

# ARGYLL & BUTE COUNCIL

## Internal Audit Section

### INTERNAL AUDIT REPORT

CUSTOMER DEPARTMENT	DEVELOPMENT AND INFRASTRUCTURE SERVICES
AUDIT DESCRIPTION	RISK BASED AUDIT
AUDIT TITLE	PIERS AND HARBOURS
AUDIT DATE	JULY 2017

2017/2018



## 1. BACKGROUND

This report has been prepared as part of 2017/18 risk based Internal Audit Annual Plan and has been conducted in accordance with relevant auditing standards. The report is based on discussions with key personnel and information available at the time of the Audit.

The Council operates 39 Piers and Harbours throughout Argyll and Bute together with 4 lifeline ferry services to island communities. The Piers and Harbours are operated on both a commercial and leisure basis and generate budgeted fees in the region of £5.4m per annum. There are charges for several activities such as the shipping of goods, vehicles and passengers, storage and harbour vessel fees.

As a consequence of the “Sea Empress” disaster in Milford Haven in 1996 the Port Marine Safety Code (the Code) was introduced in the UK in October 2000. The Council as a statutory harbour authority is subject to national legislation most notably the Harbours Act 1964 and as such is required to comply with the Code. The Code establishes a UK national standard for every aspect of port marine safety and aims to enhance safety for those who use or work in ports, their ships, passengers and the environment. The Code applies to all harbours within the UK which has statutory powers and provides the standard against which the policies, procedures and the performance of harbour authorities can be measured. The Code covers a range of areas including the following;

- Accountability of Duty Holder and Designated person
- Consultation and Communication
- Safety Management system
- Risk Assessments
- Emergency preparedness and Response
- Conservancy
- Pilotage Service Review
- Towage
- Professional Qualification and Competencies
- Accident Investigation and Enforcement

Governance responsibilities for Piers and Harbours had previously been delegated to Area Committees; in August 2015 the Council introduced a single Harbour Authority Management Board to oversee the governance of all Ports and Harbours within Argyll and Bute.

## 2. AUDIT SCOPE AND OBJECTIVES

The audit scope will be limited to controls in place and will include:

- Governance arrangements
- Documentation and records management in relation to the Code
- Performance reporting

The following control areas were reviewed as part of the audit process:

Control Objective	Control Objective Assessment
Authority - Roles and delegated responsibilities are documented in policies and procedures and are operating well in practice	Roles and responsibilities are well defined and clear terms of reference are in place in respect of the Harbour Board Committee. Appropriate compliance in regard to Designated person and Duty holder is in place with responsibilities being clearly defined within the Safety Management System (SMS).
Occurrence - Sufficient documentation exists to evidence compliance with policies, procedures and relevant legislation	Relevant documentation is available at Ports and on the Council website however the Safety Management System document specific to the 4 main ports is still in draft form.
Completeness - Policies and procedures are aligned to relevant legislation and all required documentation is accurately and fully maintained	Compliance with the Port Marine Safety Code has been attained for Rothesay; compliance with regards to the remaining Ports is ongoing.
Measurement - Policies and procedures are in line with requirements of relevant legislation	
Timeliness - Policies and procedures are regularly reviewed and updated as necessary	It was evidenced that policy and procedures are subject to review and updated as necessary. There

	are outstanding issues in regard to the main ports Safety Management System being in draft format
Regularity - Documentation is complete, accurate and not excessive and is compliant with the data retention policy. It is stored securely and made available only to appropriate members of staff.	Documentation was found to be complete, accurate and not excessive. There are no issues as regards access; information is available only to appropriate members of staff.

### 3. RISKS CONSIDERED

- Non-compliance with legislation requirements
- Non-compliance with operational policy
- Reputational damage to the Council

### 4. AUDIT OPINION

The level of assurance given for this report is Reasonable

Level of Assurance	Reason for the level of Assurance given
<b>High</b>	Internal Control, Governance and the Management of Risk are at a high standard with only marginal elements of residual risk, which are either being accepted or dealt with. A sound system of control is in place designed to achieve the system objectives and the controls are being consistently applied.
<b>Substantial</b>	Internal Control, Governance and management of risk is sound, however, there are minor areas of weakness which put some system objectives at risk and where specific elements of residual risk that are slightly above an acceptable level and need to be addressed within a reasonable timescale.

