

REPORT TO SCRUTINY COMMITTEE ECONOMY and EXECUTIVE
Date of Meetings: 12 November 2015 and 17 November 2015
Report of: ASSISTANT DIRECTOR PUBLIC REALM
Title: MARITIME COASTGUARD AGENCY AUDIT 2015

Is this a Key Decision?

No

* One that affects finances over £1m or significantly affects two or more wards. If this is a key decision then the item must be on the appropriate forward plan of key decisions.

Is this an Executive or Council Function?

Executive

1. What is the report about?

1.1 To advise Members of the outcome of the recent Maritime Coastguard Agency audit of the Port of Exeter.

2. Recommendations:

2.1 That Scrutiny Committee Economy notes and the Executive resolves to :
A. Note the outcome of the Audit and
B. Support compliance with the Port Marine Safety Code.

3. Reasons for the recommendation:

3.1 The Port Marine Safety Code (PMSC) supports the legislation governing the operation of the Port of Exeter. Compliance is not a statutory requirement however failure to comply would be taken into consideration should the Council be found responsible for an incident including loss, damage or personal injury sustained within the Port.

4. What are the resource implications including non financial resources.

4.1 Hitherto compliance with the PMSC has been an aspiration. Although, over the past several years, work has been undertaken to move to a position where our procedures are compliant, there are still a number of critical administrative processes to resolve. A robust Marine Safety Management system and further work on risk mitigation is a priority.

4.2 A report will go to the Greater Exeter Visioning Board which it is intended will lead to a collaborative approach between the three Authorities to the funding and management of the waterways.

4.3 The current provision of a Harbour Patrol was highlighted as of concern and a further report may well follow on this issue, subject to discussions at the Greater Exeter Visioning Board Officer Working Group.

5. Section 151 Officer comments:

5.1 There are no additional financial implications contained in this report. Any future funding agreement, which requires additional resources, would require full Council approval.

6. What are the legal aspects?

6.1 Compliance with the Port Marine Safety Code will assist the City Council to demonstrate that it has taken reasonable steps to comply with its statutory duties as the Harbour Authority.

7. Monitoring Officer's comments:

7.1 This report raises no issues for the Monitoring officer.

8. Report details:

8.1 Senior representatives of the Maritime Coastguard Agency visited the council between the 7th and 9th September 2015 to conduct an audit to assess the degree of our compliance the Port Marine Safety Code.

8.2 Compliance with the Code is not in itself a legal requirement however reference to the council's compliance with the Code is likely in the event of any incident or accident within the Port's jurisdiction.

8.3 Exeter is a municipal harbour authority with statutory responsibilities covering an area from Blackaller Weir to, at its furthest point, approximately 1.4 miles offshore at Exmouth.

8.4 The PMSC focuses on the safe operation of the Port and the diverse use of the Estuary, in particular, represents a significant challenge. Large commercial vessels share water space with high speed powered craft, wind powered boats and kayaks/canoes.

8.5 The Inspectors made a number of recommendations:

- To identify and appoint a Duty Holder who is accountable on behalf of the harbour authority for its compliance with the PMSC. It may be appropriate to consider forming a harbour board or similar governing body to fulfil this function
- Develop and publish a MSMS (*marine safety management system*) for Exeter Harbour Authority
- A designated person should be appointed to provide the duty holder with independent assurance directly to the duty holder that the MSMS is working effectively
- The current database of hazards considers 18 hazards with 24 accompanying control measures. This risk assessment should be reviewed, particularly the control measures, with involvement from as many harbour users or staff who actually use the canal or river as possible. The council should also consider formalising who is responsible for maintaining the database and if any appropriate training needs to be provided. The frequency of when hazards need to be reviewed also needs to be formally clarified ensuring that they are kept ALARP (*as low as reasonable practicable*). All these detail regarding risk assessment should eventually be referred to in the above mentioned MSMS, including any specific risk assessment procedures and policies.

8.6 Inspectors further recommended that within the MSMS the following issues should be considered:

- The council should consider what appropriate licensing or regulation arrangements may need to be introduced for some of the unlicensed domestic passenger or ferry boats which are currently trading within the harbour
- The Harbour Authority should consider how it could best develop and maintain an

appropriate level of maritime expertise in order to discharge and manage some of its port marine related activities

- Consideration should be given to the harbour launch crew training requirement and their specific roles and responsibilities with particular reference to any envisaged regulatory or enforcement functions.

9. How does the decision contribute to the Council's Corporate Plan?

- 9.1
- Keep me/my environment safe and healthy
 - Run the council well
 - Provide great things for me to see and do

10. What risks are there and how can they be reduced?

- 10.1
- The risk to life and the environment.
The risk of litigation.
Failing in our duty of care as a harbour authority.
Compliance with the Code mitigates these risks

11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?

- 11.1
- Compliance with the Code will ensure that we have done everything reasonably practicable to make the use of our water ways safe and attractive to all age groups in an environmentally responsible way.

12. Are there any other options?

- 12.1
- We are not directly legally bound to comply with the Code. Compliance demonstrates that we are a responsible and competent authority.

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Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

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