

## REPORT TO INFRASTRUCTURE SERVICES COMMITTEE – 12 MARCH 2020

### PORT MARINE SAFETY CODE DESIGNATED PERSON ANNUAL REPORT

#### 1 Reason for Report / Summary

- 1.1 This report seeks to provide the Committee with an annual summary of Port Marine Safety Code (PMSC) matters across the seven Aberdeenshire Council owned harbours, including the annual report by the Council's PMSC Designated Person.

#### 2 Recommendations

The Committee is recommended to:

- 2.1 **Acknowledge all incidents, accidents and occurrences have been recorded, monitored and actioned as required by the Code and outlined in Discussion Item 4.1;**
- 2.2 **Acknowledge that all seven of Aberdeenshire Council Harbours have met the criteria for management of the outages on the Navigation Aids for the three-year period ending 31 December 2019, Discussion Item 4.2;**
- 2.3 **Review and Acknowledge the Annual Report submitted by Aberdeenshire Council's Harbours Designated Person, Chris Spencer, Appendix B, Discussion Item 4.3; and**
- 2.4 **Acknowledge the allocation of funding from the Harbours Revenue Budget for 2020/21 for professional services from the Designated Person; Discussion Item 5.6.**

#### 3 Purpose and Decision Making Route

- 3.1 As Duty Holder under the PMSC, Infrastructure Services Committee is accountable for Aberdeenshire Council's compliance with the code. This report and the Designated Person report (**Appendix A**) are to provide this Committee with an annual update of compliance.
- 3.2 This item was last considered by this Committee in March 2019 (Item 10). It is envisaged that the next report in 2021 will be considered by the Duty Holder Sub Committee, which, if agreed by Committee, will be formed on 12 March 2020.

#### 4 Discussion

- 4.1 Summarised below are all incidents, accidents and occurrences that have been recorded, monitored and actioned as required by the Code from 1 January 2019 to 31 December 2019:

#### 4.1.1 Reportable incidents HSE Jan – Dec 2019

Harbours personnel suffered fractured ankle at Macduff Slipway. (November).

#### 4.1.2 Reportable Incidents – MAIB Jan – Dec 2019

- i) Nereus INS 172 broke moorings and drifted away from the pier (January).
- ii) Two fires on board Genesis BF505, (July and August).
- iii) Fatal man overboard from creel boat Sea Mist BF918 outside Macduff Harbour (March).

#### 4.1.3 Near Misses Jan – Dec 2019

- i) Boat came off set up at Macduff Slipway (Wood & Strap set up) on way up Cradle. No injuries.
- ii) Harbours personnel slipped while adjusting rope between boats at Macduff Harbour and trapped his leg. No injuries.

4.2 Aberdeenshire Council are a designated Navigation Aids Authority under the instruction of the Northern Lighthouse Board (NLB).

4.2.1 Aberdeenshire Council are tasked with achieving an “International Association of Marine Aids to Navigation and Lighthouse Authorities” (IALA) Target Availability of performance of the Navigation Aids under their management and control over a three year period. The target set for Category 1 is 99.8% and the target for Category 2 is 99.0%.

4.2.2 The Committee are informed that Aberdeenshire Council has achieved 100% for Category 1 and 99.48% for Category 2 performance of Navigation Aids within their management and control. This exceeds the stipulated minimum acceptable criteria requirement for the three year period ending on 31 December 2019.

4.3 In line with the Port Marine Safety Code (PMSC) an independent Designated Person is appointed to provide support and guidance on all seven Council harbours. One of their duties is to provide independent assurance to the Duty Holder. To that end the Designated Person has prepared an Annual Report, included at **Appendix A**.

4.3.1 The Designated Person, Chris Spencer, will be in attendance at Committee to present his report and answer any questions arising.

## 5 **Council Priorities, Implications and Risk**

5.1 The report helps deliver Council Priority 10 – Having the right people, in the right place, doing the right thing, at the right time.

5.2 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed.

<b>Subject</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Financial	<b>x</b>		
Staffing	<b>x</b>		
Equalities			x
Fairer Scotland Duty			x
Town Centre First	TCFP impact assessment attached as <b>Appendix B</b>		
Sustainability			x
Children and Young People's Rights and Wellbeing			x

5.3 An equality impact assessment is not required because the report is regarding compliance with the PMSC and does not have a differential impact on any of the protected characteristics.

5.4 The staffing implications are officer time to continue implementing the PMSC Compliance Action Plan.

5.5 The financial implications are related to the continued appointment of the independent designated person, estimated to be approx. £10,000 per year.

## **6 Scheme of Governance**

6.1 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and their comments are incorporated within the report.

6.2 The Committee is able to consider and take a decision on this item in terms of Section F.1.1.d of the List of Committee Powers in Part 2A of the Scheme of Governance as it relates to Roads, Landscape and Waste Services.

**Stephen Archer**  
**Director of Infrastructure Services**

Report prepared by Graeme McCallum, Principal Officer Harbours  
Date 25 February 2020

### **List of Appendices –**

Appendix A – Designated Person Annual Report & Appendix B - TCFIA



## Designated Person Report to the ISC March 2020

<b>Prepared For:</b>	Graeme McCallum Interim - Principal Officer Harbours Aberdeenshire Council Infrastructure Services
<b>Prepared By:</b>	Spencer Marine Consulting Ltd High Stane House Kilbirnie KA25 7LE
<b>Report No:</b>	SMCL – 2018-005-ACIS
<b>Date:</b>	10/2/2020

### Background

As a statutory harbour authority at Banff, Gourdon, Johnshaven, Macduff, Portsoy, Rosehearty and Stonehaven as set out in the Grampian Regional Council (Harbours) Confirmation Act 1987 (and subsequently amended to recognise the council re-organisation) the council has certain duties and responsibilities that include the operation, maintenance and improvement of the harbour as set out in the Harbours Act 1964.

Specifically, regarding operations there is further industry best practice that should be followed by ACIS on behalf of the council. This is called the Port Marine Safety Code (PMSC) and sets out the obligations and responsibilities of all harbour authorities regarding Marine Navigational Safety. While not law, it is accepted as industry best practice and compliance is regulated and audited by the Maritime Coastguard Agency (MCA) and recognised by the Health and Safety Executive (HSE).

The PMSC requires the implementation of a Marine Safety Management System (MSMS) which is a risk-based approach to the management of navigational safety. The MSMS must demonstrate continuous improvement and be easily auditable by the Designated Person and the MCA when required.

The Designated Person (DP) is an independent and suitable qualified organisation or person who is appointed by the Council and is responsible for auditing compliance with the Code and reporting to the Duty Holder.

Spencer Marine Consulting Ltd were appointed as DP in 2018 and have been working with ACIS harbours team to establish a compliant MSMS and audit activities.

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## PMSC compliance

Working with the harbours team an action list and MSMS structure and information matrix has been set up in SharePoint.

<https://aberdeenshire.sharepoint.com/sites/Harbours/MSMS/Lists/MSMSMatrix/AllItems.aspx>

Since March 2019, Spencer Marine Consultants incorporating the Designated Person along with Graeme McCallum (interim Principal Officer Harbours) by visiting Gourdon, Johnshaven and Stonehaven and meeting the Harbourmaster South completed familiarising themselves with all seven of the Councils Harbours.

A meeting was also held with representatives of the Councils' Health & Safety Department, the Training Department and the Auditing Department. The purpose was to understand the roles of each Department within the Council and the potential to utilise expertise in aiding the Management of the Harbours. From which several opportunities were identified and agreed that assistance could be provided. It was requested that these were uploaded upon the **Safety Action Plan** within the SharePoint system. The Safety Action Plan is the **Live** part of the document where identified Risks and Tasks should be recorded. Once these have been completed, they can be closed out; but this then provides clear live and historical evidence of ongoing maintenance and actions to comply with the Port Marine Safety Code, thus being **clearly auditable**.

**In order to comply with statutory duties and the PMSC there are some areas that need interaction and engagement with other council departments and activities to ensure information is easily accessible to those that need it.**

Progress is being made, reference must be made to both the MCA report dated 22<sup>nd</sup> November 2018 and the report from Stephen Archer to the ISC dated 14<sup>th</sup> March 2019. Enhancements were clearly identified, particularly numbers 1 & 2 which too date remain outstanding.

1. This relates to the inclusion of several policies, operational practices and monitoring mechanism.
2. Full review of Risk assessments, operational, navigational, bathymetric and Stakeholder engagement.

Some have in part been completed and the Harbours Team have been working in addition to their daily duties towards this end. Currently however at any subsequent audit from the MCA, this will be identified as requiring improvement.

Other enhancements that should be addressed soonest include: -

- the provision of a website for Notice to Mariners.
- the creation of a Harbours Duty Holder Steering Group.

It has been established that the harbours are operated, **without General Directions relying on Byelaws instead**. A full review of these has been carried out on behalf of the Harbour's team by Spencer Marine Consulting Ltd. Although the Byelaws are currently in the main sufficient to operate the harbours, this form of harbour management is **outdated** and any changes to the Byelaws require government approval. It is therefore a recommendation as the DP that the Duty Holder considers promoting a Harbour Revision Order to cover all the

Harbours that would allow the Council to make General Directions. Once approved by government these can be made to adapt to any changes in circumstances within the Harbours without further government involvement.

Resources amongst the Harbours' Team remain a concern. Operationally and compliance with the Port Marine Safety Code is complicated and time consuming. The Harbours Team engage in daily duties of operating the harbours leaving minimal time to enhancing compliance. Hence the following was a report produced in November 2019 to utilise other departmental resources: -

### Specific PMSC Requirements

We need to be able to either link the following information to the MSMS matrix where there is an overlap in other council departments or create stand-alone documents/procedures to meet the PMSC requirements but still meet wider council governance obligations.

We need to understand more fully how the council delivers and manages these overlapping activities to allow further development of the MSMS.

### Health and Safety Department

- Health and Safety policy with specific reference to PMSC requirements
  - The service department (harbours) is broadly responsible for management of H&S for the service
  - This must be aligned to the wider Council policy
  - New H&S policy issued by ISC in October, this needs to be reviewed and aligned to the work of the harbours service.
  - The New Policy needs to be communicated to the harbours service and this is for the harbours team to do.
  - **A communications process and procedure is required to ensure information is disseminated appropriately to all relevant parties**
  - All H&S documentation should be aligned through from harbours to ISC and corporate functions
  - Support will only be provided at a very high level from the corporate teams
  - **It would be appropriate to set out the responsibilities of the harbours team with regard to policy, process and procedures.**
  - Responsibility for the management of H&S auditing also sits with the harbours team, some assistance may be made available from central H&S.
  - The roads service follows a management system that is ISO conforming
  - SharePoint DB is used by Staff from the roads team
  - Accidents and incidents and environmental monitoring is managed at corporate level through KPI's and scorecard reporting
  - Harbours should align system to the approach adopted by roads
- Risk assessments specific to harbour activities and navigational safety.
  - The responsibility for development and review of Risk Assessments is with the harbour service
  - There will be some RA crossover between ISC/roads and harbours
  - **The crossover RA need to be identified**
  - **The RA that are relevant to harbours and managed by roads should be linked to the Harbours MSMS**

- **A gap analysis should be undertaken to identify where RA for harbours have not been developed.**
- Establishment of a marine safety committee and management of it.
  - There is no Marine Safety Management Committee in place at the current time
  - Guidance was requested in terms of TOR for review to allow the needs to be aligned with the established H&S committees
  - **TOR to be drawn up and distributed**
  - This requirement could be part of an established committee
  - Actions from the Marine Safety Committee would be recorded as required by the PMSC and added to the safety action plan but also where appropriate raised to the next level of committee.
- Emergency management
  - While there is a corporate emergency response plan the responsibility for developing specific marine plans is the responsibility of the harbours service.
  - **Corporate emergency response plan should be linked to the harbours MSMS relevant section**
  - Council has own oil pollution plan that also meets the harbours service requirements, this can be linked to the MSMS
- Incident investigation/ reporting and recording – marine incidents
  - Harbour master make any necessary reports to MAIB
  - Incidents are reported through the harbours team to the Council central incident DB.
  - The central Incident DB is a self-contained system - it is not particularly user friendly and can be difficult to interrogate.
  - Harbours Admin Lynn should have access and be able to pull reports – to be checked that the appropriate guidance and procedures are in place.
  - It is the responsibility of the corporate function to review reported incidents and then decide what next actions, first level investigation would be carried out by the service
  - **A stand-alone marine incident system could be set up and used to record all incidents and near misses** with only RIDDOR reportable being entered into the central system
  - The central system does not really provide the necessary scope for marine incident recording as required by the PMSC
- How the council manages continuous improvement and how this meets PMSC requirements
  - H&S scorecard system that reports performance against KPI's
  - Section feedback and findings section, can be filtered by harbours
  - Actions for service level reviewed and then reported to Marine safety committee
  - Need to share minutes harbours H&S committee to ensure these are incorporated into the central system
  - Process needed to do this
  - There is no specific safety action plan that would meet the PMSC requirements.
- Hazard database regarding marine and harbour activities
  - The Council does not keep a central Hazard database
  - **This will be set up within the MSMS**

### Training Department

Services (Harbours) are responsible for management of local training



- Training policy, relevance to the harbours and marine requirements
  - Service responsibility
  - **The Harbours need to consider own guidance documents relevant to training that link to corporate**
- Training matrix
  - Responsibility of harbours
  - Possibility of more integration similar to that adopted by roads who use a power app for monitoring
  - **Lynn to speak to training – Rhoda West**
- Training records
  - Corporate level in Aldo
  - Lynn keep records of who has done what and how fits with training matrix
  - **Lynn needs access to Aldo for the marine harbour's teams – to be checked**
- Training programmes
  - Responsibility of the service
- Performance review
  - This is relative to performance of the policy and review of the requirements and not individual performance management. – clarity was requested

#### Audit Department

- Audit objectives
  - There are no Council audit objectives
  - **To be established for harbours service**
- Audit programme for internal auditing
  - There is internal ISO auditing undertaken however the harbours service is currently not included
  - This is to be considered by the ISC team
- Audit records – last internal audit of harbour MSMS
  - There are no internal audit records
- Outputs and actions from audits
  - There are no internal actions from audits
- **Harbours audit requirements to be set out.**

The entire operation of a Safety Management System relies entirely on appropriate Risk assessments and appropriate methods to mitigate those risks. Such risks should regularly be reviewed by appropriate persons as has been part of the previous DP report. This has been recently highlighted in part by a recent review of the Navigational aids at MacDuff by the Northern Lighthouse Board who identified several upgrades. The harbours team have thus taken steps to upgrade the aids to NLB specification. This highlights the requirement to carry out similar reviews at the other harbours.

In conclusion, following the appointment of Spencer Marine Consulting Ltd and the MCA audit a 3-year plan was put in place to improve compliance with the PMSC. To date the plan is on course, partly due to the Harbour's team contributing; but also, with Spencer Marine Consulting Ltd having been employed to assist and provide support, we are however approaching the point where our access to sensitive documentation is limited. We are also minded of the requirement within the Code for the Designated Person's requirement to be independent.

Hence to re-iterate, resources to continue improvement are essential, thus any assistance from within the Council, from other departments would benefit immensely. This would help integrate policies applicable throughout whilst allowing the Harbours' team to concentrate on those areas where they need to specifically take control and operate under the Code.

Chris Spencer  
Spencer Marine Consulting Ltd



## TOWN CENTRE FIRST IMPACT ASSESSMENT (TCFIA)

Aberdeenshire Council recognises that town centres have an important role to play in the sustainable development of local economies.

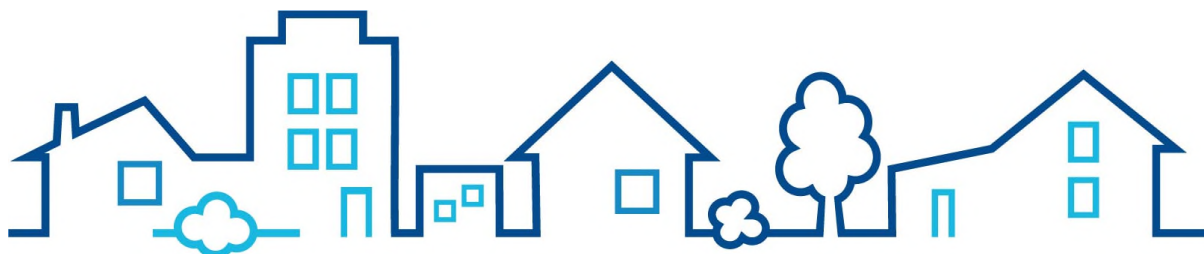
The Town Centre First Impact Assessment (TCFIA) allows officers in all services to identify the detrimental and beneficial effects that decisions we take may have on our town centres. It will allow officers to consider any implications that council decisions may have on Aberdeenshire's key town centres. Examples of this include changes to: the provision of civic and community facilities, employment land, retail, residential buildings, cultural assets, transportation, leisure and tourism.

A Town Centre Ambassador has been nominated within your service, you can locate your Town Centre First Ambassador through the Town Centre First Principle Arcadia pages.

Project Information	
Title of Committee Paper	Annual Port Marine Safety Code Compliance Summary
Service	Infrastructure Services
Department	Harbours
Author	Graeme McCallum
Have you consulted your Town Centre First Ambassador?	No

1) Could your Project Paper cause an impact in one (or more) of the identified town centres? – Peterhead, Fraserburgh, Inverurie, Westhill, Stonehaven, Ellon, Portlethen, Banchory, Turriff, Huntly, Banff, Macduff.
Yes – Aberdeenshire Council owns Harbours within Banff, Macduff and Stonehaven

2) If approved would your project cause an impact (either positive or negative) with regards to the footfall of any of these town centres?
Yes – Positive - Safety in Harbour is of the up most importance and by approving the report shows the Councils Commitment to improving health and safety within its harbours.

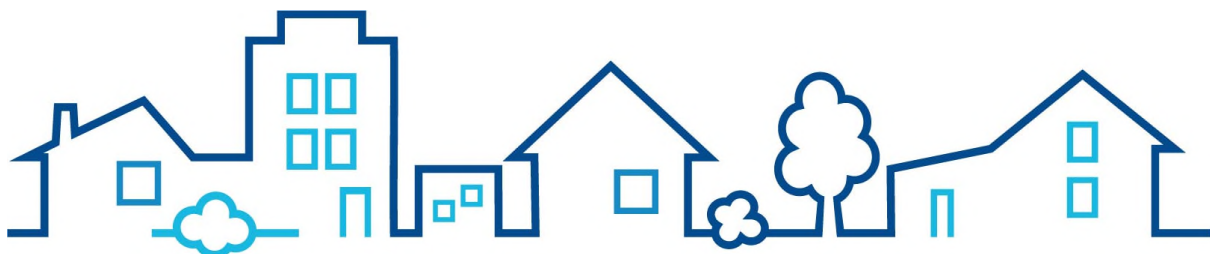


3)	
Please describe the aims of the committee paper?	To improve compliance with the Port Marine Safety Code

4) What are the positive and negative impacts?		
Impact	Describe the positive impact?	Describe the negative impact?
Please detail any potential positive and negative impact the project may have on Aberdeenshire's Key Town Centres.	If approved shows a commitment to improving Health and Safety in the harbours which will make them more attractive to customers	

5) What mitigating steps will be taken to reduce or remove negative impacts? If none see Q6	
Mitigating Steps	Timescale

6) Set out the justification that the activity can and should go ahead despite the negative impact.
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### Question 7: Sign off and Authorisation

3) <b>Author:</b> I have completed the TCIA impact assessment for this policy/ activity.	Name: Graeme McCallum Position: Principal Officer Harbours Date: 18/02/20 Signature:
4) Consultation with Service Manager	Name: Gavin Penman Position: Projects Manager Date: 25/02/20
5) Authorisation by Director or Head of Service	Name: Philip McKay Position: Head of Service Date: 25/02/20
6) Have you consulted with your Town Centre First Ambassador?	No
7) TCFIA author sends a copy of the finalised form to: tcfia@aberdeenshire.gov.uk	Date Sent:

