

**Item: 7**

**Harbour Authority Sub-committee: 21 January 2025.**

**Port Marine Safety Code – Annual Compliance Audit Report.**

**Report by Corporate Director for Enterprise and Sustainable  
Regeneration.**

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## **1. Overview**

- 1.1. Marico Marine as the Designated Person for Orkney Islands Council Harbour Authority conducted an independent annual audit of compliance with the Port Marine Safety Code (the Code) for Marine Services over the period 22 to 24 October 2024.
- 1.2. The audit report shows a return to compliance with the Code and highlights the significant work undertaken by Marine Services to rectify the issues highlighted in previous reports.
- 1.3. The overall observations highlight:
  - i. Significant progress in recruiting into key positions in the management team, with new joiners now able to make significant progress with previous observations.
  - ii. The majority of the recommendations from previous reports have either been actioned or progressed.
  - iii. There is now a clear understanding of the role of Duty Holder.
  - iv. There is now a robust Pilot continuation training and revalidation system in place.
- 1.4. It was also noted that the Service demonstrated a vigorous drive to improve communications with the workforce, particularly those on the Outer Isles. The Service also demonstrated a pleasing ‘can-do’ atmosphere around the office and organisation.

## **2. Recommendations**

- 2.1. It is recommended that members of the Sub-committee:

- i. Scrutinise the Port Marine Safety Code annual audit of compliance, together with progress update on outstanding actions, attached as Appendices 1 and 2 respectively to this report, in order to obtain assurance.
- ii. Authorise the Chair of the Harbour Authority Sub-committee to write to the Maritime and Coastguard Agency detailing Orkney Islands Council Harbour Authority's compliance with the Port Marine Safety Code.

### **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 and facility operators 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 clarify the responsibilities of organisations within its scope.

### **4. Designated Person**

- 4.1. In October 2021, the Council appointed Marine and Risk Consultants Limited (Marico Marine) to provide Designated Person services to the Orkney Islands Council Marine Services for an initial term of three years with an option for two 12-month extensions. Part of the service provided by Marico Marine includes an annual audit of the Harbour Authority against the Code as the nominated Designated Person. This audit report covers all aspects of operations of the Harbour Authority as covered by the Code.

- 4.2. The latest annual audit of compliance was undertaken during the period 22 to 24 October 2024. The resulting report is attached as Appendix 1 to this report.
- 4.3. Appendix 2 to this report contains an update in relation to items raised in both the latest and previous Port Marine Safety Code Annual Reports.

## **5. Audit Report**

- 5.1. The latest report from the Designated Person shows a return to compliance with the Code and highlights the significant work undertaken by Marine Services to rectify the issues highlighted in previous reports.
- 5.2. The overall observations highlight:
  - i. Significant progress in recruiting into key positions in the management team, with new joiners now able to make significant progress with previous observations.
  - ii. The majority of the recommendations from previous reports have either been actioned or progressed.
  - iii. There is now a clear understanding of the role of Duty Holder.
  - iv. There is now a robust Pilot continuation training and revalidation system in place.
- 5.3. It was also noted that the Service demonstrated a vigorous drive to improve communications with the workforce, particularly those on the Outer Isles. The Service also demonstrated a pleasing 'can-do' atmosphere around the office and organisation.
- 5.4. The recommendations requiring additional effort are listed in Appendix 2.
- 5.5. The report concludes that the Harbour Authority is now compliant and a letter stating such should be submitted to the Maritime and Coastguard Agency at the earliest opportunity, signed by the Chair of Harbour Authority Sub-committee.

## **6. Legislative Position**

- 6.1. 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.

- 6.2. The Council, through its designated Duty Holder, is responsible for complying with the Port Marine Safety Code. This includes:
- i. Being aware of the organisation's powers and duties related to marine safety.
  - ii. Ensuring that a suitable Marine Safety Management System (MSMS), which employs formal safety assessment techniques, is in place.
  - iii. Appointing a suitable Designated Person to monitor and report the effectiveness of the MSMS and provide independent advice on matters of marine safety.
  - iv. Appointing competent people to manage marine safety.
  - v. Ensuring that the management of marine safety continuously improves by publishing a marine safety plan and reporting performance against the objectives and targets set.
  - vi. Reporting compliance with the Code to the MCA every three years.
  - vii. Reviewing existing powers on a periodic basis to avoid a failure in discharging its duties or risk of exceeding its powers.

