

ANGUS COUNCIL

COMMUNITIES COMMITTEE – 16 JANUARY 2024

ARBROATH HARBOUR - PORT MARINE SAFETY CODE – AUDITS

REPORT BY DIRECTOR OF INFRASTRUCTURE AND ENVIRONMENT

ABSTRACT

This report presents the updated version of the Marine Safety Management System for Arbroath Harbour along with the results of the 2023 Port Marine Safety Code audit carried out by the council's Designated Person, the results of a Maritime & Coastguard Agency health check and the results of the Northern Lighthouse Board audit all which measure the Council's performance against the Port Marine Safety Code.

1. RECOMMENDATION

It is recommended that the Committee:

- (i) approve the updated Marine Safety Management System which is in place for Arbroath Harbour and forms an integral part of the safe operation of Arbroath Harbour and the audit process;
- (ii) note the results of the Port Marine Safety Code audit, the Maritime and Coastguard Agency health check and the Northern Lighthouse Board audit including the observations, recommendations, and areas of good practice identified; and
- (iii) agree to members of the Communities Committee undertaking a visit to Arbroath Harbour on a date suitable for all in Spring 2024 to ensure compliance with the Port Marine Safety Code.

2. ALIGNMENT TO THE COUNCIL PLAN

This report contributes to the following Angus Council Plan 2023-2028 priorities:

Caring for the Economy:

- We will support businesses to grow and invest in Angus through our employment land and commercial property.
- We will be more commercial in our approach to contracts and support growth of business locally whenever possible through a *community wealth building approach.

Caring for our Place:

- We will maintain our roads, pavements, lighting, and other infrastructure efficiently and will focus on our priority routes and infrastructure.

3. BACKGROUND

Designated Person Audit

- 3.1 Report [245/21](#) Port Marine Safety Code – Arbroath Harbour Marine Safety Plan and Policies presented to this committee on 17 August 2021 sets out the position where Angus Council as the Statutory Harbour Authority sits under the Port Marine Safety Code (PMSC) in respect to the safe operation and management of Arbroath Harbour. Angus Council operates under the PMSC with the Communities Committee as the Duty Holder and the global marine consultancy company APBMer as the Designated Person.
- 3.2 The Statutory Harbour Authority must also operate and maintain an effective Marine Safety Management System (MSMS) which has been developed for marine operations, is based on

formal risk assessment, and refers to an appropriate approach to incident investigation. This is maintained and updated by the Harbour Master for Arbroath Harbour and the most up to date version is contained in **Appendix 1** of this report.

3.3 To comply with the PMSC, the Designated Person for Arbroath Harbour:

- Monitors the thoroughness of the marine risk assessment process and the validity of the assessment conclusions.
- Monitors the thoroughness of the incident reporting and any subsequent investigation to confirm the validity of the investigation conclusions.
- Determines through assessment and audit that Arbroath Harbour has an effective and appropriate MSMS. This is conducted as an annual audit, with the output provided as a written report to the Duty Holder.

Maritime & Coastguard Agency

3.4 The Maritime & Coastguard Agency (MCA) is an Executive Agency of the Department for Transport (DfT). The MCA provides a 24-hour maritime and coastal search and rescue emergency coordination and response service for the United Kingdom as well as producing legislation and guidance and providing certification to ships and seafarers.

3.5 The MCA normally seeks to undertake eight PMSC health checks annually aiming to visit a range of different types of facilities across all parts of the UK. A visit may be triggered by evidence of a problem, self-reported noncompliance, or a request for assistance. In the case for Arbroath Harbour, the Harbour Master volunteered for an MCA health check in a bid to not only identify where things are working well but also identify if there are any areas where improvements could be made to strengthen compliance with the Code. The health check is not a formal inspection or enforcement action. Follow up visits by the MCA are not carried out unless they feel a follow up visit is necessary.

Northern Lighthouse Board

3.6 Under Section 193 of the Merchant Shipping Act 1995, the Commissioners of Northern Lighthouses are appointed as the General Lighthouse Authority for Scotland and its adjacent seas and islands, in addition to the Isle of Man. Under Section 195 of the act, the Northern Lighthouse Board (NLB) are vested with responsibility for the superintendence and management of all associated lighthouses, buoys and beacons. The aim of this legislation is to work in partnership with Authorities to provide a seamless interface between Statutory and Local Aids to Navigation (AtoNs), for the safety of the mariner.

3.7 Harbour Authorities report to the NLB on an annual basis the availability results of the AtoNs which come under the harbour authority's ownership. This report is produced by the Harbour Master and is also presented to the Arbroath Harbour Joint Consultative Committee for information in the Spring Report

3.8 Every five years representatives from the NLB visit Harbour Authorities to audit how the management, maintenance, and performance of the AtoNs under the authority's ownership performs against the Port Marine Safety Code.

4. CURRENT POSITION

Designated Person Audit

4.1 On 13 October 2023 Monty Smedley from APBMer visited Arbroath Harbour and spent the day with the Harbour Master to carry out the Port Marine Safety Code Audit. This was a comprehensive audit which went through every aspect of the Code and measured Arbroath Harbour's performance against it. Mr Smedley also had a discussion with a representative from the Duty Holder (Communities Committee), Councillor Cowdy. The result of the Audit is contained in **Appendix 2** of this report.

4.2 The audit report uses the following outcomes:

Satisfactory: a system component that meets or exceeds the requirements of the Code. Items of best practice are identified in bold.

Observation: refers to an improvement opportunity such as an update to information, procedural change, or a non-conformity with local operating instructions. Observations are defined as improvement opportunities and by addressing them may improve the overall system standard. Recommendations for addressing observations are highlighted in yellow.

