

Item: 9

Harbour Authority Sub-committee: 27 August 2024.

Port Marine Safety Code – Designated Person’s Annual Compliance Audit – Progress Update.

Report by Corporate Director for Enterprise and Sustainable Regeneration.

1. Overview

- 1.1. On 12 to 14 September 2023, Marico Marine Limited, as the Designated Person, undertook the annual audit of compliance with the Port Marine Safety Code. The audit report was scrutinised by the Sub-committee on 31 October 2023.
- 1.2. The Sub-committee recommended:
 - That the Chair of the Harbour Authority Sub-committee should write to the Maritime and Coastguard Agency to report the Harbour Authority’s non-compliance with the Port Marine Safety Code.
 - That the Chief Executive should take action to support Marine Services to secure a return to compliance with the Port Marine Safety Code as soon as possible.
- 1.3. Marine Services generated an action plan based on this audit with 27 actionable items.
- 1.4. A progress update was submitted to the Sub-committee on 19 March 2024.
- 1.5. Appendix 1 provides the detail of the current progress against the points raised in the audit. Ten observations have now been completed, with the most significant being:
 - The recruiting of two Deputy Harbour Masters.
 - The recruiting of two Assistant Harbour Masters.
 - The recruiting of a Marine Infrastructure Manager.
- 1.6. Marico Marine will conduct a further audit in Autumn 2024.

2. Recommendations

- 2.1. It is recommended that members of the Sub-committee:
- i. Scrutinise 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 1 to this report, in order to obtain assurance that action has been taken or agreed where necessary.

3. Port Marine Safety Code

- 3.1. The Port Marine Safety Code (the Code) sets out a national standard for every aspect of port marine safety. Its aim is to enhance safety for everyone who uses or works in the UK port marine environment. It is endorsed by the UK Government, the devolved administrations and representatives from across the maritime sector and, while the Code is not mandatory, these bodies have a strong expectation that all harbour authorities will comply. The Code is intended to be flexible enough that any size or type of harbour or marine facility will be able to apply its principles in a way that is appropriate and proportionate to local requirements.
- 3.2. The Code has been developed to improve safety in the port marine environment and to enable organisations to manage their marine operations to nationally agreed standards. It provides a measure by which organisations can be accountable for discharging their statutory powers and duties to run harbours or facilities safely and effectively. It also provides a standard against which the policies, procedures and performance of organisations can be measured. The Code describes the role of board members, officers and key personnel in relation to safety of navigation and summarises the main statutory duties and powers of harbour authorities. The Code is designed to reduce the risk of incidents occurring within the port marine environment and to clarify the responsibilities of organisations within its scope. Further information on these aspects is provided below.

4. Accountability for Marine Safety

- 4.1. Accountability for the management of marine safety is based on these general principles:
- The Duty Holder is accountable for safe and efficient operations. The Duty Holder should make a clear published commitment to comply with the standards laid down in the Port Marine Safety Code.

- Executive and operational responsibilities for marine safety must be clearly assigned and those entrusted with these responsibilities must be appropriately trained, qualified and experienced and answerable for their performance.
 - A ‘Designated Person’ must be appointed to provide independent assurance about the operation of its Marine Safety Management System (MSMS). The Designated Person must have direct access to the Duty Holder.
- 4.2. An MSMS should be in place to ensure that all risks are identified and controlled – the more severe ones must either be eliminated or reduced to the lowest possible level, so far as is reasonably practicable (that is, such risks must be kept as low as reasonably practicable or “ALARP”). Organisations should consult, as appropriate, those likely to be involved in, or affected by, the MSMS they adopt. The opportunity should be taken to develop a consensus about safe navigation. The MSMS should refer to the use of formal risk assessments which should be reviewed periodically as well as part of post incident/accident investigation activity.
- 4.3. Relevant background information may well include the legislative position and how this is likely to change. It might also provide information on the stance being adopted by CoSLA or relevant professional bodies or associations – to provide additional context to and reassurance regarding the officer’s recommendations.

5. Legislative position

- 5.1. 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.
- 5.2. The Harbour Authority Sub-committee, 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.

6. Next Steps

- 6.1. A further audit will be undertaken by Marico Marine as the Designated Person in the Autumn of 2024. The results will be reported to the Sub-committee in due course.

For Further Information please contact:

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Implications of Report

1. Financial

There are no financial implications arising directly from the recommendations of this report.

2. Legal

As detailed in paragraph 5 above.

3. Corporate Governance

In accordance with the Scheme of Administration, referred functions of the Harbour Authority Sub-committee include receiving reports on assurance from the Designated Person in relation to compliance with the Port Marine Safety Code, including an annual compliance audit report.

4. Human Resources

The audit process is designed to ensure safe operations of the Harbour Authority with appropriately trained and qualified personnel.

5. Equalities

An Equality Impact Assessment is not required for performance monitoring.

6. Island Communities Impact

An island Communities Impact Assessment is not required for performance monitoring.

7. Links to Council Plan

The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Council Plan strategic priorities:

- Growing our economy.
- Strengthening our Communities.
- Developing our Infrastructure.
- Transforming our Council.

8. Links to Local Outcomes Improvement Plan

The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Local Outcomes Improvement Plan priorities:

- Cost of Living.
- Sustainable Development.
- Local Equality.

9. Environmental and Climate Risk

Not relevant to this report.

10. Risk

Not relevant to this report.

11. Procurement

Not relevant to this report.

12. Health and Safety

The audit is designed to assist in maintaining the health and safety of all users of the Harbour Authority.

13. Property and Assets

Not relevant to this report.

14. Information Technology

Not relevant to this report.

15. Cost of Living

Not relevant to this report.

Background Papers

Orkney Islands Council Harbour Authority Port Marine Safety Code Audit 12 to 14 September 2023 issued on 18 October 2023 by Marico Marine.

Appendix

Appendix 1: PMSC Audit Action Plan August 2024 Update.

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

Date: August 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	Apr 24	Head of Marine Services – Fast Stream recruiting agency engaged for all senior positions. Following positions now filled: DHM x 2 AHM x 2 Marine Infrastructure Manager – Should arrive 15 Aug 24 Senior Marine Technical Manger is still within recruitment process.
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	Dec 24	Head of Marine Services/Deputy Harbour Master (S&S) – Final draft now St Margarets Hope Harbour Trust. Awaiting comments and or signature

	Item	Code	Observation	Raised	Target	Remarks
4.	2/2021 4/2023 5/2023		Introduce General Directions.	Sep 21	Dec 24	Head of Marine Services - General Directions now drafted and reviewed by legal counsel. Awaiting final internal review before proceeding to external consultation process in the Autumn.
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	Mar 25	<p>DHM (Ops) / Port Safety Manager – Continuous review of Risk Assessments being conducted. Regular visits of piers and quays being undertaken by new DHM's and AHM's.</p> <p>Kirkwall Pier – New pier layout being marked up and safety barriers installed. Marshalling area being actively managed.</p> <p>Further work required to separate general public for increased risk operations on certain piers e.g. Scapa. General Directions will assist with this.</p> <p>Ongoing public information program in place.</p>
6.	9/2021 20/2023		Develop and implement overall training and exercise plan involving all areas of Marine Services.	Sep 21	Jan 25	DHM (OPS) and Port Safety Manager – Internal programme now generated and active project to develop additional training. Wider council and outside agency exercises being conducted.
8.	14/2021 26/2023 27/2023		Introduce a Continuous Professional Development programme for Pilots.	Sep 21	Feb 25	Head of Marine Services – Active project now started, with co-operation of pilots to generate comprehensive Continuous Professional Development programme. Providers being investigated.

	Item	Code	Observation	Raised	Target	Remarks
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	Mar 25	Head of Marine Services – DHM completed VTSO103 training. SMS now under review and being amended. VTSO's being consulted on review of MGN 401 v3 and required changes.
10.	12/2022 3/2023		Recommended that the relationship and responsibilities between OICHA and Orkney Marina Ltd are formalised	Jan-23	Mar 25	Business Development Manager – Continued meeting with Orkney Marinas. Lack of dedicated Marina Manager slowing progress. Service level agreement still in draft.
11.	1/2022 2/2023		Revise Port Handbook and new edition published.	Dec 22	Dec 24	Business Development Manager – Initial review conducted. Further changes required. Potential to issue to 3 rd party for completion.
12.	21/2022 11/2023 19/2023		Incident investigation procedures in the MSMS require substantial development.	Jan-23	Mar 25	Head of Marine Services – DHM (Ops) leading on review of internal procedures. DHM's and AHM's to attend investigation course. NRA review completed and updated.

New This Audit

	Item	Code	Observation	Date	Target	Remarks
16.	10/2023		Review area navigation Risk Assessments.	Sep 23	Dec 24	Port Safety Manager – NRA review completed. Awaiting updated reports.
19.	16/2023		Develop a Hydrographic Survey Policy to support the survey programme.	Sep 23	Jan 25	DHM (S&S) – Hydrographic Survey Policy drafted, awaiting approval.
22.	23/2023		Appoint a VTS Manager (DHM) as soon as possible.	Sep 23	Oct 24	Head of Marine Service – Training complete. Conducting required service experience.
23.	24/2023		Consider appointing a VTS Supervisor.	Sep 23	Feb 25	Head of Marine Service – Currently part of ongoing MGN 401 ver3 review.
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 25	Head of Marine Services – Incorporated into Continuous Personal Development and part of the Training provider review.
27.	30/2023		Review vessel mooring procedures on small piers and harbours on the mainland and islands.	Sep 23	Mar 24	Port Safety Manager – AHMs conducting review as part of rolling port and quay visit program.

Completed Since Last Audit

1. Review role of the Duty Holder.
2. Develop 10 year Hydrographic programme.
3. Updated policy statements reviewed and signed by the Chairman of the Harbour Authority Sub-Committee.
4. Pilotage Directions updated on the Harbours website.
5. Pilot Boarding regulations checked by both VTS and pilots prior to boarding.
6. Reinstated routine internal communications system and newsletter.
7. Harbour website reviewed and updated.
8. SMS reviewed.
9. Training policy created and published.
10. Organogram updated.
11. 2x DHM recruited.
12. 2x AHM recruited.
13. Marine Infrastructure Manager recruited.