the Designated Person on a monthly basis with full details given of any which are regarded as serious. The reports made will be classified into different incident categories to assist in the identification of common trends and areas requiring focus for improvement.

## 4.4 Audit

As noted above, performance indicators cannot in themselves confirm compliance with the MSMS and the PMSC. Furthermore, the MSMS is one of continuous development and improvement, in response to changing events and circumstances. It is therefore necessary to confirm that the MSMS remains fit for purpose, and ensures compliance with the Code by means of regular audit and review.

Audits are conducted to achieve the following objectives:

- To determine if the MSMS is being operated in accordance with Argyll & Bute Council Policies and, the provisions of the PMSC;
- To monitor the overall effectiveness of the system;
- To identify and implement ways of improving overall performance;
- To confirm that relevant procedures are understood and being actioned by those involved.

The overall objective is to implement systematic, independent audits to support the continuous improvement in navigational safety performance.

The “Designated Person (DP)” (as defined in the PMSC) shall undertake periodic audits/reviews of the MSMS for the purpose of assessing the following:

- The continued provision of an appropriate and effective MSMS; and
- Argyll & Bute Council’s ongoing, overall compliance with the requirements of the Code.



Outcomes from the annual audits will be reported to the Duty Holder at regular Harbour Authority meetings, and summarised in the annual report. The DP will meet the Duty Holder, MOM and relevant HM to discuss the PMSC related issues arising from the audit process.

## 4.5 Management of Change.

Change is often necessary in an organisation to reflect changing circumstances. Changes may be necessary at a Strategic or Operational level including new technologies.

Where changes are required to the Marine Safety Management System following Audits or review or where guidance or advice is received from Statutory bodies, then such changes are to be decided upon by the Marine Operations Manager.

### 4.5.1 Document Control.

As with many Council Documents, the Safety Management System Document is considered a “live” document` and, as such, will be subject to change from time to time as circumstances alter. The document will be available for viewing online and links to other relevant documents will be provided to ensure that the latest versions of documentation are being viewed.

All Documents are periodically reviewed for continuing suitability. Prior to implementation, any changes to Documents shall be consulted on and agreed by the Marine Operations Manager.

## 5. Risk Management Controls and Procedures

The MSMS procedures and guidelines fulfil the requirements of the Port Marine Safety Code (PMSC) including but not limited to, the following:

- Making risk control the basis of all marine activities, procedures and regulations applied to or required of port users;
- Using risk assessment to identify the requirement for navigation aids;
- Applying risk assessment to all harbour works;
- Subjecting wrecks to risk assessment and programming periodic review;
- Maintaining systems to implement the findings of risk assessments;
- Identifying and designating safe pilot boarding and landing areas;
- Applying and adhering to current pilot transfer arrangement regulations;
- Reporting deficiencies on visiting vessels;
- Providing procedural advice for giving Directions in relation to dangerous vessels or substances;
- Regulating the use of harbour craft;
- Maintaining and developing a competence based training scheme to support delivery of all marine functions;
- Maintaining appropriate plans and procedures for emergency response and associated training/exercises.
- Using verification/audit systems.

## 5.1 Marine Risk Assessments

Argyll and Bute Council Harbour Board will ensure that policy is derived to:

1. Identify, quantify and manage the significant marine risks associated with the Council's harbours, their approaches and associated activities. This will ensure that there is appropriate control exercised over vessel movements by, where necessary, regulating the safe arrival, departure and movement within the harbours of all vessels.
2. Maintain, protect, improve and regulate the safe navigation of all vessels in the Council's harbour areas by:
  - a. Ensuring that all harbours and marine facilities remain safe for all harbour users to undertake their business and activities, with the risk of injury as low as reasonably practical.
  - b. Having an effective system for promulgating navigation warnings affecting the harbours.
  - c. Consider the effect of weather on harbour safety and see that the broadcast warnings are accessible.
  - d. Designating suitable anchorages.
  - e. Monitoring lights and marks used for navigation.
  - f. Regularly reviewing the need for pilotage and authorising suitable trained and experienced pilots to provide an efficient and safe pilotage service.
  - g. Providing resources to deliver marine services.
3. Ensuring that suitable plans for emergency situations are maintained, regularly updated and exercised so that Argyll and Bute Council will respond effectively to emergency incidents in order to minimise adverse impacts.
4. Carrying out all of its functions with particular regard to the potential for adverse environmental impact and the need to protect the marine environment, landscape, heritage and amenity facilities.
5. Maintaining up-to-date Bye-laws in consultation with harbour users and enforcing them appropriately so as to effectively regulate harbour use.
6. Establishing appropriate controls for personal safety so as to:
  - a. Safeguard harbour users, employees, those working in harbours and the public whilst they are within areas under Argyll and Bute Harbour Board's control.

