



# LICENSING POLICY

## SMALL COMMERCIAL VESSELS IN USE FOR SPORT OR PLEASURE

### Environmental Health and Public Protection

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# 1 INTRODUCTION

*This Policy is intended to provide general guidance only. It does not constitute a definitive statement of law. Applicants who require legal advice on a specific licensing topic relating to small commercial vessels are advised to consult a solicitor. Text in the shaded boxes is advisory or explanatory and is intended only to give assistance to applicants, licence holders and authorised persons.*

- 1.1 The Council operates a scheme for the licensing of boatmen and pleasure boats operating in the River Torridge.
- 1.2 The purpose of this policy is to provide applicants for licences and other users of the licensing service with advice and information on the Authority's requirements for licensing small commercial vessels and the skippers of such vessels. It is also intended to ensure that the licensing authority applies consistent standards when determining licence applications.

The policy is underpinned by, and draws its authority from the following legislation:

- The Public Health Acts Amendment Act 1907
- Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998
- Merchant Shipping (Small Commercial Vessels and Pilot Boats) Regulations 2004

The policy has been prepared with due regard to the following codes of practice and guidance:

- The Code of Practice for the Safety of Small Vessels in Commercial Use for Sport or Pleasure Operating from a Nominated Departure Point (Maritime and Coastguard Agency)
- Marine Guidance Note MGN 280 (Maritime and Coastguard Agency)
- Recommendations and Regulations Affecting the Licensing and Operation of Small Craft (South West Regional Standing Committee on Safety of Small Craft).
- Inland Waters Small Passenger Boat Code (Maritime and Coastguard Agency)
- **Code for the Design, Construction and Operation of Hire Boats (British Marine/AOIA)**

- 1.3 The following organisations and individuals have been consulted during the review of Policy:

- Maritime and Coastguard Agency
- South West Regional Ports Association
- ~~Torridge District Council~~ Bideford Harbourmaster
- Owners and skippers of vessels licensed under the Council's licensing scheme
- Boatmen licensed under the Council's licensing scheme

This Policy was formally adopted by the Council on 23 September 2013. The last update was approved on ~~10<sup>th</sup> March 2016~~ 25 January 2023.

The Policy will be reviewed and updated at least every three years or more frequently if required.

- 1.4 The Authority will endeavour to adhere to the Policy when considering licensing issues but reserves the right to depart from the Policy where there are compelling reasons for doing so. The Authority will provide a written explanation for any departure from policy guidelines.
- 1.5 The Authority recognises that this Policy cannot cover every conceivable safety scenario or guarantee total safety for the public. Compliance with the policy will help to ensure that, as far as is practicable, passengers using licensed/certificated vessels are protected from harm. However, the final responsibility for the safety of passengers rests with the skipper and crew of the vessel.

## 2 AIMS AND OBJECTIVES

2.1 This Policy supports two of the Authority's strategic goals:

- Stronger, safer, healthier communities – ensuring the safety of persons using licensed vessels;
- A prosperous and sustainable economy - not overburdening businesses with unnecessary regulation.

2.2 The key objective of the Policy is the protection of public health and safety. Public safety is at the heart of the licensing regime and this aspect of the Policy will generally take precedence over other licensing considerations.

2.3 Small commercial vessels providing pleasure trips are an important attraction for tourists and form part of the traditional maritime 'scene' in Torridge. The Policy will seek to promote this activity wherever practicable provided there is no conflict with policy objective 2.2.

## 3 THE LICENSING REGIME

### 3.1 Vessels Operating in the Torridge/Taw Estuary

3.1.1 The Authority licenses vessels in the following categories:

- (i) South West Category 1: small boats including beach floats, pedaloes, canoes, water-ski craft, power surfboards, sailboards, self-drive hovercraft, self-drive motorboats, jet-skis and parascending craft let for hire **not** in the charge of a licensed **beatman skipper**.
- (ii) South West Category 2: small boats in the charge of a licensed **beatman skipper** plying for hire or let for hire (e.g. for fishing, **sailing** or tourist trips). (NB. The Authority may only license vessels for up to 12 passengers. Above this limit, application must be made to the MCA or to another certifying authority)

3.1.2 The area of operation is confined to Category C waters as defined by Merchant Shipping Notice MSN 1837 (M) and SW Regional Standing Committee on Safety of Small Craft. These are the estuarial waters of the Rivers Torridge and Taw within a line bearing 200 degrees from the lighthouse on Crow Point to the shore at Skern Point.