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**Implications of Report**

1. **Financial.** No impact.
2. **Legal** See section 6.
3. **Corporate Governance.** Not applicable.
4. **Human Resources.** No impact
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.** The audit report reflects mitigation of potential risk.

**10. Risk.** The audit report reflects mitigation of potential risks.

**11. Procurement** Not applicable.

**12. Health and Safety.** The audit report reflects an independent assessment of marine safety.

**13. Property and Assets.** Not applicable.

**14. Information Technology.** Not applicable.

**15. Cost of Living.** Not applicable.

**List of Background Papers**

None.

**Appendices**

Appendix 1: Orkney Islands Council Harbour Authority Port Marine Safety Code Audit 22-24 October 2024 – Authored by Marico Marine

Appendix 2. Port Marine Safety Code – Audit Report – Progress Update for Duty Holder – Dated December 2024



**ORKNEY ISLANDS COUNCIL HARBOUR AUTHORITY**

**ORKNEY ISLANDS COUNCIL HARBOUR AUTHORITY PORT  
MARINE SAFETY CODE AUDIT 22-24 OCTOBER 2024**



**Report Number:** 21UK1779  
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**Prepared for:** Orkney Islands Council Harbour Authority  
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Date	Release	Technical Review Sign-off	Quality Review Sign-off	Authorised	Notes
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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 (OICHA).

The previous audit conducted in Sep-2023 assessed the OICHA as not being fully compliant with the Port Marine Safety Code primarily due to the key positions in the Marine Services marine management team being vacant.

The latest audit was conducted by the Designated Person, Mr D Foster, accompanied by Mrs S Gilbert, between 22 and 24 Oct 24.

Overall Observations:

- Since the previous audit there has been a successful recruiting campaign and the key positions in the Marine Services marine management team have been filled. Most have now been in post long enough to start to make a noticeable impression on the numerous outstanding issues listed in the last audit;
- The other main reasons for the OICHA being assessed as not being fully compliant with the Port Marine Safety Code (PMSC) in September 2023 have been or are now being addressed:
  - The majority of the recommendations from the previous audit(s) have either been actioned or are now being taken forward;
  - There is now a clear understanding of the role of Duty Holder; and
  - There is now a robust OICHA Pilot continuation training and revalidation system in place.
- There is a vigorous drive underway to improve communications and standards with the workforce including with those employed in the Outer Islands; and
- One of the most encouraging aspects of this audit was the enthusiastic “can-do” atmosphere around the offices.

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

- The Memorandum of Understanding (MOU) between OICHA and St Margaret’s Hope has been drafted and is currently being reviewed by both parties’ lawyers;
- The MOU between OICHA and Orkney Marinas is delayed because of the current lack of a Marina Manager;
- Draft General Directions are currently in the second iteration of legal review by Brodies LLP and should be ready for public consultation by the end of the year;
- It is recommended that stakeholder consultation is reviewed, and the meetings and minutes are recorded;



- It is recommended that some form of Harbour User Group (HUG) is established covering Kirkwall and Scapa Flow plus another covering the Outer Islands;
- It is recommended that the current Marine Safety Plan is updated with the accepted recommendations contained in this report. In future, progress against the plan and its goals are reported upon at each Harbours Sub Committee meeting as a standing agenda item (i.e. replace reporting against the "Get Well Plan");
- The original Kirkwall, Scapa and Outer Islands Navigation Risk Assessments were conducted in 2015/16; they are currently being comprehensively reviewed and updated by consultants;
- Considerably more work has been done to the Marine Safety Management System (MSMS) in taking forward the detailed comments from the previous PMSC audits. It is now a comprehensive and useful document;
- The work to improve the road marking and the reorganisation of the traffic waiting for a ferry on Kirkwall Pier is finally making progress;
- There is no evidence that internal audits of the MSMS have been conducted recently in accordance with Standard Operating Procedures (SOPs) (lack of staff until recently). It is recommended that the internal audit programme of the MSMS is reinstated;
- 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); work has already started;
- A new Hydrographic Survey policy has been drafted and awaits formal approval;
- DHM (Piers, Infrastructure and VTS) has assumed the role of VTS Manager; he has recently attended the CO103-1 VTS course. The MGN 401v3 review has been completed and the review of VTS related SOPs is scheduled;
- Since the previous audit a comprehensive continuation training and revalidation scheme has been introduced for the OICHA Pilots that includes:
  - An annual peer review of a fellow pilot's pilotage act; and
  - Annual simulator training, with tug crews, at South Shields or in the Solent University Manned Models.

