

Item: 5

Harbour Authority Sub-committee: 19 March 2024.

Port Marine Safety Code – Annual Compliance Audit Report.

Report by Corporate Director for Enterprise and Sustainable Regeneration.

1. Purpose of Report

To scrutinise the Port Marine Safety Code Audit of between 12 and 14 September 2023, and consider progress with the action plan emanating from its recommendations.

2. Recommendations

The Sub-committee is invited to scrutinise:

2.1.

The action plan arising from the Port Marine Safety Code annual audit of compliance which took place between 12 and 14 September 2023, attached as Appendix 2 to this report, to obtain assurance that action has been taken or agreed where necessary.

3. Port Marine Safety Code – Annual Audit

3.1.

Marico Marine Limited, as the Designated Person, has conducted independent audits of Marine Services for the past nine years, with these audits showing continued compliance with the Port Marine Safety Code.

3.2.

The Designated Person undertook the latest annual audit of compliance between 12 and 14 September 2023. The resulting report is attached as Appendix 1 to this report and was scrutinised by the Harbour Authority Sub-committee on 31 October 2023.

3.3.

Appendix 2 to this report contains an update in relation to items raised during the latest and previous Port Marine Safety Code Annual Audits.

3.4.

The update (February 2024) shows that there are 22 outstanding items on the list, with 17 now closed.

3.5.

The next annual Port Marine Safety Code Audit is due to commence in Autumn 2024. The results of this audit will be considered, and a revised/updated list and associated action plan submitted to the Sub-committee in early 2025.

4. Human Resource Implications

The annual Port Marine Safety Code Audit report highlighted manning as a key area of concern. In particular the ongoing difficulty in attracting the right level and experience of candidate to the role of Deputy Harbour Master and other key positions within the Harbour organisation. Since the report was received a specialist maritime recruitment agency was contracted to assist in fulfilling these positions as a matter of priority.

5. Corporate Governance

5.1.

This report is presented in order to comply with internal governance and scrutiny requirements and is not for the exclusive purpose of supporting or relating to improved outcomes for communities as outlined in the Council Plan or the Local Outcomes Improvement Plan.

5.2.

In terms of the Scheme of Administration, the remit of the Harbour Authority Sub-committee includes:

- To exercise the function of Duty Holder, with responsibility for the safety, effectiveness and affordability of all harbour activities and for compliance with all appropriate codes and legislation.

5.3

Further, the Referred Functions of the Harbour Authority Sub-committee include the following:

- To receive reports on assurance from the Designated Person in relation to compliance with the Port Marine Safety Code, including an annual compliance audit report.

6. Financial Implications

6.1.

There are no immediate financial implications arising from the report recommendations.

6.2.

The financial implications of the actions required to address the audit report recommendations have been incorporated into the Marine Services budget for the financial year 2024/25.

7. Legal Aspects

7.1.

The Council, as Harbour Authority, has certain legal duties with regard to port safety, some of which are referred to in the Port Marine Safety Code. The Code does not itself create any new legal duties but a failure to adhere to the good practice set out in it may be indicative of a Harbour Authority being in breach of the legal duties relating to port safety. The Code has introduced a national standard for every aspect of marine safety and establishes a measure by which Harbour Authorities can be accountable for discharging their legal powers and duties to run a harbour or facility safely and effectively. Ensuring compliance with the Port Marine Safety Code will assist the Council in discharging its duties as harbour authority.

7.2.

The Council, through its designated as duty holder, is responsible for ensuring that the Council complies with the Port Marine Safety Code. This includes:

- Being aware of the organisation's powers and duties related to marine safety.
- Ensuring that a suitable Marine Safety Management System (MSMS), which employs formal safety assessment techniques, is in place.
- Appointing a suitable designated person to monitor and report the effectiveness of the MSMS and provide independent advice on matters of marine safety.
- Appointing competent people to manage marine safety.
- Ensuring that the management of marine safety continuously improves by publishing a marine safety plan and reporting performance against the objectives and targets set.
- Reporting compliance with the Code to the MCA every 3 years.
- Reviewing existing powers on a periodic basis to avoid a failure in discharging its duties or risk of exceeding its powers.

8. Contact Officers

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9. Appendices

Appendix 1: Port Marine Safety Code Audit 12 to 14 September 2023.

Appendix 2: PMSC Audit Action Plan – February 2024 Update.

ORKNEY ISLANDS COUNCIL HARBOUR AUTHORITY

**ORKNEY ISLANDS COUNCIL HARBOUR AUTHORITY PORT
MARINE SAFETY CODE AUDIT 12 TO 14 SEPTEMBER 2023**



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EXECUTIVE SUMMARY

On 1 September 2021 Orkney Islands Council (OIC) re-appointed Marine and Risk Consultants Limited (Marico Marine) to provide Designated Person Services to the Orkney Islands Council Harbour Authority.

The audit was conducted by the Designated Person, Mr D Foster, between 12 and 14 Sep 23.

Overall Observations:

- Some progress has been made on taking forward the more straightforward recommendations made in the previous PMSC Audit conducted in Nov 22. Little progress has been made resolving the more fundamental items;
- There is little evidence that the culture among staff of relying upon “custom and practice” rather than referring to set laid procedures and risk assessments has changed since the previous audit;
- Since the previous audit, there has continued to be insufficient staff to conduct the day-to-day operations whilst also maintaining the management and administration of the harbours to a standard that should be expected of one of Scotland’s major ports;
- Additional key staff have resigned since the previous audit;
- The recruiting process has been unusually slow; however, some replacement staff have recently been recruited by a commercial marine recruiting agency, but they are yet to be in post; and
- The relations between Orkney Islands Council and Marine Services are, at best, strained.

The main findings and recommendations from this audit are listed below:

Items that were contained in previous PMSC audit report are denoted by *.

- The drafting of the Memorandum of Understanding (MOU) between St Margaret’s Hope and OICHA has not been completed*;
- It is recommended that the Port Handbook is reviewed and updated*;
- It is recommended that a MOU is drawn up between Orkney Marinas and OICHA*;
- It is recommended that the introduction of General Directions is expedited*;
- It is recommended that the draft General Directions are reviewed by a specialist port legislation lawyer prior to going out to public consultation;
- It is recommended that OICHA governance is reviewed in accordance with the Maritime Minister Baroness Vere of Norbiton’s circular dated 1 July 2023;
- A review of the “Role of the Duty Holder” and the “Remit of the Harbour Authority Sub-Committee” has been conducted by OIC CEO and Head of Legal and Governance and draft briefing notes were published 12 Sep 23. Once finalised, it is recommended that:
 - Section 1 of MSMS is amended to reflect the two briefing papers; and

- Those involved are fully briefed to ensure there is a clear understanding of the role of the full Council as the Harbour Authority and the role of the Harbours Sub-committee;
- The Harbours Sub-committee remains highly engaged with the running of the harbour and are particularly mindful of their responsibilities*;
- It is recommended that the recruiting of suitable qualified and experienced people remains the top priority and is allowed to drift; until these people are in place, many of the issues raised in this report cannot be taken forward*;
- Communications with the more junior and distant members of staff have fallen significantly behind. It is recommended that efforts are made to improve internal communications;
- The three area Navigation Risk Assessments (NRA) were conducted in Q4/15 and Q1&2/16 and are getting to the point where they would benefit from a thorough and detailed review;
- It is recommended that the appropriate NRA is reviewed after every incident investigation and, when relevant, outside incident investigation reports come to the Harbour Authority's attention and SOPs are reviewed*;
- Considerable work has been done to the Marine Safety Management System taking forward the detailed comments from the previous PMSC audit;
- Document control has been established and the master copy of the MSMS is maintained by the Safety Manager and is available to members of staff via the M Drive. Paper copies have been removed;
- A copy of the whole of the MSMS is also published on the OIC website but currently an out-of-date edition is being promulgated and requires bringing to alignment with the master copy;
- It is recommended that the wisdom of publishing the whole of the MSMS (including SOPs, etc.) on the website, rather than providing a précis, is reviewed;
- A number of the policy statements have been signed by the Harbour Master rather than the Chairman of the Harbours Sub-committee. This should be rectified;
- It is recommended that a Hydrographic Survey Policy is developed to support the survey programme;
- It is recommended that a Staff Training Policy is developed;
- It is recommended that the MSMS is updated to reflect the current recruiting drive and new organogram;
- The MSMS is still not clear on the whole process of incident reporting, recording, investigating, after actions, formal closure and subsequently informing the Duty Holder and appropriate stakeholders. It is recommended that the section of the MSMS is revised with the possible addition of a step-by-step detailed procedure*;
- It is recommended that an overall emergency training and exercise plan is developed involving all parts of Marine Services (e.g. OICHA, Tugs, Ferries, Piers etc)*;
- It is recommended that Orkney VTS is reviewed in accordance with MGN 401v3*;

- It is recommended that VTS SOPs are reviewed to reflect the finding of the internal MGN401v3 Orkney VTS review and the ASF VTS audit report;
- It is recommended that a VTS manager (new DHM Mainland and Scapa Flow) is appointed as soon as possible;
- It is recommended that consideration be given to appointing a VTS Supervisor (suitably qualified candidates already exist);
- New Pilotage Directions came into force in Jul 23; however the Pilotage Directions that were actually published are dated 27 Feb 23. It appears that an earlier draft of the new Pilotage Directions has been circulated in error; it is recommended that the correct edition of the Pilotage Directions be promulgated as soon as possible;
- It is recommended that the requirement for regular Bridge Team Management training is reviewed and pilots are given regular refresher training*;
- It is recommended that the OICHA Pilots' revalidation process includes a practical onboard or simulator assessment and regular Bridge Team Management training*;
- Consider VTS, or the pilot boat, requesting confirmation that a vessel complies with the pilot boarding regulations prior to the pilot boarding;
- It is recommended that joint pilot and tug simulator training is reinstated especially for practising dead ship towage, rig moves and STS procedures plus emergencies; and
- It is recommended that vessel mooring procedures are reviewed throughout the Islands especially in the smaller harbours and piers away from Kirkwall and Stromness*.

It is considered that the overall management of the Orkney Islands Council Harbour Authority (OICHA) remains considerably below the standard that is expected of a major harbour authority handling numerous high consequence vessel types, in testing weather conditions and in an environmentally sensitive area. Many of the above recommendations have been known to the harbour authority for over three years but have not yet been taken forward.

It is considered that the OICHA **do not fully comply with the PMSC** for the following primary reasons:

- The many significant recommendations from previous audits over two or three years still have not been taken forward largely due to lack of staff;
- The long-standing lack of clarity of governance (now being addressed);
- The delay in developing a robust OICHA Pilot continuation training and revalidation system; and
- The continuing delays in recruiting replacement staff.

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INTRODUCTION

On 1 September 2021 Orkney Islands Council (OIC) re-appointed Marine and Risk Consultants Limited (Marico Marine) to provide Designated Person Services to the Orkney Islands Council Harbour Authority.

This annual audit was carried out using a checklist derived from the Port Marine Safety Code (November 2016) (PMSC) and the associated "A Guide to Good Practice on Port Marine Operations" (February 2018) (GtGP).

The audit was conducted by the Designated Person, Mr D Foster between 12 and 14 Sep 23.

Table 1 Previous OICHA Port Marine Safety Code Compliance Audits and Designated Person Visits.

Visit Date	Purpose	Report Number	Dated
25-27 Nov 14	PMSC Audit	14UK1047	16 Dec 14
7-8 May 15	Follow up visit	14UK1047	21 May 15
27-29 Apr 16	PMSC Audit	14UK1047	2 Jun 16
9-10 Nov 16	Duty Holder Training	Nil.	NA.
4-6 Apr 17	DP liaison visit	14UK1047	12 Apr 17
4-5 Dec 17	Duty Holder Training	Nil	N/A.
5-6 Mar 18	PMSC Audit	17UK1400	15 Mar 18.
10-11 Mar 20	Harbour Master Interviews and brief review of Marine Services' Risk Assessment systems	Nil.	David Foster email dated 11 Mar 2020 sent at 1317.
2 Nov 20	Remote Duty Holder Training	Nil.	N/A.
7-8 Dec 20	Remote PMSC Audit (Covid)	17UK1400	7 Jan 21.
31 Aug-2 Sep 21	DP visit and review of PMSC compliance progress.	17 UK 1400	13 Sep 21
11 Nov 21	Remote presentation to OIC Members and Officers on PMSC compliance and progress.	N/A.	N/A.
27 Apr 22	Duty Holder Training to the temporary Duty	N/A	N/A

	Holder during the local elections,		
17 Aug 22	Duty Holder Training and PMSC compliance discussions to newly elected Duty Holder.	N/A	N/A
9-10 Nov 22	PMSC Audit.	21UK1779	24 Nov 22
17-19 Jan 23	Meeting with new Chief Executive. (Glasgow - Kirkwall flight cancelled and meeting abandoned).	NA	NA
4 Apr 23	Teams meeting with Oliver Reid (CEO) and Councillor David Dawson (Chairman of the Harbour Subcommittee),	NA	NA

The following visit programme was arranged by the Harbour Master:

Table 2 PMSC Audit Meeting Programme 12 to 14 Sep 23

Date	Time	People	Activity
Tuesday 12 Sep 23	0825-0915	D Sawkins (DHM Strategy and Support) G Reid (OICHA - Port Safety Manager) A Wylie (ADMH(Ops)) D Foster (Marico)	Kick off Meeting.
	0915-1345	G Reid (OICHA - Port Safety Manager) D Foster	Office based audit.
	1400 -1645	O Reid (CEO) G Mitchell (Head of Legal and Governance) D Foster	General discussions including governance and recruiting.
	1700-1715	J Kakkonen (Marine Scientist) D Foster	Environmental catch up.
	1715-1745	D Sawkins D Foster	Review of day.
Wednesday 13 Sep 23	0830 – 0900	G Reid D Foster	Office based audit.

	0930 -1100	Cllr D Dawson Cllr G Skuse Cllr G Bevan Cllr L Hall Cllr H Woodbridge Cllr I Taylor G Waterson (Director of Enterprise and Sustainable Regeneration)	Meeting with OICHA Harbours Sub- Committee.
	1100-1230	P Bentley (OICHA Pilot) M Inkster (OICHA Pilot) G Ballantyne (OICHA Pilot) D Foster	Pilotage.
	1230-1245	J Low (Office Manager) D Foster	Office Manager.
	1330-1355	K Mclver (Maine Data Base Administrator) D Foster	Training and qualifications.
	1355-1630	A Wylie D Sawkins G Reid D Foster	Office based audit.
	1700-1730	D Irvine (Duty Harbour Master) D Foster	VTS Visit including watch.
Thursday 14 Sep 23	08-00- 0845	R Norquoy (Pier Shift Coordinator) Duty shift. D Foster	Kirkwall Pier
	0930-1200	A Breck (Pilot boat coxswain) Pilot boat crew. G Reid D Foster	Pilot Boat/Scapa Flow
	1200-1330	D Foster B Archibald (Relief Harbour Master) G Waterson	General discussions.
	1330-1530	J Buck (Harbour Master) B Archibald D Foster	Office based audit. Round up and wash up.

The thirteen sections of this report follow the chapter headings used in the Guide to Good Practice on Port Marine Operations (GtGP) with cross references to paragraphs in both the PMSC and GtGP. At the end of each section there are some additional observations and recommendations.

1 THE LEGAL BACKGROUND

The duties of a harbour authority are of three kinds: statutory duties imposed either in the local legislation for that authority or in general legislation, general common-law and fiduciary duties.

The Code includes a brief general summary of the main duties and powers that are common to many harbour authorities in relation to marine operations. It also contains guidance as to how some of these duties and powers should be exercised consistent with good practice.

There are several general principles:

- A harbour authority has statutory and non-statutory duties;
- These duties include an obligation to conserve and facilitate the safe use of the harbour; and a duty of care against loss caused by the authority's negligence;
- Duties to ensure the safety of marine operations are matched with general and specific powers to enable the authority to discharge these duties; and
- There are procedures for these to be changed where necessary.

Some duties, and each harbour authority's powers, are contained in local Acts and Orders, and, although they have much in common, the detail varies from port to port. Most are established by the incorporation or transposition into local Acts and Orders of model provisions in the Harbours, Docks and Piers Clauses Act 1847. Other duties and powers are in general legislation - for example, the Harbours Act 1964, the Dangerous Vessels Act 1985, the Pilotage Act 1987 and the Merchant Shipping Act 1995.

The duty holder is responsible for ensuring that the organisation complies with the Code. In order to effectively undertake this role they should:

- Be aware of the organisation's powers and duties related to marine safety;
- Ensure that a suitable Marine Safety Management System (MSMS), which employs formal safety assessment techniques, is in place;
- Appoint a suitable designated person to monitor and report the effectiveness of the MSMS and provide independent advice on matters of marine safety;
- Appoint competent people to manage marine safety;
- Ensure that the management of marine safety continuously improves by publishing a marine safety plan and reporting performance against the objectives and targets set; and
- Report compliance with the Code to the MCA every 3 years.

Existing powers should be reviewed on a periodic basis by harbour authorities, to avoid a failure in discharging its duties or risk exceeding its powers.

