

Thursday, 25 May 2023

HARBOUR COMMITTEE

A meeting of **Harbour Committee** will be held on

Monday, 5 June 2023

commencing at **5.30 pm**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Committee

Councillor Strang (Chairman)

Councillor Carter

Councillor Fox

Councillor Brook

Councillor Penny

Councillor Fellows

Councillor Twelves

External Advisors

Mr Day and Mr Young

Together Torbay will thrive

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Governance Support, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

HARBOUR COMMITTEE AGENDA

1. **Apologies**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 4 - 6)
To confirm as a correct record the Minutes of the meeting of the Committee held on 27 March 2023.
3. **Declarations of interest**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
4. **Urgent items**
To consider any other items that the Chairman decides are urgent.
5. **Terms of Reference of the Harbour Committee** (Pages 7 - 9)
To note the Harbour Committee's Term of Reference which were approved by Council on 25 May 2023.
6. **Harbour Asset Review Working Party**
To appoint two External Advisors to the Harbour Asset Review Working Party.
7. **Harbour Budget Review Working Party**
To appoint two External Advisors to the Harbour Budget Review Working Party.

8. **Port Marine Safety Code**
For Members to note the latest accident statistics for the Harbour Authority's operational area.
9. **Tor Bay Harbour Budget Outturn report 2022-2023** (Pages 10 - 18)
To consider a report on the above.
10. **Harbour Committee Work Programme 2023/2024** (Pages 19 - 20)
To review a report on the above.

Meeting Attendance

Please note that whilst the Council is no longer implementing Covid-19 secure arrangements attendees are encouraged to sit with space in between other people. Windows will be kept open to ensure good ventilation and therefore attendees are recommended to wear suitable clothing.

If you have symptoms, including runny nose, sore throat, fever, new continuous cough and loss of taste and smell please do not come to the meeting.

Minutes of the Harbour Committee

27 March 2023

-: Present :-

Councillor Amil (Chairman)

Councillors Barrand, Brooks, Carter, Dudley (Vice-Chair), Ellery and O'Dwyer

21. Apologies

An apology for absence was received from Councillor Mills, Mark Day and Barry Young.

22. Minutes

The Tor Bay Harbour Master provided an update on two actions discussed at the last meeting as follows -

1. 17.2/12/22 sets out *'that the Committee is not satisfied that agency security staff who are not qualified maritime professionals are left responsible for the Harbour Estate in the absence of the Harbour Master(s) and recommends that the Tor Bay Harbour Master reviews this and puts in place appropriate measures to address this by either arranging suitable training or replacing them with suitably qualified professionals as a matter of urgency;'* That the Tor Bay Harbour Master has chosen to refresh the requirements for the agency security staff and this is now being progressed through Procurement process. This action will ensure that Tor Bay Harbour Authority is compliant with the Port Marine Safety Code and;
2. 17.2/12/22 *'that the Tor Bay Harbour Master be recommended to ensure that the arrangements for auditing the Harbours is improved by the Tor Bay Harbour Master carrying out the internal audit with a qualified Harbour Master from another authority providing professional external audit challenge to ensure robust challenge of the operation of the Tor Bay Harbour Estate;'* That the Tor Bay Harbour Master will request expressions of interest from Harbour Masters at other Harbour Authorities to undertake this role and that the expression of interest that has been received, will not be progressed further.

The Minutes of the meeting of the Harbour Committee held on 14 December 2022 confirmed as a correct record and signed by the Chairman.

23. Port Marine Safety Code

The Tor Bay Harbour Master provided a verbal update on the latest safety initiatives that had been undertaken across the Harbour Authority's operational area.

The Tor Bay Harbour Master explained that there is new legislation being introduced from 31 March 2023 named 'The Merchant Shipping Watercraft Order 2023'. The new law grants the Maritime and Coastguard Agency more powers to crack down on the dangerous misuse of watercraft such as jet skis and to be able to prosecute perpetrators of accidents. Watercraft users will be prosecuted and bound by the same laws that apply to ships in order to help to prevent accidents.