<b>Reasonable</b>	Internal Control, Governance and management of risk are broadly reliable, however although not displaying a general trend there are a number of areas of concern which have been identified where elements of residual risk or weakness with some of the controls may put some of the system objectives at risk.
<b>Limited</b>	Internal Control, Governance and the management of risk are displaying a general trend of unacceptable residual risk above an acceptable level and system objectives are at risk. Weakness must be addressed with a reasonable timescale with management allocating appropriate resources to the issues raised.
<b>No Assurance</b>	Internal Control, Governance and management of risk is poor, significant residual risk exists and/ or significant non-compliance with basic controls leaves the system open to error, loss or abuse. Residual risk must be addressed immediately with management allocating appropriate resources to the issues.

This framework for internal audit ratings has been developed and agreed with Council management for prioritising internal audit findings according to their relative significance depending on their impact to the process. The individual internal audit findings contained in this report have been discussed and rated with management.

A system of grading audit findings, which have resulted in an action, has been adopted in order that the significance of the findings can be ascertained. Each finding is classified as High, Medium or Low. The definitions of each classification are set out below:-

<p><b>High</b> - major observations on high level controls and other important internal controls. Significant matters relating to factors critical to the success of the objectives of the system. The weakness may therefore give rise to loss or error;</p>
<p><b>Medium</b> - observations on less important internal controls, improvements to the efficiency and effectiveness of controls which will assist in meeting the objectives of the system and items which could be significant in the future. The weakness is not necessarily great, but the risk of error would be significantly reduced if it were rectified;</p>
<p><b>Low</b> - minor recommendations to improve the efficiency and effectiveness of controls, one-off items subsequently corrected. The weakness does not appear to affect the ability of the system to meet its objectives in any significant way.</p>

## 5. FINDINGS

The following findings were generated by the audit:

### **Scope 1: Governance Arrangements**

#### Previous Governance arrangements

- The Council agreed to implement the requirements of the Port Marine Safety Code (PMSC) in August 2001 at a meeting of the Strategic Policy Committee. It was decided that each of the 4 Area Committees be designated as the appropriate Harbour Board to oversee the management of Harbour facilities within their area.

#### Current Arrangements

- A Policy and Resources Committee paper dated December 2014 acknowledged that the previous Area Committee arrangements did not provide “the most efficient or consistent model for compliance with the Code“. The paper recommended that a single Harbour Board be established which met for the first time in August 2015.
- The Council is the statutory Harbour Authority for all Piers and Harbours under its ownership and has delegated that function to the Harbour Board. Terms of reference are available and stipulate that the Harbour Board is to provide “policy direction to the officers/others involved in the operational management and use of facilities and for scrutinising the implementation of these.” The Harbour Board is responsible for the ongoing monitoring and implementation arrangements of the PMSC.
- The Council agreed at its meeting in May 2017 to a recommendation from the Short Life Working Group that the Harbour Board should meet twice a year (previously 4 times) and that the Harbour Board be reduced to 8 elected members (previously 10).
- A review of papers submitted at the last 4 Harbour Board meetings indicate agenda items are consistent with the terms of reference and included areas such as formulation of policy and operational management of the Councils Piers and Harbours and also issues in respect of implementation of the PMSC.
- The PMSC stipulates that 2 of the principal positions required are that of Duty Holder and Designated Person. The Duty Holder would be responsible for management of all Harbour operations. The executive director of Development and Infrastructure has been appointed as the Duty Holder and it was evidenced that the roles and responsibilities of this position have been included within the Safety Management System (SMS). The Code recommends that the Designated Person should

have specialist marine knowledge and that they should provide independent assurance. It was evidenced that an independent consultant with specialist knowledge of marine activities was appointed to the role of Designated Person in November 2014 with the remit on a 3 year basis.

