

**REPORT OF** Waste and Recycling Manager

**To:** Community and Resources Committee

**Subject:** Port Marine Safety Code Compliance

**Date:** 19<sup>th</sup> October 2020

**Reference:**

#### **PURPOSE OF REPORT:**

Report to Community and Resources Committee on the role of the Harbour Authorities Duty Holder, their duties, powers and responsibilities described within the Port Marine Safety Code and the Guide to Good Practice on Port Marine Operations. The Committee should discuss the report and decide how the role of Duty Holder will be fulfilled in the future.

#### **1. INTRODUCTION**

Torridge District Council is the Statutory Harbour Authority for the Port of Bideford. This includes responsibilities associated with its function as the Statutory Harbour Authority and Competent Harbour Authority in relation to the pilotage vessels to and from berths at Bideford and the Yelland berths on the Taw estuary and including the pilotage of new builds from the Appledore Shipyard.

The Harbour Board is made up of Elected Members and Independent advisers and provides strategic direction to the Harbour Authority, although it has limited decision-making powers. This function lies with the Community and Resources Committee and ultimately Full Council. Officers are recommending that the role of duty Holder is fulfilled by the Community and Resources Committee going forward

#### **2. REPORT**

Numerous reports have been brought to the Harbour Board in recent years on the Port marine Safety Code, first published in March 2000.

This report serves as an update for members and to advise of continued compliance with the Port Marine Safety Code.

The Port Marine Safety Code (PMSC) sets out a National Standard for every aspect of Port Marine Safety within ports in the United Kingdom. The code is applicable both to statutory harbour authorities and to other marine facilities, such as Marinas and terminals. The code is primarily intended for the Duty Holder, which means for most organisations, those members of the organisation, both individually and collectively, who are ultimately responsible for marine safety.

The duty holder can be seen as “virtual person” known as “persona ficta” in legal terms, such as a corporate body. Otherwise it may be identified as a human being known as a “natural person” who may take on the role as Duty Holder by virtue of his or her job role.

In order to comply with the PMSC, statutory harbour authorities must consider the following Ten Measures:



**1 DUTY HOLDER:** Formally identify and designate the Duty Holder, whose members are individually and collectively accountable for compliance with the code and their performance, in ensuring safe marine operations in the harbour and its approaches.

**2 DESIGNATED PERSON:** A “Designated Person” must be appointed to provide independent assurance about the operation of the marine safety management system. The designated person must have direct access to the Duty Holder.

**3 LEGISLATION:** The duty Holder must review and be aware of their existing powers based on local and national legislation, seeking additional powers, if required in order to promote safe navigation. Legislation is covered in a further report to be presented to members on Port marine Safety Code Compliance.

**4 DUTIES AND POWERS:** Comply with the duties and powers under existing legislation, as appropriate.

**5 RISK ASSESSMENTS:** Ensure that marine 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.

**6 MARINE SAFETY MANAGEMENT SYSTEM:** Operate an effective MSMS which has been developed after consultation, is based on formal risk assessment and refers to an appropriate approach to incident investigation.

**7 REVIEW AND AUDIT;** Monitor, review and audit the risk assessment and MSMS on a regular basis-the independent designated person has a key role in providing assurance to the duty holder. Further to this the Marine Safety Plan needs to be audited externally on a three-yearly basis.

**8 COMPETANCE;** Use competent people (who are trained qualified and experienced)

**9 PLAN;** Publish a safety plan showing how the standards in the code will be met and produce a report assessing performance against the plan at least every three years.

**10 AIDS TO NAVIGATION;** Comply with directions from the General Lighthouse Authorities and supply information and returns as required.

Further to this the Duty Holder must report compliance with the code to the Maritime and Coastguard Agency every three years with this coming March 2021 being the next deadline for such a report.

All duty holders should take time to gain an appropriate insight and understanding of their organisations port marine activities, SMS and supporting policies and procedures. This can be accommodated through briefings, operational visits and through training. Serious consideration should be given to appointing a member of the board who has relevant maritime experience and who can act as an initial point of contact for the designated person

The duty holder should also ensure that appropriate resources are made available for discharging their maritime safety obligations.

### **Examples of Other Local Authority Duty Holders**

In the past the role of duty holder at Bideford Harbour has been fulfilled by the Harbour Board Cornwall Harbours, the duty holder is the Full Council

Torbay Harbour, the Duty holder is Torbay Harbour Committee.

Orkney harbour, harbours full council

Aberdeenshire harbour, Infrastructure Services Committee

Argyll and Bute Harbour, Executive Director of Development and Infrastructure

In general, Local Authorities appear to favour Committees in the role of Duty Holder, with Officers entrusted to deliver the functions of Marine professionals.

However, it is for Torridge District Council to decide how it wishes to fulfil this important position and the Harbour board has recommended that this role be fulfilled by the Community and Resources Committee.



### **3. IMPLICATIONS**

#### Legal Implications

On the matter of accountability and legal liability under local authority legislation the principal responsibilities remain with the Torridge District Council in the corporate sense. The Duty Holder is responsible for ensuring safe marine operations with the harbour Authorities jurisdiction. Failure to discharge the duties responsibly may result in corporate prosecution and liability for any incident involving navigational safety.

#### Financial Implications

N/A

#### Human Resources Implications

N/A

#### Sustainability Implications

The Harbour Authority is committed to working with colleagues and Partner organisations in supporting all relevant environmental protection legislation.

#### Equality/Diversity

The Harbour Authority seeks to comply with all Equality and Diversity Legislation.

#### Risk Management

The Harbour Authority has a Maritime Safety Management System based on risk assessment in compliance with the Port Marine Safety Code

#### Compliance with Policies and Strategies

As set out

#### Lead/ Ward Member Views

At the Harbour Board Committee meeting held on the 17<sup>th</sup> September 2020, members discussed the contents of the report and voted unanimously that the Community & Resources Committee be made formal Duty Holder for Bideford Harbour Authority.

### **4. CONCLUSION**

Bideford Harbour authority continues to work on maintaining full compliance with all statutory legislation and United Kingdom Government policy on the Port Marine Safety Code.

### **5. RECOMMENDATIONS**

That Members consider the recommendation of Harbour Board that: The Community & Resources Committee be made formal Duty Holder for Bideford Harbour Authority.

### **SUPPORTING INFORMATION**

Consultations: Steve Hearse, Staci Dorey, David Heyes, Sean Kearney  
Contact Paul Labistour, Harbour Master  
Officer:  
Background  
Papers:

