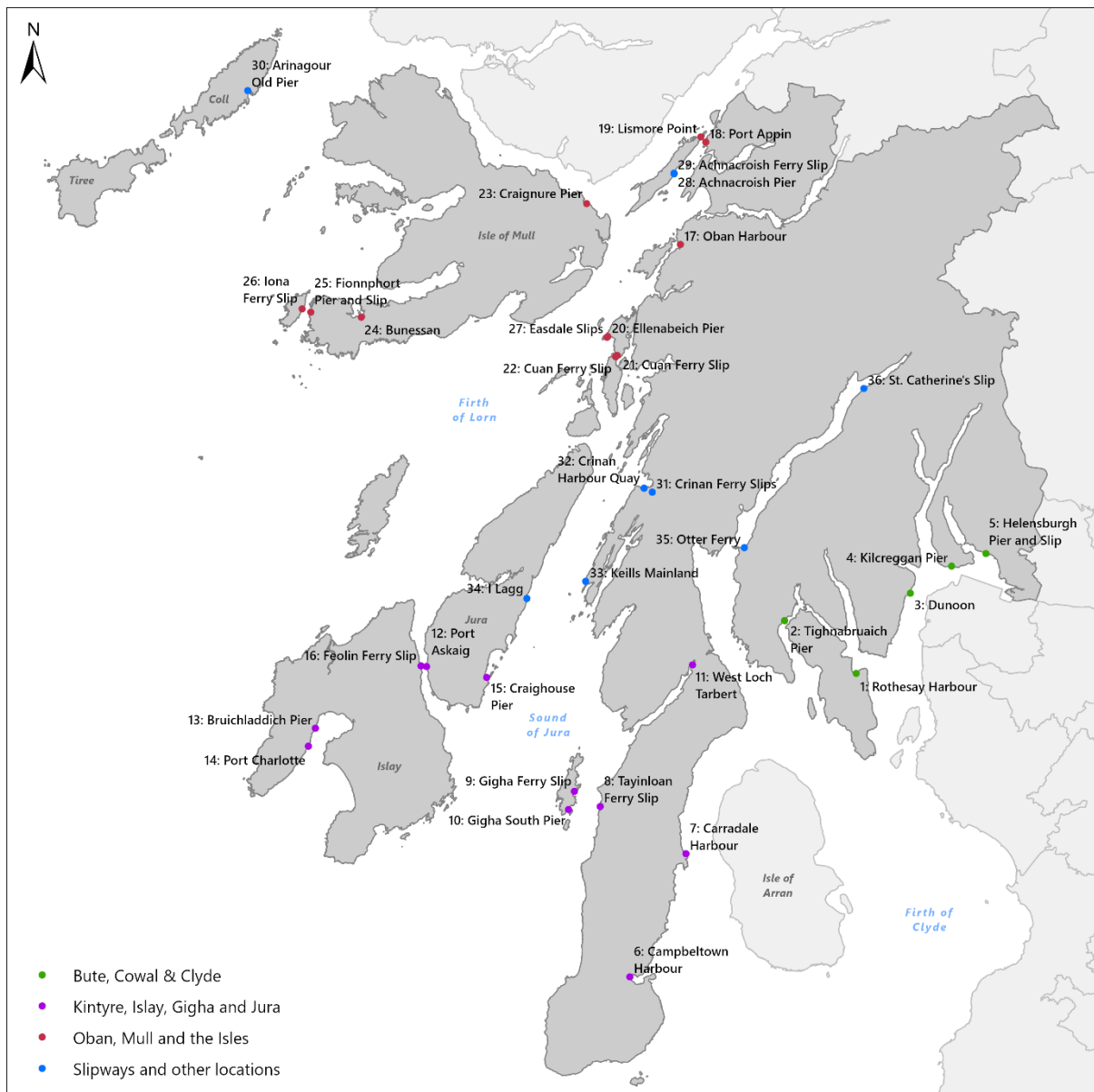


Argyll & Bute Council

Marine Safety Management System

Policies and Statements

Volume 1 / September 2025





Page intentionally blank

MARINE SAFETY MANAGEMENT SYSTEM – Document Record

Revision No.	Amendment Date	By	Revision History
Draft	01 Jan 2023	MOM	Document created – Draft for review
01	31 Aug 2023	HB	Harbour Board and Duty Holder Approval
02	21 Mar 2024	HB	Harbour Board and Duty Holder Approval: <ul style="list-style-type: none"> • Mooring Policy (added) • SHA list (update)
03	25 Nov 2024	MOM	Harbour Board Members updated Approved Policies added: <ul style="list-style-type: none"> • Harbour Consultation Policy • Harbours and Pier Use Policy • Harbours Enforcement and Prosecution Policy • Marine Conservancy & Hydrographic Policy • Marine Training Policy • Navigational Safety, Pilotage & Towage Policy • Collection of Fees Policy
04	22 Sep 2025	MOM	Update to meet the April 2025 changes to the Code.

Document owner: Marine Operations Manager (MOM)

MARINE SAFETY MANAGEMENT SYSTEM – Distribution List

No.	Name	Role
01	Kirsty Flanagan	Duty Holder Executive Director of Development & Infrastructure Services
02	Andrew Summers	Head of Roads & Infrastructure Services
03	Scott Reid	Marine Operations Manager
04	Mark Robertson	Technical Officer
05	Alex Leslie	Technical Officer
06	Stephen Scally	Harbour Master (for sharing with all harbour staff)
07	Vicki McKenzie	Harbour Master (for sharing with all harbour staff)
08	Peter Welsh	Harbour Master (for sharing with all harbour staff)
09	Julie Hendry	Admin. Officer Marine and Ferries Operations
10	Monty Smedley	Designated Person, ABPmer
11	HB Member 1	Cllr R Moreland (Chair)
12	HB Member 2	Cllr J Armour (Vice Chair)
13	HB Member 3	Cllr G Blair
14	HB Member 4	Cllr D McFadzean
15	HB Member 5	Cllr L McCabe
16	HB Member 6	Cllr M Corry
17	HB Member 7	Cllr A Vennard
18	HB Member 8	Cllr A Kain

ABBREVIATIONS

ABPmer	ABP Marine Environmental Research Ltd
ALARP	As Low As Reasonably Practicable
BPEO	Best Practicable Environmental Option
CHA	Competent Harbour Authority
CMAL	Caledonian Maritime Assets Ltd
COMAH	Control of Major Accident Hazards
DfT	Department for Transport
DP	Designated Person (Ports & Marine Facilities Safety Code)
DRA	Dynamic Risk Assessment
DGHAR	Dangerous Goods in Harbour Area Regulations 2016
EIA	Environmental Impact Assessment
GLA	General Lighthouse Authority
HB	Harbour Board
Hig	High Risk
HM	Harbour Master
HSE	Health and Safety Executive
ISPS	International Ship and Port Facility Security
LLA	Local Lighthouse Authority
Low	Low Risk
M+F	Merchant Shipping and Fishing Vessels
MAIB	Marine Accident Investigation Branch
MCA	Maritime and Coastguard Agency
MD LOT	Marine Directorate Licensing Operations Team
MGN	Marine Guidance Note
MHWS	Mean High Water Spring
Mod	Moderate Risk
MOM	Marine Operations Manager
MSMS	Marine Safety Management System
Neg	Negligible Risk
NLB	Northern Lighthouse Board
Non	No Risk

OPRC	International Convention on Oil Pollution Preparedness, Response and Co-operation Regulations
PEC	Pilotage Exemption Certificates
PMSC	Ports & Marine Facilities Safety Code
SEPA	Scottish Environment Protection Agency
SHA	Statutory Harbour Authority
Sig	Significant Risk
SNH	Nature Scotland
SOLAS	Safety of Life At Sea
SOSREP	Secretary of States' Representative
UK	United Kingdom
VH	Very High Risk
VHF	Very High Frequency
VTM	Vessel Traffic Management
VTs	Vessel Traffic Service

