

REPORT TO Executive Committee: Council
Date of Meeting: 9 February 2015 : 23 February 2015
Report of: Assistant Director Public Realm
Title: Adoption of Powers to Make Harbour Directions

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council.

1. What is the report about?

1.1 Enabling the City Council as the Harbour Authority to adopt new powers under the Harbours Act 1964 to make Harbour Directions.

2. Recommendations:

2.1 The Executive recommends to Full Council that:

2.1.1 It agrees to an application being made to the Department for Transport for Exeter City Council as harbour authority to be designated with power to issue harbour directions in accordance with the provisions of the Harbours Act 1964.

2.1.2 In the event that the application for designation is successful, the Service Manager (Business & Commercial Operations) is authorised to make Harbour Directions on behalf of the Harbour Authority within the Port of Exeter

3. Reasons for the recommendation:

3.1 To enable the better management of the Port of Exeter and to assist in the Council's compliance with the Port Marine Safety Code.

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

4.1 The process demands a pre-application consultation which will require limited resources.

5. Section 151 Officer comments:

5.1 There are no financial implications contained within this report.

6. What are the legal aspects?

6.1 The City Council as Harbour Authority has limited powers to make harbour directions. The existing powers under the Dangerous Vessels Act 1985 and section 252 of the Merchant Shipping Act 1995 provide powers which are limited to directions concerning dangerous vessels and wrecks, particularly concerning the prohibition of vessels entering the harbour and their removal and/or destruction. The Council does not possess wider powers to make harbour directions.

The Council may apply to the Department for Transport to be designated with the power to issue harbour directions in accordance with the new provisions inserted into the Harbours Act 1964.

6.2

In the event that the Council is successful in its application for a Designation Order, then the Council as Harbour Authority will be enabled to formulate and issue harbour directions and apply them in the context of management of the Port of Exeter.

6.3

Failure to comply with harbour directions is a criminal offence punishable on summary conviction in the Magistrates' Court by way of a fine not exceeding level 4 (currently £2,500).

6.4

7. Monitoring Officer's comments:

7.1

Securing designation with the power to make harbour directions is an important step in order to support more robust management of the Port of Exeter. The power in itself is limited to the power to give directions to vessels used in navigation.

7.2

The Council will need to consider more comprehensive powers of management through a Harbour Revision Order or a Harbour Enabling Order as a matter of priority in order to secure more extensive management powers.

8. Report details:

8.1

Following consultation by the Department for Transport in July 2015, Harbour Authorities are invited to make applications to adopt powers under section 40A-40D of the Harbours Act 1964.

8.2

Powers of Direction enable the Harbour Authority to issue general and specific instructions to the Masters of 'ships' regarding "movement, mooring, equipment and manning" within the Port. Prior notice of Directions shall include consultation with representative of users of the Port. The expression "ship" refers to vessels engaged in navigation and would not (necessarily) apply to personal watercraft or small boats

8.3

The powers would, for example enable the Council to restrict vessels from mooring within the navigation channel of the estuary, enforce the Collision Regulations and prohibit the discharge of oil, sewerage and waste into the estuary. The ability to issue more extensive harbour directions will aid the Council as harbour authority in the delivery of its responsibility under the Port Marine Safety Code.

8.4

The Port Marine Safety Code recommends that "Harbour authorities would be well advised to secure powers of general direction..." Powers under this proposal are not as stringent as those that apply for General Directions but are designed to be easier to adopt and are a significant improvement upon the Council's current position.

8.5

The timetable from implementation is as follows and an expression of interest was registered before the due date:.

Deadline for expressions of interest 31 January 2016

Deadline for formal applications 31 March 2016

Review of applications received and draft of Designation Order April/ July 2016

*Analysis of responses received and preparation
of Summary of Responses*

September 2016

Making of Designation Order

February 2017

Order coming into force

6 April 2017

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

- 9.1
- The decision demonstrates a well run Council
 - Keeping the environment safe & healthy
 - And contributing to the provision of great things to see and do

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

- 10.1 None have been identified

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 Adoption of these power enables the Council to regulate the use of the waterway in a safe an efficient manner. It will further encourage a diverse use of the recreational facility.

12. Are there any other options?

- 12.1 The Council could continue not to have these powers but their adoption is not onerous and they will enable us to deliver our responsibilities under the Port Marine Safety Code more easily.

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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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