

ANGUS COUNCIL

COMMUNITIES COMMITTEE – 17 AUGUST 2021

PORT MARINE SAFETY CODE – ARBROATH HARBOUR MARINE SAFETY PLAN AND POLICIES

REPORT BY DIRECTOR OF INFRASTRUCTURE

ABSTRACT

This report details the Marine Safety Plan 2021-2024 for Arbroath Harbour & associated marine policies required to be authorised and published on the Council's website to ensure continued compliance with the Port Marine Safety Code.

1. RECOMMENDATION

It is recommended that the Committee:

- (i) as Duty Holder under the Port Marine Safety Code, approves the Marine Safety Plan 2021-2024 for Arbroath Harbour and the associated marine policies referred to in the Marine Safety Plan;
- (ii) undertake a half day Duty Holder training on a date suitable for all members of this Committee before 17 September 2021 to ensure compliance with the Port Marine Safety Code.

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/COUNCIL PLAN

This report contributes to the following local outcomes contained within the Angus Council Plan 2019-2024 and Angus Community Plan 2017-2030:

Economy

- A skilled and adaptable workforce

Place

- Safe, secure, vibrant, and sustainable communities

3. BACKGROUND

- 3.1 The Port Marine Safety Code (PMSC) sets out a national standard for every aspect of port marine safety. Its aim is to enhance safety for everyone who uses or works in the UK port marine environment. It is endorsed by the UK Government, the devolved administrations, and representatives from across the maritime sector and, while the PMSC is not mandatory, these bodies have a strong expectation that all harbour authorities will comply. The PMSC 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 Historically Angus Council has operated under the PMSC with the Communities Committee as Duty Holder and the previous Head of Technical and Property Services (now Director of Infrastructure) as Designated Person. (**Report 114/14 and Agenda Item 4 – Report no. 372/15 – Schedule 5 refers**).

4. CURRENT POSITION

- 4.1 At the time this is the arrangement that most Local Authorities adopted however over time and with consultation and working with other Statutory Harbour Authorities, Local Authorities that are Statutory Harbour Authorities are moving away from this arrangement and have begun appointing an independent Designated Person which is more in line with the requirements of the PMSC.

- 4.2 Through the Northern Roads Collaboration Forum (**Report 298/25 refers**), Angus Council have been able to work with Argyll & Bute Council to procure a contract to appoint an independent Designated Person for both Local Authorities.
- 4.3 In January 2021 ABP Mer, a global marine consultancy company were appointed and started their role as the Designated Person for Angus Council. APB Mer will provide independent assurance directly to the Duty Holder that the Marine Safety Management System (MSMS), for which the Duty Holder is responsible, is working effectively. Their main responsibility is to determine, through assessment and audit, the effectiveness of the MSMS in ensuring compliance with the PMSC. The findings of any assessment or audit will be reported to this Committee in due course.

5. PROPOSALS

- 5.1 The appointment of ABP Mer as Designated Person has helped highlight some areas of improvement that the council can adopt going forward continuing to improve marine safety performance.
- 5.2 One such area of improvement is the need to publish a Marine Safety Plan. To demonstrate the council's commitment to marine safety and to ensure the involvement of harbour users, and compliance with section 2.26 of the PMSC, a Marine Safety Plan for marine operations should be published at least once every three years (**Appendix 1**). This plan illustrates how the policies and procedures will be developed to satisfy the requirements under the PMSC. It commits the organisation to undertake and regulate marine operations in a way that safeguards the harbour, its users, the public and the environment. It refers to commercial activities; the efficient provision of specified services and the effective regulation of vessels including near miss reporting. It also explains how commercial pressures would be managed without undermining the safe provision of services and the efficient discharge of its duties.
- 5.3 The Marine Safety Plan commits Angus Council to undertaking the proper management and regulation of marine operations within the scope of its powers and authority, and in line with its stated marine policies. The marine policies referred to in the Marine Safety Plan are:
- Arbroath Harbour Marine Safety Policy (**Appendix 2**)
 - Arbroath Harbour Marine Training Policy (**Appendix 3**)
 - Arbroath Harbour Conservancy and Environmental Policy (**Appendix 4**)
 - Arbroath Harbour Enforcement and Prosecution Policy (**Appendix 5**)
- 5.4 These strategic policies are embedded in the MSMS and require approval by the Communities Committee as Duty Holder.
- 5.5 As the PMSC is primarily intended for the Duty Holder which, for most organisations, means those members of the organisation, both individually and collectively, who are ultimately accountable for marine safety, all Duty Holders should therefore familiarise themselves with the PMSC and review any implications for their marine operations. To reinforce compliance with the PMSC this can be done by the means of a half day training session which can be organised and hosted by ABP Mer. This half day familiarisation session will be scheduled for a suitable date for all members of this committee before 17 September 2021.

6. FINANCIAL IMPLICATIONS

- 6.1 The costs associated with the appointment of an external DP and Duty Holder training is £3,500 and is funded from the Arbroath Harbour trading account.

7. CONSULTATION

- 7.1 The Chief Executive, Depute Chief Executive, Director of Finance and Director of Legal and Democratic Services were consulted in the preparation of this report.

NOTE: The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

- Report No. 114/14 – Arbroath Harbour Port Marine Safety Code – Duty Holders

- Agenda Item 4 – Report No. 372/15 – Schedule 5 – Arbroath Harbour Port Marine Safety Code – Update
- Report No. 298/25 – Proposals to form the Northern Roads Collaboration Forum

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List of Appendices:

Appendix 1 – Arbroath Harbour Marine Safety Plan 2021 – 2024
Appendix 2 – Arbroath Harbour Marine Safety Policy
Appendix 3 – Arbroath Harbour Marine Training Policy
Appendix 4 – Arbroath Harbour Conservancy and Environmental Policy
Appendix 5 – Arbroath Harbour Enforcement and Prosecution Policy



Arbroath Harbour Marine Safety Plan 2021 - 2024



Approved on behalf of the Duty Holder:

Date:

1. Introduction

Angus Council is the Statutory Harbour Authority (SHA) for Arbroath Harbour through the provision of the 'Arbroath Harbour Acts and Order 1839 to 1919'. Angus Council is also the Local Lighthouse Authority (LLA) with respect to aids to navigation by virtue of Section 193 of the Merchant Shipping Act 1995. The port is a Municipal Harbour Authority, being owned and operated by the Council.

The Port Marine Safety Code (PMSC) is published by the Department for Transport and sets out a national standard for port marine safety. The Code applies to all Harbour Authorities and other marine facilities, berth owners and terminals operators in the UK.

As part of its compliance with the requirements of the PMSC, Angus Council is publishing this safety plan for marine operations which covers a period of three years. This 'Marine Safety Plan' is one component of a comprehensive (strategic level) Marine Safety Management System (MSMS) and serves to support the continuing improvement of marine safety performance.

This Marine Safety Plan commits Angus Council to undertaking the proper management and regulation of marine operations within the scope of its powers and authority, and in line with its stated marine policies.

2. Marine Policies

Angus Council has several policies in support of the management and regulation of marine operations. These strategic policies are embedded in the MSMS and are approved by the Communities Committee as Duty Holder under the PMSC. These are:

- Marine Safety Policy
- Marine Training Policy
- Conservancy and Environmental Policy
- Enforcement and Prosecution Policy

3. The Management of Marine Operations

A comprehensive overview of Angus Council's structure, management and documentation is maintained in the MSMS which supports the delivery of this Plan. External audits of the MSMS are undertaken on an annual basis by the Designated Person.

Angus Council is committed to ensuring a positive safety culture and to enhancing its risk-based MSMS. All locations consistently and proactively review their risk assessments for all identified marine hazards and when required, identify control measures to mitigate those risks to an acceptable level of ALARP (As Low As Reasonably Practicable).

Angus Council has responsibilities to provide vessel traffic management and, as far as its powers allow, to facilitate the safe transit of vessels using Arbroath Harbour.

4. Plan Period

This plan covers a three-year period from 1st September 2021 to 31st August 2024.

5. Management Objectives for the Safety Plan for Marine Operations

Angus Council has split its objectives into two sets, the first addresses 'Standing Objectives' the second set addresses 'Period Objectives'.

5.1 Standing Objectives

The objectives support the ongoing improvement plan for Angus Council at Arbroath Harbour. This plan is owned by the Harbour Master, on behalf of the Duty Holder, and aims to address high level improvement targets which will benefit all port and harbour locations and fulfils the requirement of the PMSC for the Duty Holder to maintain a 'Marine Safety Plan'.