Non-Compliance: a non-compliance with the requirements of the Code, which are a breach of legal obligations or may compromise marine safety, environmental safety or present a significant reputational risk. Recommendations for addressing non-compliance are identified in red.

Not applicable: part of the Code that is not relevant to the Organisation being audited.

4.3 The summary presented in the table on page 5 of the report identifies that, for the ten-point categories, Angus Council as the Statutory Harbour Authority for Arbroath Harbour was found to have 75 satisfactory components, 8 observations/recommendations and 0 non compliances.

4.4 Last year the 2022 audit found there was 74 satisfactory components, 15 observations/recommendations and 0 non compliances (Committee Report [387/22](#) refers). With the continued improvements in the safety of the operation and management of Arbroath Harbour over the past 12 months some of the issues highlighted within the 2022 audit have been addressed, which has resulted in a reduction of observations/recommendations and a continuation of 0 non compliances. As stated on page 5 of the Audit Report 2023, Angus Council as the Statutory Harbour Authority for Arbroath Harbour remains fully compliant with the requirements of the Port Marine Safety Code.

4.5 The 2023 audit identified 8 observations/recommendations relating to improvement opportunities for management consideration, the detailed findings being presented in Appendix A of the audit report. Marine operations and quayside checks were also carried out and 3 observations/recommendations were identified, the detailed findings being presented in Appendix B of the audit report.

4.6 The following points of best practice are noted within the report:

- The process used for competency checks is an item of best practice. Staff need to demonstrate new tasks on five separate occasions, before competency is signed off.
- Provision and maintenance of Aids to Navigation is recognised as an area of best practice with 100% availability statistic across all categories of Aid.
- The Council has a consistent and measurable commitment to providing safe and efficient marine operations at Arbroath Harbour, including this year's harbour infrastructure repairs to the West Breakwater and other harbour-built assets. Since 2003 there has been an ongoing programme of infrastructure investment and improvement including a new marina, dock gate installation, an environmental enhancement project, resurfaced black shed quay, upgraded fish market, refuelling facility, boat hoist, walk-in refrigeration unit and new pontoon berthing in the outer harbour. The resulting facilities deliver the duty of 'safe and efficient port marine operations' through investment and this is recognised as an area of best practice.

Maritime & Coastguard Agency Health Check

4.7 On 31 August 2023 three representatives from the MCA arrived at Arbroath Harbour to carry out the health check and spent the day interviewing the Harbour Master. The representatives also spent some time speaking with the Director of Infrastructure & Environment as well as Councillor Cowdy from the Duty Holder.

4.8 The health check uses the following outcomes:

Red	Non-Conformity – Corrective action required.
Yellow	Observation – Requires review.
Green	No Non-Conformities / Observations found during health check.

4.9 The ten-point health check identified 7 areas where there were no non-conformities and 3 observations which require review. The Harbour Master has already started to address the observations which required review. The detailed findings of the health check are contained in **Appendix 3** of this report.

Northern Lighthouse Board Audit

4.10 On 1 November 2023 representatives from the NLB visited Arbroath Harbour to carry out their audit and spent the day with the Harbour Master.

4.11 NLB audits the Local Lighthouse Authorities AtoN Management System against the requirements of the Port Marine Safety Code, as supported by International Association of Lighthouse Authorities (IALA) recommendations. The audit examines several key areas including but not limited to:

- Risk Assessment
- AtoN Availability
- AtoN Maintenance & Inspection Regime
- Recording & Dissemination of Information

4.12 No Non-conformances with the Port Marine Safety Code were identified; however one observation was recorded:

- Risk Assessments for the MSMS are currently being worked on for vessel activities, the inclusion of AtoN provision and AtoN maintenance as a mitigating factor would be beneficial.

4.13 The detailed findings of the NLB audit are contained in **Appendix 4** of this report.

5. PROPOSALS

5.1 The priority going forward is to ensure that the safe operation and management of Arbroath Harbour is maintained and that the Council continues to ensure compliance with the Code.

5.2 Regarding the observations and recommendations within the audit reports and the health check, the Harbour Master will continue to monitor these and will use the time in hand to address the recommendations before the next Designated Person's audit in October 2024.

5.3 Equally important is to ensure that the satisfactory components of the audits and health check continue to be managed and maintained and are still in place for the next Designated Person's audit in October 2024.

5.4 As highlighted within the Designated Person's audit, and to comply with the Council's published Marine Safety Plan 2021 - 2024, the members of this committee should have an operational tour of Arbroath Harbour. The Director of Infrastructure & Environment in conjunction with the Harbour Master will arrange for a tour in Spring 2024 on a date which is suitable for all.

6. FINANCIAL IMPLICATIONS

6.1 The costs associated with the appointment of an independent Designated Person is £3,000 per annum and is funded from the Arbroath Harbour trading account.

7. EQUALITY IMPACT ASSESSMENT

7.1 An Equality Impact Assessment is not required.

8. CONSULTATION

8.1 The Chief Executive, Depute Chief Executive, Director of Finance and Director of Legal, Governance and Change 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. [245/21](#) – Port Marine Safety Code – Arbroath Marine Safety Plans and Policies
- Report No. [356/21](#) – Port Marine Safety Code – Audit
- Report No. [387/22](#) – Port Marine Safety Code – Audit

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List of Appendices:

Appendix 1 – Arbroath Harbour Marine Safety Management System – Version 3
Appendix 2 – Arbroath Harbour Port Marine Safety Code Audit 2023
Appendix 3 – MCA Port Marine Safety Code Health Check Report
Appendix 4 – Northern Lighthouse Board PMSC Audit of Marine Aids to Navigation