- b. Controlling the risk of exposure to criminal and civil liability.
- c. Involve stakeholders in the management of marine safety and raising awareness of marine risks and their prevention, control and management.
- d. Consider the effects on harbour safety of proposed changes in use or harbour works.
- e. Operate within policies developed specifically to address marine issues in addition to the corporate policies and procedures approved by the Council.
- f. Confirm the roles and responsibilities of key personnel.
- g. Outline existing procedures for marine safety within the harbours and their approaches.
- h. Measure performance against targets, particularly by building a database for recording incidents, including near misses.
- i. Maintain appropriate emergency and contingency plans.
- j. Keep appropriate duties and powers under regular review.

## 5.2 Navigation Risk Assessments.

Navigational Risk Assessments have been carried out for all Ports and Harbours covered by this Document. The Control Measures identified within these Risk Assessments will be used to regulate vessel movements.

In addition, to enable effective Control of vessel movements Harbour Masters have four main powers available to regulate ship movements:

- Bye-laws: provide a general framework for rules of navigation which apply to all vessels - including speed limits, defining fairways, anchorages, etc. - and which can be treated as unlikely to require frequent or short term amendment.
- Special directions – may be given by the harbour master: these directions are time and vessel specific and are apt for operational purposes of short duration and for emergencies.
- General or harbour directions – some harbour authorities have more effective powers of general direction or harbour direction to be given by the authority itself. Directions should apply to all vessels including where a vessel is conducted by a pilot or the holder of a pilotage exemption certificate.
- Pilotage directions - may generally be given by harbour authorities which have the power to regulate navigation: these determine the circumstances in which pilotage is to be compulsory.

Dangerous vessel directions - are a special case, permitting a harbour master to remove a vessel from the harbour in clearly defined circumstances.

The Applicability of the above will vary from Port to Port.

The use of all these powers, governed by the Argyll & Bute Harbour Board formal risk assessment, supports the Safety Management System. It is to be noted, in this connection, that the master - or pilot - of a vessel is not obliged to obey directions if he believes that compliance would endanger the vessel.

Control of vessels within a harbour area depend upon effective two way communication between the harbour personnel and the vessels concerned and all ships` masters should familiarise themselves with the layout and limitations of their destination port and have on board sufficient navigational information to enable safe navigation into and out of the harbour. Close contact must be maintained with the harbour master when approaching and within harbour limits.

It is the policy of Argyll and Bute Council that its powers, policies and procedures will be based on a formal assessment of hazards and risks and it will have a formal MSMS.

The aim of this process is to eliminate significant risks or, if that is not practicable, to reduce risks to "as low as reasonably practicable". Formal risk assessments shall be used to:-

- Identify hazards and analyse risks; and
- Assess those risks against an appropriate standard of acceptability and where appropriate, consider a cost-benefit assessment of risk reducing measures. Argyll & Bute Harbour Board has undertaken a formal safety assessment of its harbour operations to ensure that a systematic approach was taken to the identification and the management of risks.

There is a preferred hierarchy of risk control principles:-

- Eliminate risks - by avoiding a hazardous procedure or substituting a less dangerous one;
- Combat risks - by taking protective measures to prevent risk; and
- Minimise risk - by suitable systems of working.

An initial set of navigational risk assessments were completed in October 2015 for the main harbours of:

- Dunoon;
- Rothesay;
- Campbeltown;
- Port Askaig;
- Oban North Pier; and
- Craginure.

The regular, at least annual, review of these risk assessments and any new risk assessments caused by operational changes will identify new risks. As a consequence new controls will be implemented in order to bring the risks down to “as low as reasonably practicable”. The process of continuous assessment and review will enhance the safe operation of the Argyll and Bute Council managed harbours, slipways and piers.

### 5.3 Dynamic Risk Assessment.

Risk Assessments can be of two types:

- Planned formal assessments which provide the necessary framework to identify how all Risk Assessments are carried out in practice.

And

- Dynamic Risk Assessments which helps the individual to assess a situation which is constantly changing and to adapting response measures as appropriate moment by moment.