Number	Provision / Activity	Objective	Measure
1	Duty Holder	Duty Holders to have received training on their role and responsibility under the Code in the last three years	100% of Duty Holders trained
		Duty Holders to have undertaken an operational tour of Arbroath Harbour in the last three years	100% of Duty Holders undertaken an awareness tour
2	Designated Person	Report by the Designated Person to the Duty Holder at least once per year	Annually
3	Legislation	Review legal duties and powers at least once every three years	Three years
4	Duties and Powers	MAIB Reportable Incidents: make all reports to the MAIB within 24 hrs, with investigation followed up.	24 hrs initial report, investigation sent at incident close
		Incidents recorded and investigated (if necessary) within the agreed timeframe.	1 week
5	Risk Assessment	All Marine Risk Assessments to be in-date	100% in-date
6	MSMS	Review of all Arbroath Harbour Policies on a three-yearly basis	Three years
		The Marine Safety Management Meeting will be reviewed annually (or following any significant industry changes)	Annually
7	Review and Audit	External Audit completed annually	Annually
8	Competence	Ensure staff with marine safety responsibilities are trained to undertake their duties	100% of mandatory training completed
9	Oil Spill Contingency Plan	Produce and maintain a 5 year OSCP which meets the requirements of the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998	Five years
10	Plan	Publish a three yearly 'Marine Safety Plan' (this plan)	Published and in-date

Number	Provision / Activity	Objective	Measure
		Publish an assessment of the organisation's performance against the last plan	Three years
11	Aids to Navigation	Aids to Navigation: Three-year performance meets or exceed IALA performance threshold	Cat 1 = 99.9% Cat 2 = 99.0% Cat 3 = 97.0%

Period Objectives

Specific improvements are identified within the plan period and laid out in the table below

Number	Provision / Activity	Objective	Measure
a	Vessel Traffic Management (all SHAs)	Carry out a Formal Risk Assessment of VTS/LPS in line with MGN 401 (if required)	By 2023
b	Training	Review training needs for all staff associated with Marine Operations to ensure staff with marine safety responsibilities are trained to undertake their duties, identify mandatory training	Review the training matrix by 2022
c	Emergency plan	Establish an exercise plan. Conduct real time and tabletop exercises for emergencies	By 2022
d	Pontoon berthing	Increase berthing capacity by installing pontoon berthing within the 'lazy hole' area of the outer harbour. Subject to available funding.	By 2023
e	New Slipway Cradles	Replace the 2no.slipway cradles used for slipping boats from the harbour into the boatyard. Subject to available funding	By 2024
f	New Harbour Dock Gates	Replacement of the harbour dock gates between the inner & outer harbours. Subject to available funding	By 2024



Arbroath Harbour Marine Safety Policy

The Duty Holder collectively and individually accepts responsibility for ensuring that the marine operations at Arbroath Harbour are conducted in accordance with the requirements of the Port Marine Safety Code (PMSC). This includes the common law duty of care to all harbour users for conservancy and environmental responsibilities. Implementation of policies and procedures issued by the Council is overseen by the Harbour Master, with ultimate accountability for marine safety residing with the Duty Holder.

In preparing this Marine Policy statement, Angus Council confirms that marine operation at Arbroath Harbour takes into account the principles laid out in the Code and its accompanying Guide to Good Practice (GtGP) on port marine operations, as far as is practicable. The following specific provisions are made:

- A Marine Safety Management System (MSMS) is in place, which is kept up to date for Arbroath Harbour;
- Marine risks are formally assessed and reduced to a level that is considered to be As Low As Reasonably Practicable (ALARP);
- An effective system is in place to record, report and appropriately investigating marine incidents;
- Plans are created and kept up to date for dealing with emergency situations, and that the resources required to implement and exercise these plans is maintained;
- A review is carried out through audit of the performance of the MSMS in achieving the standards laid out in the PMSC; and
- An independent, suitably experienced Designate Person (DP) is appointed to report to the Duty Holder on the effectiveness of the MSMS.

Duty Holder signature of approval and authority:

Name:

Signature:.....

