

North Yorkshire Council

Scarborough and Whitby Area Constituency Committee

01 December 2023

Annual Report of Performance against the Safety Plan (Port Marine Safety Code)

Report of the Corporate Director – Environment

1.0 PURPOSE OF REPORT

- 1.1 To ensure North Yorkshire Council, in its role as the Statutory Harbour Authority for Whitby and Scarborough Harbours, meets its obligations to report an annual assessment of performance against the Safety Plan.
- 1.2 To reassure the Scarborough and Whitby Area Constituency Committee that procedures are in place to ensure that the Council's Ports continue to be operated in a safe manner and to confirm that the Corporate Director for Environment, as the "Duty Holder", is fully informed of the port's performance against the plan, as required by the Port Marine Safety Code.

2.0 SUMMARY

- 2.1 The Port Marine Safety Code (the code) is a nationally agreed standard designed to implement safety standards for marine operations, at ports, harbours and marine facilities throughout the United Kingdom.
- 2.2 The code consists of two documents namely the Port Marine Safety Code (PMSC) itself and an associated "guide to good practice on port marine operations". The code was last updated in November 2016 and the Guide to Good Practice was updated in February 2018. The codes aim to assist Harbour Authorities and facilities, who are accountable for managing marine operations within their jurisdiction, in maintaining a safe environment. These aims are designed to be achieved through the implementation of individual Marine Safety Management Systems (SMS) that are based on a formal risk assessment process. This ensures that the risks associated with marine operations are properly identified and managed to a level which is tolerable and as low as reasonably practicable. It should be noted that this does not mean that all risks have been removed but rather that risks have been identified and mitigation measures put in place, where possible, reasonable and appropriate.
- 2.3 North Yorkshire Council's Safety Management System, along with the Safety Policy and Safety Plan, are based upon the concepts and standards contained within the PMSC and the Guide to Good Practice published by the Maritime and Coastguard Agency (MCA). The aims of the SMS, as defined by the Duty Holder are:
 - To ensure, as far as is reasonably practicable, the safety of all users of the Harbours and their services.
 - To undertake and regulate marine operations in a way that, as far as is reasonably practicable, safeguards the harbour, its users, the public and the environment.
 - To conserve and promote a safety culture within the Harbour environment.

- Provide adequate resources to successfully discharge the Council's obligations under the Port Marine Safety Code.
- Ensure that procedures are in place for the effective maintenance, operation, improvement or conservancy of the Harbours.
- To prevent loss or injury caused by the Authority's negligence.
- To manage the relevant assets of the Authority safely and efficiently.
- To discharge the duties and powers described in the PMSC.
- To recruit and train operational staff to nationally agreed competence levels.

2.4 The Duty Holder publishes a Statement of Compliance to the Chief Executive of the Maritime and Coastguard Agency (MCA) every three years which was last submitted in March 2021.

2.5 The SMS is reviewed and enhanced on an ongoing basis including formally at quarterly Port Marine Safety Code Management Committee meetings. These enhancements incorporate changes made following publication by the MCA of updated versions of the PMSC, the Guide to Good Practice, annual Health Check Trend analysis and internal (23 August 2023) & external audits (20 September 2023). Internal audits are conducted regularly by the Designated Person. External audits are required by the PMSC to be conducted every three years however, North Yorkshire Council has opted to enhance this by conducting these annually with an independent marine consultant

3.0 BACKGROUND

3.1 The PMSC was introduced in 2000 and has been updated regularly and most recently in December 2016. The code sets out a national standard for a wide range of aspects 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 facilities will comply. Numerous sections of the Code are based upon mandatory legislation. 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 Statutory Harbour Authority has a proven Safety Management System which aims to ensure that policies, plans and procedures undergo review and are developed, where necessary, to satisfy the requirements of the code. Upon completion of reviews, any amendments are consulted upon with the PMSC Management Committee, which includes user representation and upon agreement are implemented. Amendments can be seen in a change log as the SMS is updated and the SMS is reapproved annually by the Duty Holder who signs the SMS Statement of Compliance. An external audit by Independent Marine Consultants was undertaken on 20 September 2023.

3.3 The Code states that the 'Duty Holder' is accountable for the organisation's compliance with the Code and its performance in ensuring safe marine operations. The Code outlines how that responsibility is discharged, based on the general principle that the duty holder is ultimately accountable for safe and efficient operations. The Duty Holder makes a clear published commitment to comply with the standards laid down in the Code. The PMSC also states that the Duty Holder may not abdicate responsibility on the grounds that they do not have particular skills.

3.4 The PMSC requires that each organisation must appoint an individual as the designated person (DP) to provide independent assurance directly to the Duty Holder that the marine safety management system, for which the Duty Holder is responsible, is working effectively. Their main responsibility is to determine, through assessment and audit, the effectiveness of the marine safety management system in ensuring compliance with the Code. Ultimately

it is the Duty Holder who is responsible for deciding who should be appointed as the DP in order to provide the level of assurance that they believe is necessary to comply with the Code. In the case of North Yorkshire Council, the Assistant Director for IPT, Licencing, Public Rights of Way and Harbours has been appointed as the Designated Person who must have direct access with both the Duty Holder and senior harbour management.

- 3.5 The MCA is responsible to the Secretary of State for Transport in advising on the composition and application of the Code to all ports in the UK. This includes but is not limited to the conducting of Health Checks and the monitoring of compliance of harbour authorities against the code.
- 3.6 The MCA generally endeavours to conduct health checks of eight harbour authorities per annum and Scarborough Borough Council as the Harbour Authority undertook a health check in November 2017. This Health Check confirmed compliance with the code and highlighted a number of 'good practice' areas which have since been shared with other Authorities around the UK.
- 3.7 Unless targeted specifically, it is not likely that another routine health check will take place in our ports for a number of years however, it is important that compliance be maintained, and complacency avoided.
- 3.8 In addition to marine activity, the Harbours and its extensive associated infrastructure are also utilised by a significant volume of general public either for leisure or work-based activities. The Code highlights the need to protect all persons from dangers arising from marine activities within the harbour or associated facilities. The Harbour Authority are committed to safeguarding the Harbours for all users to ensure, as far as is reasonably practicable, the safety of all.

4.0 MEASURES

- 4.1 **Vessel traffic within the harbours limits** are monitored 24 hours, 365 days per year from the Local Port Services (LPS) offices, commonly referred to as 'Port Control'. Harbour watch keepers are trained in LPS, and have the delegated power of the Harbour Master to advise and direct vessels.
- 4.2 **Senior Harbour Management** are available on a 24/7- 365 day rota system to ensure that a Duty Harbour Master is always available to give support and guidance to LPS staff and to react to any emergencies.
- 4.3 **Issuing Navigational Notices.** The Harbour Authority is responsible for the timely promulgation of navigation information to all harbour users and liaison with external partners including HM Coastguard and the UK Hydrographic Office.
- 4.4 **Harbour Works Management.** The Harbour Authority is responsible for managing many aspects of harbour works within its jurisdiction. Applications are reviewed to ensure they do not adversely affect the harbour, its regimes or environments and ultimately the users and safety of navigation.
- 4.5 **Port Conservancy.** Conservation of the hydrographic regime and the aids to navigation of the ports is achieved under the Authority's powers as a Local Lighthouse Authority and through a programme of dredging utilising the Authority's own dredging equipment. Whilst the Authority has powers to dredge the harbours, separate licensing is required for the disposal of spoil at sea. This licensing is managed by the Marine Management Organisation.

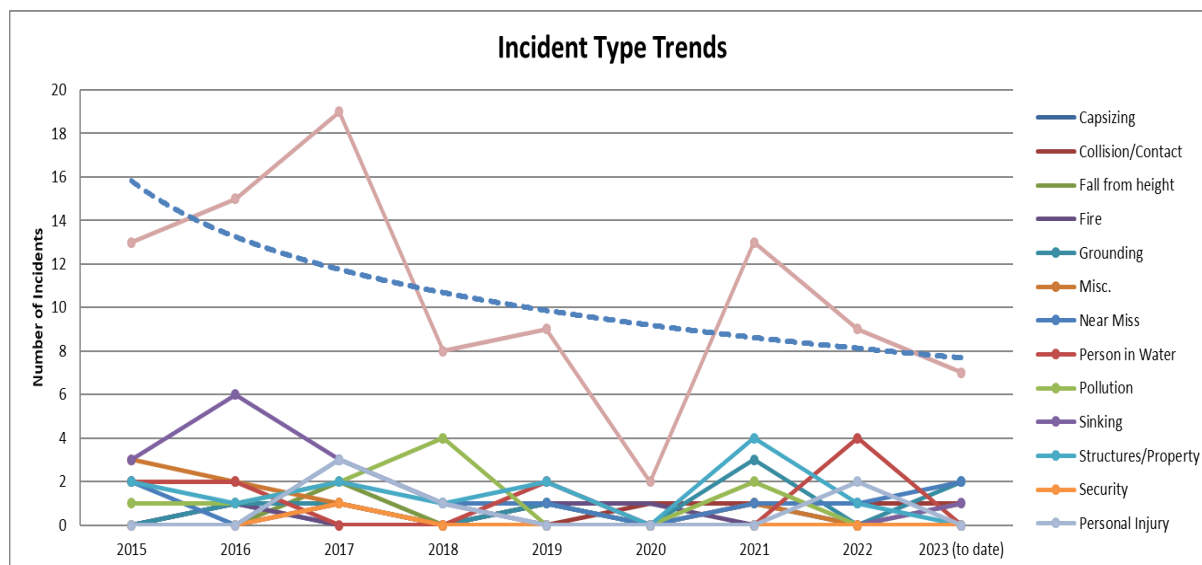
- 4.6 **Incident Investigation.** Incidents relating to marine/port user activities within harbour limits are the subject of an investigation process, carried out by a member of the Harbour Management team and if required, external agencies. The main aim of this process is to prevent any recurrence. Where required or of particular interest, incidents are reported to the Marine Accident Investigation Branch (MAIB) and the Harbour Authority will assist external agencies with their investigations, as appropriate.
- 4.7 **Environmental Protection.** The Harbour Authority maintains compliance with the Oil Pollution Preparedness, Response and Co-operation (OPRC) requirements. This includes the maintenance of an Oil Spill Plan, equipment necessary for the handling of small incidents and a contract with a tier two responder for larger incidents. Harbour staff have undertaken training to deal with oil spill incidents and regularly exercise locally. The plans implementation has been the subject of an external audit during 2022 conducted by the Maritime and Coastguard Agency. A full Tier Two Exercise was conducted in February 2023 including our Tier Two Responder and involvement from the MCAs Counter Pollution team.
- 4.8 **Safety Management System.** The Designated Person conducts the internal audit regularly, and additionally external independent marine consultants undertake an external audit. The objective is to provide assurance to the Duty Holder that the SMS is working effectively and that the Harbour Authority is compliant with the recommendations of the PMSC.
- 4.9 The following information while not exhaustive is a guide to the harbour authority's performance against the plan.

Measure	Objective	Measurement of Performance
Availability of Senior Harbour Management	Ensure 24/7 availability of Senior Harbour Management	24/7-365 rota system maintained ensuring availability of a Harbour Master at all times to support the port functions.
Advise and direct vessel traffic within the harbours limits.	Ensure the Safety of Navigation through advice and direction.	Ensured 24/7 Local Port Services availability, provided LPS refresher training to staff. Continued to enhance watchkeeper procedures and training with the implementation of additional Standard Operating Procedures.(SOPs) Continued to expand digitisation to ensure all members of staff can rapidly access SOPs, emergency procedures and vessel information.
Issue of navigational information	Ensure the safety of vessels navigating within the harbour limits.	Timely promulgation and dissemination of notice to mariners and local notice to mariners. Utilised social media, where appropriate, to ensure wider dissemination of safety notices.
Harbour works management	Ensure works within the harbours are conducted in a safe and compliant manner.	Provided input to external parties and consulted on planning applications. Collaborated on major project groups. Issued Permits to Work after assessment of appropriate Risk Assessments and Method Statements.
Port Conservancy	To take reasonable care to ensure the harbours are maintained in a fit	Maintained Local Aids to Navigation in excess of the national target (97%) achieved at 99.56%. Maintained Dredger capabilities and Marine License

	condition for vessels to use them safely.	compliance. Continued to work with the Marine Management Organisation to establish a marine license for the disposal of dredged spoil at Scarborough Harbour in the face of increasing resistance to the disposal of spoil at sea.
Incident investigation	Ensure incidents/accidents are investigated to allow analysis and reduction in risk.	Conducted all investigations, analysed and implemented appropriate measures, liaised and assisted external agencies as required. See further information below.
Environmental Protection	Ensure preparedness for risk of pollution been discharged into harbour waters and Port Waste Management regulations adhered to.	Port Waste Management Plans have been developed which meet Maritime and Coastguard Agency (MCA) requirements. Successful undertook an audit of the Oil Response Plan implementation by the MCA and established the groundwork for a harbours led multi-agency exercise, early in 2023.
Safety Management System	DP provides independent assurance to the Duty Holder that the SMS is operating effectively.	Achieved through internal and external audits, results implemented in the SMS and re-adoption. Enhanced systems and procedures developed including digitalisation allowing for increased efficiency and enhanced monitoring capabilities. Ensured importance of PMSC understood within the context of Local Government Reorganisation and establish agreement about the requirement for the Duty Holder to be at the most senior level within the new organisation.

- 4.10 The Harbour Authority analyses incident trends to identify any emerging hazards and if possible, implement control measures to reduce the number of incidents.
- 4.11 The effects of the pandemic can be clearly seen on incident statistics throughout 2020 and into 2021. During this period, owing to vastly reduced numbers of users around our harbours, the number of incidents had dropped to a minimal level.
- 4.12 This has been carefully monitored to ensure that the drop in reported incidents was in fact as a result of the pandemic and wasn't from a failure of incident reporting and investigation procedures. Since the pandemic years, incident rates have return to pre-pandemic levels are roughly comparable to 2018/19.

Figure 1 Cumulative data from 1 January 2015 to date



5.0 CONSULTATION UNDERTAKEN AND RESPONSES

5.1 Since implementation in 2000 the Port Marine Safety Code has been widely consulted on. Harbour stakeholders and user representatives have been consulted as necessary. The harbours Safety Management System is supported by the requisite legislation which has been previously consulted on before becoming law.

6.0 ALTERNATIVE OPTIONS CONSIDERED

6.1 There are alternative methods to ensure the operation of safe harbours, however the Port Marine Safety Code is regarded as national best practice.

7.0 FINANCIAL IMPLICATIONS

7.1 There are no financial implications arising from this report.

8.0 LEGAL IMPLICATIONS

8.1 There are no legal implications arising from this report.

9.0 EQUALITIES IMPLICATIONS

9.1 Consideration has been given to the potential for any adverse equality impacts arising from this report (see Appendix A). It is not expected that this report will lead to adverse impacts and a full Equalities Impact Assessment is not required.

10.0 CLIMATE CHANGE IMPLICATIONS

10.1 Consideration has been given to the potential for any adverse climate impacts arising from this report (see Appendix B). It is not expected that this report will lead to adverse impacts and a full Climate Impact Assessment is not required.

11.0 REASONS FOR RECOMMENDATIONS

- 11.1 Safe management and operation of the Council's Ports, in line with best practice guidance set out in the Port Marine Safety Code, is a key commitment by North Yorkshire Council as Statutory Harbour Authority. This report details Council's compliance with the Code and, in line with best practice guidance for municipal harbours governance, an annual compliance report will be provided to the relevant Area Constituency Committee for consideration.

12.0 RECOMMENDATION(S)

To accept and acknowledge the Harbour Authority's report of performance against the recommendations of the Port Marine Safety Code (PMSC).

APPENDICIES

APPENDIX A – EIA Screening form

APPENDIX B – Climate Change Impact Assessment

BACKGROUND DOCUMENTS:

Department for Transport (2016) Port Marine Safety Code, GOV.UK. GOV.UK. Available at: <https://www.gov.uk/government/publications/port-marine-safety-code>

Maritime and Coastguard Agency (2018) Port Marine Guide to Good Practice, GOV.UK. GOV.UK. Available at: <https://www.gov.uk/government/publications/a-guide-to-good-practice-on-port-marine-operations>

Karl Battersby
Corporate Director – Environment
County Hall
Northallerton
7 November 2023

Report Author – Capt Chris Burrows, Head of Harbours and Harbour Master
Presenter of Report – Paul Thompson, Assistant Director and Gary Pearson, Deputy Harbour Master

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

Initial equality impact assessment screening form This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate.			
Directorate	Environment		
Service area	Harbours		
Proposal being screened	Port Marine Safety Code (PMSC) Annual Performance Report		
Officer(s) carrying out screening	Gary Pearson		
What are you proposing to do?	Provide assurance on operational compliance with the Port Marine Safety Code.		
Why are you proposing this? What are the desired outcomes?	As required by the PMSC		
Does the proposal involve a significant commitment or removal of resources? Please give details.	No.		
Impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristics As part of this assessment, please consider the following questions: <ul style="list-style-type: none"> To what extent is this service used by particular groups of people with protected characteristics? Does the proposal relate to functions that previous consultation has identified as important? Do different groups have different needs or experiences in the area the proposal relates to? If for any characteristic it is considered that there is likely to be an adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your Equality rep for advice if you are in any doubt.			
Protected characteristic	Potential for adverse impact		Don't know/No info available
	Yes	No	
Age		X	
Disability		X	
Sex		X	
Race		X	
Sexual orientation		X	
Gender reassignment		X	
Religion or belief		X	
Pregnancy or maternity		X	
Marriage or civil partnership		X	
People in rural areas		X	
People on a low income		X	
Carer (unpaid family or friend)		X	
Are from the Armed Forces Community		X	
Does the proposal relate to an area where there are known inequalities/probable impacts (e.g. disabled people's access to public transport)? Please give details.	No		
Will the proposal have a significant effect on how other organisations operate? (e.g. partners, funding criteria, etc.). Do any of these organisations support people with	No		

protected characteristics? Please explain why you have reached this conclusion.				
Decision (Please tick one option)	EIA not relevant or proportionate:	<input type="checkbox"/>	Continue to full EIA:	
Reason for decision	There are no equalities impacts arising from the report. The report simply provides assurance on compliance against the Port Marine Safety Code			
Signed (Assistant Director or equivalent)	Gary Pearson			
Date	07.11.2023			

Climate change impact assessment

The purpose of this assessment is to help us understand the likely impacts of our decisions on the environment of North Yorkshire and on our aspiration to achieve net carbon neutrality by 2030, or as close to that date as possible. The intention is to mitigate negative effects and identify projects which will have positive effects.

This document should be completed in consultation with the supporting guidance. The final document will be published as part of the decision making process and should be written in Plain English.

If you have any additional queries which are not covered by the guidance please email climatechange@northyorks.gov.uk

Please note: You may not need to undertake this assessment if your proposal will be subject to any of the following:

Planning Permission
Environmental Impact Assessment
Strategic Environmental Assessment

However, you will still need to summarise your findings in in the summary section of the form below.

Please contact climatechange@northyorks.gov.uk for advice.

Title of proposal	Annual Report of Performance Against the Safety Plan (Port Marine Safety Code)
Brief description of proposal	To provide assurance on compliance with the PMSC
Directorate	Environment
Service area	Harbours
Lead officer	Captain Chris Burrows
Names and roles of other people involved in carrying out the impact assessment	None
Date impact assessment started	7 November 2023

<p>Options appraisal Were any other options considered in trying to achieve the aim of this project? If so, please give brief details and explain why alternative options were not progressed.</p> <p>There are no alternative options</p>
<p>What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?</p> <p>Cost neutral.</p>

<p>How will this proposal impact on the environment?</p> <p>N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<p>Positive impact (Place a X in the box below where</p>	<p>No impact (Place a X in the box below where</p>	<p>Negative impact (Place a X in the box below where</p>	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> • Changes over and above business as usual • Evidence or measurement of effect • Figures for CO₂e • Links to relevant documents 	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>
<p>Minimise greenhouse gas</p>	<p>Emissions from travel</p>		<p>X</p>	<p>No impact.</p>	<p>n/a</p>	<p>n/a</p>

How will this proposal impact on the environment? N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.		Positive impact (Place a X in the box below where	No impact (Place a X in the box below where	Negative impact (Place a X in the box below where	Explain why will it have this effect and over what timescale? Where possible/relevant please include: <ul style="list-style-type: none"> • Changes over and above business as usual • Evidence or measurement of effect • Figures for CO₂e • Links to relevant documents 	Explain how you plan to mitigate any negative impacts.	Explain how you plan to improve any positive outcomes as far as possible.
emissions e.g. reducing emissions from travel, increasing energy efficiencies etc.	Emissions from construction		X		No impact.	n/a	n/a
	Emissions from running of buildings		X		No impact.	n/a	n/a
	Other		X			n/a	n/a
Minimise waste : Reduce, reuse, recycle and compost e.g. reducing use of single use plastic			X		No impact.	n/a	n/a
Reduce water consumption			X		No impact	n/a	n/a
Minimise pollution (including air, land, water, light and noise)			X		No impact anticipated	n/a	n/a

<p>How will this proposal impact on the environment?</p> <p>N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<p>Positive impact (Place a X in the box below where</p>	<p>No impact (Place a X in the box below where</p>	<p>Negative impact (Place a X in the box below where</p>	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> • Changes over and above business as usual • Evidence or measurement of effect • Figures for CO₂e • Links to relevant documents 	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>
<p>Ensure resilience to the effects of climate change e.g. reducing flood risk, mitigating effects of drier, hotter summers</p>		X		<p>No impact anticipated</p>		
<p>Enhance conservation and wildlife</p>		X		<p>No impact anticipated</p>		
<p>Safeguard the distinctive characteristics, features and special qualities of North Yorkshire's landscape</p>		X		<p>No impact anticipated</p>		
<p>Other (please state below)</p>		X		<p>No impact anticipated</p>		

Are there any recognised good practice environmental standards in relation to this proposal? If so, please detail how this proposal meets those standards.

Port Waste Management Plans have been developed which meet Maritime and Coastguard Agency (MCA) requirements. Successful audit of the Oil Response Plan implementation by the MCA and established the groundwork for a harbours led multi-agency exercise, early in 2023.

Summary Summarise the findings of your impact assessment, including impacts, the recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

There are no impacts arising from this report

Sign off section

This climate change impact assessment was completed by:

Name	Gary Pearson
Job title	Deputy Harbour Master
Service area	Harbours
Directorate	Environment
Signature	<i>Gary Pearson</i>
Completion date	07.11.23

Authorised by relevant Assistant Director (signature): Paul Thompson

Date: 07.11.23