This is a significant step forward and brings Orkney into line with the majority of other major ports.

- The process for monitoring Pilotage Exemption Certificate (PEC) holders' competence and revalidation is sound;
- The current pilot numbers position is fragile particularly in the summer months; it is recommended that overall pilot numbers and pilot succession planning is reviewed;
- Joint pilot and tug simulator training has been booked in the South Shield simulator;
- It is recommended that the current accident reporting, recording, investigation and after-action procedures (SOPs) are revised and the tracking of progress is improved; and
- It is recommended that OICHA should prepare for the introduction of the new editions of the PMSC and GtGP.

From studying the documentation provided during the past year, from the monthly liaison calls between the Harbour Master and the Designated Person, from the on-line attendance of the monthly Harbour Sub Committee briefs and from what was seen during this harbour visit and the detailed audit, Orkney Islands Council Harbour Authority now **complies with the Port Marine Safety Code** though there is still work to be done to bring it up to the standard expected of a major port.

It is recommended that a letter is sent now to the MCA confirming OICHA has returned to PMSC compliance additionally stating that further improvements are in hand.

Congratulations to all concerned for turning round the OICHA PMSC compliance status over the past year; it represents a huge amount of work.

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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 accompanied by Mrs S Gilbert between 22 and 24 Oct 24.

It should be noted that a new edition of the "Port Marine and **Facilities** Safety Code" (still to be known as the "PMSC") is about to be introduced. The new edition has been drafted by the Department for Transport (DfT) and now awaits final ministerial approval.

The GtGP is currently being revised and an updated document is expected to be introduced later in the year.

The following previous audits and Designated Person visits have been undertaken.

**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.

Visit Date	Purpose	Report Number	Dated
27 Apr 22	Duty Holder Training to the temporary Duty Holder during the local elections,	N/A	N/A
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
12-14 Sep 23	PMSC Audit.	21 UK 1779	18 Oct 23
9-11 Apr 23	Navigation Risk Assessment Review and Designated Person Visit.	NA	NA

The following visit programme was arranged by the Deputy Harbour Master:

**Table 2: PMSC Audit Meeting Programme 22-24 Oct 24**

Date	Time	People	Activity
Tuesday 22 Oct 24	1130-1200 (Start delayed by incoming flight issues),	J Buck (OICHA) D Sawkins (OICHA) B Drummond (OICHA) R Spence (OICHA) A Sondhi (OICHA) S Gilbert (Marico) D Foster (Marico)	Kick off Meeting.
	1200-1700	B Drummond A Sondhi R Spence S Gilbert D Foster	Office based audit.
	1700-1930	S Gilbert D Foster	Visit Stromness and Tingwall.
Wednesday 23 Oct 24	0900-1030	S Brandish (OICHA) R Gunn (OICHA) D Foster	Pilotage discussions.

Date	Time	People	Activity
	1030-1045	J Kokkonen D Foster	Environmental catch up.
	1045-1215	J Temple D Foster	VTS and discussions.
	1215-1300	J Buck D Foster	One-to-one with the Harbour Master.
	1300-1400	D Sawkins (OICHA) B Drummond (OICHA) R Spence (OICHA) S Gilbert (Marico) D Foster	Working Lunch and informal discussions
	1400-1500	Cllr K Leask D Foster	One-to-one with the Chairman of the Harbours Sub Committee (Duty Holder).
	1500-1600	A Sondhi S Gilbert D Foster	Visit Kirkwall Harbour.
	1600-1730	A Sondhi S Gilbert D Foster	MV Shapinsay and round trip (Kirkwall - Shapinsay).
	1730-1900	S Gilbert D Foster	Visit St Margaret's Hope.
Thursday 24 Oct 24	0900- 1200	Cllr K Leask Cllr H Woobridge Cllr I Taylor Cllr M Thomson Cllr G Bevan Cllr L Hall Cllr D Tullock D Foster	Meeting with OICHA Harbours Sub- Committee.
	1200-1345	S Gilbert D Foster	Working lunch and farewells.

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 Maritime and Coastguard Agency (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	Will benefit from the introduction of General Directions – See 1.9 below.
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 Ports 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?	Y	
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. Currently being reviewed by the Chairman of the OICHA Harbours Sub-committee.

## 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.



A Memorandum of Understanding (MOU) has been drafted and is currently being reviewed by both parties' lawyers.

OICHA do not provide pilotage in the area.

**1.4** It is recommended that all "Facilities" in the Orkney Islands Council Statutory Harbour Authority areas are listed in the MSMS in preparation for the new edition of the Port Marine **and Facilities** Code.

The "Ports Handbook for Orkney" (6<sup>th</sup> edition) is an excellent document but still requires updating.

### **Orkney Marinas**

The marinas in Stromness and Kirkwall are a charity managed by Orkney Marinas.

It is recommended that a MOU is drafted to clarify the division of responsibilities between Orkney Marinas and the OICHA, for example for the investigation of incidents.

Currently there is no Marina Manager in post and taking the MOU forward is on hold.

**1.6** The OICHA has four sets of byelaws:

General (1977);

Vehicle (1984);

Petroleum (1980); and

Liquefied Gases (1978).

Although rarely used, the above byelaws still provide a legal basis to manage the harbours. The introduction of General Directions will provide more powers.

**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 currently in the second iteration of legal review by Brodies LLP (as advised by the Designated Person in the last audit) and should be ready for public consultation by the end of the year.

## 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	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 K Leask 14 Jun 24.
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 to 1.3.13.
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	Members of the Harbour Authority Sub Committee received Duty Holder Training 31 Jul 24.
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 visits and PMSC 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/N	See below.

## 2.1 COMMENTS

**2.1 and 2.4** A review of the “Role of the Duty Holder” and the “Remit of the Harbour Authority Sub-Committee” was been conducted by the OIC Chief Executive Officer and the Head of Legal and Governance and briefing notes were published 12 Sep 23.

**2.6** Since the previous audit there has been a successful recruitment campaign and the Marine Services marine management team now consists of 1x HM, 3x DHM, 2 x AHM and 1 x Ports Safety Manager. Most have now been in post long enough to start to make a noticeable impression on the numerous outstanding issues listed in the last audit.

One of the most encouraging aspects of this audit was the enthusiastic “can-do” atmosphere around the offices.

**2.11** It is recommended that a letter is sent now to the MCA confirming OICHA has returned to PMSC compliance additionally stating that further improvements are in hand.

### 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 the 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	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	2024-2026 Signed 9 Aug 24. See below.
3.7	3.1.4, 5.1.6	2.17	Does a communication channel exist with employees / contractors affected by the MSMS?	Y	See below.
3.8	3.2.12	2.28	Does the organisation utilise websites to publish marine procedures and reports?	Y	Has been updated since the previous audit.

### 3.1 COMMENTS

**3.1 and 3.4** The Harbour Authority endeavours to conduct a comprehensive programme of stakeholder consultations; a comprehensive list is in the Marine Safety Management System (MSMS). However there is no record that the meetings are taking place (as required in MSMS 1.7).

It is recommended that stakeholder consultation is reviewed, and the meetings and minutes are recorded.

#### **Harbour User Group(s)**

In the past, local stakeholder meetings took place in Kirkwall and Stromness, but the meetings have fallen into abeyance.

The matter was discussed with the chairman of the Harbours Sub Committee; it is recommended that some form of Harbour User Group(s) (HUG) is established covering Kirkwall and Scapa Flow combined plus another covering the Outer Islands.

**3.6** The new Marine Safety Management Plan (2024-2026) is signed and is in place.

It is recommended that the plan is updated with the accepted recommendations contained in this report.

In future, progress against the plan and its goals are reported upon at each Harbours Sub Committee meeting as a standing agenda item (i.e. replace reporting against the "Get Well Plan").