Date:

Harbour Master acknowledgement:

Name:

Signature:.....

Date:

Issue Date:

Review Date:



Arbroath Harbour Marine Training Policy

Appropriate and effective training of marine harbour personnel is an essential element in facilitating the safe use of Arbroath Harbour. The Duty Holder for Arbroath Harbour commits to ensuring that all personnel with marine safety responsibilities are competent (trained, qualified and experienced) for the role in which they are appointed. The following specific provisions are made:

- The adoption of industry recognised competency standards for marine personnel or demonstration that any standards adopted as an alternative are fully equivalent;
- Maintenance of a role-specific training matrix for mandatory and optional competencies;
- Ensuring that any qualifications that time-expire are renewed to maintain currency;
- Recording of qualifications and/or competency for post-holders; and
- To ensure that adequate resources are made available to maintain the established standards of competence and training.

Duty Holder signature of approval and authority:

Name:

Signature:.....

Date:

Harbour Master acknowledgement:

Name:

Signature:.....

Date:

Issue Date:

Review Date:



Arbroath Harbour Conservancy and Environmental Policy

The Duty Holder for Arbroath Harbour acknowledges their common law duty of care to users of the harbour regarding conservancy and environmental duties. The following specific provision are recognised:

- Environmental duties laid out in the 'Harbour Act 1964', Section 40A;
- Wildlife and Natural Environment (Scotland) Act (2011), which requires public bodies, including Statutory Harbours, to have regard to biodiversity in their activities; and
- Habitats Directive under the Conservation (Natural Habitats) Regulations 1994.

This commitment covers the Harbour Authority's jurisdiction and its immediate approaches. The following specific provisions are made:

- To keep a 'vigilant watch' for changes in the harbour's berthing area and approaches;
- Evaluation and remove obstructions that may become a danger to safe navigation;
- Ensure the provision of necessary Aids to Navigation for the harbour based on formal risk assessment and in consultation with the Northern Lighthouse Board, in their role as the General Lighthouse Authority;
- Promulgate effectively navigational, tidal and weather information to harbour users;
- Commission such hydrographic surveys as regularly as necessary to identify the least available depths; and
- Maintain a close liaison with, and provide relevant data to, the United Kingdom Hydrographic Office. Such data includes bathymetric survey data of the seabed plus any additions or changes to navigation aids and charted features.

Duty Holder signature of approval and authority:

Name:

Signature:.....

Date:

Harbour Master acknowledgement:

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Signature:.....

Date:

Issue Date:

Review Date



Arbroath Harbour Enforcement and Prosecution Policy

Angus Council as Harbour Authority for Arbroath Harbour is responsible under the Port Marine Safety Code for the effective enforcement of its regulations, which are adopted in order to assist in managing the safety of navigation within the harbour. In this Policy, enforcement comprises the promulgation of regulation and guidance, effective surveillance, incident investigation, and where appropriate formal warning and prosecution. The policy is based on 'education in the first instance' and would only be escalated to prosecution for repeat offenders, or for offences bringing significant risk of serious injury or loss of life or when users threaten or abuse Council staff. Where appropriate, and where empowered to do so, Angus Council will prosecute offenders for committing criminal offences, including those set out in the Merchant Shipping Act 1995 and in ancillary regulations.

To this end, it is policy that Angus Council shall:

- Maintain through regular reviews, a regulatory framework, which is integrated with relevant national legislation and includes local regulation (i.e., Angus Council – Arbroath Harbour Byelaws 1997);
- Develop and maintain effective investigation procedures for use in the event of a navigational incident, which support Angus Council's enforcement procedures, but also meet the requirements of the Marine Safety Management System in respect of identifying and promulgating any 'lessons learned';
- Ensure that all staff involved in an incident investigation, or who are required to follow Angus Council's enforcement procedures, receive effective and relevant training;
- Respond to breaches of regulation, where justified by the evidence and other circumstances, using formal warnings and legal prosecution; and
- When bringing prosecutions, observe the requirement of the Procurator Fiscal, Crown Prosecutors and evidential Codes in so far as appropriate.

Duty Holder signature of approval and authority:

Name:

Signature:.....

Date:

Harbour Master acknowledgement:

Name:

Signature:.....

Date:

Issue Date:

Review Date: