

North Yorkshire Council

Scarborough and Whitby Area Committee

29 November 2024

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 Council's Area Committee that procedures are in place to ensure the Corporate Director - 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 BACKGROUND

- 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 aim of the code 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.
- 2.3 The code consists of two documents namely the Port Marine Safety Code 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 code aims to assist Harbour Authorities and facilities, who are accountable for managing marine operations within their jurisdiction, in maintaining a safe environment.
- 2.4 These code 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.
- 2.5 NYC'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).

- 2.6 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.
- 2.7 The Duty Holder publishes a Statement of Compliance to the Chief Executive of the Maritime and Coastguard Agency every three years which was last submitted on 1 April 2023.
- 2.8 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 (February 2024) and external audits (February 2024). Internal audits are conducted annually by the Designated Person (DP). External audits are required by the PMSC to be conducted every three years however, NYC has opted to enhance this by conducting these annually with an independent marine consultant.

3.0 DETAILED PRESENTATION OF THE SUBSTANTIVE ISSUE

- 3.1 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 internal audit of the SMS was conducted by the Designated Person in February 2024 and an external audit by Independent Marine Consultants was undertaken in February 2024.
- 3.2 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 Duty Holder is the Council's Executive Director – Environment and undertook external 'Duty Holder' training on 5 December 2022 which satisfies one of the requirements of the code for the Duty Holder to have received training. 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.
- 3.3 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. The DP

must have direct access with both the Duty Holder and senior harbour management. 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.

- 3.4 The current DP is an interim appointment following a recent staff restructuring in the Environment Directorate. Following the most recent inspection the DP role is in the process of being permanently reassigned to a Senior Health and Safety Advisor within the Resources Directorate to ensure a separation and independence between the DP and the Duty Holder.
- 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. The MCA generally endeavours to conduct health checks of eight harbour authorities per annum and North Yorkshire Council as the Harbour Authority undertook a health check in March 2024. 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. 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.
- 3.6 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 and uses the following **measures** :
- **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.
 - **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.
 - **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.
 - **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.
 - **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.
 - **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.

- **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 2 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 very successful major multi-agency exercise took place in January 2023 including involvement from the MCAs Counter Pollution team, HM Coastguard, North Yorkshire Fire and Rescue and the Council's own emergency response organisation.
- **Safety Management System.** The Designated Person conducts the internal audit annually, 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.

4.0 PERFORMANCE

4.1 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. 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 condition for vessels to use them safely.	Maintained Local Aids to Navigation in excess of the national target (97%) achieved at 99.56%. Maintained Dredger capabilities and Marine License 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.

Accident Investigation

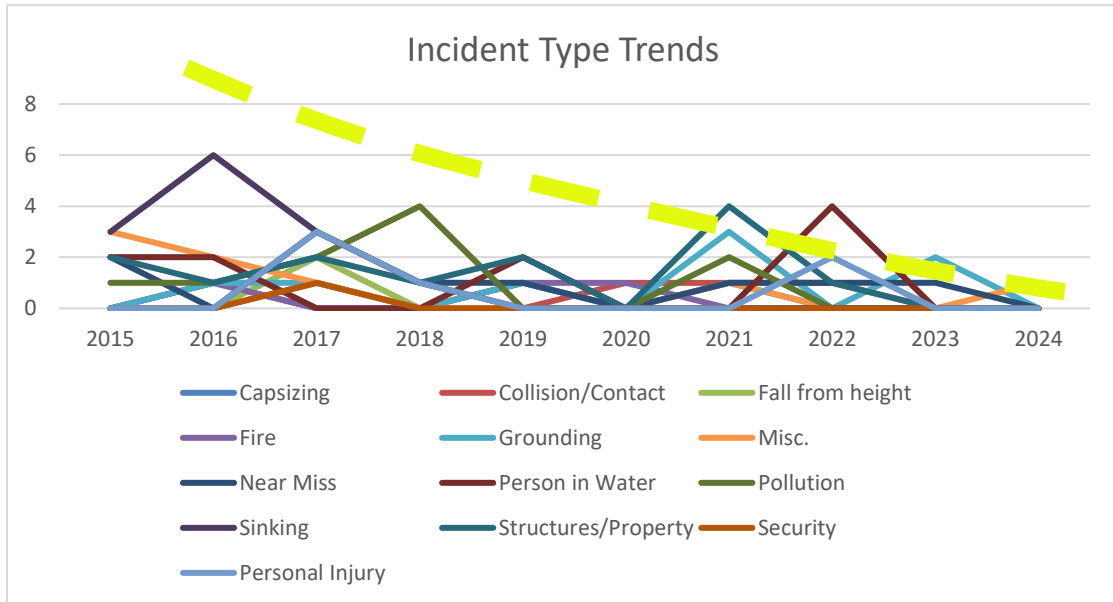
Incidents during period 1st April 2023 to 31 March 2024 :

	Filey	Scarborough	Whitby	Total
Capsizing	0	0	0	0
Collision/Contact	0	0	1	1
Fall from heights	0	0	1	1
Fire	0	0	0	0
Grounding	0	2	0	2
Misc.	0	0	0	0
Near Miss	0	1	1	2
Person in Water	0	0	0	0
Pollution	0	0	0	0
Sinking	0	0	1	1
Structures/Property	0	0	0	0
Security	0	0	0	0
Personal Injury	0	0	0	0
Total	0	3	4	7

- 4.2 The Harbour Authority analyses incident trends to identify any emerging hazards and if possible, implement control measures to reduce the number of incidents.
- 4.3 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. 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 01 Jan. 2015 – 31 March 2024



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 None. There are no alternative options. While the Code is not mandatory, there is a strong expectation that all harbour authorities and facilities will comply. Compliance also reduces the legal risks for the Council.

7.0 FINANCIAL IMPLICATIONS

7.1 This is a performance report. There are no financial implications as a result of this report.

8.0 LEGAL IMPLICATIONS

8.1 This is a performance report. There are no legal implications as a result of this report.

9.0 EQUALITIES IMPLICATIONS

9.1 This is a performance report. There are no equalities implications as a result of this report.

10.0 CLIMATE CHANGE IMPLICATIONS

10.1 This is a performance report. There are no climate change implications as a result of this report.

11.0 REASONS FOR RECOMMENDATIONS

11.1 To ensure the safe running of the harbour authority and to provide oversight and scrutiny of the compliance with the Port Marine Safety Code.

12.0 RECOMMENDATION

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

APPENDICES: None.

BACKGROUND DOCUMENTS: None.

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