The Tor Bay Harbour Master provided an update on the Oscar IV Patrol vessel that it has been condemned after a recent survey. Temporary repairs have been carried out to the vessel and the Maritime & Coastguard agency have agreed that the vessel can be used for this summer season whilst a new vessel is on order.

Members noted the report and welcomed the provided updates.

24. Review of HM Powers

The committee considered a report which provided details of the delegated powers to the Tor Bay Harbour Master.

Resolved:

That having reviewed the powers delegated to the Tor Bay Harbour Master, that the Harbour Committee finds no reason to propose any changes to the Council for determination.

25. Operational Moorings Policy 2023

The Committee considered a report which set out minor changes to the Tor Bay Harbour Operational Moorings and Facilities Policy for 2022/2023. The Harbour Master informed Members that the policy ensured a fair, consistent and equitable approach which applies to new, existing and any potential facility users.

Resolved:

That the Tor Bay Harbour Operational Moorings and Facilities Policy 2023 be approved.

26. Budget Monitoring 2022/2023

Members considered a report which set out the overall budgetary position for Tor Bay Harbour Authority as of February 2023 compared with the overall approved budgets. It was noted that the report gave an oversight and actions to contain expenditure to maintain the Harbour Reserve Fund at an appropriate level.

Members also noted:

1. the amended outturn projections and adjustments to the Reserve Fund as set out in Appendix 1 to the submitted report;
2. the current level of the Harbour Reserve Fund in 2023;
3. the Head of Tor Bay Harbour Authority & Services use of delegate powers to make decisions in relation to the Harbour budget.

Resolved:

That the Harbour Committee approve the purchase of a new Harbour Patrol vessel for approximately £65,000 funded from the Harbour reserve, and the Director of Finance is recommended to amend the Capital Plan accordingly.

27. Asset Management Plan

The Committee noted the draft Asset Management Plan (AMP) report that ensures that such 'lands, buildings and property' are effectively and efficiently employed to further the aims of both the harbour authority as an undertaking and the wider aims of the Council.

Resolved:

That the Asset Management Plan (AMP) to be reviewed and considered by the new harbour committee once appointed via the sub committees.

28. Committee Work Programme

The Tor Bay Harbour Master explained that the Committee Work Programme will be agreed at the next meeting once the new Harbour Committee Members have been appointed.

29. Thank you for service

The Chairwoman informed the Committee that this was the last meeting for Councillors Ellery, Mills and O'Dwyer as they have chosen not to stand in the upcoming Local Elections. The Chairwoman thanked them for their duty and dedication to the Harbour Committee.

The Chairwoman also informed the Committee that this was the last meeting for Kevin Mowat, Director of Strategic Projects and formerly long serving Harbour Master who retires from Torbay Council as of 31 March 2023. The Chairwoman thanked Mr Mowat for his service and support and wished him well for his retirement.

Chairman

Harbour Committee ~ Terms of Reference – May 2023

Name and Terms of Reference	Membership
<p>Harbour Committee</p> <p>To determine all matters relating to the strategic management of the Council's function as a Harbour Authority as stipulated in The Port Good Governance Guidance, Tor Bay Harbour Port Masterplan and the Council's Policy Framework. Specifically the Committee will:-</p> <p>1. manage all of the Harbour's financial matters in accordance with The Port Good Governance Guidance, approved Council financial procedures and the Council's aspirations for the harbour to be self financing as outlined in the Tor Bay Harbour Port Masterplan and including (but not limited to):</p> <p>(a) the setting of harbour charges from time to time (including in-year changes to the schedule) normally following consultation with the relevant Harbour Liaison Forums and Director of Finance</p> <p>(b) to make recommendations to the Cabinet on the annual ring-fenced Harbour revenue budget to form part of the Cabinet's overall recommendations to the Council on the Annual Revenue budget;</p> <p>(c) receiving quarterly budget monitoring reports and to approve variances as appropriate; and</p> <p>(d) monitoring the harbour reserve funds and to seek to ensure that the funds are kept above an appropriate minimum contingency level and ensure the harbour remains self-financing;</p>	<p>7 members of the Council in accordance with the political balance requirements, plus up to five external non-voting advisors appointed by the Committee on a four year term.</p> <p>(Group Leaders will be asked to take account of the geographical spread of members in making appointments to the Committee)</p> <p>Conservative (4):</p> <p>Liberal Democrat (3):</p>