#### 3.1.3 General Requirements - Vessels

##### 3.1.3.1 Construction and Seaworthiness

In order to determine whether a vessel is suitable and safe for commercial use by the public, the Authority will require a thorough examination of the vessel, its structure and its fixtures and fittings<sup>1</sup>. The design of the hull, its construction and the materials and equipment used should be appropriate for the intended use of the vessel and its area of operation. The examination of the vessel **will- must** be undertaken by an authorised person **at the applicant's expense**. This will be either a qualified marine surveyor or a person who has the relevant professional qualifications or practical experience and expertise to undertake such examinations. Following examination, the authorised person will submit a report to the Authority on the vessel's general safety and seaworthiness. A licence will not be granted without a satisfactory report from the authorised person. A report will only be accepted if it has been completed no later than one month before the date it is submitted to the Council.

<sup>1</sup> New vessels should comply with an appropriate standard such as *ISO 12215 Small Craft Hull Construction and Scantlings*. Existing vessels should be able to demonstrate at least five years' history of safe operation.

The examination regime will be based on the 5 year cycle specified in the MCA's *Code of Practice for the Safety of Small Vessels in Commercial Use for Sport or Pleasure Operating from a Nominated Departure* as follows:

Year 1	Initial compliance examination. Physical examination of the vessel carried out by a qualified marine surveyor or competent person. (At least part of the examination must be conducted with the vessel out of the water).
Year 2	Examination of vessel by owner/managing agent.
Year 3	Examination of vessel by owner/managing agent.
Year 4	Examination by surveyor (in water inspection).
Year 5	Examination of vessel by owner/managing agent.

**Lifejackets must be serviced annually.**

Vessels may be subject to an independent inspection by the Harbour Master or other competent Council Officer to check safety equipment and ensure compliance with conditions of licence.

It is the responsibility of the owner of the vessel and/or the person in charge of the vessel to ensure that the vessel and its fixtures, fittings and safety equipment are maintained in a safe and seaworthy condition. Any accident or damage which adversely affects the safety of the vessel must be reported to the Authority within 24 hours (or, if the accident occurs at a weekend, before the end of the next working day) and the vessel made available for inspection by an authorised officer or authorised person. Depending on the severity of the damage, the Authority may decide to suspend the licence in the interests of public safety until such time as any damage or defects are repaired.

No alterations to the construction of the vessel may be made without obtaining prior written permission from the Authority. In cases where the Authority is unable to assess the safety implications of any alterations, the Authority may seek expert technical advice from another licensing/certifying authority, an authorised person or any other organisation which, in the opinion of the Authority, has the relevant knowledge and/or expertise.

In the interests of public safety, the Authority applies a number of restrictions on licences:

- seasonal operation only between 1<sup>st</sup> April (or Good Friday if this falls before 1<sup>st</sup> April) and 31<sup>st</sup> October each year;
- vessel must only be operated during daylight hours;
- vessel must only be operated in favourable weather i.e. wind, sea and visibility conditions which are deemed by the skipper to be safe for the vessel to operate in.

*The responsibility for determining if weather conditions are 'favourable' rests with the skipper of the vessel. In the event of a vessel being operated in weather conditions which are unsafe or unfavourable and which result in loss of life or injury, liability will rest with the skipper and/or the vessel owner.*

### 3.1.3.2 Safety Management System

In the interests of public safety, the vessel owner/skipper must have a safety management system in place for the vessel which should contain, as a minimum:

- a health and safety policy for the protection of crew and passengers
- procedures for dealing with emergencies (e.g. man overboard)
- procedures for reporting accidents including 'near misses'
- **Operating schedule and Risk Assessments**

*It is legal requirement to report all accidents (Merchant Shipping (Accident Reporting and Investigation) Regulations 1994.*

### 3.1.3.3 Insurance

The vessel must have adequate passenger liability and third party insurance cover. The Authority will require applicants to produce a current certificate of insurance with minimum public liability indemnity of £3,000,000.

*This is the recommended minimum level of public liability indemnity. Given the potential level of any claim for loss of life or injury arising from an accident, boat owners are strongly advised to take advice from their insurer on an appropriate level of cover sufficient to meet possible claims.*

### 3.1.3.4 Conditions

The Authority may attach conditions to the grant of a Boat Licence. Licence conditions will be reasonable and proportionate and will generally be attached where the Authority believes they are required in the interests of public safety. The Authority's current conditions appear at Annex 1.

*These are the Authority's standard conditions applicable to all licensed vessels. Where necessary, the Authority may attach specific conditions to a licence if there is a demonstrable safety requirement.*

### 3.1.3.5 The Licence

A laminated copy of the boat licence must be displayed in a prominent place in the vessel where it can be readily seen by passengers and kept on display at all times during the term of the licence.