**3.7** There is a vigorous drive underway to improve communications and standards with the workforce including with those employed in the Outer Islands including:

- 6 weekly visits to each of the Outer Islands' harbours by the DHM and AHM plus backup Teams calls;
- Weekly mainland pier inspection;
- Six-monthly Safety meetings;
- Twice weekly Operational meetings (Tuesday and Friday); and
- The introduction of a Monthly (4-6 weekly) Marine Services Newsletter.

## 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	See below.
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 this 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	Part of the incident investigation procedure. See below and Section 13.
4.8	4.1.6	2.9	Is the NRA available to those they affect?	Y	On request.
4.9	3.3.		Are other port user risk assessments (e.g. towage and line handling etc.) taken into account?	Y	The majority are part of 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 regularly 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 by Marico Marine and are currently being comprehensively reviewed and updated by Marico Marine.

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

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.

Work has already started on rectifying this issue. See Section 13 of this report.



## 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	Version 7.3. 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	Policies, the MSMS, Standard Operating Procedures (SOPs), and associated forms.
	5.1.5, 5.1.6		Policy statements: Code compliance, Navigation, Pilotage, Marine Conservancy, Hydrographic Survey, Environmental, Training, Social and Alcohol and Enforcement and Prosecution.	Y	All have been reviewed and signed by the new chairman of the Harbours Sub Committee. The new Hydrographic Survey policy awaits final approval.
	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.

5	GtGP	PMSC		Y/N	Comment
	2.2.9		Prevent acts or omissions that may cause personal injury to employees or others;	Y	OIC H&S Policy. See below.
	5.1.9		Roles and responsibilities of key personnel;	Y	Organogram included in the MSMS.
	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.
<b>5.3</b>	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 Section 13. Now recorded in Hazman.
<b>5.4</b>	5.1.13	2.14	Does the MSMS include processes for effective (annual) internal audit, review of procedures and external audit?	Y	Annual external audit by the Designated Person. See below.
<b>5.5</b>	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 section 13.
<b>5.6</b>	5		Is the MSMS user friendly?	Y	Good index.

## 5.1 COMMENTS

**5.1** Yet again, considerably more work has been done to the Marine Safety Management System in taking forward the detailed comments from the previous PMSC audits. It is now a comprehensive and useful document.

The MSMS is maintained by the Safety Manager and is only available to members of staff as a PDF via the M Drive. Only the two DHMs and the Safety Manager have access to the master copy.

As recommended in the previous audit, the copy of the MSMS has been removed from the website.

**5.2** The work to improve the road marking and the reorganisation of the traffic waiting for a ferry on Kirkwall Pier is finally making progress.

**5.4** There is no evidence that internal audits of the MSMS have been conducted recently (lack of staff until recently) in accordance with SOP 03-002. It is recommended that the internal audit programme of the MSMS is reinstated.

## 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				Does the organisation have emergency plans for:
	6	2.14,3.9	Y	Marine Safety Plan v 3.3 Jul 24.
	6.4		Y	MCA approved v 4.1 18 Apr 24. Briggs Marine remain the Secondary Responder.
	6.2.5		Y	HSE approved May 22.
Y			Dated Jan 24.	
6.2	5	2.14	Y	Are emergency plans included in or referred to in the SMS?
6.3	6.1.2	3.9	Y	Orkney Island Emergency Plans.
6.4	6.8.13		Y/N	Does the organisation have a published exercise programme and carried out exercises? See below.
6.5	6.2 6.3		Y	Does the SMS address the handling of dangerous or polluting cargoes/substances? 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 currently 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).

The DHM has started developing an overall Marine Services emergency training and exercise plan along with a live exercise that includes the emergency services.

## 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.
7.4	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	GtGP	PMSC		Y/N	Comment
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 MST Ops Meeting (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.
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	See below.
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 in place but it lacks an overarching written Hydrographic Policy setting out the basic criteria (e.g. survey main commercial berths every year etc).

A new Hydrographic Survey policy has been drafted and awaits formal approval (See 5.2).

There are currently no hydrographic surveys overdue.

**7.9** Possible dredging/ploughing in a couple of the Outer Harbours was discussed. Ploughing is considered to be a form of “dredging” and can be subject to a consent process – if in doubt take advice.

## 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 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.
8.3	8.4.12, 8.4.3-17		Is the current level of service appropriate?	Y	MGN401v3 review and AFS audit.
8.4	8.75	3.3	Does the Harbour Authority have LPS / VTS procedures?	Y	A number of SOPs rather than a specific "VTS Manual". A local uncontrolled paper copy of the appropriate SOPs is held in Port Control.
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	Nothing new suggested at the recent Pilots and Tug meeting.
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 Scapa and Kirkwall NRAs.

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 2025 International Island Games that includes water sports.
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/N	Currently there is no Marina Manager in post. See 1.4.

## 8.1 COMMENTS

8.1 DHM (Piers, Infrastructure and VTS) has assumed the role of VTS Manager; he has recently attended the CO103-1 VTS course.

The MGN 401v3 review has been completed and the review of VTS related SOPs is scheduled.

The VTS Manager is considering the pros and cons of appointing a VTS Supervisor without increasing the overall headcount.



## 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	Updated and the new edition was issued in Jul 23.
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	
9.5	9.5	4.15, 4.16	Does the harbour authority issue Pilotage Exemption Certificates (PEC)?	Y	Administered by DHM(Ops). Currently there are approximately 30 PECs. All PEC holders are employed by either Northlink or Pentland ferries.
9.6		4.15	Does the harbour authority maintain:		

9	GtGP	PMSC	Y/N	Comment	
	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 Information Management System (PIMS).
	9.5.6		PEC qualification and revalidation records.	Y	All PECs run from 1 Sep each year. All are in date.
<b>9.7</b>	9.4.31	4.14	Is there a formal training scheme for pilots as per the international recommendations contained in IMO resolution A960?	Y	MSMS Appendix 4. The recently qualified trainee pilot successfully used the scheme.
	9.4.31		Are pilots trained in Bridge Team Management?	Y	
<b>9.8</b>	9.4.31, 9.5.6	4.13	Does the harbour authority regularly monitor the competence and fitness of pilots and PEC holders?	Y	See below.
<b>9.9</b>	9.4.45	4.13, 4.16	Are pilots and PEC holders subject to a disciplinary procedure?	Y	Pilotage Directions. OIC disciplinary procedures.
<b>9.10</b>	9.4.11		Does the harbour authority sub-contract pilotage?	N	
<b>9.11</b>	9.4.30	4.13- 4.14	Does the harbour authority have formal agreements with the pilots regarding training, revalidation, competence and discipline?	Y	MSMS Appendix 4. MSMS 6.5.4. See below.
<b>9.12</b>	9.1.1A	4.11	Are pilotage resources kept under review against requirements?	Y	See below.
<b>9.13</b>	9.4.18, 9.4.19	4.14	Are pilot boarding and landing arrangements subject to formal risk assessment and specific operational procedures?	Y	
<b>9.14</b>	9.4.20	4.11	Does the LPS/VTS require confirmation that the vessel complies with the pilot boarding arrangements?	Y	Introduced since the previous audit.

## 9.1 COMMENTS

**9.1** There are now six Class 1 pilots and none under training.

**9.8 and 9.11** Since the previous audit a comprehensive continuation training and revalidation scheme has been introduced for the OICHA Pilots that includes:

- An annual peer review of a fellow pilot's pilotage act; and
- Annual simulator training, with tug crews, at South Shields or in the Solent University Manned Models.

This is a significant step forward and brings Orkney into line with the majority of other major ports.

The continuation training and revalidation scheme has been incorporated in the MSMS.

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

**9.12** The six Class 1 pilots are sufficient to handle the traffic during the winter months (non-cruise season) however there is very little redundancy in the system during the summer months especially if one pilot were to become unavailable for a prolonged period.

The current pilot numbers position is fragile particularly in the summer months; it is recommended that overall pilot numbers and pilot succession planning is reviewed.

## 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). 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	With Harold back in service towage is available in Kirkwall during the cruise season.
10.5	10.2.3		Are tugs used in restricted visibility?	Y	SOP 05-010 3.3
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	Towage SMS.
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. SOP 07-001.
10.12	10.3.8-13		Does the harbour authority: put in place: <ul style="list-style-type: none"> <li>• Risk assessment;</li> <li>• Method statement; and</li> <li>• Passage plan.</li> </ul> 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.	Y	See below.

## 10.1 COMMENTS

Unfortunately, the planned Designated Person visit to the towage department on AM 23 Oct 24 had to be cancelled due to DHM(Ops) being on leave and the tugs being involved in an STS operation.

The DHM(Ops) has taken over the role of Designated Person (Ashore) from 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 been booked in the South Shields simulator.

## 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	MSMS.
			Hot Work	Y	
			Bunkering	Y	Normally by lorry. Monitored by VTS.
			Engine immobilization	Y	Monitored by VTS.
			Diving/Swimming	Y	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. Dive boats request monthly permits.
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"> <li>• Within the NRA?</li> <li>• Berth / vessel type specific assessments?</li> </ul>	Y	Part of the checks and education process during DHM (P,I&VTS)'s round of harbour visits. See 3.7.
			Are suitable controls in place and effective: <ul style="list-style-type: none"> <li>• Procedures?</li> <li>• Notices?</li> <li>• Stakeholder briefings?</li> </ul>	Y	Part of the checks and education process during DHM (P,I&VTS)'s round of harbour visits. See 3.7.
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.
			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.

## 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?	Y	Undertaking the Lloyds Harbour Master's Diploma.
12.3	12.7	1.16, 2.18	Do VTS officers hold appropriate qualifications?	Y	6 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	Triscom Marine.
12.7	12.11	2.18	Does the organisation have a training policy and maintain training records?	Y	

### 12.1 COMMENTS

A local data base tracks all Marine Services staff's training and qualifications etc.; the system flags-up when action is required. Currently the Marine Data Base Administrator's post is vacant.



## 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. SOP02-004 and SOP02-005 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 02-004.
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 02-004. 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.
13.6	12.8.4	2.20-2.21	Does the investigation process link with the enforcement process?	Y	

13	GtGP	PMSC		Y/N	Detail/Comment
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 to 13.6** SOP02-004 and SOP02-005 provide guidance on incident investigation etc.; however it is recommended that they are revised and possibly combined.

It is recommended that the revised(s) investigation procedure includes:

- Incident reporting – Methods - internal and external;
- Incident recording and analysis – Where to record (Hazman plus an analysis data base); categorise incidents by type (e.g. Grounding, contact etc) for running analysis;
- Informing the MAIB – Who is authorised and the reporting criteria;
- Investigation procedure – Consider a flow chart;
- Investigation Report – consider a set format;
- After actions:
  - Review the Navigation Risk Assessment.
  - Review MSMS and SOPs.
  - Possible enforcement action.
- Promulgation of results to both internal and external stakeholders;
- Tracking the progress of each incident as it goes through the investigation procedure – Provide a monthly overall progress report for the Duty Holder; and
- Final formal sign off by Harbour Master when he is satisfied all of the above have been completed.

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

Date: December 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	<b>All</b> - Continuing re-education process to evolve embedded culture into a well-documented policy and procedure driven practice with safety paramount.  Ongoing with routine visits by Deputy and Assistant Harbour Masters, with regular systematic visit program to all piers.
2.	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	Sep 21	Jul 25	<b>Head of Marine Services/Deputy Harbour Master (S&amp;S)</b> – Final draft now with St Margarets Hope Harbour Trust. Awaiting comments on final draft from the Harbour Trust.
3.	2/2021 4/2023 5/2023		Introduce General Directions.	Sep 21	Apr 25	<b>Head of Marine Services</b> - General Directions now drafted, incorporating changes to VTS operations driven by revised MGN 401. Draft finalised and is with legal counsel for final review prior to wider consultation and implementation.
4.	9/2021 20/2023		Develop and implement overall	Sep 21	Apr 25	<b>DHM (OPS) and Port Safety Manager</b> – Internal programme now generated. Incorporation of wider Council and outside

Colour Codes

<span style="color: red;">■</span>	High Priority with completion date	<span style="color: orange;">■</span>	Medium priority with completion date
<span style="color: green;">■</span>	In hand with completion date	<span style="color: blue;">■</span>	Completed, will be removed at next update

	Item	Code	Observation	Raised	Target	Remarks
			training and exercise plan involving all areas of Marine Services			agency exercise programme begun in conjunction with OIC Safety and Resilience team. A number of external security and safety exercise undertaken. Programme being extended to all areas of the Service.
	5.	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	Dec 24	<b>Head of Marine Services</b> - External company conducted and external review, reporting VTS performing well. Further desk review undertaken into revised MGN 401 requirements. Subsequent report circulated to Harbour Authority Subcommittee members October 23. Work on incorporating recommendations has commenced and being worked through.
	6.	12/2022 3/2023	Recommended that the relationship and responsibilities between OICHA and Orkney Marina Ltd are formalised	Jan-23	Jul 24	<b>Business Development Manager</b> - Initial meeting with OML held December 2022. To be completed by February 2024. Service Level Agreement has been drafted.
	7.	1/2022 2/2023	Revise Port Handbook and new edition published	Dec 22	Mar 25	<b>Business Development Manager</b> – Commission external review of document and aim towards more 'leisure' user. Pending review and conversion to leisure handbook.
	8.	21/2022 11/2023	Incident investigation	Jan 23	Jun 25	<b>Head of Marine Services</b> – The skillset for investigation procedures will be improved by Port Safety Manager, Deputy

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
	19/2023 06/2024		procedures in the MSMS require substantial development			Harbour Master and Assistant Harbour Master attending training courses. First Course has been attended and review underway. Best practice has been researched. New SMS procedures being drafted.
9.	16/2023		Develop a Hydrographic Survey Policy to support the survey programme	Sep 23	Dec 24	<b>DHM (S&amp;S)</b> – Hydrographic Survey Policy drafted and awaiting formal approval at Harbour Authority Sub-committee
10.	24/2023		Consider appointing a VTS Supervisor	Sep 23	Apr 25	<b>Head of Marine Service</b> – VTS Manager. Now appointed and position being reviewed within current structure and rota system.
11.	30/2023		Review vessel mooring procedures on small piers and harbours on the mainland and islands	Sep 23	Jul 25	<b>Port Safety Manager</b> – Personnel now conducting pier visits and will commence review of mooring and boarding procedures.

### New This Audit – Nov 2024 Report

	Item	Code	Observation	Date	Target	Remarks
01.	01/2024		Review stakeholder consultation and record/minute meetings	Nov 24	Mar 25	<b>Head of Marine Service</b> – Implement consultation recording.

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
2.	02/2024		Establish some form of Harbour User Group	Nov 24	Mar 25	<b>Head of Marine Service</b> – In conjunction with 01/2024 review what form a Harbour User Group can be created for future consultation.
3.	03/2024		Update Marine Plan and incorporate it as standing agenda on Harbour Authority Sub-committee	Nov 24	Mar 25	<b>Head of Marine Service</b> – Work with Democratic Services to create standing agenda item and report format.
4.	04/2024		Conduct internal audit of MSMS reviews and create review program.	Nov 24	Mar 25	<b>Port Safety Manager</b> – Conduct internal audit and create rolling monthly review program.
5.	05/2024		Review pilot numbers, particularly in relation to summer movement numbers.	Nov 24	Mar 25	<b>Head of Marine Service</b> – Review numbers of moves and future pilotage requirement to derive required number of trained pilots.
6.	06/2024		Review incident investigation and post investigations SOPs	Nov 24	Jun 25	See Item 08 from previous reports
7.	07/2024		Prepare for publication of new Port Marine Safety Code 2024/25 and	Nov 24	Jun 25	<b>Head of Marine Service</b> – timing dependent on publication of new Port Marine Safety Code.

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
			associated Guide to Good Practice			

### Completed Since Last Audit

1. Review procedures for handling dangerous goods or polluting cargoes 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.
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. Reinstated routine internal communication system.
18. Updated website post MSMS review.
19. Create and publish Training Policy.
20. Update organogram.
21. Recruited to senior positions
22. Created Pilot training and CPD program
23. Booked first combined Pilot and Tug crew simulator training.
24. Navigation Risk assessments updated.
25. Personal safety issues, now routine business with regular visits to piers and harbours.
26. DHM appointed as VTS manager.

Colour Codes	<span style="display: inline-block; width: 15px; height: 15px; background-color: red; border: 1px solid black;"></span> High Priority with completion date	<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> Medium priority with completion date
	<span style="display: inline-block; width: 15px; height: 15px; background-color: green; border: 1px solid black;"></span> In hand with completion date	<span style="display: inline-block; width: 15px; height: 15px; background-color: blue; border: 1px solid black;"></span> Completed, will be removed at next update