1	GtGP	PMSC		Y/N	Comment
1.1	1.5-1.6	1.3 -1.5	Is the legislation applicable to the harbour authority known and listed?	Y	Orkney Islands County Council Act 1974 and subsequent amendments.
1.2	1.3-1.4	3.11	Are the statutory duties and powers of the harbour effective for purpose?	Y	
1.3	1.6.1	3.11	Are the harbour limits of jurisdiction appropriate to the current activity of the port?	Y/N	See below.
1.4	5.1.9	E.S. 2-5	Is the Harbour Authority aware of all marine berths, terminals and jetties within the SHA and listed in the SMS?	Y	Listed in the Port Handbook. See below.
1.5	1.6.2	4.2	Is the Harbour Master familiar with and does he understand the extent of his legal powers?	Y	See below.
1.6	1.9.7	4.3 -4.4	Does the harbour have Byelaws?	Y	See below.
1.7	1.6.1	2.3-2.6 3.11	Is the legislation reviewed regularly to determine if fit for purpose and adequately covers risks identified?	NK	Not recently by Marine Services.
1.8	1.8	4.6-4.7	Does the harbour authority have powers of Special Directions?	Y	Those authorised to give Special Directions are listed in MSMS 5.6.
1.9	1.9	4.8-4.9	Does the harbour authority have powers of General Direction / Harbour Directions?	Y	See below.
1.10	1.9.4	3.13	Are there grounds for applying for a Harbour Revision Order?	N	
1.11	1.9.11		Does the harbour authority issue licences (e.g. port craft, local watermen or works etc.)?	Y	Works Licences.
1.12	1.9.12	2.25	Is a clear enforcement policy in existence, clearly promulgated and adequately resourced?	Y	MSMS1.6.3 and policy statement 4.

1.1 COMMENTS

1.3 and 1.5 There is a known anomaly in St Margaret's Hope Bay where the Statutory Harbour Authority (SHA) area of the St Margaret's Hope Pier Trust (900 yds from the pier) appears to lie inside the Orkney Islands Council Harbour Authority (OICHA) SHA area as described in the Orkney Islands County Council Act 1974.

Both organisations recognise the issues and are currently collaboratively working round them.

It has been recommended in previous audits that a Memorandum of Understanding (MOU) should be agreed between both parties to formalise the current arrangements.

Work on drafting the MOU has started; it is recommended that getting the MOU agreed and in place is expedited.

An example of a similar MOU has been provided to OICHA to assist in drafting the MOU.

OICHA do not provide pilotage in the area.

1.4 Parts of Edition 6 of the Port Handbook are out of date. It is recommended that the Port Handbook is revised and a new edition published.

Stromness and Kirkwall Marinas are owned by OIC and managed by Orkney Marinas. It is recommended that a MOU is drafted to clarify the division of responsibilities between Orkney Marinas and OICHA, for example for the investigation of incidents.

1.6 The OICHA has four sets of byelaws:

General (1977);

Vehicle (1984);

Petroleum (1997); and

Liquefied Gases (1978).

Although rarely used, the above byelaws still provide a legal basis to manage the harbours.

1.9 The OICHA do not currently have General Directions but they have the powers to make them.

Draft General Directions have been in preparation since 2020 and are now nearly ready for public consultation.

It is recommended that the draft General Directions are reviewed by a specialist port legislation lawyer prior going out to public consultation.

2 ACCOUNTABILITY FOR MARINE SAFETY

This section identifies who is accountable for marine safety and is based on the following general principles:

- The duty holder is accountable for safe and efficient marine operations;
- An organisation has a range of statutory and non-statutory duties;
- The Code represents the national standard against which the policies, procedures and performance of organisations may be measured;
- Organisations should make a clear, published commitment to comply with the standards laid down in the Code;
- Executive and operational responsibilities for marine safety must be clearly assigned, and those entrusted with these responsibilities must be appropriately trained, experienced and qualified to undertake their duties and be answerable for their performance; and
- A designated person must be appointed to provide independent assurance about the operation of an organisation's marine safety management system. The designated person must have direct access to the duty holder.

The key to effective discharge of the functions described in the Code is the development and proper operation of a MSMS for marine operations. That, in turn, depends upon a clear assignment of relevant executive and operational responsibilities to the organisation's staff.

2	GtGP	PMSC		Y/N	Comment
2.1	2.1.1	1.6-1.8	Is the duty holder defined and published?	Y/N	The Orkney Islands Council Harbours Sub-Committee. See below.
2.2	2.2	1.1	Has the organisation published a commitment to comply with standards laid down in the Code?	Y	Signed by Mr D Dawson. 24 May 22
2.3	2.2.5	1.1 1.13- 1.17	Are the executive and operational duties stated and assigned?	Y	MSMS 1.3.4.
2.4	2.2.19	1.6-1.10	Does the duty holder have an understanding of port marine activities, MSMS and supporting policies and procedures?	Y	See below.
2.5	2.2.22, 2.2.23	1.2	Do new Duty Holders receive PMSC training as part of their induction?	Y	All members of the Harbour Authority Sub-Committee received Duty Holder Training 17 Aug 22 on assuming the role of "Duty Holder".
2.6	2.2.20	1.9, 1.14- 1.15	Has a Harbour Master been appointed?	Y	Cdr J Buck since 8 Jun 20. See below.
2.7	2.1.1, 2.2.21 2.2.25-38	1.11- 1.12	Has a designated person (DP) been appointed?	Y	Mr D Foster, Marico Marine.
2.8	2.1.21 2.2.26	1.11	Does the DP have sufficient independence?	Y	
2.9	2.2.25	1.11	Does the DP have direct access to the Duty Holder?	Y	
2.10	2.2.26 - 38, 2.2.30	1.11	Does the DP provide an effective level of assurance, through assessment and audit to the Duty Holder?	Y	Annual Audits; Bi-monthly reports; and Attendance at the majority of the monthly briefings.
2.11		1.8, 2.30, 2.31	Has the Duty Holder sent a letter of Code compliance to the MCA within the last three years?	Y	Signed by Mr Sinclair Feb 21.

2.1 COMMENTS

Department of Transport Circular on Governance

On 1 Jun 23 The Maritime Minister, Baroness Vere of Norbiton, issued a circular to UK harbour authorities and port operators formally reminding them of the importance of good governance and drawing attention to its key elements. There is no evidence that the governance of OICSHA has been reviewed since the receipt of the circular.

2.2 and 2.4 Orkney is a major harbour continually handling high risk vessels (cruise ships, inter-island and mainland ferries, tankers plus STS operations) in demanding weather conditions and in a particularly sensitive environmental area. The function of the "Duty Holder" is key to the safe management of the harbours and would come closely "under the microscope" in the event of a major incident.

A review of the "Role of the Duty Holder" and the "Remit of the Harbour Authority Sub-Committee" has been conducted by the OIC Chief Executive Officer and the Head of Legal and Governance and draft briefing notes were published 12 Sep 23 on the first day of the Designated Person's visit.

Once agreed and finalised, it is recommended that:

- Section 1 of the MSMS is amended to reflect the two briefing papers; and
- Those involved are fully briefed to ensure there is a clear understanding of role of the full Council as the Harbour Authority and the role of the Harbours Sub-committee.

Currently the governance of the OICSHA is not functioning satisfactorily.

The Harbours Sub-committee are highly engaged with the running of the harbour and remain particularly mindful of their responsibilities.

Although not strictly part of the Designated Person's remit, it was observed that the relations between Orkney Islands Council and Marine Services are, at best, strained. This was brought to the auditor's attention, without prompting, during the majority of the meetings, informal discussions and interviews with staff at all levels of seniority during his visit.

2.6 People

The demands and complexity of managing a modern port to the requirements of the PMSC are challenging. The Harbour Master and his hard-working staff have historically barely been able to keep up with the day-to-day running of the harbours and other issues have had to be given a lower priority and a backlog of work has built-up. This position has been exacerbated by the additional workload created by tug procurement and renewable energy projects, the resignation of a number of key staff over the past eighteen months plus the slow recruitment process.

This position has been regularly brought to the attention of the Duty Holder in the Designated Person's bi-monthly reports and at the monthly OIC Harbours Sub Committee briefings for over two years.

Little can be done to address the backlog of work until suitably qualified and experienced people are in post.

After much delay, the issue is now being addressed more energetically and the following are currently being recruited:

- DHM (Mainland and Scapa Flow);
- DHM (Isles);
- DHM (Marine & Safety);
- AHM (Operations);
- AHM (Projects);
- Technical Superintendent (Harbour Infrastructure);
- Technical Superintendent (Marine); and
- Engineer Ship and Shore (Towage).

It is recommended that the recruiting of suitable qualified and experienced people remains the top priority and should not be allowed to drift; until these people are in place, many of the issues raised in this report cannot be taken forward.

3 CONSULTATION AND COMMUNICATION

Harbour authorities should consult, as appropriate, those likely to be involved in or affected by the MSMS adopted. This opportunity should be taken to develop a consensus about safe navigation in the harbour.

Consultation takes various forms. There are some specific statutory obligations which should form the basis for general consultation with users and other interests. There should also be established formal procedures for consulting employees – including, in the case of Marine Operations, any person not directly employed, but who offers their contractual services, either directly to the port, or indirectly through the ship-owner or their local representative.

3	GtGP	PMSC		Y/N	Comment
3.1	3.1.2, 3.2.1-5	2.17, 2.29	Does the organisation consult appropriate stakeholders involved with or affected by the MSMS?	Y	Listed in MSMS 1.7 See below.
3.2	3.2.2, 3.2.3	3.13, 4.9	Does the harbour have any outstanding consultations for statutory procedures (HRO or Byelaw updates)?	N	Will be required for the new General Directions.
3.3	3.2.6 3.2.7	2.17, 4.8- 4.9	Have users been consulted on any new General, Harbour or Pilotage Directions?	Y	For the new addition of Pilot Directions See 3.2 above.
3.4	3.2.10-11		Has the organisation established stakeholder advisory or consultative committees?	Y	MSMS 1.7 See below.
3.5	3.2.12	2.17	Are plans, reports, information and/or advice affected by or affecting harbour users communicated effectively to them?	Y	Placed on the agenda of the appropriate stakeholder meeting.
3.6	5.1.1, 5.1.12	2.26-2.28	Does the organisation have a Marine Safety Management Plan and routinely publish an assessment of their performance against the plan?	Y	2022-2024 Signed by Mr D Dawson 16 Nov 22.
3.7	3.1.4, 5.1.6	2.17	Does a communication channel exist with employees / contractors affected by the MSMS?	Y/N	See below.
3.8	3.2.12	2.28	Does the organisation utilise websites to publish marine procedures and reports?	Y	Not reviewed in detail during this audit.

3.1 COMMENTS

3.1 and 3.4 The Harbour Authority conducts a comprehensive programme of stakeholder consultations, listed in the Marine Safety Management System.

3.7 In theory, communications with the OICHA workforce is achieved via:

- Six-monthly Safety meetings;
- Six-weekly Marine Services (MS) team meetings and information passed down by line managers;
- Twice weekly Operational meetings (Tuesday and Friday);
- DHM(Ops)'s weekly informal emails sent to all MS staff including to the remote pier staff; and
- Programme of visits by DHM(Ops) to all harbours.

However, particularly with the prolonged absence of an AHM(Ops), communications with the more junior and distant members of staff have fallen significantly behind.

4 RISK ASSESSMENT

The risks associated with marine operations need to be assessed and a means of controlling them needs to be deployed. The aim of this process is to eliminate the risk or, failing that, to reduce risks as low as reasonably practicable. Formal risk assessments should be used to:

- Identify hazards and analyse risks;
- Assess those risks against an appropriate standard of acceptability; and
- Where appropriate, consider a cost-benefit assessment of risk-reduction measures.

The process of assessment is continuous so that both new hazards to navigation and marine operations and changed risks are properly identified and addressed. Where appropriate, organisations should publish details of their risk assessments. Risk assessments should be reviewed on a planned periodic basis.

4	GtGP	PMSC		Y/N	Comment
4.1	4.1.1	2.7-2.11	Has a formal navigation risk assessment (NRA) been carried out for the organisation?	Y	See below.
4.2	4.2	2.1, 2.7	Does the NRA address all marine hazards? Hazards should include; collision, contact, grounding, and foundering within the port area, identifying key vessel types?	Y	
4.3	4.2.23	2.7, 2.12	Have risk controls been properly applied?	Y	
4.3	4.2.28	2.8	Has the NRA been carried out by suitably qualified people?	Y	Marico Marine Q4/15 and Q1&2/16. See below.
4.4	4.1.5	2.11	Have stakeholders been consulted on existing or new risk assessments?	Y	For the original NRA but there is no evidence the has been done since. See below.
4.5	4.2.5	2.9-2.11	Is the NRA routinely and regularly reviewed so that new hazards and "changed risks" are identified and addressed?	Y	See below.
4.6	4.3	2.9	Does the NRA process allow for special circumstances (e.g. "Dynamic RA" for an unusual operation or event)?	Y	STS Operations. STS Transfer SOP.

4	GtGP	PMSC		Y/N	Comment
4.7	4.2.6	2.10, 2.21	Is any review process of the NRA inclusive of input from accident/incident investigations either internal or external (e.g. MAIB)?	Y/N	See below and Section 13.
4.8	4.1.6	2.9	Is the NRA available to those they affect?	Y	
4.9	3.3.		Are other port user risk assessments (e.g. towage and line handling etc.) taken into account?	Y	Majority are within the Marine Services overall operation.
4.10	4.3.7	2.7-2.11	Does the NRA output rank hazards by risk score?	Y	
	4.3.7		Is the Duty Holder aware of the top risks?	Y	Now part of the Harbours Sub-committee monthly brief

4.1 COMMENTS

4.1 The OICHA Navigation Risk Assessment is split into three registers:

- Scapa;
- Kirkwall; and
- Other harbours.

4.3, 4.4 and 4.5 The three above NRAs were conducted in Q4/15 and Q1&2/16 and are getting to the point where all three NRAs would benefit from a thorough and detailed review.

4.5 A remote review of the OICHA Hazman Navigation Registers was conducted on 13 Sep 23 that show:

- Scapa – 3 Risk Controls are due for review (although one not attached to any hazards).
- Kirkwall – No Hazards or Controls are due for review.
- Other harbours – all reviewed, 5 hazards coming up for review on 20 Sep.

However, there is little evidence that much has been actually changed or that any stakeholder consultation has taken place.

4.7 There is little evidence that a review of the relevant Hazard(s) in the NRA is conducted as standard practice after action on completion of every incident investigation, despite being part of the MSMS Standard Operating Procedures (SOP 02-004). See Section 13 of this report.

It is recommended that the NRA is reviewed after every incident investigation and when relevant outside incident investigation reports (e.g. MAIB Reports) come to the Harbour Authority's attention and SOP 02-004 is reviewed.

5 MARINE SAFETY MANAGEMENT SYSTEM

The Code relies upon the principle that all harbour authorities will base their policies, and procedures relating to marine operations, on a formal assessment of hazards and risks to marine operations. They should maintain a formal navigational MSMS developed from that risk assessment and any subsequent supporting risk assessments deemed necessary as the MSMS develops and evolves over time and as a result of changing trade and port usage.

The aim of a MSMS is to minimise risks. Risk assessment methods are used to decide on priorities and to set objectives for eliminating hazards and reducing risks. Wherever possible, risks are eliminated through selection and design of facilities, equipment and procedures. If risks cannot be eliminated, they are minimised by physical controls, or as a last resort, through systems of work. Performance standards are established and used for measuring achievement. Specific actions to promote a positive safety culture are identified.

The formal risk assessment of the port's marine activities (routine and non-routine) is a documented, structured and systematic process comprising:

- The identification and analysis of hazards;
- An assessment of these hazards against an appropriate standard of acceptability; and

A cost-benefit assessment of risk reducing measures where appropriate.

5	GtGP	PMSC		Y/N	Comment
5.1	5	2.12	Is there a documented MSMS?	Y	See below.
5.2	5.1.10	1.2, 2.12-2.18	Does the MSMS contain or refer to procedures to cover the major aspects of marine safety within the port? -	Y	SOPs and policies have been brought together in the MSMS.
	5.1.5, 5.1.6		Policy statements: Code compliance, Navigation, Pilotage, Marine Conservancy, Environmental, Enforcement and Prosecution.	Y	See below.
	Annex A		National and local legislation;	Y	
	5.1.11		Control of ship movements;	Y	SOPs.
	5.1.11		Environmental impact;	Y/N	Only policy. Procedures etc. are managed by the Environmental Department.
2.2.9		Prevent acts or omissions that may cause personal injury to employees or others;	Y/N	See Below.	

5	GtGP	PMSC		Y/N	Comment
	5.1.9		Roles and responsibilities of key personnel;	Y	See below.
	5.1.11		Marine safety procedures;	Y	SOPs.
	5.1.12		Incident and near miss recording and analysis;	Y/N	Requires significant review. See Section 13.
	6.1.1		Emergency plans;	Y	MSMS Section 10.
	12.2.1, 12.11		Qualifications, recruitment and training;	Y	MSMS Section 8.
5.3	5.1.12	2.14	Does the MSMS contain a procedure for measuring performance including a database to record incidents and near misses?	Y	See below. Recorded in Hazman. There appears to be a low incident reporting rate.
5.4	5.1.13	2.14	Does the MSMS include processes for effective (annual) internal audit, review of procedures and external audit?	Y	Internal audits have been conducted as per SOP 03-002. Annual external audit by the Designated Person.
5.5	4.2.5	2.10	Does the MSMS review process include risk assessment review and are lessons learnt applied to relevant procedures?	Y/N	See below.
5.6	5		Is the MSMS user friendly?	Y	Good index. SOPs, Pilot training etc have been brought into the MSMS.

5.1 COMMENTS

5.1 Considerable work has been done to the Marine Safety Management System in taking forward the detailed comments from the previous PMSC audit.

Document control has been established and the master copy of the MSMS is maintained by the Safety Manager and is available to members of staff via the M Drive. Paper copies have been removed.

A copy of the whole of the MSMS is also published on the OIC website but currently an out-of-date edition is being promulgated and needs to be brought into alignment with the master copy.

It is recommended that the wisdom of publishing the whole of the MSMS (including SOPs etc) on the website, rather than providing a précis (see Forth Ports for an example) is reviewed.

5.2

Policy Statements – A number of the policy statements have been signed by the Harbour Master rather than the Chairman of the Harbours Sub-committee. This should be rectified.

It is recommended that:

- A Hydrographic Survey Policy is developed to support the survey programme; and
- A staff training policy is developed.

Prevent acts or omissions that may cause personal injury to employees or others – Policy Statement exists but it is less clear how this achieved (e.g. pier operations).

Roles and Responsibilities – Requires to be updated to reflect the current recruiting drive and new organogram.

5.3 and 5.5 The MSMS is not clear on the whole process of incident reporting, recording, investigating, after actions, formal closure and subsequently informing the Duty Holder and appropriate stakeholders.

This section of the MSMS requires to be re-drafted with the possible addition of a step-by-step detailed procedure.

See section 13 of this report for more details.

6 EMERGENCY PREPAREDNESS AND RESPONSE

The Code states that a MSMS should refer to emergency plans - and these should be developed as far as practicable, based on the formal risk assessment. Emergency plans need to be published and exercised.

Factors to be considered can range from designating emergency anchorages and potential beaching points for vessels to considering the effects of a lock gate failure or impounding pump breakdown. The emergency might be a fishing vessel suffering from a flooding engine room to a yacht catching fire. Whatever the situation, by taking a planned approach, evaluating the effectiveness of such a plan and modifying the plan when necessary, you will not only reduce the impact of potential problems, you will also be cost effective.

6	GtGP	PMSC		Y/N	Comment
6.1		2.14,3.9	Does the organisation have emergency plans for:		
	6		Marine operations;	Y	Marine Safety Plan (Aug 22).
	6.4		Pollution (MCA);	Y	MCA approved Jun 19. Briggs Marine remain the Secondary Responder.
	6.2.5		Explosives (HSE). Waste	Y Y/N	HSE approved Nov 22. Has been with the MCA for approval for over a year.
6.2	5	2.14	Are emergency plans included in or referred to in the SMS?	Y	
6.3	6.1.2	3.9	Is the organisation included in larger national or regional plans?	Y	Orkney Island Emergency Plans.
6.4	6.8.13		Does the organisation have a published exercise programme and carried out exercises?	Y/N	See below.
6.5	6.2 6.3		Does the SMS address the handling of dangerous or polluting cargoes/substances?	Y	Reviewed by Orcades Marine Q2/23.

6.1 COMMENTS

6.4 Apart from the exercise requirements set out in the MCA approved OPRC plan Marine Services do not have an overall exercise plan or programme. It is recommended that an overall emergency training and exercise plan is developed involving all parts of Marine Services (e.g. OICHA, Tugs, Ferries, Piers, etc).

7 CONSERVANCY

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

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

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

The duties described above cover specific requirements as detailed below:

- To survey as regularly as necessary and find the best navigable channels;
- To place and maintain navigation marks where they will be of the best use to navigations;
- To keep a 'vigilant watch' for any changes in the sea or river bed affecting the channel or channels and move or renew navigation marks as appropriate;
- To keep proper hydrographic and hydrological records;
- To ensure that hydrographic information is published in a timely manner; and
- To provide regular returns and other information about the authorities' local aids to navigation as the General Lighthouse Authority may require.

7	GtGP	PMSC		Y/N	Comment
7.1	7.1.1	3.6	Does the harbour authority understand its conservancy duties?	Y	
7.2	7.2	3.6-3.7	Does the harbour authority: Carry out regular hydrographic surveys;	Y	See below.
	7.2.15		Maintain navigation marks in optimum position;	Y	
	7.2.17		Monitor changes in the sea or river bed;	Y	
	7.3		Keep proper hydrographic and hydrological records.	Y	
7.3	7.3.3	3.6-3.7	Does the harbour authority take action on, and promulgate the results of surveys (including to the UKHO)?	Y	One of the requirements for the hydrographic survey contractor after a final check by OIC.

7	GtGP	PMSC		Y/N	Comment
7.4	7.1A, 7.1.1	3.6	Does the Harbour Authority have procedures for ensuring NAABSA berths are safe?	N	No commercial NAABSA berths.
7.5	(7.3.3, 7.3.4), 3.2.13	3.6, 4.23, 4.24	Is communication regularly maintained with and information and returns supplied, when required to the appropriate GLA?	Y	Defects are reported by the Marine Services Technical Department online to the Northern Lights Board (NLB). On the agenda of the weekly meetings.
7.6.	7.5.1, 7.5.5	4.21 – 4.24	Is the Harbour Authority the LLA?	Y	
7.7	7.5	4.21- 4.24	Are Aids to Navigation maintained by the harbour authority in accordance with the availability criteria laid down by the GLA?	Y	By Marine Services and by the NLB under contract. NLB were working on the buoys w/c 4 Sep 23.
7.8	7.4.1		Does the Harbour Authority have the statutory powers to dredge in their local legislation?	Y	Not for disposal.
7.9	7.4.5, 7.4.6, 7.4.7	3.4	Does the Harbour Authority understand the consent process for capital and maintenance dredging and disposal plus monitor adherence to the consent conditions?	Y	
7.10	7.6	4.26	Does the harbour authority have appropriate powers and a defined policy on wreck removal and salvage?	Y	
7.11	7.7	3.4	Do the MSMS and works consent process address the possibility of interaction between works/ development/degeneration in or near the harbour and conservancy?	N	On a case-by-case basis in combination with the Council Legal Services. (e.g. the proposed Scapa Deep Water Quay).
7.12	7.4	3.8	Does the Harbour Authority exercise its general duties with regard to nature conservation and other related environmental considerations?	Y	e.g. Local ballast water regulations for ship-to-ship (STS) transfers.
			Are there any nature conservation areas in the vicinity of the SHA?	Y	

7.1 COMMENTS

7.1-7.3 There is a comprehensive, long-term hydrographic survey programme but it is without an overarching written Hydrographic Policy setting out the basic criteria (e.g. survey main commercial berths every year etc). It is recommended that a Hydrographic Survey policy is developed and is included in the MSMS.

There are currently no hydrographic surveys overdue.

8 MANAGEMENT OF NAVIGATION

This section relates to measures organisations can use to manage navigation in their waters.

Management of a harbour begins in determining which activity is safe and where it can take place, having regard to the physical constraints and the variety of activities being undertaken.

Every harbour is different, and the requirement to manage navigation varies from one to another. A formal assessment of navigational risk (see **Section 0**), as required by the Code, will determine what management of navigation is required, and to what degree; monitoring, controlling or managing traffic needs to be taken in mitigating risk.

8	GtGP	PMSC		Y/N	Comment
8.1	8.4	2.13	Does the harbour authority maintain any form of traffic monitoring?	Y	See below.
8.2	8.4.3, 8.4.9		Has the need for LPS or VTS been formally assessed?	Y	Listed as a risk control measure in the NRAs. The MGN 401vs assessment still outstanding. See below.
8.3	8.4.12, 8.4.3-17		Is the current level of service appropriate?	NK	See below.
8.4	8.75	3.3	Does the Harbour Authority have LPS / VTS procedures?	Y	Audited by AFS May 23. See below.
8.5	8.7.15-17		Does the Harbour Authority enforce the requirement for a Port Passage Plan for visiting vessels?	Y	Combined with the Master Pilot Exchange (MPX).
	8.7.21		Does the Harbour Authority provide abort procedures?	Y/N	Left to the on-the-spot discretion of the pilot and agreed as part of the MPX.
8.6	7.5, 8.4	3.6, 4.21-4.24	Have the conservancy provisions (e.g. navigation aids) been assessed in relation to effective management of navigation?	Y	Not discussed recently.
8.7	8.2.1	3.5	Have the needs of all harbour users (including recreation) i.e. "Open port duty" been fully considered in the management of navigation?	Y	
8.8	9.4.	4.11, 4.12	Has the organisation identified the needs for pilotage through risk assessment?	Y	Listed as a risk control measure in the NRA.

8	GtGP	PMSC		Y/N	Comment
8.9	8.9		Does the harbour authority operate harbour patrols?	Y	When required. SOP 05-008.
8.10	8.10.1-11		Does the harbour authority have to accommodate operations or events outside normal commercial activity?	Y	e.g. The Highland Games 2025.
8.11	8.11		Are there subsea pipelines and/or power cable in the SHA? If so, is their protection contained in the MSMS?	Y	
8.12	8.10.22-26		If applicable is there effective liaison between organisation and marina(s)?	Y	Regular liaison meetings. See 1.4 re MOU.

8.1 COMMENTS

8.1to 8.4 Currently OICSHA do not have the equivalent of a VTS Manager (see Section 2, 2.6 of this report) to oversee the standard of service, training and personal development of the Orkney VTS staff or to address the issues raised in the AFS VTS Audit Report dated May 23.

It is recommended that:

- Review Orkney VTS in accordance with MGN 401v3;
- Update SOPs etc to reflect the finding of the internal MGN401v3 Orkney VTS review and the ASF VTS audit report;
- Appoint a VTS manager (new DHM Mainland and Scapa Flow) as soon as possible (See Section 2.6); and
- Consider appointing a VTS Supervisor (suitably qualified candidates already exist).

9 PILOTAGE

The Code refers, amongst other things, to the main powers and duties which harbour authorities (as a CHA under the provisions of the Pilotage Act 1987) has a duty to assess what, if any, pilotage services are required to secure the safety of ships, and to provide such services as it has been deemed necessary. The use of these powers should follow these general principles:

- Harbour authorities are accountable for the duty to provide a pilotage service; and for keeping the need for pilotage and the service provided under constant and formal review;
- Harbour authorities should therefore exercise control over the provision of the service, including the use of pilotage directions, and the recruitment, authorisation, examination, employment status, and training of pilots;
- Pilotage should be fully integrated with other port safety services under harbour authority control; and
- Authorised pilots are accountable to their authorising authority for the use they make of their authorisations: harbour authorities should have contracts with authorised pilots, regulating the conditions under which they work - including procedures for resolving disputes.

A CHA must issue pilotage directions if it decides, based on its assessment of the risks, that pilotage should be made compulsory. The directions must specify how and to which vessels they apply. Ship owners and any other interested parties who use the port on a regular basis, must be consulted before the directions are implemented.

9	GtGP	PMSC		Y/N	Comment
9.1	9	4.11	Does the harbour authority provide pilotage?	Y	See below.
9.2	9.4.14-17	4.12	Has the harbour authority issued pilotage directions?	Y	See below.
9.3	9.4.1	4.11	Is the pilotage provision continuously updated through risk assessment?	Y	A risk control measure in the NRAs.
9.4	9.3		Is there a suitable Master/Pilot exchange including a Pilotage Passage Plan and are records maintained?	Y	Updated to include bollard safe working loads.
9.5	9.5	4.15, 4.16	Does the harbour authority issue Pilotage Exemption Certificates (PEC)?	Y	Being administered by the Temporary DHM(Ops); up to date. Currently there are 33 PECs. All certificates are held by either Northlink or Pentland ferries.

9	GtGP	PMSC	Y/N	Comment	
9.6		4.15	Does the harbour authority maintain:		
	9.5.6, 9.5.18		PEC syllabus.	Y	A PEC pack is issued on application.
	9.5.16		PEC tripping records.	Y	By VTS and recorded in the Port Management system,
	9.5.6		PEC qualification and revalidation records.	Y	All run from 31 Aug each year. All in date.
9.7	9.4.31	4.14	Is there a formal training scheme for pilots as per the international recommendations contained in IMO resolution A960?	Y	In the MSMS.
	9.4.31		Are pilots trained in Bridge Team Management?	Y/N	See below.
9.8	9.4.31, 9.5.6	4.13	Does the harbour authority regularly monitor the competence and fitness of pilots and PEC holders?	Y/N	See below.
9.9	9.4.45	4.13, 4.16	Are pilots and PEC holders subject to a disciplinary procedure?	Y	New Pilotage Directions tbc. OIC disciplinary procedures.
9.10	9.4.11		Does the harbour authority sub-contract pilotage?	N	
9.11	9.4.30	4.13-4.14	Does the harbour authority have formal agreements with pilots and pilotage sub-contractors regarding training, revalidation, competence and discipline?	Y/N	See below.
9.12	9.1.1A	4.11	Are pilotage resources kept under review against requirements?	Y	Considering recruiting an additional pilot.
9.13	9.4.18, 9.4.19	4.14	Are pilot boarding and landing arrangements subject to formal risk assessment and specific operational procedures?	Y	
9.14	9.4.20	4.11	Does the LPS/VTS require confirmation that the vessel complies with the pilot boarding arrangements?	N	See below.

9.1 COMMENTS

9.1 There continue to be five Class 1 pilots plus one working towards his Class 1 qualification.

9.2 New Pilotage Directions came into force in Jul 23; however the Pilotage Directions that were published are dated 27 Feb 23. It appears that an earlier draft of the new Pilotage Directions have been circulated in error; it is recommended that the correct edition of the Pilotage Directions is promulgated as soon as possible.

9.7 Bridge Team Management is included in the pilot training syllabus; however routine refresher training is not currently obligatory for qualified pilots in Orkney.

It is recommended that the requirement for regular Bridge Team Management training is reviewed and pilots are given regular refresher training.

9.8 and 9.11 The process for monitoring PEC holders' competence and revalidation is sound.

It is understood that that the new edition of Pilotage Directions contains a section on the revalidation of OICHA Pilots. However, it was not available to the auditor (See 9.2 above) but the contents were discussed.

It is recommended that the revalidation process includes:

- A practical onboard or simulator assessment; and
- Refresher Bridge Team Management training.

9.14 Consider VTS, or the pilot boat, requesting confirmation that a vessel complies with the pilot boarding regulations prior to the pilot boarding.

10 SHIP TOWAGE OPERATIONS

While any contract for the use of tugs is formally for the master of a vessel, the use of harbour tugs is one of the principal and most direct means open to a harbour authority to control risk.

Harbour authorities should determine, through risk assessment, appropriate guidance on the use of tugs in harbour areas. Recommendations should include the type of tugs and method of tow (where applicable) in addition to the number of tugs also where appropriate. Interested parties, including towage providers, users and pilots should be consulted in the preparation of such guidance. The guidance should be reflected in towage directions.

There should be procedures for special directions to be used, if necessary, where a master or pilot proposes that the guidelines should not be applied in some respect.

Directions should be reviewed regularly in the light of experience, changes in legislation, tug technology and the operating environment.

10	GtGP	PMSC		Y/N	Comment
10.1	10		Does the harbour use tugs?	Y	3 x 78tbp 1 x 55tbp (Harold -under repair). 1 x 11tbp (Kirkwall Bay – push only).
10.2	10.2		Does the risk assessment include the use of tugs as a mitigation measure?	Y	Risk control measure in the NRA.
			Does the harbour authority have access to the towage providers' risk assessments and operational procedures?	Y	Tugs are operated by Marine Services.
10.3	10.2		Have towage services been fully assessed for suitability to the needs of vessels using the harbour?	Y	
10.4	10.3		Are the tug resources adequate for harbour needs?	Y	Cruise ships are not normally allocated tugs.
10.5	10.2.3		Are tugs used in restricted visibility?	Y	SOP 05-010.
10.6	10.2.3		Are any special guidelines in use for restricted visibility?	Y	SOP 05-010.
10.7	10.2.8, 10.5		Are there formal liaison arrangements between Harbour Master, tug masters and pilots, including training?	Y	See below.

10	GtGP	PMSC		Y/N	Comment
10.8	10.3.10		Do the towage operators have formal procedures that are referred to in the MSMS?	Y	
10.9	10.3.10		Has the harbour authority agreed with the tug operators a policy on correct gear and procedures for towing?	Y	
10.10	10.2		Have tugs, their gear and procedures been fully integrated into the risk assessment as a risk control?	Y	See 10.2 above.
10.11	10.2	4.6	Do Harbour Masters' procedures include the facility to use special directions if masters and/or pilots propose departure from guidelines?	Y	SOP 07-002.
10.12	10.3.8-13		Does the harbour authority: put in place: <ul style="list-style-type: none"> • Risk assessment; • Method statement; and • Passage plan. with regards to dead tows etc.	Y	e.g. Rig moves in Scapa.
	10.3.11		give written approval for such moves.	NK	
	10.3.13		train pilots in dead-ship towage.	N	See below.

10.1 COMMENTS

The audit of Ship Towage Operations was a little cursory as the Marine Superintendent Towage and Launches position is not currently filled. In the future this job is planned to fall to the new DHM (Marine & Safety).

The role of Designated Person (Ashore) is currently being undertaken by Orcades Marine.

All the Towage Departments documentation is held on the ISM Code compliant MARAD system.

10.7 and 10.12 Liaison meetings between the pilots and the tug masters are held twice a year.

Joint pilot and tug simulator training has not recently been conducted. It is recommended that joint pilot and tug simulator training is reinstated especially for practising dead ship towage, rig moves and STS procedures and emergencies.

11 MARINE SERVICES

“Marine Services” means the support activities carried out by the organisation to maintain safety of navigation and the hydrographic regime. Marine services may be provided by the harbour authority itself or by commercial organisations operating on-site.

There are a number of general principles when operating marine services:

- An authority’s safety management system should cover the use of harbour craft and the provision of moorings;
- The formal safety assessment should be used to identify the need for, and potential benefits for safety management of harbour craft;
- The authority should ensure that harbour vessels or craft which are used in the harbour are fit for purpose and that crew are appropriately trained and qualified for the tasks they are likely to perform; and
- Byelaws and the power to give directions are available for these purposes.

Harbour authorities have powers in byelaws and directions to regulate the mooring of vessels in the harbour. The SMS should govern the use of these powers.

11	GtGP	PMSC		Y/N	Comment
11.1	11.2		Does the harbour authority exercise any powers of regulation over port craft?	Y	Managed by the Marine Services Administration. See below.
11.2	11.2.2		Where port craft do not have to comply with national legislation does the harbour authority impose any form of inspection and licensing?	Y	See below,
11.3	11.2.2	2.18	Does the harbour authority possess the competencies to carry out inspections on port craft?	N	
11.4	11.2.2, 11.2.3		Does the harbour use outside contractors to carry out inspections of port craft on its behalf?	Y	MCA and SCMS.
11.5	11.3		Has the harbour authority ensured that workboats used in the harbour are “fit for purpose” for any use they are involved with i.e. compliant with appropriate MS Regulations and the 2016 revised work boat code.	Y	See below.

11	GtGP	PMSC		Y/N	Comment
11.6	11.4, 6.6.3		Does the harbour authority control operations with a process/procedure for:	Y	All now listed in the MSMS.
			Hot work;	Y	Approved by AHM(Ops)
			Bunkering;	Y	Approved by DHM(Ops) or DHM. Monitored by VTS.
			Engine immobilisation;	Y	Approved by DHM(Ops) or DHM. Monitored by VTS.
			Diving/swimmer.	Y	Approved by DHM(Ops) or DHM. Monitored by VTS.
11.7	11.5		Does the harbour authority permit recreational diving in the harbour?	Y	Including recreational wreck diving in Scapa Flow.
11.8	11.6		Does the harbour authority exercise powers in relation to commercial vessel mooring plans and mooring parties?	Y	Detailed tanker mooring plans are specified by Flotta prior to arrival. Other vessels are moored as agreed between the Master and pilot. The Safe Working Loads are marked on the bollards on the main piers.
			Have mooring operations been specifically risk assessed: <ul style="list-style-type: none"> • Within the NRA? • Berth / vessel type specific assessments? 	Y/N	See below.
			Are suitable controls in place and effective: <ul style="list-style-type: none"> • Procedures? • Notices? • Stakeholder briefings? 	Y/N	See below.
11.9	11.6		Does the harbour authority regulate the mooring of vessels in the harbour?	Y	Visitor yacht mooring buoys are laid for each season.

11	GtGP	PMSC		Y/N	Comment
			Does the harbour authority ensure that mooring parties meet industry's competence standards and have access to appropriate training?	Y	Training has been given to Marine Services and AFLICK staff.

11.1 COMMENTS

11.1, 11.2 and 11.5 OICHA introduced a Small Commercial Vessel Register in 2019 and it is now part of the annual harbour fees collection procedure.

11.8 The following comment was made in the previous audit report:

In 2020, following a number of incidents around the United Kingdom the MAIB and MCA drew Harbour Authorities' attention to the hazards surrounding the mooring of vessels and, in particular, the practice of self-mooring.

Marine Services vessels have since been provided with self-mooring equipment.

It is again recommended that mooring procedures throughout the OICHA harbours are reviewed; (Port Skills and Safety have reissued SIP 005 – "Guidance on Mooring" Nov 20).

It is again recommended that mooring procedures be reviewed throughout the Islands, especially at the smaller harbours and piers away from Kirkwall and Stromness.

12 PROFESSIONAL QUALIFICATIONS AND COMPETENCIES FOR PORT MARINE PERSONNEL

Harbour authorities must assess the fitness and competence of all persons appointed to positions with responsibility for safe navigation.

Authorities must ensure their staff meet the nationally agreed standards of competence, or alternatively be able to show that their local competency standards are fully equivalent.

Achieving marine port safety is a team operation and people in these roles must be competent and adequately trained.

12	GtGP	PMSC		Y/N	Comment
12.1	12.4, 12.5	1.16, 2.18	Does the Harbour Master hold an appropriate qualification?	Y	
12.2	12.5	1.16, 2.18	Do the Deputy and/or Assistant Harbour Masters hold appropriate qualifications?	NA	Post vacant.
12.3	12.7	1.16, 2.18	Do VTS officers hold appropriate qualifications?	Y	5 x CO103/1 or above.
12.4	12.8	1.16, 2.18	Does the harbour authority ensure that marine operatives are suitably trained, assessed and competent to carry out their assigned roles?	Y	See below.
12.5	12.9	1.16, 2.18	Does the harbour authority exercise control over the training and competence of tugs crews?	Y	Marine Services employees.
12.6	12.10	1.16, 2.18	Does the harbour authority, directly or indirectly, employ suitably qualified hydrographic surveyors?	Y	
12.7	12.11	2.18	Does the organisation have a training policy and maintain training records?	YY/N	See below.

12.1 COMMENTS

12.4 and 12.7 Since the previous audit, the Marine Data Base Administrator has developed a local data base that tracks all Marine Services staff's training and qualifications etc.; the system flags-up when action is required. The Marine Data Base Administrator also books most of the courses when they are required.

12.7 There is currently no Training Policy; see Section 5.2.

13 ACCIDENT REPORTING & INVESTIGATION AND ENFORCEMENT

The duties of a harbour authority include an obligation to conserve and facilitate the safe use of the harbour and a duty of care against loss caused by the authority's negligence. Such losses may involve death, serious injury, pollution and other undesirable outcomes and they may involve breaches of national or local laws.

Investigations by the harbour master of marine incidents have two essential purposes:

- To determine the cause of the incident, with a view to preventing a recurrence of that incident (or similar); and
- To determine if an offence has been committed: if so, there may be the need on the part of a harbour authority to initiate enforcement action that may lead to prosecution in their own right or through an agency of another authority such as the Police or the MCA.

It is, therefore, essential that the marine SMS addresses the potential for incidents to occur and to provide instruction and guidance on any investigations and enforcement action that may be required as a result. By ensuring that a robust, rigorous, independent investigation has been carried out, the board and the duty holder can be assured that their obligations for compliance have been addressed.

13	GtGP	PMSC		Y/N	Detail/Comment
13.1	13.8	2.20	Does the SMS include procedures for accident/incident investigation? Recent example?	Y	See below. See Section 5.3 and 5.5 of this report. The DP sees all significant incident investigations when they are published.
13.2	13.4.2	2.23	Does the harbour authority follow a set procedure for informing the MAIB?	Y	SOP 02-005.
13.3	13.3.6-10	2.21	Does the process separate offences for investigation by other agencies? (Police/MCA/EA etc.)?	Y/N	See below.
13.4	13.11.6	2.20	Does the investigation process inform the risk assessment for review purposes?	Y	SOP 02-005. See below.
13.5	13.9	2.11	Does the promulgation of the findings of an investigation include the possibility of passing on findings to harbour authority employees, stakeholders or other organisations, e.g. Ports Group, Harbour Masters' body?	Y/N	See below.

13	GtGP	PMSC		Y/N	Detail/Comment
13.6	12.8.4	2.20- 2.21	Does the investigation process link with the enforcement process?	Y	
13.7	13.2.2		Does the Harbour Authority understand their powers in relation to drink and drugs afloat?	Y	

13.1 COMMENTS

13.1, 13.3 and 13.4 The following comment was made in the previous audit report:

The incident investigation procedures in the MSMS require developing to include:

- *Separating marine and shore incident investigation procedures, methods and deciding which reporting system is to be used;*
- *Explaining the Hazman incident recording and investigation progress tracking system;*
- *Ensuring that after every investigation, however small, the appropriate NRA Hazard(s) and procedures are reviewed and updated if necessary. This should be recorded;*
- *Investigations should remain open until the Harbour Master is completely satisfied that all actions have been completed before formally signing of the investigation. This should be recorded;*
- *The results of any investigation should be promulgated to the relevant members of staff and to the appropriate stakeholders (standard stakeholder meeting agenda item); and*
- *The Duty Holder should be routinely briefed on all investigations that are underway and their progress towards completion.*

Some of the items above have been taken forward individually but the relevant section of MSMS needs to be revised to make the overall procedure more clear and auditable.

Port Marine Safety Code – Audit Report - Progress Update for Duty Holder

Date: February 2024

Carried Over from Previous Audit

	Item	Code	Observation	Raised	Target	Remarks
1.	1/2022		Move away from custom and practice towards documented procedures.	Feb 23	Apr 25	All - Continuing re-education process to evolve embedded culture into a well-documented policy and procedure driven practice with safety paramount.
2.	2/2022		Recruit Senior Harbour Positions. DHM x3 AHM x2 Marine Technical Marine Infrastructure	Feb 23	May 24	Head of Marine Services – Fast Stream recruiting agency engaged for all senior positions. 1 x DHM Started 2 x DHM received offer – both accepted – working Notice - Arrive March/May 2 x AHM offers made. Both accepted, working Notice and looking for accommodation. Marine Infrastructure Manager – accepted – requires sponsorship Marine side about to start.
3.	1/2021 1/2023		Agree encompassing MoU with St Margaret's Hope Harbour Trust. Required due to difference and overlap in 1974 Act areas of jurisdiction.	Sep 21	Mar 23	Head of Marine Services/Deputy Harbour Master (S&S) – Final draft now in circulation and discussion with legal prior to draft being sent to St Margarets Hope Harbour Trust. Draft anticipated to be sent mid-November. <i>Awaiting comments</i>

Colour Codes

	High Priority with completion date		Medium priority with completion date
	In hand with completion date		Completed, will be removed at next update

	Item	Code	Observation	Raised	Target	Remarks
4.	2/2021 4/2023 5/2023		Introduce General Directions.	Sep 21	Jun 24	Head of Marine Services - General Directions now drafted, incorporating changes to VTS operations driven by revised MGN 401. Draft to be finalised and passed to specialist legal council for review prior to consultation process. <i>With legal council for review and awaiting comments.</i>
5.	7/2021 8/2023		Review personal safety issues. Particularly the safety of the general public in the vicinity of harbours and piers.	Sep 21	Jun 24	DHM (Ops) / Port Safety Manager – Continuous review of Risk Assessments being conducted. Regular visits of piers and quays being undertaken. Kirkwall Pier – Plan now in place for changes to pier layout in marshalling/loading area, with barrier protection and new marked walkways. <i>Works order placed with BDS, awaiting start date.</i> Further work required on how to separate general public for increased risk operations on certain piers e.g. Scapa. Ongoing public information program in place.
6.	9/2021 20/2023		Develop and implement overall training and exercise plan involving all areas of Marine Services	Sep 21	Mar 24	DHM (OPS) and Port Safety Manager – Internal programme now generated. Need to incorporate wider council and outside agency exercise in conjunction with OIC Safety and Resilience team. <i>Working with resilience team.</i>
8.	14/2021 26/2023 27/2023		Introduce a Continued Professional	Sep 21	Jun 24	Head of Marine Services – Pilots looking into best practice at other ports upon which to build a program.

Colour Codes

	High Priority with completion date		Medium priority with completion date
	In hand with completion date		Completed, will be removed at next update

	Item	Code	Observation	Raised	Target	Remarks
			Development programme for Pilots			Program to incorporate Bridge Resource Management and Simulator time. <i>Commencing to draft training documentation.</i>
9.	11/2022 21/2023 22/2023		Recommended that the level of VTS service being provided is re-assessed in accordance with MGN401v3 and that VTS procedures are reviewed accordingly.	Jan-23	May 24	Head of Marine Services - External company conducted and external review, reporting VTS performing well. Further desk review undertaken into revised MGN 401 requirements. Subsequent report circulated to Harbour Sub-committee members October 23. Work on incorporating recommendations will commence in November.
10.	12/2022 3/2023		Recommended that the relationship and responsibilities between OICHA and Orkney Marina Ltd are formalised	Jan-23	Apr 24	Business Development Manager - Initial meeting with OML held Dec 2022. To be completed by February 2024. <i>Drafting Service Level Agreement.</i>
11.	1/2022 2/2023		Revise Port Handbook and new edition published	Dec 22	Apr 24	Business Development Manager – Commission external review of document and aim towards more ‘leisure’ user. <i>Pending</i>
12.	21/2022 11/2023 19/2023		Incident investigation procedures in the MSMS require substantial development	Jan-23	Jun-24	Head of Marine Services - The skillset for investigation procedures will be improved by Port Safety Manager, Deputy Harbour Master and Assistant Harbour Master attending training courses. First Course completed by Safety Manager.

Colour Codes

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	Item	Code	Observation	Raised	Target	Remarks
						<p>NRA review to be incorporated into revised investigation procedures.</p> <p>Safety manager now completed. DHMs will be placed on course on arrival.</p> <p>Currently gathering best practice regarding investigations. Results will be incorporated into MSMS. Pending</p>

	Item	Code	Observation	Date	Target	Remarks
13.	6/2023		Harbour Authority Governance to be reviewed in accordance with Maritime Minister Baroness Vere of Norbiton's circular dated 01 July 2023	Sep 23	Dec 23	<p>Legal and CEO – To be conducted.</p> <p>The Head of Legal and Governance and the Service Manager (Legal Services) reviewed the Harbour Authority Governance in September 2023. They then carried out a supplementary review in accordance with Baroness Vere of Norbiton's circular in November 2023.</p> <p>The review has concluded that there are no changes to governance required. Some wording changes to the Marine Safety Management System have been proposed to clarify the roles of the Harbour Authority and the Duty Holder.</p>
15.	9/2023		Improve internal communications to more junior and	Sep 23	Mar 24	<p>Head of Marine Services – Improve internal communications and create regular update newsletter.</p>

Colour Codes

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	Item	Code	Observation	Date	Target	Remarks
			distant members of staff			Awaiting Update
16.	10/2023		Review area navigation Risk Assessments	Sep 23	2024	Port Safety Manager – Schedule and undertake NRA review for all 3 areas and update accordingly. *** Job awarded to Marico – awaiting commencement.***
17.	14/2023		Review policy of publishing MSMS including SOPs online, potentially reduce to a precis only. Ensure published information is in date.	Sep 23	Apr 24	Port Safety Manager – Review and draft policy. Pending Business Development Manager – Amend website on completion of review.
19.	16/2023		Develop a Hydrographic Survey Policy to support the survey programme	Sep 23	Mar 24	DHM (S&S) – Draft and implement Hydrographic Survey Policy.
20.	17/2023		Develop a Staff Training Policy	Sep 23	Apr 24	Head of Marine Service – Draft and implement Staff Training Policy. Commencing to draft
21.	18/2023		Update MSMS to reflect new	Sep 23		Port Safety Manager – Update MSMS with latest recruiting information weekly. Recruiting still ongoing

Colour Codes

	High Priority with completion date		Medium priority with completion date
	In hand with completion date		Completed, will be removed at next update

	Item	Code	Observation	Date	Target	Remarks
			recruiting drive and latest organogram			Latest Organogram inserted.
22.	23/2023		Appoint a VTS Manager (DHM) as soon as possible	Sep 23	May 24	Head of Marine Service – Interviews ongoing. Priority given to recruiting VTS operator. (Covered by DHM Ops currently)
Currently						
23.	24/2023		Consider appointing a VTS Supervisor	Sep 23	May 24	Head of Marine Service – Will be considered post appointment of a VTS Manager.
26.	29/2023		Conduct joint pilot and tug crew simulator training , particularly focusing on dead ship towage, rig move and STS procedures	Sep 23	Apr 24	Head of Marine Services – Incorporate into Pilot Training Plan and wider exercise plans.
27.	30/2023		Review vessel mooring procedures on small piers and harbours on the mainland and islands	Sep 23	Apr 24	Port Safety Manager – In conjunction with pier workers conduct a review. Generate recommendations and amend procedures and MSMS as required.

Completed Since Last Audit

1. Review procedures for handling dangerous goods or polluting cargos and substances.
2. Publish revised Pilotage Directions July 2023.
3. Review and revise mooring procedures for Marine Services vessels.
4. Publish annual audit and associated progress reports.

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5. Update Harbours Website – ongoing.
6. Capture and update all Standard Operating Procedures in the Safety Management System (SMS).
7. Implemented new system to review and monitor training and qualifications of Marine Services staff.
8. Introduce General Directions
9. VTS Service
10. Responsibilities between OICHA & Orkney Marina Ltd
11. Review Role of Duty Holder
12. Develop 10 year hydrographic programme.
13. Policy statements signed by Chairman of Harbour Sub.
14. Pilotage Directions on Website.
15. Update and resign policies.
16. Pilot boarding regulations check prior to boarding.
17. Review of Duty Holder.

Colour Codes

	High Priority with completion date		Medium priority with completion date
	In hand with completion date		Completed, will be removed at next update