- Port marine safety requirements state that the Designated Person should report direct to the duty holder. It was evidenced that this is taking place.
- The Harbour Board Committee paper of 13<sup>th</sup> August 2015 specified that specialist training would be provided to Harbour Board Committee members in order for them to fulfil their role. It was evidenced that a development day to provide training took place in September 2015. The agenda included the following:
  - The role of the Board
  - What is the Board seeking to achieve?
  - How do you assess effectiveness?
  - Working with other Committees

It was noted that since the elections of May 2017 the composition of the Harbour Board Committee has changed significantly. It was evidenced that training by the Designated Person will be given to members of the Harbour Board at the next meeting in September 2017.

- There is currently no representation from external stakeholders within the present Committee. This is contrary to the British Ports Authority guidance dated December 2014 where it states;
  - The Harbour Board committee should have “approximately 50% local elected members”.
  - The Harbour Board committee should include external appointees who are stakeholder representatives or individuals with valuable skills and experiences.

## **Scope 2: Review documentation in relation to the Port Marine Safety Code**

A review of the documentation available noted the following findings:

### Consultation and Communication

- It is a requirement of the PMSC that Harbour Authorities should undertake regular stakeholder meetings in regard to the safe operation of the Harbour. It was evidenced that stakeholder meetings have taken place at Rothesay, Oban North Pier, Campbeltown, Carradale and Dunoon and that safety issues were discussed. Although these meeting have taken place there is no evidence of an ongoing schedule of meeting which outlines frequency, agenda, etc.
- It is a requirement of the PMSC that navigational information is available for both professional and recreational mariners in regard to navigational data. It was noted that the website has been recently updated and that Harbour Masters are consulted in regards to accuracy of information and that this subject to ongoing and regular review.

### Safety Management Systems

- It is a requirement of the Code that harbour authorities should maintain a formal Safety Management System document (SMS) which incorporates safety policies and procedures covering the following areas:
  - Policies
  - Control of Ship Movements
  - Protection of the General Public and Employees
  - Roles and responsibilities of Key personnel including Duty Holder and Designated person
  - Procedures regarding ships arrivals and departures
  - Measuring performance against targets
  - Incident recording and investigation
  - Reference to Emergency plans
  - Objectives for next 3 years



- It was evidenced that a generic Safety Management System document is available on the Council website and that a review of the documentation found it to be comprehensive covering all headings as detailed above. The SMS has been approved by the Harbour Board Committee at its March 2017 meeting.
- It was noted that an external audit report dated January 2015 prepared by the Designated Person recommended that a separate appendix should be attached to the generic SMS referencing areas specific to individual Ports. A review of documentation available showed this action is currently outstanding as the appendices are still in draft form.

### Risk Assessments

- It is a requirement of the Code that risk assessments should be carried out.
- It was evidenced that specialist Marine software (MARinis) has been introduced at the 4 main Ports and that Port and Navigational risk assessments are included within the MARinis system.
- It was evidenced that shore side Safety Risk Assessments are in place for the 4 main Harbours. Examples of risks covered are:
  - Rope handling
  - Car marshalling
  - Cleaning duties
  - General
  - Freight handling
  - Linkspan maintenance
  - Power failure
  - Vessel movements

A review of all the assessments showed that risks were assessed to be either low or medium and that each risk assessment had been completed.

- It was evidenced that the Council has appointed specialist contractor to prepare Strategic Navigational Risk assessments and that they have been prepared for the 4 main ports. It was noted that they were discussed at a workshop attended by Marine Management and Harbour personnel.