## 3.1.4 General Requirements – Boatmen-Skipper

### 3.1.4.1 Competence<sup>2</sup>

In the interests of public safety, the Authority will need to be satisfied that the person in charge of the vessel has the necessary level of competence to operate it safely.

The Authority will require an applicant for a **Boatman's Skipper's** Licence to have obtained one of the following qualifications:

- Certificate of Competency – Yachtmaster Ocean\*
- Certificate of Competency or Service – Yachtmaster Offshore\*
- MCA Boatmasters Licence\*
- RYA/DfT Certificate of Competency or Service – Coastal Skipper
- RYA/DfT Advanced Powerboat Certificate
- RYA/DfT Day Skipper Theory & Practical Certificate
- RYA/DfT Powerboat Level 2 Certificate

Certificates of competency should carry the following endorsement: *“valid for vessels of up to 24 metres in length used for commercial purposes”*.

On initial application and at any other time the Authority deems appropriate the applicant will be required to undergo a test of skipper's competence. This will be carried out by the Authority's Harbourmaster and will cover a range of appropriate skills and knowledge (see Annex 2).

Holders of qualifications identified by \* above may be subject to an exemption from a boatman licence. This will be subject to the competency test and recommendation by the Harbour Master.

A one-day short range (approved SRC) VHF radio course would be expected for vessels which are fitted with VHF equipment.

Where there is no radio, the skipper should know how to use the available equipment to contact assistance from any point on the route – e.g. a mobile phone, PA, loud hailer, or mega-phone for use on rivers or canals.

An applicant for a **Boatman's Skipper's** Licence must be at least 18 years of age.

#### 3.1.4.2 Medical Examination

In order to be satisfied that a person is medically fit to operate a vessel, the Authority will require applicants to undergo a medical examination with a registered GP. The examination will be required at the following intervals:

- On initial application
- Every five years until age 65
- Annually after age 65

The medical examination must be carried out by a registered General Practitioner using the Authority's standard medical report and endorsed with the surgery's official stamp. Medical reports which do not have the official stamp will not be accepted. Applicants should note that they must pay the cost of the medical examination. In the event of any dispute about an applicant's or licence holder's medical condition, the Authority reserves the right to refer the matter to the local NHS Occupational Health Department for a second opinion.

Where an applicant can produce current documentary evidence of medical fitness, the Authority may, at its discretion, exempt the applicant from the requirement to undertake a medical examination. The Authority will accept the following certificates as exemptions:

- Seafarer's Medical Certificate (ENG1)
- MCA Medical Certificate (ML5)
- CAA commercial pilot's licence
- HSE diving medical certificate
- DVLA Group 2 Driver's Licence
- RNLI medical certificate

A licensed **boatman skipper** must notify the licensing authority in writing within seven days of diagnosis of any adverse medical condition which may render him/her unfit to operate a vessel.

#### 3.1.4.3 Criminal Convictions

In order to protect public safety, the Authority will vet every applicant for a **Boatman's- Skipper's** Licence to ensure they are fit and proper persons to deal with the public. Vetting will be carried out by means of a criminal conviction certificate issued under s.112 of the Police Act 1997 (a basic Criminal Record Disclosure). The applicant/licence holder will be responsible for obtaining the disclosure and must submit this with their application. The disclosure must be no more than one month old at the time the application is submitted to the Authority.

The Authority will require a basic disclosure to be provided on initial application and every three years thereafter during the period of the licence. All such records will be treated in total confidence and will only be seen by authorised officers of the Authority. Applicants should note that they must pay the cost of obtaining the disclosure.

If the disclosure reveals unspent criminal convictions which may, in the opinion of the Lead Licensing Officer, put the public at risk, the application will be determined by the Authority's Licensing Committee or a sub-Committee of that Committee. If the Authority is satisfied that granting a licence would put the public at risk of harm, it may refuse to grant/renew, suspend or revoke the licence.

#### 3.1.4.4 Conditions

The Authority may attach conditions to the grant of a **Boatman's Skipper's** Licence. Licence conditions will be reasonable and proportionate and will generally be attached where the Authority believes they are required in the interests of public safety. The Authority's current conditions appear at Annex 3.

*The grant of a licence does not obviate the need for vessels and/or skippers to comply with relevant bye laws made by the local/navigation authority or the port/harbour authority for the area in which the vessel operates.*

#### 3.1.4.5 The Licence

The licence must be kept in a secure place and made available for inspection on request by an authorised officer or authorised person.

### 3.2 Operators Licence (South West Category 1)

#### 3.2.1 General

No person shall let for hire or reward any licensed vessel in South West Category 1 (when not in charge of a licensed boatman) without having first obtained a licence from the Local Authority (herein called an Operators Licence).

In the interests of public safety, the Authority will need to be satisfied that the person holding the Operators Licence has the necessary level of competence to operate safely. Depending on the proposed activities the applicant may require a competency test with the Harbourmaster.

#### 3.2.2 Marking and Inspection

Every vessel before being let for hire or reward shall have exhibited in some conspicuous part the name of the licensed owner and the total number of person allowed to be carried. The Operators Licence may be suspended if at any time an authorised Officer of the Local Authority shall be of the opinion that any of the vessels on hire is unfit to carry passengers.

#### 3.2.3 Persons in Charge

The Licensee shall be responsible that no motor boat, mechanically propelled boat or sailing boat shall be let for hire or reward unless a competent person(s) be placed in charge thereof by the licence holder and remain in charge so long as the hire shall last. ~~Such competent person should hold a nationally recognised qualification for the activity concerned.~~

Persons under 18 years of age must be accompanied by an adult at all times.



In cases where vessel(s) let for hire are remote from the competent person, then the licensee shall ensure that there are sufficient competent persons to maintain visual contact with the hired vessel(s) at all times and provide sufficient means of immediate rescue in the event of an incident.

The Licensee shall ensure that the equipment is maintained in a proper state and that hirers are provided with sufficient information about the craft and its equipment to enable it to be used safely for the intended purpose and that hirers are competent for the intended operation. Hirers also need to be provided with navigational and tidal information of the estuary and prove an understanding of International collision regulations.

The licensee shall ensure that procedures are in place to alert the emergency services in the event of an incident, report and record to the licensing authority all incidents that have or could have led to injury.

#### 3.2.4 Specific Requirements

The spectrum of different vessels which may be licenced makes a “one size fits all” approach impractical. The Authority will use the guidance provided in Annex 4 of this policy to assist in determining what factors are considered during the licensing process.

### 3.3 Vessels Which Go To Sea

- 3.3.1 Any vessels which go to sea will need to be registered with the MCA or one of their authorised Certifying Authorities. Further information can be obtained from the Licensing Team or the MCA direct.

## 4. ROLE OF THE LICENSING COMMITTEE

### 4.1 Committee Powers

- 4.1.1 The Licensing Committee is responsible for discharging the Authority’s statutory licensing and regulatory function. The Committee will determine and approve the Authority’s policy in relation to the licensing of small commercial vessels. Any revisions or amendments to the policy must be approved by the Committee.
- 4.1.2 The Committee will receive reports from the Lead Licensing Officer, as appropriate, on matters relating to the licensing and certification of small commercial vessels.
- 4.1.3 The Committee will also, where appropriate, consider contraventions of the law, the Authority’s by-laws, conditions of licence and/or codes of practice and may take such action as it considers necessary in order to protect the public. This may include cancellation, suspension and revocation of licences and certificates. This function may be carried out by a sub-Committee of the Licensing Committee in accordance with established procedures.
- 4.1.4 Any person aggrieved by a decision of the Licensing Committee (or sub-Committee) has the right to appeal to the Magistrates’ Court within 21 days of notification of the decision.

### 4.2 Delegated Powers

Certain functions of the Licensing Committee may be carried out by an authorised officer of the Authority under delegated powers

## **5. ENFORCEMENT**

- 5.1 The Authority will work in co-operation with licence holders and the owners/skippers of certified vessels to address any safety concerns or instances on non-compliance with the law, bye laws, conditions of licence or codes of practice. Where the authority is unable to satisfactorily resolve such issues, it may take such enforcement action as it considers necessary for the protection of the public.
- 5.2 Enforcement action will be taken in accordance with the Authority's Enforcement Policy which can be viewed on the Authority's website.
- 5.3 Enforcement may be carried out by the Licensing Authority acting on its own initiative or in conjunction with the Maritime and Coastguard Agency or with any other agency the Authority considers to be appropriate to the circumstances of the case.
- 5.4 The Authority has the power to suspend or revoke licences issued under its own licensing scheme (see Annex 1, section 9 and Annex 3, section 8).

## **6. FEES**

The Authority has the power to charge a fee to cover the reasonable costs of administering and enforcing its licensing scheme. Fees will normally be reviewed annually.

If a licence is surrendered or cancelled, the Authority may, at its discretion, refund part of the licence fee. Refunds will be calculated pro-rata on the basis of any whole months remaining prior to expiry of the licence.

The current fees can be viewed on the Authority's website.

## ANNEX 1 – CONDITIONS ATTACHED TO BOAT LICENCE (TDC LICENSING SCHEME)

### 1. Limit of Operational Area

The vessel may only be operated in the estuarial waters of the Rivers Torridge and Taw within a line bearing 200° from the lighthouse at Crow Point to the shore at Skern Point.

### 2. Restrictions on Operation

The vessel may only be used for the carriage of passengers between 1<sup>st</sup> April (or Good Friday if that date be before 1<sup>st</sup> April) and 31<sup>st</sup> October in any year and during the period from one hour before sunrise and one hour after sunset.

The vessel may only be used for the carriage of passengers in favourable weather conditions i.e. wind, sea and visibility conditions which are deemed by the skipper to be safe for the vessel to operate in.

### 3. Construction and Seaworthiness

All boats shall be subject to ~~an annual hull~~ regular examination as set out in 3.1.3.3. of the Council's Policy. The examination ~~which~~ shall be carried out by an authorised person approved by the Local Authority. The vessel must be inspected out of the water at least once every five years.

The surveyor or authorised person shall provide a detailed report on the structural condition of the hull, the structural fastenings and the vessel's safety equipment. The survey shall include a brief examination of propulsion machinery and electrical and pumping installations but only in so far as these affect the seaworthiness of the craft.

In carrying out the examination the surveyor or authorised person will be guided by the relevant provisions of the Recommendations and Regulations Affecting the Licensing and operation of Small Craft published by the South West Regional Standing Committee on the Safety of Small Craft.

The licensing authority may waive or reduce any requirement or restriction on account of the special circumstances of any boat in the trade in which it is engaged.

The Authority's licensing scheme in no way exempt a vessel from compliance with any relevant statutory requirements of the Department for Transport.

### 4. Insurance

All licensed boats shall carry public liability and third party insurance with minimum indemnity cover of at least £~~2~~ 3 million.

### 5. Equipment

Each licensed boat or vessel shall be provided with the equipment listed in the attached schedule for Category 2 vessels. The equipment shall be maintained in good order and will be inspected annually by an authorised person. Where a higher standard of equipment is required for any boat by reason of any statutory order or any requirement of the Department for Transport or the MCA, such higher standard shall be applied.

When the boat or vessel is let for hire or used for the carriage of passengers it shall

- (i) be kept free from oil, refuse and fuel spillages;
- (ii) not carry any loose cans of petrol on board under any circumstances;
- (iii) not be used for towing any other boat or craft, except in cases of emergency.

### 6. Safety Lanyard Cord

In vessels which are designed or adapted for the installation of a safety lanyard cord ("kill cord"), the skipper of the vessel should wear the cord at all times in accordance with RYA safety guidelines when operating the vessel where ever and when ever possible.

In the event a lanyard cannot be used the boat should be operated at the slowest safe speed for the estuary and at least one other person on board should be aware of how to stop the engine immediately.

#### **7. Information in Vessel**

A laminated copy of the boat licence must be displayed in a prominent place in the vessel where it can be readily seen by passengers and kept on display at all times during the term of the licence.

#### **8. Accidents and Damage**

Any accident, collision, grounding or damage which adversely affects the safety of the vessel shall be reported to the Authority within 24 hours or (where the incident occurs at a weekend) before the end of the next working day. 'Near misses' must also be reported as these may indicate potential safety problems and help to avoid future accidents.

#### **9. Suspension/Revocation of Licence**

The Authority may suspend or, revoke the licence of any vessel on the following grounds:

- that the vessel has suffered damage which renders it unsafe for public use
- failure to comply with the provisions of the Public Health Acts Amendment Act 1907
- failure to comply with a condition of licence
- failure to comply with any Authority harbour bye law
- that the action is necessary or desirable in the public interest

Any person aggrieved by a decision of the Authority to suspend, revoke or to refuse to renew a licence may appeal to a Magistrates' Court. Any appeal must be made within 21 days of notification of the Council's decision.

### **SCHEDULE OF EQUIPMENT FOR CATEGORY 2 VESSELS**

1. Painter (Mandatory in categories 2, 3, 4, 5, 6).
2. Bilge pump (if practicable) and bailer and bucket.
3. Approved alternative means of propulsion (e.g. paddles).
4. Lifejackets available for 100% passengers and crew. Lifejackets may be of solid buoyancy or inflatable type and should have a minimum buoyancy rating of 150 Newtons in accordance with BS/EN 396. (See general note (v)).
5. A minimum of two lifebuoys with buoyant line of at least 18 metres in length.
6. Together with the lifebuoys in (5) above, approved buoyant apparatus to support 100% of passengers and crew.
  - (a) This buoyant apparatus may be made up of standard DfT lifebuoys, buoyant apparatus, built-in buoyancy but not lifejackets.
  - (b) Regard may be had to built-in buoyancy only if adequate and suitable grab lines or rails or bilge keels are provided and maintained.
7. Notice stating
  - (a) Location and effect of local weather signals
  - (b) Restrictions on area of operation and
  - (c) Emergency procedures.
8. Sailing craft licensed under these rules shall be provided with one safety harness to B.S.I. specifications for each person on board.

9. Powered craft > 6 metres in length: a hand-powered or power driven fire pump with sea hose connections capable of delivering a jet of water to any part of the vessel OR 1 multi-purpose fire extinguisher with a minimum fire rating of 13A/113B PLUS 1 multi-purpose fire extinguisher with minimum fire rating of 5A/34B. Fire extinguishers must bear a valid certificate of inspection and must be tested annually  
  
Powered craft < 6 metres in length: 1 multi-purpose fire extinguisher with minimum fire rating of 5A/34B. Fire extinguishers must bear a valid certificate of inspection and must be tested annually
10. A hand-powered or power driven fire pump with sea and hose connections capable of delivering a jet of water to any part of the vessel (vessels > 6 metres only)
11. At least one fire bucket with lanyard.
12. Anchor and rope. Anchors of suitable mass for the type and size of vessel and appropriate for the area of operation. Anchor rope should be of suitable length for the depth of water in the area of operation.
13. Buoyant heaving line at least 30 metres in length with MCA approved rescue quoit.
14. Boat hook
15. Klaxon, foghorn, or other approved noise signal.
16. A sufficient first aid kit.
17. Navigation lights.
18. Approved orange smoke floats or orange smoke flares (two).
19. Suitable tool kit.
20. One water resistant torch.
21. VHF radio tuned to the appropriate emergency frequency for the area of operation (if applicable)..
22. Knife.

#### General Notes

- (i) The licensing authority may waive or reduce any requirement or restriction having regard to the special circumstances of any vessel in relation to its type of construction, standard of equipment and the trade in which it is engaged.
- (ii) Where a higher standard of equipment of equipment than those recommended is required for any vessel by reason of any statutory order or provision or by any requirements of the DfT or MCA such higher standard shall be applied.
- (iii) Where practicable licensed self-drive motor boats shall be fitted with propeller guards. Such craft are to be fitted with a notice displaying the operational limits of the boat and a warning notice that the craft is not to enter areas buoyed for swimmers.
- (iv) Where a Calor gas installation is fitted to any licensed vessel, the installation, where practicable, shall comply with the provisions of Merchant Shipping Notice No. 984 relating to Open Flame Gas Installations.
- (v) Lifejackets relying entirely on oral inflation are not suitable for emergency use unless they are inflated and worn at all times while the vessel is being operated. A minimum of two lifejackets suitable for children must be included within the total number of lifejackets provided.

**ANNEX 2 – COMPETENCE REQUIREMENTS FOR ~~BOATMAN~~ SKIPPER (TDC LICENSING SCHEME)**

POINTS FOR TESTING	PASS	FAIL	REMARKS
1. Local Knowledge (local regulations, signals, lights, tidal conditions etc.)			
2. Emergency procedures (fire, collision, man overboard etc.)			
3. Regulations for preventing collisions at sea			
4. Distress signals			
5. Use of compass			
6. Use of anchor			
7. Weather reports			
8. Buoyage			
9. Common Chart Symbols			
10. Common Knots			
11. Simple First Aid			
12. Distress and Rescue			
13. Boat handling			
14. Engine knowledge			
15. Passenger safety (safety briefing)			
16. Sea Survival			
17. Communications (use of radio etc.)			

Report and Recommendations.....  
 .....  
 .....  
 .....

Has applicant demonstrated satisfactory level of competence to skipper vessel?      YES/NO

Signature of Examiner.....

Date.....

Print Name.....

## **ANNEX 3 – CONDITIONS ATTACHED TO **BOATMAN'S SKIPPER'S** LICENCE (TDC LICENSING SCHEME)**

### **1. Period of licence**

All licences are issued for a period of one year or less with effect from 1<sup>st</sup> April and shall expire on 31<sup>st</sup> March the following year.

### **2. Medical Examination**

A medical examination will be required at the following intervals:

- On initial application
- Every five years to age 65
- Annually after age 65

Holders of a **Boatman's Skipper's** Licence must notify the Authority in writing within seven days of any deterioration in their health that may affect their capabilities of handling a vessel.

### **3. Vetting of Applicants**

An applicant for a **Boatman's Skipper's** Licence must produce a criminal conviction certificate issued under s.112 of the Police Act 1997 (a Basic Criminal Disclosure). Once a licence has been granted, the licence holder will be required to produce a new certificate every three years.

The holder of a **Boatman's Skipper's** Licence must notify the Authority in writing within seven days of any criminal conviction, caution or other offence incurred during the period of the licence.

### **4. Passenger Safety**

Prior to the commencement of any hiring, a licensed **boatman skipper** must give a formal safety briefing to all passengers on the vessel. The safety briefing must include:

- an explanation of the location and use of safety equipment such as liferafts, lifejackets, lifebuoys and the procedures to be followed in the event of an emergency;
- procedures for the recovery of a person from the water;
- location of fire fighting equipment;
- advice on the weather and sea conditions likely to be encountered, and
- procedures for safe embarkation/disembarkation when entering and leaving harbour.

Safety cards will be considered an acceptable way of providing the above information.

### **5. Accidents**

A licensed boatman must report any accident or damage to the vessel within 24 hours (or, if the accident occurs at a weekend, before the end of the next working day) and make the vessel available for inspection by an authorised officer of the Authority or an authorised person.

### **6. Alcohol and Drugs**

A licensed **Boatman's Skipper** or crew member must not under any circumstances operate a licensed vessel when under the influence of alcohol and/or drugs.

If alcohol is provided for consumption by passengers on board the vessel, this must be authorised by way of a premises licence issued by the local licensing authority under s.18 of the Licensing Act 2003 or a Temporary Event Notice given under s.100 of the Licensing Act 2003.

## **6. Qualifications, Certificates**

Where a person has been granted a **Boatman's Skipper's** Licence on the basis of an existing skipper's certificate issued by another authority, he/she must notify the Authority in writing within seven days of any suspension or revocation of that certificate by the issuing authority. In such circumstances, the Authority may suspend or revoke the person's **Boatman's Skipper's** Licence or may require him/her to undertake a competence test.

## **7. Identity Badge**

When in charge of a vessel, a licensed **Boatman** Skipper must wear prominently on his/her person or prominently display on the vessel an identity badge issued by the Authority.

## **8. Conduct**

A licensed **Boatman Skipper** must behave in a civil and courteous manner to passengers and must provide such reasonable assistance as passengers may require, particularly when boarding and leaving the vessel.

## **9. Suspension/Revocation of Licence**

The Authority may suspend, revoke or refuse to renew the licence of any licensed **Boatman** Skipper on the following grounds:

- failure to comply with the provisions of the Public Health Acts Amendment Act 1907
- failure to comply with a condition of licence
- failure to comply with any Council harbour bye law
- conviction for a criminal offence which, in the opinion of the Authority, renders the licence holder unsuitable or unfit to hold a licence
- that the action is necessary or desirable in the public interest

Any person aggrieved by a decision of the Authority to suspend, revoke or to refuse to renew a licence may appeal to a Magistrates' Court. Any appeal must be made within 21 days of notification of the Council's decision.



## ANNEX 4 – LICENSING GUIDANCE

The spectrum of different vessels which may be licenced makes a ‘one size fits all’ approach impractical; the following guidance, as detailed in appendix A of the recommendations and regulations affecting the licensing and operation of small craft, is provided to assist licensing authorities determine what factors to consider during the licensing process.

Beach floats Pedaloos	Licence the operator Restrict area of operation (eg not allowed in areas of strong tidal currents or waterways) Operator to provide safety boat, the <del>cox'n skipper</del> of which is to be a licenced <del>boatman</del> , or means of retrieving floats/pedaloos
Surfboard/bodyboard hire	Licence the operator Encourage operator to provide safety boat, the <del>cox'n skipper</del> of which is to be a licenced <del>boatman</del> , or have alternative means of retrieving surfers <del>Consider</del> Restricting area of use to within visual range of operator and/or lifeguard if practicable <del>Encourage</del> All participants <del>especially children</del> to wear buoyancy aid
Canoes/ Stand Up Paddleboards (SUPs)	Licence the operator. SUP operators should be encouraged to adopt the 'BSUPA code of conduct'. Operator to provide safety boat, the <del>cox'n skipper</del> of which is to be a licenced <del>boatman</del> All participants to wear buoyancy aids or life jackets Canoes to have sufficient internal buoyancy to remain afloat when filled with water Canoe or SUP to have leash, handrail or rope (as appropriate) to which participant can hold onto in the event of entering the water/capsize Restrict area of operation (eg not allowed in areas of strong tidal currents or waterways)
Power surfboard	Licence the operator Restrict use to areas free of bathers Users to wear life jackets or buoyancy aids
Windsurf or sail board	Licence the operator, who should be RYA qualified Operator to provide safety boat, the <del>cox'n skipper</del> of which is to be a licenced <del>boatman</del> Participants to wear life jackets or buoyancy aids Each board to carry some form of safety signalling device (eg radio or other apparatus) Restrict use to areas free of bathers
Hovercraft	Licence the operator , who must hold a Certificate of Competence by the Hover Club of Great Britain Limited Operator to provide safety boat, the <del>cox'n skipper</del> of which is to be a licenced <del>boatman</del> Users to wear life jackets or buoyancy aids Fan(s) to be safely screened Each craft to be fitted with control system which automatically throttles back Hovercraft registration certificate, plus CAA Hovercraft Safety Certificate MSA hovercraft operating permit
Self-drive motorboats	Licence the operator Operator to provide safety boat, the <del>cox'n skipper</del> of which is to be a licenced <del>boatman</del> Restrict to areas free of bathers Motorboats to be fitted with propeller safety guard All participants to wear buoyancy aids or lifejackets Every user to be given safety instruction prior to taking control of the craft, to include areas of use, means of attracting attention in case of difficulty, navigational orientation (eg explanation of buoyage in the area etc) and Collision Regulations

Personal water craft (PWC) eg jet ski, flyboard	<p>Licence the operator</p> <p>Restrict use to areas absolutely free of bathers and other water users (although it may be permissible to allow jet skis and water-skiers may use the same designated area)</p> <p>Operator to provide safety boat, the <del>cox'n</del> skipper of which is to be a licenced <del>boatman</del></p> <p>Users to wear life jackets or buoyancy aids</p> <p>Every user to be given safety instruction prior to taking control of the craft</p>
Water skiing	<p>Operator and each boat to be licenced</p> <p>Operator should hold British Waterski and Wakeboard (BWSW) Coach Licence and conform to codes of practice</p> <p>At least 2 people in the boat when towing a person on skis (driver and observer) when towing a person on skis</p> <p>Boat driver should hold at least Ski Boat Driver Level 2 or equivalent</p> <p>Restrict use to areas absolutely free of bathers and other water users (although it may be permissible to allow jet skis and water-skiers may use the same designated area)</p> <p>Area of take off and drop off to be marked and direction of circulation to be specified</p> <p>Every participant to wear life jacket or buoyancy aid</p>
Parascending/ parasailing	<p>Operator and each boat to be licenced</p> <p>Boat <del>cox'n skipper</del> to be licenced</p> <p>At least 2 people in the boat (driver and observer) when towing a person</p> <p>Every participant to wear life jacket or buoyancy aid</p> <p>Restrict to areas absolutely free of bathers</p>
Kite Surfing	<p>Operator to be licenced</p> <p>Operator to provide safety boat, the <del>cox'n</del> skipper of which is to be a licenced <del>boatman</del></p> <p>Restrict to areas free of bathers</p> <p>Participants to wear life jacket or buoyancy aid</p>
Water taxi carrying no more than 12 passengers	Licence the boat and <del>boatman</del> skipper

## Notes

Operators should be required to display notices stating:

"No person should attempt to use one of these craft unless he or she can swim at least 40 metres fully clothed"

Safety boats. Where a safety boat is required it must either be afloat or ready for immediate launch.

Life jackets and buoyancy aids must be CEN or MCA approved.

## ANNEX 5 – DEFINITIONS

'Authorised officer'	- an officer of the licensing authority authorised in writing to carry out licensing duties in relation to the licensing of boats, boatmen and small commercial vessels.
'Authorised person'	- a person who by reason of relevant professional qualifications, practical experience or expertise is authorised by the certifying authority to carry out examination of licensed or certified vessels.
'Authority'	- Torridge District Council
'Category C Waters'	- tidal rivers and estuaries and large, deep lakes and lochs where the significant wave height could not be expected to exceed 1.2 metres at any time.
'Category D Waters'	- tidal rivers and estuaries where the significant wave height could not be expected to exceed 2.0 metres at any time.
'Certifying Authority'	- an organisation appointed and approved by the Maritime and Coastguard Agency for the examination and certification of vessels under the Code of Practice for the Safety of Small Commercial Vessels Operating from a Nominated Departure Point.
'Commercial Use'	- use in the course of business for private gain or profit.
'Competence Test'	- an examination of a person's skill and ability to operate a vessel together with an assessment of their knowledge of the local maritime area and regulations.
'Daylight'	- one hour before sunrise until one hour after sunset.
'Designated Person'	- a person designated by the Authority to oversee the examination and certification of vessels under the NDP Code of Practice.
'Favourable weather'	- wind, sea and visibility conditions which are deemed by the skipper to be safe for a small vessel to operate in.
'Licensing Authority'	- Torridge District Council Licensing Authority
'Nominated Departure Point'	- the designated point of departure of the vessel as specified on the vessel's certificate.
'Passenger'	- any person carried on a vessel except:  a person employed or engaged in the business of the vessel; a person being carried in the event of an emergency; a child under one year old
'To sea'	- beyond category D waters or category C waters if there are no category D waters