



Maritime &  
Coastguard  
Agency

# The Port Marine Safety Code Health Check Report

Report date: 11/09/2023

Arbroath Harbour

Date conducted: 31/08/2023

Issued by: GREIG LAIRD

## Contents

Glossary.....	3
Introduction and background .....	4
Maritime and Coastguard Agency’s responsibility.....	5
1.1 Health check visits .....	5
1.2 Health check report .....	6
1.3 Report sub-categories.....	7
Report.....	9
2.1 Present at the health check .....	9
2.2 Port facility information.....	9
2.3 Duty holder .....	10
2.4 Designated person.....	11
2.5 Legislation .....	12
2.6 Duty and powers .....	13
2.7 Risk assessment....	14
2.8 Marine Safety Management System.....	15
2.9 Review and audit.....	16
2.10 Competence.....	17
2.11 Plan.....	18
2.12 Aids to navigation.....	19

## Glossary

ALARP	As Low As Reasonably Practical
CHA	Competent Harbour Authority
CPD	Continuing professional development
DfT	Department for Transport
DH	Duty Holder
DP	Designated Person
HM	Harbour Master
GLA	General Lighthouse Authority
GTGP	Guide to Good Practice
KPI	Key Performance Indicator
MAIB	Marine Accident Investigation Branch
MCA	Maritime & Coastguard Agency
MPX	Master/Pilot exchange
PMSC	Port Marine Safety Code
PEC	Pilot Exemption Certificate
MAIB	Marine Accident and Investigation Branch
MSMS	Marine Safety Management System
NRA	Navigational Risk Assessment
OPRC	International Convention on Oil Pollution Preparedness, Response and Co-operation
(F) RA	(Formal) Risk Assessment
SHA	Statutory Harbour Authority
VTS	Vessel Traffic Service
LPS	Local Port Services



## Introduction and background

The Port Marine Safety Code (“the Code”) 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 Code is not mandatory, these bodies have a strong expectation that all harbour authorities will comply.

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.

## Who is the Code for?

The Code is applicable both to SHA’s and to other marine facilities which may not have statutory powers and duties.

These are collectively referred to throughout the Code as ‘organisations’ and may include, but are not limited to, the following:

- competent harbour authorities (authorities with statutory pilotage duties);
- municipal port or harbour authorities;
- trust port or harbour authorities;
- private port or harbour authorities; and
- marine berths, terminals or jetties.

Many of the organisations to which this Code applies will have important legal duties relating to the safety of people who work at, or use, their harbours or facilities, and to the wellbeing of the port marine environment and community.

The responsibility for maintaining port marine safety is governed not only by marine legislation, such as the Pilotage Act 1987 and Merchant Shipping Act 1995 referred to in the Code, but also by general legislation, such as the Health and Safety at Work Act 1974 and the Corporate Manslaughter and Corporate Homicide Act 2007.

The Code covers responsibilities for port marine safety but does not purport to cover all the legal duties or responsibilities of organisations or all their safety responsibilities.

The Code does not, for example, relate to duties and responsibilities deriving from health and safety legislation, and (with some exceptions) those relating to the safety of vessels under the Merchant Shipping Acts.

However, it has been designed so that compliance with the good practice guidance in the Code should be fully compatible with other duties and responsibilities.



## Maritime and Coastguard Agency's responsibility

The MCA is generally responsible for supporting DfT in developing and implementing the Government's maritime safety and environmental protection strategy.

The MCA is responsible to the Secretary of State for Transport in advising on the composition and application of this Code to all ports in the UK. This includes but is not limited to: –

- the conducting of health checks (see below)
- monitoring the compliance of harbour authorities against the Code
- the facilitation of regular meetings between port authorities, related to maritime industries operating within ports and government within the context of this Code in order to exchange opinions and developments which may have a bearing on the content of the Code and the way in which it is applied
- the production of an annual report highlighting emerging trends identified during health checks
- other technical assistance which may be required by the DfT

### 1.1 Health check visits

Health check visits are intelligence led and may be triggered for a variety of reasons ranging from reports, which suggests a failure in a port's MSMS to a MAIB recommendation.

Ports may also wish to volunteer for a health check.

The main objective of a health check is to measure the ports compliance with the Code and, where appropriate, identify ways in which compliance can be enhanced.

It will also aim to identify and share any best practice.

Visits are managed by authorized MCA personnel.



## 1.2 Health check report

This report is based on the finding of the health check visit.

The report is broken down into the 10 areas of the Code that are required to meet full compliance.

It is important to note that some of these areas will not be required for non-statutory port and marine facilities.

This will be reflected in the health check report on a case-by-case bases; and a notation will be made in the report to reflect this.

Observations and non-compliance will be noted in the comments sections and an indication of status on compliance will be marked in the status box.



Non-Conformity – Corrective action required



Observation – Requires review



No Non-Conformities / Observations found during health check

This report covers what was observed within the scope and time available of the health check visit only.

**It remains the responsibility of the Duty Holder to ensure full and ongoing compliance with the Port Marine Safety Code.**



### 1.3 Report sub-categories

The following is a list of the elements of this report. Each area will reflect the sub-category as outlined in the Code.

#### 1. Duty Holder

Formally identify and designate the DH, whose members are individually and collectively accountable for compliance with the Code, and their performance in ensuring safe marine operations in the harbour and its approaches.

#### 2. Designated Person

A 'DP' must be appointed to provide independent assurance about the operation of the marine safety management system.

**The DP must have direct access to the duty holder.**

#### 3. Legislation

The DH must review and be aware of their existing powers based on local and national legislation, seeking additional powers if required to promote safe navigation.

#### 4. Duties and powers

Comply with the duties and powers under existing legislation, as appropriate.

#### 5. Risk assessment

Ensure that marine risks are formally assessed and are eliminated or reduced to the lowest possible level, so far as is reasonably practicable, in accordance with good practice.

#### 6. Marine Safety Management System

Operate an effective MSMS which has been developed after consultation, is based on formal risk assessment, and refers to an appropriate approach to incident investigation.

#### 7. Review and audit

Monitor, review and audit the risk assessment and MSMS on a regular basis – the DP has a key role in providing assurance for the duty holder.



## 8. Competence

Use competent, trained, qualified and experienced people in positions of responsibility for managing marine and navigation safety.

## 9. Plan

Publish a safety plan showing how the standards in the Code will be met and produce a report assessing performance against that plan at least every 3 years.

## 10. Aids to Navigation

Comply with directions from the GLA's and supply information and returns as required.





## 2 Report

### 2.1 Present at health check

Name	Organisation	Position
Bruce Fleming	Angus Council	Harbour Master
Graeme Dailly	Angus Council	Director of Infrastructure & Environment
Cllr Serena Cowdy	Angus Council	Duty Holder
Bill Bennet	MCA	Principle Marine Surveyor – Nav branch
Danny Hawkins	MCA	Marine Surveyor – Nav branch
Greig Laird	MCA	Marine Surveyor – Aberdeen Marine office

### 2.2 Port facility information

Arbroath Harbour is a long established harbour on the East coast of Scotland located between Dundee and Montrose. The harbour is municipally run by Angus Council, who are the Statutory Harbour Authority.

The harbour consists of a tidal (outer) harbour and an inner harbour/marina with dock gates separating the two basins. The harbour serves inshore fishing vessels, small commercial vessels offering day trips to tourists and private yachts. There are floating pontoon berths and harbour wall berth available for mooring.

Within the jurisdiction of the harbour is also a boatbuilding and repair yard with patent slipway incorporating two cradles and a mechanical winch as well as a separate 25T boat hoist.



## 2.3 Duty Holder

The DH is responsible for ensuring that the organisation complies with the code.

To effectively undertake this role, they should:

- be aware of the organisation's powers and duties related to marine safety
- ensure that a suitable MSMS, which follows formal safety techniques, is in place
- appoint a suitable DP to monitor and report the effectiveness of the MSMS and provide independent advice on matters of marine safety
- employ competent people to manage marine safety
- ensure that the management of marine safety continuously improves by publishing a marine safety plan and reporting performance against the objectives and targets set
- report compliance with code to the MCA every 3 years

## MCA comments, summary and findings

Green

No Non-Conformities/Observations found during health check.

The Duty Holder is well established as the Communities Committee within the local council. As the Duty Holder/Communities Committee members are subject to change with local council elections, training of new members is undertaken by the Designated Person. Upon interview, this training was of benefit to new members of the committee who undertake Duty Holder responsibilities.

Councillors with an interest in the harbour can appoint themselves to the Arbroath Harbour Joint Consultative Committee which is a sub-committee of the Communities Committee. The Duty Holder submits a statement of compliance every three years to the MCA.

Not all duty holders are of a maritime background, the harbour has in place Duty Holder training which is carried out by the Designated Person, which is of value to new duty holders.



## 2.4 Designated Person

Each organisation must appointment an individual as the DP to provide independent assurance directly to the duty holder that the MSMS (for which the duty holder is responsible for) is working effectively.

Their main responsibility is to determine, through assessment and audit, the effectiveness of the MSMS in ensuring compliance with the code.

To fulfil this function, the designated person must have a thorough knowledge and understanding of the requirements of this code (and supporting guide to good practice) and associated port and marine legislation.

**This role does not obscure the accountability of the organisation's DH.**

### MCA comments, summary and findings

Green

No Non-Conformities / Observations found during health check.

The Designated Person is Monty Smedley of ABPmer; an external marine consultancy firm based in Southampton, which is independent of the harbours operations. Monty Smedley is well known and has been established for a number of years and makes regular visits to the harbour.

The DP conducts external audits of the MSMS which was last completed in October 2022, with another visit planned in September 2023 to ensure compliance with the PMSC and GTGP.

Contact details of the DP are available to all port users online however, the statement in the first instance refers any safety issues to the Harbour Master. If additional, independent advice is required, the Designated Person can be contacted.



## 2.5 Legislation

The DH must review and be aware of the organisation's powers based on local and national legislation, seeking additional powers if required in order to promote safe navigation.

Organisations must ensure that all policies and procedures are properly and effectively enforced and that adequate resources are available for this purpose. Byelaws and directions adopted in order to manage identified marine risks must be backed by an appropriate policy on enforcement. Organisations should have a clear policy on prosecution which is consistent with the risk assessment on which its direction is based.

### MCA comments, summary and findings

Green

No Non-Conformities / Observations found during health check.

The Harbour Master is fully aware of the legislation that applies to the harbour at Arbroath. Arbroath Harbour has in place an 'Enforcement and Prosecution Policy', which is published on the harbour's website and is freely available to all harbour users.

The following legislation is in place;

- Arbroath Harbour Acts and Order, 1839-1919
- The Aberbrothwick Harbour Act, 1864
- Aberbrothwick Harbour Order, 1877
- Aberbrothwick Harbour Finance Act, 1897
- The Arbroath Harbour Order Confirmation Act, 1919.
- Arbroath Harbour Bye-Laws 1997 – available online for all harbour users to read.



## 2.6 Duty and powers

General duty and powers: for the purpose of the code, the DH should ensure that the harbour authority or the organisation discharges its responsibilities for:

- safe and efficient port marine operations
- open port duty
- conservancy duty
- revising duties and powers
- environmental duty
- civil contingencies duty
- harbour authority powers
- power of direction – powers to direct vessels are available and should be used where appropriate to support safe navigation
- regulation of dangerous vessels and substances – dangerous vessels and dangerous substances (including pollution) must be effectively managed
- pilotage – a pilotage service must be provided if required in the interest of safety as determined by risk assessment

## MCA comments, summary and findings

Yellow

Observation – Requires review.

The Harbour Master is fully aware of the duties placed upon them. It is important that the Harbour Master ensures the safe and legal operation of commercial vessels within their harbour. The MCA recommends the port check the safety certificates and crew qualifications of commercial vessels which regularly operate within the jurisdiction of the harbour, to ensure compliance and maintain safety of navigation.

GTGP 11.3.2



## 2.7 Risk Assessment

The risks associated with marine operations need to be assessed and a means of controlling them needs to be deployed. The aim of this process is to eliminate the risk or, failing that, to reduce risks as low as reasonably practicable. Formal risk assessments should be used to:

- identify hazards and analyse risks
- assess those risks against an appropriate standard of acceptability and
- where appropriate consider a cost benefit assessment of risk reduction measures

## MCA comments, summary and findings

Green

No Non-Conformities / Observations found during health check.

The port routinely assesses risks under its control, this risk assessment process is also subject to audit by the DP. This audit was last undertaken in October 2022.

The harbour owns various equipment such as a quayside crane, dock gates, a patent slipway incorporating two cradles and mechanical winch and a 25T boat hoist. Risk assessments and maintenance routines are in place for this equipment. Harbour staff also operate a diesel dispensing facility at a designated fuelling berth. Staff have been trained in operating this equipment and oil spill contingency plans are in place and approved until 2027. A 3<sup>rd</sup> party contractor is employed to respond to any Tier 2 oil pollution incidents within Angus Council.

There are separate risk assessments in place for marine activities and shore-based activities.



## 2.8 Marine Safety Management System

The MSMS should incorporate safety policies and procedures to:

- ensure there is proper control of vessel movements by regulating the safe arrival, departure and movement within the harbour/port for all vessels
- protect the general public from dangers arising from marine activities within the harbour/port
- allow functions to be carried out with special regard to the possible environmental impact
- prevent acts or omissions that may cause personal injury to employees or others

The MSMS should also:

- confirm the roles and responsibilities of key personnel at the organisation
- outline present procedures for marine safety within the harbour or facility (including the approaches)
- measure performance against targets (organisation must have a database or system to record incidents or near misses)
- refer to emergency plans that would need to be exercised and
- be audited internally on an annual basis

## MCA comments, summary and findings

Arbroath Harbour has in place a Marine Safety Management System which is audited by the Designated Person on an annual basis.

Yellow

Observation – Requires review.

There are limited checklists or procedures in place to respond effectively respond to emergencies in the harbour. The MCA would advise that emergency procedures are drawn up and reviewed as well as a list of up-to-date and readily accessible emergency contacts.

GTGP 6.2.1



## 2.9 Review and audit

The MSMS must incorporate a regular and systematic review of its performance. This should be based on information from monitoring the system itself and from independent audits of the whole system. Performance of the MSMS should be accessed against the internal performance indicators and where appropriate, by benchmarking against other similar organisations that have adopted good practice.

The DH must also publish an assessment of the organisation's performance against the plan.

Information gathered from the monitoring and auditing of the MSMS should be used to support the analysis and conclusions.

Under the code, all persons involved in the management and execution of marine services should be qualified and trained to the appropriate national standard.

Organisations must assess the fitness and competence of all persons appointed to positions with responsibility and navigation safety. A policy on revalidation or maintenance of qualifications should also be considered.

Achieving port marine safety is a team operation and people in these roles must be competent and adequately trained, qualified and experienced.

## MCA comments, summary and findings

Green

No Non-Conformities / Observations found during health check.

The Designated Person produces a report following the annual audit. This report and the findings are presented to the Duty Holder at the next available meeting of the Communities Committee. The last audit in October 2022 identified 15 observations which have been diligently acted upon by the Harbour Master.





## 2.10 Competence

Use competent, trained, qualified, and experienced people in positions of responsibility for managing marine and navigation safety.

### MCA comments, summary and findings

Green

No Non-Conformities / Observations found during health check.

The harbour does not operate any vessels however, there is machinery such as the mechanical ship lifts, small cranes, dock gates and diesel dispensing facility which the staff are trained to use. Continuous professional development identified that there may be a need for line handling training for staff or newly joining staff when tying up vessels entering the harbour.



## 2.11 Plan

To demonstrate the organisations commitment to marine safety and to ensure the involvement of harbour users, a safety plan for marine operations should be published at least once every three years.

The plan should illustrate how the policies and procedures will be developed to satisfy the requirements under the code. It should commit the organisation to undertake and regulate marine operations in a way that safeguards the harbour/facility, its users, the public and the environment.

It should refer to its commercial activities, the efficient provision of specified services and the effective regulation of vessels including near miss reporting.

It should explain how commercial pressures would be managed without undermining the safe provision of services and the efficient discharge of its duties.

The DH must also publish an assessment of the organisation's performance against the plan.

Information gathered from the monitoring and auditing of the MSMS should be used to support the analysis and conclusions.

The DH must report compliance with the code to the MCA every three years.

## MCA comments, summary and findings

Green

No Non-Conformities / Observations found during health check.

Arbroath Harbour has a published Marine Safety Plan for the years 2021 to 2024 and is freely available on the harbour's website.



## 2.12 Aids to Navigation

All aids to navigation must be maintained by the harbour authorities and any other existing local lighthouse authorities must be maintained in accordance with the availability criteria laid down by the GLA's and must be subject to periodic review.

The characteristics of these aids to navigation must comply with the 'International Association of Lighthouse Authorities Guidelines and Recommendations'

Information and periodic returns must be supplied, when required, to the appropriate GLA's.

### MCA comments, summary and findings

Within the harbour's jurisdiction there are category 1, 2 and 3 lights with routine checks made on each type of light. An annual report is submitted to the Northern Lighthouse Board and the harbour is also audited by the NLB every 5 years.

The harbour does not operate a vessel traffic management or pilotage service.

Harbour staff are contactable via VHF radio for marine traffic. Harbour staff also carry UHF radio's for internal communications around the harbour. An out of hours emergency contact number is displayed on the notice board outside the harbour for any harbour users.

Yellow

Observation – Requires review.

There is a foghorn at the break water which is manually switched on by harbour staff however, there are no restrictions on visibility for vessels arriving or departing the harbour.

GTGP 8.5.2



OFFICIAL



[www.gov.uk/mca](http://www.gov.uk/mca)



[@MCA\\_media](https://twitter.com/MCA_media)



[@MCA](https://www.facebook.com/MCA)



[/maritime-and-coastguard-agency](https://www.linkedin.com/company/maritime-and-coastguard-agency)