#### Emergency preparedness and response

- It is a requirement of the Code that emergency plans should be prepared for each Harbour facility covering Port Emergencies, Oil Pollution and Explosives.
- It was evidenced that Port Emergency plans has been completed for all 4 major ports.
- It is a requirement of the Code that oil spill contingency plans should be prepared. It was evidenced an overarching contingency plan exists for Argyll and Bute area and has been prepared by an external specialist.
- The Council does not have a license for bringing explosives into any of the Ports within Argyll and Bute thus negating the requirement for an emergency explosives plan

#### Conservancy

- It is a requirement of the Code that Harbour Boards conserve their harbours so that they are fit for use as harbours and to take reasonable care to see that the Harbours and Marine facilities in its ownership are in a fit condition for vessels to use them safely. This requirement covers hydrographic surveys, navigational aids and wreck removal.
- It was evidenced that the Safety Management System contains information covering hydrographic surveys and that a 6 year framework is now in place.
- It was evidenced that Rothesay, Oban and Dunoon have undertaken a hydrographic survey of the seabed for their area of operation. It was noted that Campbeltown have made use of the Ministry of Defence hydrographic survey covering their area of operation.

### Maintenance of navigational aids

- It was noted that the Councils Street lighting department are responsible for the maintenance of the navigational aids however no reference to this is in the Safety Management System. Control weaknesses were identified as regards authority as there was no evidence of a document detailing roles and responsibilities of Street Lighting in relation to the maintenance of navigational aids.
- An audit of navigational aids was carried out by the Northern Lighthouse Board in 2016 with the following conclusion: “Having received all requested documentation as noted within the enclosed report, the Northern Lighthouse Board are content that Argyll and Bute Council meet the requirements of the Port Marine Safety Code with regard to the provision and maintenance of marine Aids to Navigation and now consider the audit to have been closed out.”

### Pilotage

- The Code stipulates where applicable harbour authorities are responsible for providing a pilotage service and should provide pilotage directions, recruitment, examination and training of pilots. It was noted that the only port providing pilot services within Argyll and Bute is Campbeltown. It was evidenced that documentary are in place covering:
  - Training scheme and evaluation
  - Risk assessment in regard to pilotage
  - Pilotage exemption certificates in place
  - Competent Harbour Authority

### Towage

- It was noted that there are no tugs operated by any of the Council Harbour Authorities.

### Professional Qualifications and Competencies for Port Marine Personnel

- It is a requirement of the Code that Harbour Authorities must assess the fitness and competencies appointed to the positions with responsibility for safe navigation.
- It was evidenced that a marine staff training database exists for staff with responsibility for safe navigation detailing the training carried out and completed. It was noted from a review of the database that only one of the Harbour Masters had been recorded as having completed their Harbour Masters certificate. It was confirmed that all 4 Harbour Masters have an up to date Harbour Masters certificate and that the database therefore requires to be updated.

### Accident Investigation and Reporting

- It is a requirement of the Code that Harbour Authorities have a duty of care to facilitate the safe use of the Harbour against loss caused by negligence. To facilitate this requirement Harbour Authorities should have procedures in place that record and analyse all incidents and that resultant information should feedback into the risk assessments and Safety Management Systems.
- It was evidenced that each port has an accident incident control form in place and that there is a feedback mechanism included within the MARinis system that ties into the risk assessment and Safety Management System.

### **Scope 3: Performance Reporting**

- Responsibility for Marine Services transferred to Roads and Amenity Services from Economic Development during quarter 3 of 2015. It was evidenced that the Marine Services Manager has produced a quarterly report for the Head of Roads and Amenity Service. The quarterly report includes the following :
  - Exception Reporting for targets not met
  - Operational Risk Register

- External Assessments and Audits
  - Team Successes
  - Team Challenges
- 
- Each of the 4 Harbourmasters produce a generic monthly performance report detailing the following:
    - Port Activity
    - Incidents/Accidents
    - Health and Safety Issues
    - Weather
    - Staffing Issues
    - Port Infrastructure Issues
    - Risk Assessment status
    - Meetings attended
  
  - It was evidenced that Marine Services prepare an annual performance report to the Northern Light Board highlighting navigational aids in regard to availability statistics.
  
  - A review of the Safety Management System showed that performance measures will be assessed against the health and safety requirements as set out in national standards. It was also noted that the SMS contains a list detailing the Health and Safety performance indicators that will be used for future reporting.