TABLE OF CONTENTS

1	Introduction	10
1.1	About the Harbour Authority	12
1.2	Argyll and Bute Council Ports, Harbours, Piers and Slipways.....	12
1.2.1	Bute, Cowal & Clyde.....	13
1.2.2	Kintyre, Islay, Gigha and Jura	13
1.2.3	Oban, Mull and the Isles	13
1.2.4	Slipways and Other Locations	14
1.3	Argyll and Bute Harbour Board.....	14
1.4	The Duty Holder.....	15
1.4.1	Reporting Compliance	16
1.5	Policies	16
1.6	Marine Operational Management Structure	17
1.6.1	Head of Roads and Infrastructure Services.....	Error! Bookmark not defined.
1.6.2	Marine Operations Manager	Error! Bookmark not defined.
1.6.3	Marine Technical Officer	Error! Bookmark not defined.
1.6.4	Harbour Masters.....	Error! Bookmark not defined.
1.6.5	Pier Masters.....	Error! Bookmark not defined.
1.6.6	Assistant Harbour Masters.....	Error! Bookmark not defined.
2	Designated Person	22
3	Port and Maritime Legislation	23
3.1	National Legislation	23
3.2	Local Legislation for Ports (Acts and Orders)	24
4	Delivery of Council Duties and Powers.....	25
4.1	Marine Operations and Control of the Safety Management	25
4.2	Local Port Services	25
4.3	Pilotage, Passage Planning, Towage.....	26
4.3.1	Pilotage	26
4.3.2	Passage Planning.....	26
4.3.3	Towage.....	27
4.4	Emergency Preparedness.....	27
4.4.1	Oil Pollution Preparedness.....	28
4.4.2	Emergency Organisation and Management responsibility	28
4.4.3	SOSREP.....	30
4.4.4	Dangerous Goods in Harbour Areas Regulations 2016.....	30
4.4.5	Explosives.....	31
4.4.6	Civil Contingencies	31
4.5	Incidents	32
4.5.1	Minor Incidents.....	32
4.5.2	Major Incidents.....	32
4.5.3	Incident Procedures.....	32
4.6	Accident and Incident Investigation.....	33
4.7	National Regulatory Framework	34

4.8	Statutory Reporting Requirements	35
4.9	Enforcement Procedure	36
4.9.1	The Need to Enforce	36
4.9.2	The Enforcement Options	37
4.10	Directions	38
4.10.1	General Directions	38
4.10.2	Special Directions	38
4.10.3	Dangerous Vessel Directions	38
4.11	Regulation of Marine Craft	39
4.12	Regulation of Marine Activities	39
4.12.1	Bunkering	39
4.12.2	Diving	40
4.12.3	Controlled Works	40
4.13	Environmental Duty	40
5	Marine Risk Management	41
5.1	Marine/Navigational Risk Assessments	41
5.1.1	Risk Controls	45
5.1.2	Future Risk Controls	47
5.1.3	Update of Marine/Navigational Risk Assessments	47
5.2	Dynamic Risk Assessment	47
6	The Marine Safety Management System (MSMS).....	49
6.1	Structure of the MSMS	49
6.2	Adjoining and Interfacing Organisations	50
6.3	Stakeholder Engagement and Consultation	50
7	Review and Audit.....	51
7.1	Review of the Safety Management System	51
7.2	Internal Review	51
7.3	External Audit of Code Compliance Statement	52
7.4	Audit	52
7.5	Management of Change	53
7.6	Document Control	53
8	Competence and Training.....	54
8.1	Training Matrix.....	54
9	Marine Safety Plan.....	55
9.1	Measuring Performance	55
9.1.1	Active Systems	55
9.1.2	Reactive Systems.....	56
10	Conservancy	57
10.1	Hydrographic Survey	57
10.2	Dredging.....	57
10.3	Aids to Navigation	58
10.4	Wrecks and Abandoned Vessels	58



Tables

Table 1	PMSC Duty Holder Responsibilities	10
Table 2	Explosive Licences.....	31
Table 3	People Tolerance	42
Table 4	Property Tolerance	43
Table 5	Environment Tolerance	44
Table 6	Port reputation/amenity loss Tolerance	45

Figures

Figure 1	Structure of Marine Operational Management	17
Figure 2	Oil Pollution Emergency Response Command Structure	29

1 Introduction

The Ports & Marine Facilities Safety Code ('the Code') sets out the UK 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'.

To ensure compliance with The Code, Harbour Authorities and marine asset owners must address the following measures (so far as they are applicable to the size and function of each facility):

Table 1 PMSC Duty Holder Responsibilities

No	PMSC Role	PMSC Duty Holder Responsibilities	PMSC Section Reference
1	Duty Holder	All organisations must have a Duty Holder which is accountable for compliance with the Code. The Duty Holder, whose members are typically, accountable for compliance with the Code, and their organisation's performance in ensuring safe marine operations.	1.1-1.10
2	Designated Person	All organisations must appoint a suitably qualified individual as their 'Designed Person'. This person provides independent assurance about the operation of the organisation's marine safety management system and must have direct access to the Duty Holder.	2.1-2.4
3	Legislation	The Duty Holder must be aware of and review the organisation's legal powers, duties and responsibilities based on applicable local and national legislation and seek additional powers if necessary to improve marine safety.	3.1-3.18
4	Duties and Powers	Organisations must comply with any statutory duties and responsibilities they have.	4.1-4.46
5	Risk Assessment	Organisations must ensure that risks are formally assessed and are eliminated or reduced to the lowest possible level, so far as is reasonably practicable, in accordance with good practice.	5.1-5.13
6	Marine Safety Management System	Organisations must operate an effective Marine Safety Management System (MSMS) which is based on formal risk assessment.	6.1-6.25
7	Review and Audit	Organisations must review and audit performance against applicable requirements of the Code.	7.1-7.8
8	Competence	Organisations must use people who are appropriately trained, qualified and experienced to manage marine safety.	8.1-8.4

No	PMSC Role	PMSC Duty Holder Responsibilities	PMSC Section Reference
9	Plan	Organisations must publish a marine safety plan showing how the standards in the Code will be met and produce a report assessing performance against that plan at least every 3-years.	9.1-9.7
10	Conservancy Duty	<i>Organisations must ensure their facilities are fit for purpose and have a duty of reasonable care to ensure that any vessel can utilise them safely.</i>	10.1-10.17

This Marine Safety Management System (MSMS) along with its procedures and guidelines fulfil the requirements of the Code to publish an MSMS.

1.1 About the Harbour Authority

Argyll and Bute Council is a Statutory Harbour Authority at eight locations and a marine asset owner at a further 28 marine facilities located throughout the Council area. The Council's Statutory Harbour Authorities are namely:

1. **Bruichladdich Pier**, by virtue of the 'Islay Piers Order, 1904'.
2. **Carradale Harbour**, by virtue of the 'Pier and Harbour Orders Confirmation (No 3) Act, 1901'.
3. **Campbeltown Harbour**, by virtue of 'Campbeltown Harbour Acts and Orders 1846 to 2011'.
4. **Craignure Harbour**, by virtue of the 'Argyll County Council (Arinagour and Craignure Piers, etc) Order 1961'.
5. **Dunoon Harbour**, by virtue of 'The Pier and Harbour Orders Confirmation Acts 1895 to 1906'.
6. **Oban North & South Pier**, by virtue of the 'Oban Pier and Harbour Orders 1862 to 1988'.
7. **Port Askaig**, by virtue of the 'Port Askaig Acts and Order 1904 to 1975'.
8. **Rothesay Harbour**, by virtue of the 'Rothesay Harbour Acts and Orders 1831 to 1937'.

The Council is the marine asset owner and, in most cases, operator of 28 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. In addition, the Council is also the Competent Harbour Authority in respect of Pilotage, under the requirements of the Pilotage Act 1987, at:

- Campbeltown Harbour.

Argyll and Bute Council manages these ports, harbours and piers as the Statutory Harbour Authority (SHA) and Local Lighthouse Authority (LLA). Additionally, the Council is the Marine Asset Owner at a further 28 piers, jetties and slipways with a range of duties and responsibilities described in the Ports & Marine Facilities Safety Code (PMSC), health and safety, environmental and maritime legislation and guidance.

1.2 Argyll and Bute Council Ports, Harbours, Piers and Slipways

The following locations are grouped into regions and include both SHAs and marine facilities.

1.2.1 Bute, Cowal & Clyde

1. Rothesay Harbour (Bute) [Statutory Harbour Authority]
2. Tighnabruaich Pier (Kyles of Bute)
3. Dunoon [Statutory Harbour Authority]:
 - Dunoon Harbour Pier
 - Dunoon Harbour Jetty
4. Kilcreggan Pier
5. Helensburgh Pier

1.2.2 Kintyre, Islay, Gigha and Jura

6. Campbeltown Harbour (Kintyre) [Statutory & Competent Harbour Authority]
 - Campbeltown old quay
 - Campbeltown new quay
 - Campbeltown Marina
 - Dalintober Jetty
7. Carradale Harbour (Kintyre) [Statutory Harbour Authority]
8. Tayinloan Ferry Slip (Kintyre)
9. Gigha Ferry Slip (Gigha)
10. Gigha South Pier (Gigha)
11. West Loch Tarbert (Kintyre)
12. Port Askaig (Islay) [Statutory Harbour Authority]
13. Bruichladdich Pier (Islay)
14. Port Charlotte (Islay)
15. Craighouse Pier (Jura)
16. Feolin Ferry Slip (Jura)

1.2.3 Oban, Mull and the Isles

17. Oban Harbour [Statutory Harbour Authority]
 - Port Beag Slip
 - North Pier

- Times Slip
18. Port Appin
 19. Lismore Point (Lismore)
 20. Ellenabeach Pier (Seil)
 21. Cuan South Slip (Seil)
 22. Cuan North Slip (Luing)
 23. Easdale Slips (Easdale)
 24. Craignure Pier (Mull) [Statutory Harbour Authority]
 25. Bunessan Pier (Mull)
 26. Fionnaphort Ferry Slip (Mull)
 27. Iona Ferry Slip (Iona)

1.2.4 Slipways and Other Locations

28. Achnacroish Pier (Lismore)
29. Achnacroish Ferry Slip (Lismore)
30. Arinagour Old Pier (Coll)
31. Crinan Ferry Slips (Crinan)
32. Crinan Harbour Quay (Crinan)
33. Keills Mainland (Sound of Jura)
34. I Lagg (Jura / Sound of Jura)
35. Otter Ferry (Loch Fyne)
36. St. Catherine's Slip (Upper Loch Fyne)

1.3 Argyll and Bute Harbour Board

Argyll and Bute Council (the full Council) recognises that it is the Statutory Harbour Authority and marine facility operator for all its harbours, piers and slipways 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.

Members of the Harbour Board receive specialist training to enable them to discharge their duties in respect of the PMSC.

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

Argyll and Bute Council, as Harbour Authority, has powers to appoint personnel, including its Harbour Masters, to manage the operation of the harbour area.

The Harbour Board has a number of powers, duties and responsibilities:

- a) Development and maintenance of its harbours and marine assets to meet the requirements of port users and safe marine operation of its assets.
- b) Development and implementation of appropriate policies and plans.
- c) Approve the publication of the Marine Safety Plan in achieving its Policies.
- d) A duty to adopt appropriate powers as required for effective enforcement of its statutory duties (Harbour Byelaws, directions) and review these periodically.
- e) Responsibility for recommending harbour dues at a level, which adequately funds the discharge of its duties.
- f) Powers to appoint Harbour Masters.
- g) Appointment of a suitable Designated Person, to provide assurance that its Marine Safety Management System is operated effectively.

1.4 The Duty Holder

The Argyll and Bute Harbour Board has assigned the post of Duty Holder to the Executive Director, Development and Infrastructure Services. The Duty Holder's principal requirements are:

- a) Discharges the duties and exercises the powers given to them, both directly and by delegation, as they consider appropriate.
- b) Discharges the function of "Duty Holder" by delivering the policy set by the Harbour Board, and as defined in the PMSC.
- c) Makes recommendations to the Harbour Board and other appropriate committees within the Council, including the role of Designated Person.
- d) Appoint competent people to manage marine safety.

- e) Reviews the performance of Argyll and Bute Council against its marine strategic and operational objectives, plans, and budgets.
- f) Ensure that the management of marine safety continuously improves by publishing a marine safety plan and reporting performance against the objectives and targets set.
- g) Report compliance with the Code to the Maritime and Coastguard Agency (MCA) every three years.

1.4.1 Reporting Compliance

Every three years (or as often as directed by Government policy), the Duty Holder will sign a statement describing the Council's compliance with the latest version of the Code. If the Organisation is not compliant, or not fully compliant, the statement will describe the Council's intentions for achieving compliance, including the planned timescales.

1.5 Policies

Argyll and Bute Council has developed Policies to ensure its Marine Operations are safe and in compliance with the PMSC. Policy is set and agreed by the Argyll Bute Harbour Board. The Duty Holder is responsible for implementing the Council's policy. The primary purpose of these Policies is to provide an overall standard for marine operations throughout Argyll and Bute Council areas of jurisdiction.

The following policies are in place:

1. [Council Health and Safety Policy.](#)
2. Moorings Policy.
3. Harbour Consultation Policy.
4. Harbours and Pier Use Policy.
5. Enforcement and Prosecution Policy.
6. Marine Conservancy & Hydrographic Policy.
7. Marine Training Policy.
8. Navigational Safety, Pilotage & Towage Policy.
9. Collection of Fees Policy.

1.6 Marine Operational Management Structure

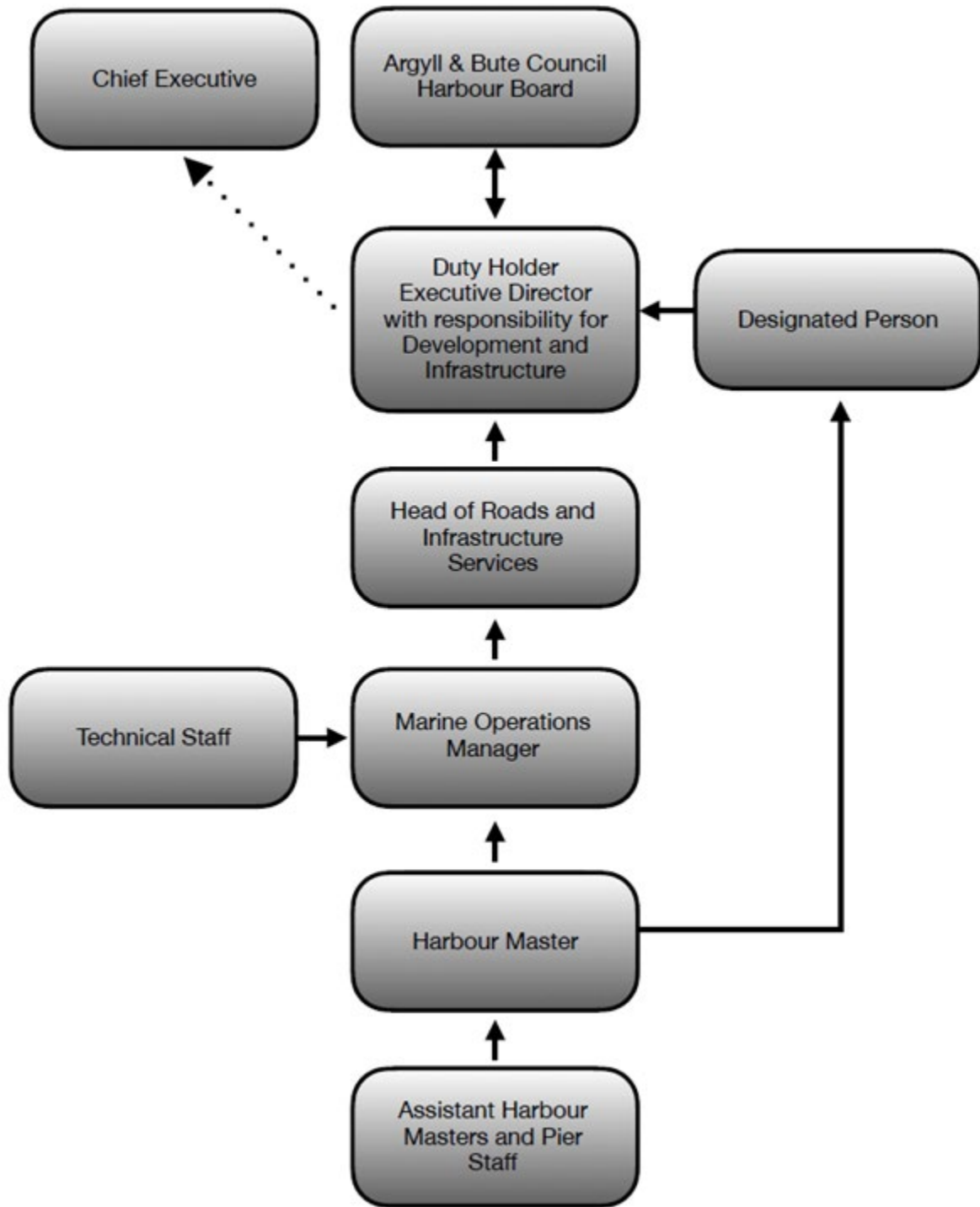


Figure 1 Structure of Marine Operational Management

1.6.1 Head of Roads and Infrastructure Services

Responsible to the Executive Director, Development and Infrastructure Services for:

- a) Leading the delivery and provision of Marine Operations ensuring that appropriate a Marine 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.
- b) To work cooperatively with others (including external organisations where appropriate) to meet and maintain the objectives of the Marine Safety Management System.
- c) To provide effective management and team leadership.
- d) To proactively manage the health and safety of employees and ensure that all key elements of health and safety management are in place.
- e) To demonstrate resilience and integrity and lead through challenging circumstances.
- f) To develop service plans and continually review performance, striving to improve the quality and efficiency of Marine Operations.
- g) To recruit and train competent employees including the Marine Operations Manager.

1.6.2 Marine Operations Manager

Responsible for the overall management of the Council's Marine services, ensuring that an appropriate Marine 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:

- a) All Council piers and harbours are safe for operational use by mariners and oversees the Council's delivery of Conservancy Duty, including infrastructure and navigational aids.
- b) All ferry vessels are compliant and certificated for public service, including arranging for the annual inspections and maintenance.
- c) Ferry crews are appropriately qualified.
- d) Ferry timetables meet the needs of relevant communities.
- e) Those facilities which are ISPS approved remain compliant.
- f) Any necessary actions are taken as a result of attending Port Security meetings.

- g) The Council has a validated oil pollution response plan for harbours and the coastal environment.

1.6.3 Marine 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 Marine 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.

1.6.4 Harbour Masters

Harbour Masters and their Assistants are appointed by the Harbour 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 Marine Safety Management System.
- b) Navigation Risk Assessments.
- c) Incident reporting, in line with Council policy and national reporting regulations.
- d) Compliance with the PMSC.

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.
- b) Harbour Authority General Directions.
- c) Compliance with the Marine Safety Management System in their ports and harbours.
- d) Issuing Local Notices to Mariners.
- e) Advising mariners of available water depths on approaches and in berths.
- f) Health & Safety legislation.
- g) Control of berthing and departure, loading, unloading, mooring of vessels.
- h) The safety of all Harbour users, staff and members of the public.
- i) Keeping records of all shipping movements.
- j) To liaise with the Statutory Bodies as required.

- k) To liaise with the Emergency Services as required.
- l) Monitoring of Vessel Traffic and Operation of VHF radio as required.
- m) To ensure harbour/pier is kept clean, tidy and safe for public use and that all safety equipment is in good working order.
- n) To inspect berths to ensure no obstruction to berthing.

1.6.5 Pier Masters

The Authority appoints Pier Masters who runs specific pier facilities. Pier Masters also 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.

1.6.6 Assistant Harbour Masters

The Authority appoints Assistant Harbour Masters who aid and support the relevant Harbour Master in the operation of the port, harbour or pier. The Assistant Harbour Masters are vested with the same statutory discretions as the Harbour Master and are authorised to deputise in the Harbour Master's absence.

2 Designated Person

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

The role of the Designated Person for Argyll and Bute Council is:

- a) Provide independent assurance that the Marine Safety Management System is effective; and
- b) Provide the Duty Holder and Harbour Board with independent and professional advice regarding Argyll and Bute Council's overall compliance with the requirements of the PMSC.

The Designated Person will provide an annual statement to the Duty Holder and Harbour Board about the state of compliance with the most recent version of the PMSC.

The Designated Person must test the effectiveness of the Marine Safety Management System, through objective evidence, obtained from internal and external auditing.

3 Port and Maritime Legislation

All Harbour Authorities and marine facility owners are required to follow relevant legislation. This is split into National legislation and local legislation (specific to each individual port, harbour or pier).

Ports policy is a devolved matter in Scotland. Marine safety is a reserve matter and applied UK wide. The following sections identify the relevant national port and maritime legislation and local acts and orders, relevant to individual Council ports, harbours and piers.

3.1 National Legislation

Harbour Authorities have a range of statutory and non-statutory duties and powers relating to marine operations. The Council has a Duty of reasonable Care to its harbour users and will ensure the safety at work of employees and other persons who may be affected by the Authority's activities as far as is reasonably practicable to do so. Principal legislation relevant to ports, harbours, piers and slipway marine operations include:

- Civil Contingencies Act 2004
- Civic Government (Scotland) Act 1982
- Dangerous Vessels Act 1985
- Harbours Act 1964
- Harbours, Docks and Piers Clauses Act 1847
- Health and Safety at Work Act 1974
- Marine Navigation Act 2013
- Marine Scotland Act 2010
- Merchant Shipping Act 1995
- Railways and Transport Safety Act 2003
- Pilotage Act 1987
- Wildlife and Natural Environment (Scotland) Act (2011)

Note: Under the 'Marine Scotland Act 2010' Scottish Ministers are responsible for marine licensing and enforcement in the Scottish Inshore Region (out to 12 nautical miles). This includes waters of estuaries and tidal rivers, as far as the tide flows from the Mean High Water Spring (MHWS). Marine Scotland is responsible for the integrated management of Scottish waters alongside Scottish Natural Heritage (SNH) and the Scottish Environment Protection Agency (SEPA). Marine Licensing is managed by the Marine Directorate Licensing Operations Team (MD LOT).

3.2 Local Legislation for Ports (Acts and Orders)

The Council's local acts and orders relevant to ports, harbours, piers and slipway marine operations include:

- Bruichladdich Pier, by virtue of the 'Islay Piers Order, 1904'.
- Carradale Harbour, by virtue of the 'Pier and Harbour Orders Confirmation (No 3) Act, 1901'.
- 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'.
- Dunoon Harbour, by virtue of 'The Pier and Harbour Orders Confirmation Acts 1895 to 1906'.
- Oban North & South Pier, by virtue of the 'Oban Pier and Harbour Orders 1862 to 1988'.
- Port Askaig, by virtue of the 'Port Askaig Acts and Order 1904 to 1975'.
- Rothesay Harbour, by virtue of the 'Rothesay Harbour Acts and Orders 1831 to 1937'.

The Council will seek to regulate, as far as is reasonably practicable, all activities throughout its Piers and Harbours ensuring that all National Legislation, Local Bylaws and Directions are enforced and complied with.

4 Delivery of Council Duties and Powers

Argyll and Bute Council as Harbour Authority and a marine facility owner and operator is required to comply with its duties and powers laid out under existing national and local legislation, as appropriate.

4.1 Marine Operations and Control of the Safety Management

Marine Operations within the Argyll and Bute Council 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, piers and slipways within the Council's area of jurisdiction.

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

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

4.2 Local Port Services

Under the Harbours Act 1964, Statutory Harbour Authorities have powers and duties to manage their harbours and regulate the approaches to them. The provision of a Vessel Traffic Service (VTS) or Local Port Service (LPS) is based on the Formal Risk Assessment (FRA) process, when all mitigating factors have been considered.

Each harbour has received a Vessel Traffic Management (VTM) assessment, using the guidance provided by the MCA in it's Marine Guidance Note (MGN) number 401. The output of each FRA is stored at the port or harbour in which it is conducted. The FRA is kept up to date by the Harbour Master team.

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 (FSA) which uses Cost Benefit Analysis (CBA) processes.

See Marine Guidance Note 401¹ (M+F) Amendment 3 issued by the Maritime and Coastguard Agency (MCA).

4.3 Pilotage, Passage Planning, Towing

Argyll and Bute Council issues a Policy on 'Navigational Safety, Pilotage & Towing' which should be consulted in combination with the following sections of the Marine Safety Management System.

4.3.1 Pilotage

Argyll and Bute Council shall under the Argyll and Bute Council (Pilotage Powers) Order 2007 (SSI/2007/3) be a Competent Harbour Authority in respect of the harbour of Campbeltown for the purposes of the Pilotage Act 1987. As the CHA, Argyll and Bute Council 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 Marine Safety Management System and guidance in the PMSC.
- Publish Pilotage directions as required by the Pilotage Act 1987.
- Issue Pilotage Exemption Certificates (PEC) to bona fide deck officer 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.

4.3.2 Passage Planning

The International Convention for the Safety of Life at Sea (SOLAS), Regulation 34, requires every vessel to have a detailed, berth-to-berth voyage plan before setting sail, using appropriate nautical charts and publications to assess navigational hazards, consider weather and tides, ensure sufficient sea room, and include contingency plans.

¹ [Read more about Vessel Traffic Services here](#)

The MCA Guidance Notes for Regulation 34, related to small vessels and pleasure-craft, state that the degree of voyage planning will be dependent upon the size of vessel, its crew and the length of the voyage. The MCA expects all mariners to make a careful assessment of any proposed voyage considering the specifics of the voyage, including the competence of the crew. It should be noted however, that under UK law for vessels proceeding to sea, Regulation 34 makes the status of passage planning a requirement (i.e., proceeding outside of 'categorised waters').

4.3.3 Towage

Towage is split into Routine Towage and Non-Routine Towage. Where local Acts and Orders provide powers to licence towage, Argyll and Bute Council will administer and maintain towage licences. Argyll and Bute Council does not have any powers to licence towage at any of its ports, harbours or piers.

Routine Towage (the use of a tug to assist ships) is not provided in any of Argyll and Bute Council port. Should a tug be required for berthing or unberthing of a vessel, or pushing-up to keep a vessel alongside, the tug must be specifically ordered by the ship/agent in advance. The nearest ports with towage providers are Clydeport or Ports in Northern Ireland.

In all cases where Non-Routine Towage is planned within any of Argyll and Bute Council ports, a specific risk assessment is carried out prior to authorising the tow to proceed. The risk assessment will be recorded in the MARNIS system. Ship owners, towage contractors, tug masters, project managers and agents must be advised that the person responsible for the safety and planning of the manoeuvre (and thereby acting as the Towing Master) must be clearly identified and be responsible for the production of risk assessments, method statements and passage plans which must be discussed and agreed in advance with the Harbour Authority.

4.4 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. Argyll & Bute Council also has in place established procedures for emergency situations. Emergency plan exercises take place at regular intervals to familiarise and update staff on these procedures and to test response actions and communication structures.

4.4.1 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.

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.

4.4.2 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. Figure 2 shows the command structure used by Argyll and Bute Council in the event of an Oil Pollution or other spill incident.

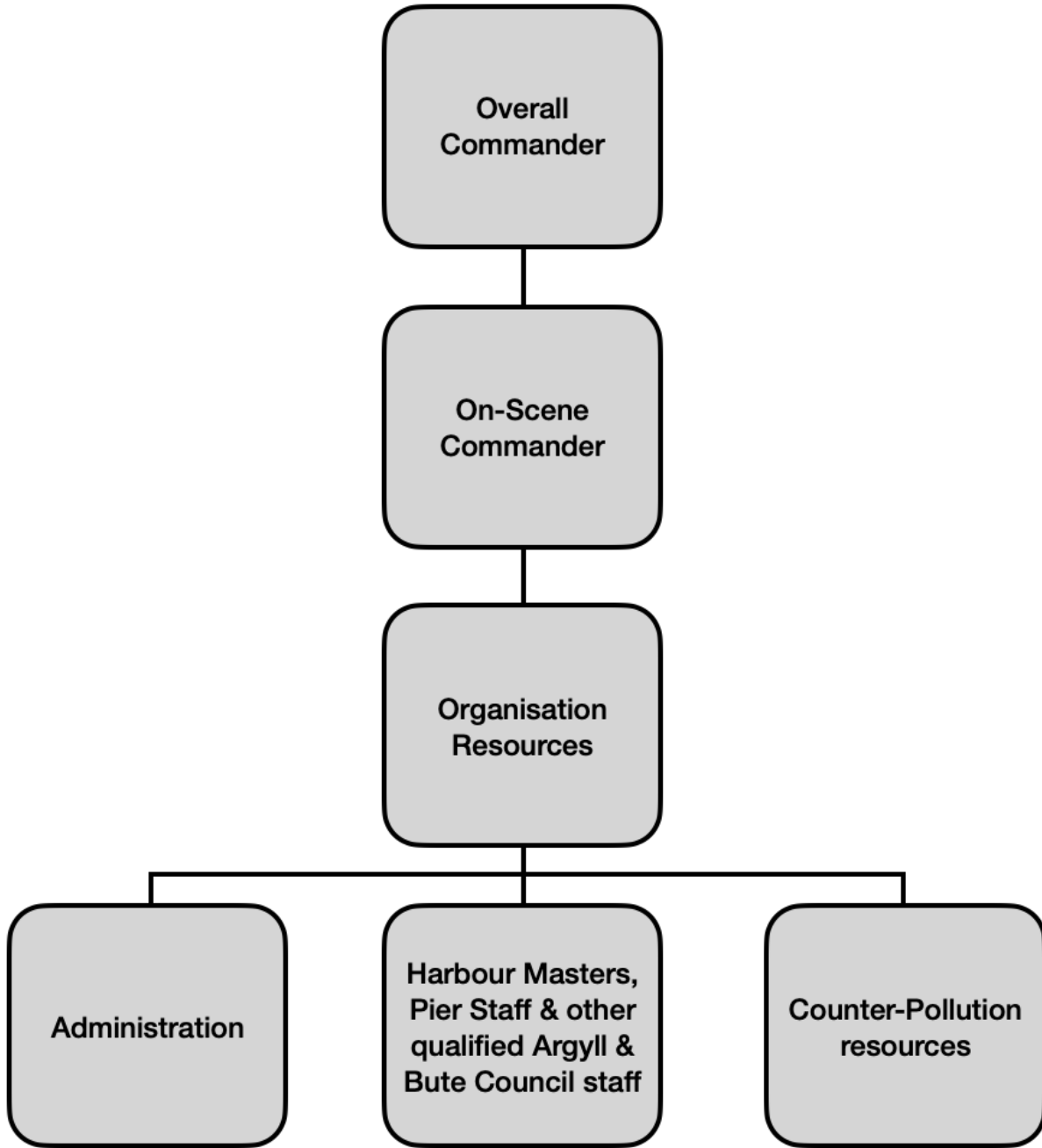


Figure 2 Oil Pollution Emergency Response Command Structure

4.4.3 SOSREP

The role of the Secretary of States' Representative for Maritime Salvage and Intervention (SOSREP) was created in 1999. SOSREP represents the Secretary of State for the Department of Energy and Climate Change in relation to offshore installations, and the Secretary of State for the Department for Transport in relation to ships and tankers.

The SOSREP is in automatic charge of the emergency response to a serious marine incident.

In practical terms, SOSREP will take their decisions based on the advice given by the particular experts in action on the emergency. They will agree the salvage plan provided by the Marine Safety Management System salvage contractors and will require it to be amended in the light of other strong advice. They may ask for additional resources or call upon other expertise. SOSREP is empowered to Make crucial decisions, often under time pressure, without recourse to a higher authority, where such decisions are in the "overriding UK public interest".

4.4.4 Dangerous Goods in Harbour Areas Regulations 2016

The entry and presence of dangerous, hazardous and harmful cargoes in port areas and any consequential handling must be controlled to ensure the general safety of the area, the containment of such cargoes, the safety of all persons in or near the port area and the protection of the environment. The safety of life and the safety of a ship, its cargo and all persons on Board in a port area are directly related to the care which is taken with such cargoes prior to loading or unloading and during the handling. All dangerous goods being transported or handled through the port will be handled in accordance with the Dangerous Goods in Harbour Areas Regulations (DGHAR) 2016 except that being stored under the COMAH Regulations. The Regional Emergency Plan is maintained to effectively handle emergencies involving dangerous substances. There is also a National Emergency plan that would come into effect in the event of a major Incident that called for National resources and intervention National Emergency Plan. Vessels carrying oil or gas are required to confirm the vessel has no defects by completing a Tanker checklist form prior to berthing.

The Harbour Master has the power to prohibit the entry into a port of any vessel carrying dangerous goods, if the condition of those goods, or their packaging, or the vessel carrying them is such as to create a risk to health and safety, and to control similarly the entry on to dock estates of dangerous substances brought from inland. The Harbour Master also has powers to regulate the movement of vessels carrying dangerous goods. Vehicles carrying dangerous goods should only be parked in

designated areas. Additional requirements are required for handling radioactive substances (Class 7) and explosives (Class 1).

4.4.5 Explosives

Within Argyll and Bute Council Ports and Harbours, a small number of ports have Explosives Licences. This are in place for:

Table 2 Explosive Licences

Licence Reference	Harbour Area
XI/1811/100	Ardminish, Gigha
XI/1811/103	Iona Ferry Slipway, Iona
XI/1811/104	Fionnphort Ferry Slipway, Mull
XI/1811/105	Tayinloan Ferry Slipway, Kintyre
XI/1811/96	Feolin, Jura
XI/1811/55	Craignure Pier, Mull

4.4.6 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, plus the Dangerous Goods in Harbour Area Regulations (DGHAR) 2016 and the PMSC, 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.

4.5 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.

4.5.1 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.

4.5.2 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.
- 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.

4.5.3 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.
- Vessel casualty.

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

4.6 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.
- 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.

4.7 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.
- 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.

- The investigation should look beyond the actual situation to see whether it could have been worse.

4.8 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. They and their 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 564² [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.

² [MGN 564: marine casualty and marine incident reporting - GOV.UK](#)

4.9 Enforcement 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 Council or by the Courts.

Where necessary, and where empowered, the Council will prosecute offenders for committing offences.

4.9.1 The Need to Enforce

The PMSC: 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 the conduct and activities of individuals 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 to provide the ability for it to make Byelaws 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.

4.9.2 The Enforcement Options

Enforcement covers everything from cordial education on the conduct expected, to prosecution on indictment in the appropriate Court.

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.
- 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.
- The knowledge and experience of the suspect.

4.10 Directions

Directions refer to powers as a Statutory Harbour Authority, to issue instructions to vessel Masters and port users, in the interests of safety.

4.10.1 General Directions

Where a Harbour Authority has been granted powers of General Direction through its local Acts and Order, these powers may be used to issue directions. The power is exercisable by the authority itself, although they are for the Harbour Master to enforce. General directions may only be made after users have been consulted. Argyll and Bute Council does not have any powers to issue General Directions at any of its ports, harbours or piers.

4.10.2 Special Directions

Section 52 of the 'Harbours, Docks and Piers Clauses Act 1847', enables an appointed Harbour Master (plus their Deputies and Assistants) to issue a Special Direction to regulate the time and manner of vessels' entry to, departure from and movement within harbour waters, and for related purposes. The power to issue a Special Direction applies only in the jurisdiction of the SHA. All appointed Harbour Masters (plus their Deputies and Assistants) in Argyll and Bute Council have the powers to issue Special Directions. The use of Special Direction is proceduralised at local harbour level.

4.10.3 Dangerous Vessel Directions

Under the Dangerous Vessels Act 1985, the Harbour Master may:

“give directions prohibiting the entry into, or requiring the removal from, the harbour for which he [or she] is Harbour Master, of any vessel if in his [or her] opinion the condition of that vessel or the nature or condition of anything it contains is such that its presence in the harbour might involve:

- a) Grave and imminent danger to the safety of any person or property, or*
- b) Grave and imminent risk that the vessel may, by sinking or foundering in the harbour, prevent or seriously prejudice the use of the harbour by other vessels”.*

The Dangerous Vessels Act 1985 does not apply to any vessel belonging to His Majesty (or employed in the service of the Crown) or any vessel which is a pleasure boat of 24 metres or less in length.

These directions can be given to the vessel owner, the Master or any Salvor or their Agent. The Harbour Authority may have limited liability for any loss or damage occurring outside the Harbour as a result of any such direction. Direction of the Harbour Master may be overruled by the Secretary of State's representative (SOSREP). In these cases, the vessel must be permitted to enter or stay in the Harbour and the Government assumes a greater liability for the vessel.

4.11 Regulation of Marine Craft

Argyll and Bute Council as Harbour Authority does not have any local Acts and Orders statutory powers to register, inspect and licence commercially operated craft. The Code's Guide to Good Practice, in Section 4.7.6 'Vessel (and operator) approval and auditing' recommends that facilities develop their own criteria to approve all vessels and operators. Under the Civic Government (Scotland) Act 1982, Section 38, the Council administers 'Boat Hire Licences'.

Argyll and Bute Council has developed a voluntary operator checklist and vessel/operator declaration which documents:

- Ownership/Registration;
- Licensing/Coding; and
- Crew and operator qualification relevant to the craft being operated.

4.12 Regulation of Marine Activities

4.12.1 Bunkering

Bunkering is an operation which involves the transfer of fuel to, or from, a vessel for use as a fuel source. The delivery is either shore-to-ship, or ship-to-ship. In Argyll and Bute Council ports and harbours, nearly all bunkering is shore-to-ship from road tankers or a fuel line from a shore storage tank. Small scale bunkering also occurs from fuel cans onboard vessels. Bunker checklists are administered at a local port level and include: pre-arrival notification and permission, during operation checks, post bunker procedures.

4.12.2 Diving

Divers employed by the Council as Harbour Authority, or a third-party in the harbour area, come under the Diving at Work Regulations 1997. Divers engaged in commercial operations must be qualified to Health and Safety Executive recognised standards and must operate within the Approved Codes of Practice (ACOPs) written for commercial diving. Argyll and Bute Council has a 'Permission to Dive Permit' and procedure, administered at a local port level.

4.12.3 Controlled Works

The permit and permission to work system applies to operations carried out in the harbour area. Argyll and Bute Council has a 'Marine Department Permit' procedure, administered at a local port level.

4.13 Environmental Duty

Argyll and Bute Council as Harbour Authority, has environmental duties in addition to those required of Competent Authorities under national legislation. These include:

- Environmental duties laid out in the 'Harbour Act 1964', Section 40A; and
- The Environment Act 2021, Section 6 'Biodiversity and Resilience of Ecosystems (requiring Harbour Authorities to have regard to biodiversity in their activities).

Argyll and Bute Council publish a 'Marine Conservancy and Hydrographic Policy', which links to environmental duties.

5 Marine Risk Management

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

5.1 Marine/Navigational Risk Assessments

Marine and Navigational Risk Assessments are required at all Council ports, harbours, piers and marine facilities. The Code's Guide to Good Practice provides information on the intended form and content of the risk assessments. The principles in carrying out the risk assessment include:

- Identify hazard and analyse risks;
- Assess those risks against appropriate levels of tolerability; and
- Where appropriate, consider a cost-benefit assessment of risk reduction measures.

The process of assessment used by the Council is continuous and reflective, so that new hazards to navigation and marine operations are identified and properly addressed. Central to the risk management process within is the concept of reducing risk to levels which are 'as low as reasonably practicable' (ALARP).

ALARP is an industry-wide standard, applying to both health and safety and port marine safety. Central to this standard is the term 'reasonably practicable'. To meet this standard, the risk assessments balances risk against the effort, time and money required to control the risk. In determining whether the predicted level of risk is tolerable and acceptable, the following questions are considered:

- Is the risk below any unacceptable limit that has been established?
- If so, has it also been reduced to ALARP?

The risk is tolerable and acceptable if the answer to both these questions is 'Yes'. Argyll and Bute Council has laid out tolerability thresholds for each of the four receptors from the PMSC. These are as follows:

Table 3 People Tolerance

(Green = acceptable; Amber = tolerable; Red = unacceptable)

Frequency / Consequence	1 in 50 years	1 in 25 years	1 in 10 years	1 in 5 years	Yearly or more frequent
Multiple Fatalities	Amber	Red	Red	Red	Red
Single Fatality	Amber	Amber	Red	Red	Red
Serious Injury	Green	Green	Amber	Red	Red
Minor Injury	Green	Green	Green	Amber	Amber
No Injury	Green	Green	Green	Green	Green

Table 4 Property Tolerance

(Green = acceptable; Amber = tolerable; Red = unacceptable)

Frequency / Consequence	1 in 50 years	1 in 25 years	1 in 10 years	1 in 5 years	Yearly or more frequent
Major (> £1m)	Green	Amber	Red	Red	Red
Serious (£100,000 - £1m)	Green	Green	Amber	Red	Red
Moderate (£10,000-100,000)	Green	Green	Green	Amber	Red
Minor (£0 - 10,000)	Green	Green	Green	Green	Amber
None	Green	Green	Green	Green	Green

Table 5 Environment Tolerance

(Green = acceptable; Amber = tolerable; Red = unacceptable)

Frequency / Consequence	1 in 50 years	1 in 25 years	1 in 10 years	1 in 5 years	Yearly or more frequent
Tier 3	Amber	Red	Red	Red	Red
Tier 2	Green	Amber	Amber	Red	Red
Tier 1	Green	Green	Green	Amber	Red
T1 no clean-up	Green	Green	Green	Green	Amber
None	Green	Green	Green	Green	Green

Table 6 Port reputation/amenity loss Tolerance

(Green = acceptable; Amber = tolerable; Red = unacceptable)

Frequency / Consequence	1 in 50 years	1 in 25 years	1 in 10 years	1 in 5 years	Yearly or more frequent
Major (> £1m)	Green	Amber	Red	Red	Red
Serious (£100,000 - £1m)	Green	Green	Amber	Red	Red
Moderate (£10,000-100,000)	Green	Green	Green	Amber	Red
Minor (£0 - 10,000)	Green	Green	Green	Green	Amber
None	Green	Green	Green	Green	Green

If a risk assessment is deemed intolerable it should be reported to senior management. This will allow the Duty Holder to be kept up to date on intolerable risks that they are responsible for. Activities with intolerable risks should be eliminated where possible. If a risk intolerable, but cannot be eliminated, then it should be mitigated so far as is practicable. This means that all possible controls should be put in place to mitigate the risk.

5.1.1 Risk Controls

Marine and navigational risks for all marine activity, associated with the Argyll and Bute Council's SHAs and marine facilities have been assessed. The assessment has the following parts:

1. Identification of hazard definitions and scenarios (i.e. descriptions of hazard and outcome).
2. Risk analysis, including identification of causes that may lead to one of the described hazard scenarios (i.e. an accident or incident outcome).

3. Consideration of existing (embedded) mitigation measures, which either control or address the outcome of an accident or incident.
4. Additional (future) risk controls, which are not currently in place, but could be used to further reduce or eliminate risk.

The hazard scenarios are used to identify potential undesirable outcomes. These are considered according to their 'Most Likely' and 'Worst Credible' outcomes. This provides the option to consider very serious outcomes, which could credibly occur, along with outcomes that are less serious, but could occur on a more frequent basis. The risk assessment process, following the PMSC evaluates the outcome on four receptors:

- People;
- Environment;
- Property; and
- Port (reputation/amenity loss)

Embedded controls are considered; these are the controls already in place. Some are provided by the Council, others from emergency response providers and some are part of the maritime community (for example, standards for equipment, training, experience etc).

Principal controls available at SHA's with appointed Harbour Masters and powers of direction include:

- Byelaws: 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, deputies or their assistants: 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 - in circumstances in which pilotage is compulsory.
- Dangerous vessel directions - 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.

Any controls that are identified that are not fully in place, or could be applied, to provide an enhanced service will be preceded by a Formal Safety Assessment (FSA) which uses Cost Benefit Analysis (CBA) processes.

The use of all these powers, governed by the Argyll & Bute Harbour Board formal risk assessment, supports the Marine Safety Management System. It should be noted, that the master - or pilot - of a vessel is not obliged to obey directions if they believe that following the direction would endanger the vessel or its crew.

5.1.2 Future Risk Controls

Additional controls have been identified to ensure that risk levels are reduced to a level which is considered to be ALARP. These additional controls are safety recommendations which will further reduce frequency and consequence and informs future risk scores. The identified measures, if fully adopted, should be incorporated into Argyll and Bute Council's harbour operational plans. Once a future risk control has been implemented, it becomes an embedded control. Just because the risk assessment process has identified a future control, does not mean this control will be added – it must first be subject to a cost/benefit review, conducted by the Marine Operations Manager.

5.1.3 Update of Marine/Navigational Risk Assessments

Navigational risk assessments are maintained for the main ports and harbours as well as the marine facilities owned by the council.

The regular (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.

5.2 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.

6 The Marine Safety Management System (MSMS)

The PMSC 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's piers, harbours and slipways. 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.

6.1 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 Council's 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.

6.2 Adjoining and Interfacing Organisations

At Argyll and Bute Council Ports, Harbours and Marine Facilities, there are both adjoining and resident (interfacing) Organisations. The relationship with these Organisations is managed day-to-day at a local port level.

The Council is committed to engaging with Organisations on marine safety, security and efficiency of marine operations. This engagement may take the form of a:

- Service Level Agreement (SLA);
- Memorandum of Understanding (MOU); or
- A formal Harbour Access Agreement (HAA).

All of the above are considered to match the Code's expectation on 'Bridging Documents'.

6.3 Stakeholder Engagement and Consultation

Argyll and Bute Council, as Harbour Authority, seeks to consult widely with port and other relevant stakeholders in respect of navigational safety issues. As a minimum the following is delivered:

- Annual Harbour User Meeting at: Dunoon, Rothesay, Campbeltown, Carradale, Craignure, Port Askaig/Bruichladdich.
- Oban stakeholder engagement is run as:
 - Marine facility operators' group.
 - Harbour User meeting.
- Smaller non-statutory facility stakeholder meetings are held to discuss specific issues, on an ad hoc basis.

7 Review and Audit

Monitoring, reviewing and auditing of the Council as an Organisation under the Code, is a key requirement. This process allows for the Designated Person to report on effectiveness of the system to the Duty Holder and Harbour Board. This provides a cyclic process that incorporated the plan/do/check/act cycle as outlined in the Code.

7.1 Review of the Safety Management System

The Review process will focus on the effectiveness of the Marine 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; and
- Accidents / Incidents that occur being analysed to identify System strengths and weaknesses.

Periodical Review: Additional to the above the Marine Safety Management System will be reviewed and reissued by the Marine Operations Manager every three years and subject to the Designated Person review as part of the external audit cycle.

7.2 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 Designated Person and the Duty Holder. If required, the Marine Safety Management System will be reissued following authorisation from the Harbour Board.

Marine Staff will monitor and review the Marine Safety Management System to ensure its effectiveness and compliance with the PMSC. 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; and
- Advice from the Designated Person.

7.3 External Audit of Code Compliance Statement

An annual independent audit of the Marine Safety Management System will be provided by the Designated Person. This audit will be part of an audit cycle, considering all Council Statutory Harbour Authority ports and harbours, over a five-year period. In addition, selected marine facilities will also be audited on a periodic basis. Outputs from the audit cycle will be presented to the Duty Holder and Harbour Board and the outcome of this consideration will be recorded.

An annual statement by the Designated Person, will be made to the Duty Holder and Harbour Board during Quarter 1 of each year. This statement will summarise the audit process from the previous calendar year and provide a statement regarding the Council's level of Compliance with the Code.

7.4 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; and
- 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.

7.5 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 and approved by the Duty Holder. Significant changes will result in a reissue of the MSMS which will be approved by the Argyll and Bute Council Harbour Board.

7.6 Document Control

As with many Council Documents, the Marine 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.

8 Competence and 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 marine safety management systems and promote the involvement of port users in training programmes.

8.1 Training Matrix

The Marine Operations Department maintains a training matrix for all staff and the respective line managers are responsible for keeping it up to date. The training matrix and training records is held and maintained centrally.

9 Marine Safety Plan

The Code provides detail on the way in which Harbour Authorities should show commitment to maritime safety and to ensuring the involvement of harbour users. The PMSC specifically requests a 'safety plan for marine operations' also termed a 'marine safety plan' which should be published at least once every three years. This document is reviewed and reissued by the Duty Holder and confirms how commercial pressures are managed without affecting the safe provision of services and the efficient discharge of its duties. The responsibility for issuing this plan rests with the Duty Holder.

9.1 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.

9.1.1 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 Marine 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; and
- 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.

9.1.2 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.

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. To achieve the conservancy requirements, the Harbour Authority must:

- Survey as necessary to identify the best navigable channels for vessels to navigate.
- To place and maintain navigation marks where they will be of the best use to navigation (both for night and day).
- To keep a 'vigilant watch' for any changes in the seabed affecting the channel or channels and move or renew navigation marks as appropriate.
- Keep proper hydrographic and hydrological records.
- To publish as conspicuously as possible such further information that will supplement the guidance given by navigation marks.

10.1 Hydrographic Survey

Argyll and Bute Council is responsible for establishing and pursuing a programme of harbour hydrographic surveys and maintenance of navigational channels. Its responsibilities include:

- Responsibility for all hydrographic surveying and associated record keeping for harbour areas carried out to Special Order standard.
- Ensuring the frequency and methodology for hydrographic survey operations will be determined primarily by a risk assessment, rather than by the blanket adoption of a set of rigid criteria.
- Preparing and collating up to date information on channel data for UK Hydrographic Office.
- Making current survey information available to the harbour community.
- Liaising with the harbour community and UK Hydrographic Office to improve the relevancy and accuracy of harbour charted information.

10.2 Dredging

Argyll and Bute Council has authority (subject to consent from Crown Estate Scotland and Marine Scotland) to undertake dredging operations for maintenance or channel improvement purposes. The results of hydrographic surveys are analysed to establish the need for maintenance dredging. All

dredging operations will potentially be subject to an Environmental Impact Assessment (EIA) and/or a Best Practicable Environmental Option (BPEO) assessment and acquisition of a licence to dispose of dredging spoil.

10.3 Aids to Navigation

As part of the Government commitment to the 'Safety Of Life At Sea' (SOLAS) convention, and as directed by the Merchant Shipping Act 1995, Northern Lighthouse Board (NLB) as a General Lighthouse Authority (GLA), has responsibility for the superintendence and management of all lighthouses, buoys and beacons within Scottish.

Under the Merchant Shipping Act 1995 Section 193, each statutory harbour authority is the local lighthouse authority (LLA) for the area within which it exercises its statutory powers and duties. All navigational marks and lights owned by Argyll and Bute Council as the Local Lighthouse Authority (LLA) for the harbours under its control are established and maintained in accordance with the availability criteria laid down by the Northern Lighthouse Board. In order to meet these criteria, a rolling-programme of inspection and maintenance is undertaken through an external contractor.

10.4 Wrecks and Abandoned Vessels

Harbour Masters have powers under the HDPCA, 1847 (Sections 52, 56 and 57) to remove any unseaworthy vessel located within the harbour and should do so wherever these present a risk to safety. This power is further strengthened by Section 252 of the Merchant Shipping Act 1995. Wrecks may also be lit and buoyed, until they are raised, removed or destroyed. Argyll and Bute Council exercises its powers in respect of wrecks to mark and remove wrecks which in their opinion, are a danger, or likely to become a danger to navigation.

Section 44 of the HDPCA, 1847 allows the Harbour Authority to take, distrain, or arrest a vessel for the non-payment of rates. "If the master of any vessel in respect of which any rate is payable to the undertakers refuse or neglect to pay the same, or any part thereof, the collector of rates may, with such assistance as he may deem necessary, go on board of such vessel and demand such rates, and on nonpayment thereof, or of any part thereof, take, distrain, or arrest, of his own authority, such vessel, and the tackle, apparel, and furniture belonging thereto, or any part thereof, and detain the matters so distrained or arrested until the rates are paid".