Examples where Dynamic Risk Assessment may be required may include.

- Handling a Major Incident
- Navigation of vessels in poor visibility
- Equipment failure ( shore or ship )
- Obstruction in Port Approaches
- A combination of the above.

Dynamic Risk Assessments will, by definition, not be recorded, and so evidence of these taking place will be minimal. However, it should be evident from monitoring and inspection exercises that DRA is taking place. Over time some Dynamic Risk Assessments will lead to a review and revision of the Formal Risk Assessment and there will be evidence of this. Team meetings or other regular dialogue to discuss the effectiveness of performance may also be useful in this regard.

## 5.4 Local Port Services

Under local Acts of Parliament, Statutory Harbour Authorities have duties to protect their harbours and regulate the approaches to them. The provision of a Local Port Service should be based on the Formal Risk Assessment process, when all mitigating factors have been considered.

The Council is content that the level of activity in its harbours can be managed by Local Port Services. Any move to provide an enhanced service will be preceded by a Formal Safety Assessment. Such an Assessment will determine whether a VTS is an appropriate risk control option to enhance the safety of shipping, maritime users, members of the public and the protection of the marine environment.

See Marine Guidance Note 401 (M + F) and Marine Guidance Note 401 (M + F) Amendment 3 issued by the Maritime and Coastguard Agency (MCA).

## 5.5 Pilotage

### **The Argyll and Bute Council (Pilotage Powers) Order 2007 SSI/2007/3**

Argyll and Bute Council shall under the Argyll and Bute Council (Pilotage Powers) Order 2007 be a Competent Harbour Authority in respect of the harbours of Campbeltown for the purposes of the Pilotage Act 1987, and as the CHA, authorises Pilots to serve the whole area of jurisdiction as laid out in the Campbeltown Harbour and Burgh Act 1876, and as given in the Pilotage Direction so promulgated.

Argyll & Bute Council's responsibility in respect of Pilotage in its Harbours is to:

- Ensure that the operation of the Pilotage Services is compliant with National Regulations, Guidelines and Competency Standards. The Council will engage competent and authorised Pilots
- Keep under review its Pilotage Directions to ensure they are fully in accord with the Safety Management System and guidance in the Port Marine Safety Code.
- Issue Pilotage Exemption Certificates (PEC) to bona fide Masters and Mates of ships that meet the criteria laid down and monitor the performance and discipline of PEC holders in respect of requirements laid down in Pilotage Directions

## 5.6 Emergency Preparedness

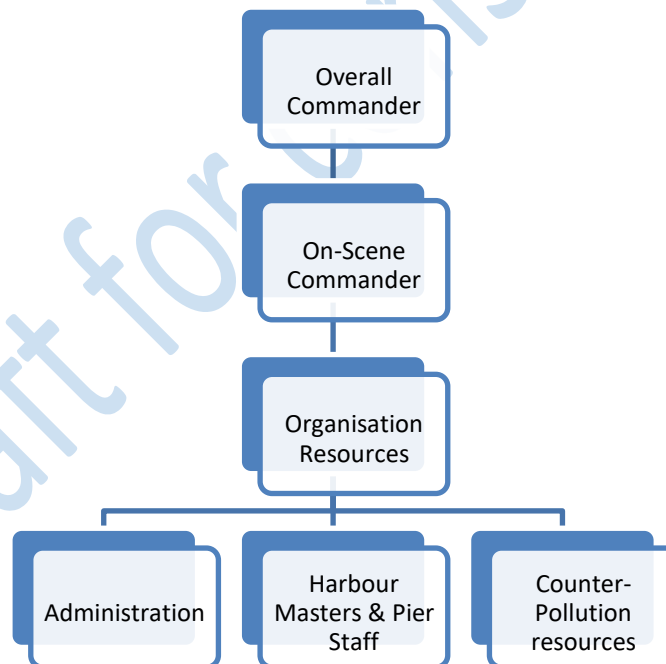
The PMSC states that the MSMS should include preparations for emergencies and that these should be identified as far as practicable from the formal risk assessment. It also states that these should be published and exercised.

The relevant Emergency Response Plans are as detailed in the annexes for each of the main harbours.

For pollution response further information is available under the **Oil Spill Response Plan** that each harbour has implemented as required by the International Convention on Oil Pollution Preparedness, Response and Co-operation Regulations (OPRC), the Plans can be found in individual Harbour Annexes.

### 5.6.1 Emergency Organisation And Management responsibility

The Marine Operations Manager will review the Emergency and Oil Pollution Plans in conjunction with the Harbour Masters and Technical Officers on an annual basis.





## 5.6.2. Emergency Preparedness and Response

Argyll & Bute Council harbours have in place established procedures for emergency situations. Exercises take place at regular intervals to familiarise and update staff on these procedures and to test response actions and communication structures.

External consultants oversee an annual exercise and provide feedback and advice where necessary in order to maintain and where necessary improve emergency preparedness.

## 5.6.3 Incidents

An incident occurring within Argyll & Bute Council managed harbours will be graded depending on the nature of the incident, the possible effects on life, the environment, the port operations and the level of response required by the relevant Harbour Master, the emergency services and others in the port estate.

Each Port has its own Port Emergency Plan.

When a marine incident has occurred, the Harbour Master should be informed immediately as per the Port Emergency Plan.

### Minor Incidents

Minor incidents are those that can be handled within the everyday resources of each of the individual harbours. Although the emergency services or other organisations may be notified or required to assist, such assistance will be routine.

### Major Incidents

A major incident may be defined as being beyond the normal day-to-day capacity of the Harbour Master and will require the special and extensive mobilization of the Emergency Services. Examples of major incidents may include-

- Death or serious injury to any number of people;
- Extensive damage or contamination to the environment;
- Extensive damage to vessel, installations, berth facilities and quayside equipment; and
- Serious disruption to the operation of the harbour.

Incident aboard a Vessel

The Master of any vessel which has an incident aboard must immediately inform the Harbour Master and contact the appropriate emergency services.

## 5.7 Incident Procedures

### Initial Assessment, Response and Alarm

Whenever an incident occurs within an Argyll & Bute Council managed harbour, a full initial assessment will be carried out where possible and the response will be tailored to that incident. If necessary the appropriate plan will be activated. All incidents should be reported to the Harbour Master who will alert the appropriate management, engineering/operations staff in line with the appropriate Emergency Procedures.

Primary response functions include:

- Notification/alerting;
- Situation assessment;
- Strategy development;
- Incident management;
- Response strategy;
- Equipment deployment;
- Communication support;
- Logistics support;
- Public affairs/media;
- Safety/security;
- Legal support; and
- Vessel casualty.

During all incidents, all persons concerned should maintain a log of all communications and actions

## 5.8 Civil Contingencies

The Civil Contingencies Act 2004 and the Civil Contingencies Act 2004 (Contingency Planning) (Scotland) Regulations 2005 (as amended) is the legislation that outlines the key organisations and their duty to prepare for civil emergencies within Scotland.

All Harbours Emergency Plans have been formulated in accordance with the afore mentioned Acts, and Regulation 26 of the Dangerous Substances in Harbour Areas Regulations 1987 (DSHA) and the Port Marine Safety Code, the Port Security Regulations and the Oil Pollution Preparedness Response and Co-operation Regulations.

The plans have been drawn up to deal with emergencies involving;

- Fire
- Explosion
- Escape of hazardous substances
- Collision, sinking or stranding of vessels
- Grounding.

## 5.9 Oil Pollution Preparedness

In accordance with statutory requirements to prepare for and respond effectively to any incident of oil pollution, each Port has an Oil Spill Contingency Plan which has been written in accordance with the requirements of M.S. (Oil Pollution Preparedness, Response and Co-operation Convention Regulations 1998) and has been approved by the MCA. The Plan details the structured response and notification procedures required in the event of an oil pollution incident.

Pollution incidents are tiered as follows:

- **Tier 1** - Spills which can be dealt with using the resources retained on site;
- **Tier 2** - Spills which require mobilisation of additional resources and the Tier 2 oil spill contractors; and
- **Tier 3** - Spills which require mobilisation of national resources.

Emergency Response Centre

In the event of an Oil Spill emergency, a response centre would be set up at a predetermined point within the relevant Council office dealing with Tier 2 or Tier 3 oil spills. It will be manned for all Tier 3 incidents and at the discretion of the command team leader for Tier 2 incidents.

## 5.10 Conservancy

There is a duty to conserve a harbour so that it is reasonably fit for use as a port, and a duty of reasonable care to see that the harbour is in a fit condition for vessels to use. The conservancy duty covers specific requirements, which are outlined in the PMSC as follows:

- A harbour authority has a duty to conserve the harbour so that it is fit for use as a port. The harbour authority also has a duty of reasonable care to see that the harbour is in a fit condition for a vessel to be able to use it safely;

- Harbour authorities should provide users of the harbour with enough information about conditions in the harbour such as depths of water, local Notices to Mariners, etc. and

Harbour authorities have duties and powers as local lighthouse authorities (or providers of aids to navigation); and specific powers in relation to wrecks.