#### External Audits

- An independent contractor appointed by the Council to provide the Designated Person services has undertaken audits of the 4 main ports in relation to whether these ports are compliant with the Code. The audits took place during 2015 and 2016. It was noted that the Rothesay audit report stated that the harbour complied with the Code subject to a number of recommendations being carried out in a reasonable time. As regards the other 3 ports namely Oban, Campbeltown and Dunoon the reports

stated that these Harbours did not comply with the Code as a number of recommendations would have to be carried out in a reasonable time before compliance could be agreed. A comparison of these reports with the Rothesay report showed a number of similar recommendations including preparation of a generic Safety Marine Plan with appropriate appendices for each of the ports.

- It was evidenced that a compliance letter was sent by the Duty Holder to the Maritime and Coastguard Agency dated 30<sup>th</sup> March 2015, which stated that Rothesay Harbour was compliant with the Code. This is consistent with the audit opinion formed by Marico Marine.
- The Service is currently developing a status report for all ports. It is intended that report will be presented to the Harbour Board and, amongst other things, will include detail in regard to implementation of the code as undernoted:
  - List of all those ports which are subject to the requirements of the Code
  - Requirements or actions to be taken to ensure compliance with the Code
  - Progress with individual requirements and current Status position
  - Date by which requirement will be met, if not completed

### Observations

We have also highlighted to management the following observations which have been identified during the review. Although not included in the scope the matters were brought to auditor attention during the audit and either indicate a potential risk exposure and /or could be considered as a matter of good practice and therefore noted for information and completeness:

- The Council website under Piers and Harbours states that the “Council owns and manages a number of Piers and Harbours and as a statutory Authority comply with the Port Marine Safety Code”. This statement could be viewed as misleading as it could be interpreted as all ports are confirmed as being compliant with the PMSC.
- Safety management system information requires to be reviewed to ensure cross referencing is accurate and complete.

## **6. CONCLUSION**

This audit has provided a Reasonable level of assurance, Internal Control, Governance and management of risk are broadly reliable, however although not displaying a general trend there are a number of areas of concern which have been identified where elements of residual risk or weakness with some of the controls may put some of the system objectives at risk. There were a number of findings identified as part of the audit and these, together with agreed management actions, are set out in the attached action plan. There were 4 actions which will be reported to the Audit Committee. Progress with implementation of actions will be monitored by Internal Audit and reported to management and the Audit Committee.

Thanks are due to the Piers and Harbour staff and management for their co-operation and assistance during the Audit and the preparation of the report and action plan.

**APPENDIX 1 ACTION PLAN**

<b>Findings</b>	<b>Risk Impact</b>	<b>Rating</b>	<b>Agreed Action</b>	<b>Responsible person agreed implementation date</b>
<b>1. Appendices to Safety Management System</b>		<b>High/ Medium</b>		
A separate appendix to the generic SMS for each of the main ports as recommended by the Designated Person is still in draft form.	Failure to have an approved separate appendix to the SMS in place may result in compliance issues with respect to PMSC	High	<b>Complete all appendices.</b>	<b>Marine Operations Manager  31 May 2018</b>
<b>2. Reporting</b>				
Review Reporting mechanisms to improve integration and timely information flow.	Failure to have adequate reporting arrangements leads to ineffective decision making which may result in poor practice and/or reputational damage.	Medium	<b>Review of reporting mechanisms to be carried out.</b>	<b>Marine Operations Manager  31 December 2017</b>
<b>3. Maintenance of Navigational Aids</b>				
There was no evidence of a document detailing roles and responsibilities in relation to maintenance of navigational aids.	Failure to clearly define roles and responsibilities may lead to ineffective performance resulting in noncompliance.	Medium	<b>Set up a formal contract with colleagues in Roads Operations - lighting section.</b>	<b>Marine Operations Manager  28 February 2018</b>



<b>4. Harbour Board</b>				
There is no external representation on the Harbour Board contrary to British Ports authority guidance.	Failure to have external representation may result in lack of knowledge and expertise base resulting in missed opportunities and/or ineffective decision making.	Medium	<b>A review of the current Harbour Board framework will be carried out. Thereafter, should any changes be required to the current regime, a report will be taken to a future Harbour Board meeting.</b>	<b>Marine Operations Manager</b> <b>28 February 2018</b>



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