## 6. Accident and Incident Investigation

Investigations of accidents and incidents have two essential purposes:

- To determine the cause of the incident, accident or near miss with a view to preventing a recurrence of that incident or accident and
- To determine if an offence has been committed; if so, there may be the need on the part of Argyll & Bute Council to initiate criminal proceedings in their own right or through the agency of another authority such as the Health and Safety Executive (HSE) or the MCA.

All minor marine incidents or accidents will be investigated at the discretion of the Harbour Master.

All major incidents or accidents will be investigated by an appropriate authority.

Any marine incident that involves the waters adjacent to the port limits, or involves a licensed pilot or PEC holder will be investigated. Investigations for major marine incidents or accidents may not necessarily be carried out under the authority of the Harbour Master. The investigation may be part of a criminal investigation and the primacy for the investigation will remain with the lead agency, namely: police, HSE, MCA or MAIB.

### 6.1 National Regulatory Framework

The legal framework for incident investigation is effectively summarised as follows:

- The MCA is responsible throughout the UK for implementing the Government's maritime safety policy;
- The MAIB investigates accidents related to ships and crew; and
- The HSE investigates land based accidents, and accidents occurring on offshore installations.

Provided that the primacy for a given investigation is with Argyll & Bute Council, incidents will be investigated to find out the facts of what happened and so identify the causes of their occurrence and determine the actions that must be taken to prevent recurrence. They should not be investigated to apportion blame but need to be fact finding and not fault finding. Incidents are

rarely simple and almost never result from a single cause. They are normally events resulting from a combination of actions, omissions, errors, failures, changes and oversights.

To ensure an effective incident investigation the process should:

- Record key information;
- Obtain basic facts and establish the circumstances of what happened;
- Identify and investigate both immediate and underlying causes;
- Analyse the findings;
- Determine the action needed to prevent a recurrence and make recommendations;
- Require a check that the recommended actions have been acted upon;
- Re-appraise the existing risk assessments and safe systems of work;
- Review the control standards and the success in meeting them satisfy the legal reporting and recording duties;
- Obtain details, which might be needed if the incident becomes subject to an insurance claim or legal action; and
- The investigation should look beyond the actual situation to see whether it could have been worse.

## 6.2 Statutory Reporting Requirements

The MAIB is responsible for the investigation of all types of marine accidents, both to vessels and to those on board. The MAIB is an independent branch within the Department for Transport (DfT) and is separate from the MCA. The MAIB's head, the Chief Inspector of Marine Accidents, reports directly to the Secretary of State on accident investigation. He/she and his/her professional staff, who are drawn from the nautical, fishing, marine engineering, and naval architecture disciplines, are appointed by the Secretary of State under the provisions of the Merchant Shipping Act 1995. An administrative staff deals with records, data analysis and publications, policy matters, and provides general support.

Marine Guidance Note MGN 564 [M+F] ("Accident Reporting and Investigation") is addressed, inter alia, to Harbour Authorities. It explains the reporting requirements of the new Merchant Shipping (Accident Reporting and Investigation) Regulations 2012. Details of what should be reported are given in Annex A of the Notice.

Argyll & Bute Council will report any notifiable accident of which they are aware to the Chief Inspector of the MAIB by the quickest means available.

The MAIB's Incident Reporting Form provides a convenient format for reports but plain narrative giving the above information may be used if the form is not available. As full an account as possible should be given whether or not the form is used; the list of items given in the M Notice is not intended to be limiting and any matter should be included which will help to make the circumstances clear or to show how similar incidents may be prevented. Sketches, plans and photographs of the damaged areas, taken both before and after the event, are often helpful and may be attached to the report.

## 6.3 Enforcement Policy and Procedure

Argyll and Bute Council is responsible under the PMSC for the effective enforcement of regulations made and directions given to assist in managing marine operations and ensuring safety of navigation within the managed harbours.

Enforcement underpins navigational safety by ensuring compliance with such regulations and directions: it requires effective surveillance, incident investigation, and leads, where appropriate, to sanctions imposed either by the Board or by the Courts.

Where necessary, and where empowered, the Board will prosecute offenders for committing offences. Argyll and Bute Council policy is to:

- Maintain through regular reviews, a relevant and effective regulatory framework, consistent with national legislation, ancillary regulations and bye-laws;
- Ensure that regulations and associated guidance are widely promulgated within Argyll and Bute Council relevant area of jurisdiction;
- Develop and maintain effective enforcement procedures that comply with national legal requirements and guidelines;
- Develop and maintain effective investigation procedures that support the enforcement process, and meet the requirements of the MSMS in respect of identifying, promulgating and making good use of any 'lessons learned';
- Ensure that all staff involved in incident investigation, or who are required to follow Argyll & Bute Council enforcement procedures, receive effective and relevant training;
- Investigate all incidents, taking proper account of the requirements of the Police and Criminal Evidence Act 1984 (PACE) codes of practice where necessary;
- Maintain an effective surveillance and spot check regime, to monitor compliance with, and detect breaches of, relevant national and regulations; and

- Respond to breaches of regulations, by imposing a sanction appropriate to the circumstances, or initiating a prosecution where the facts warrant.

Argyll and Bute Council is responsible for enforcing many of the laws that apply within their jurisdiction, but enforcement does not necessarily mean prosecution. Prosecution and the associated penalties imposed by a Court provide the ultimate sanction and enforcement provides a range of responses from informal verbal warnings, through formal written warnings to action in the Courts.

Argyll and Bute Council will always apply consistent approach for dealing with those persons who use their managed harbour and fail to meet acceptable standards. For Argyll and Bute Council to maintain its credibility it must demonstrate that it can effectively utilise the full range of enforcement options.

A criminal investigation does not necessarily end in a prosecution but if the investigation is not done in accordance with strict rules a prosecution will not be permissible. Therefore all investigations that may lead to a prosecution have to be conducted with that possibility in mind.

### 6.3.1 The Need to Enforce

#### **The Port Marine Safety Code**

Argyll & Bute Council complies with the PMSC requirement and has policies and procedures that are properly and effectively enforced. It follows that these policies need to be implemented by procedures and this manual is part of that process. The PMSC makes it clear that the statutory powers that Argyll & Bute Council Harbour Authority has to regulate conduct and activities should be used to assist in managing identified risks.

#### **The Harbour Authority as a Statutory Body**

A Harbour Authority is a body created by statute to serve a public interest to manage, maintain and improve the harbour. The local laws, powers and enabling legislation provide the ability for it to make bye-laws and give legally binding directions. It therefore follows that Argyll & Bute Council has to demonstrate it can initiate enforcement action that may lead to prosecution.

Argyll and Bute Council has its own legally binding rules subject to a consultation and approval procedure to ensure everybody can use the harbour safely. It follows that as Argyll and Bute Council can make the rules, it must be able to deal effectively with those persons that break them. The vast majority of people who use Argyll and Bute Council managed harbours are responsible and law abiding. Some people will make mistakes, some people will benefit from education and some will

need to be warned. In some circumstances misconduct may be so serious that Argyll and Bute Council may decide that it should be for the Courts to deal with and a prosecution will be initiated. Through the whole range of enforcement options Argyll and Bute Council will demonstrate that it has developed a consistent approach reflected by procedures that work. They will also demonstrate that they have the capability of effectively prosecuting offenders who deserve to be prosecuted. Warnings have their place and Argyll and Bute Council, when necessary, will prosecute an offender in order to maintain its credibility as a regulatory authority. Successful prosecutions can also provide a very worthwhile deterrent to other harbour users.

### 6.3.2 The Enforcement Options

Enforcement covers everything from cordial education on the conduct expected, to prosecution on indictment in the Crown Court where the Court may send someone to prison.

The range includes:

- Information and Instructional leaflets;
- Informal education;
- Formal education - e.g. seminars, briefings etc.;
- Formal advice - e.g. in Local Notice to Mariners;
- Informal warnings; Formal warnings; and
- Prosecution.

Which option from the above range is used will depend on the circumstances of each particular incident and will include consideration of the following:

- The severity of the misconduct;
- The risk caused and associated with the misconduct;
- The consequences of the misconduct;
- Any repetition of the misconduct;
- The attitude of the person involved;
- The need to provide a deterrent;
- The evidence available;
- The interests of the public;
- Any considerations of the relevant Harbour Master and Argyll and Bute Council Harbour Authority; and
- The knowledge and experience of the suspect.