2. to act as Duty Holder for the purposes of the Port Marine Safety Code, the accountability for which cannot be assigned or delegated;
3. approve and monitor a business plan for Tor Bay Harbour, in line with the Council's policy framework, and address any issues relating to performance;
4. review these terms of reference annually and request the Council to make any necessary amendments and/or additions;
5. review annually the powers delegated to the Head of Tor Bay Harbour Authority and refer any proposed changes to the Council for determination. The Committee itself shall not authorise any changes;
6. consider any other matters referred to the Committee by the Head of Tor Bay Harbour Authority;
7. establish any sub-committee or working parties as the Committee sees fit;
8. recommend the format, composition and governance of the Harbour Liaison Forums and keep the arrangements under review;
9. to provide strategic direction to the Head of Tor Bay Harbour Authority and the Leader of the Council in relation to those assets within Tor Bay Harbour and the harbour estate that are managed by Tor Bay Harbour Authority; and
10. appoint advisors following receipt of recommendations from the Harbour Appointments Sub-Committee. Appointments will be merit based and be in accordance with the Local Protocol for members of the Harbour Committee.

<p>Harbour Appointments Sub-Committee</p> <p>1. To consider ad hoc applications for external advisor positions on the Harbour Committee and recommend to the Harbour Committee the persons who should be appointed to those posts as and when vacancies arise, and to determine the rolling programme for advisors tenure.</p>	<p>5 members of the Council in accordance with the political balance requirements to include the Chairman and Vice-Chairman of the Harbour Committee appointed from the Harbour Committee.</p> <p>Conservative (3):</p> <p>Liberal Democrat (2):</p>
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Meeting: Harbour Committee **Date:** 5th June 2023

Wards affected: All

Report Title: Tor Bay Harbour Authority Revenue Outturn 2022/23

Cabinet Member Contact Details: Not a Cabinet function

Director/Assistant Director Contact Details:

Rob Parsons, Harbour Master, 01803 853321, rob.parsons@torbay.gov.uk

Pete Truman, Principal Accountant, 01803 207302, pete.truman@torbay.gov.uk

1. Purpose of Report

- 1.1 This report provides Members with the details of the Tor Bay Harbour Authority final expenditure and income figures against budget targets for 2022/23

2. Reason for Proposal and its benefits

- 2.1 The Tor Bay Harbour Authority budget for 2022/23, based on a 4.0% increase in harbour charges, was approved by Council on 6th December 2022. Appendix 1 reports the final outturn against this budget and subsequent amendments noted by Committee throughout the year.

3. Recommendation(s) / Proposed Decision

The Committee is asked to note:

- i. the final outturn as reported at Appendix 1 to this report.
- ii. the Harbour Master's use of delegated powers to waive certain harbour charges during 2022/23 which amounts to £439.86

Appendices

Appendix 1: Harbour Revenue Accounts 2022-23

Background Documents

Supporting Information

1. Introduction

- 1.1 The Tor Bay Harbour Authority budget for 2022/23, based on a 4.0% increase in harbour charges, was approved by Council on 6th December 2021.
- 1.2 Appendix 1 reports the final outturn against this budget and subsequent amendments noted by Committee throughout the year.
- 1.3 The original budget reflected the Committee's wish for a reduction in the annual contribution to the General Fund of £135k. The full Council budget approved on 6th March 2022 limited the reduction to £100k.

2. Options under consideration

- 2.1 Not applicable

3. Financial Opportunities and Implications

- 3.1 The final outturn against the revised budget is summarised below:

	Original Budget 2022/23 £000	Projected Outturn 2022/23 £000	Final Outturn 2022/23 £000
Operational Surplus	20	322	541

- 3.2 The harbour account was impacted by the energy crisis and an inflationary pay award for staff higher than originally budgeted. Early concerns of spend pressures were eased as the year progressed and income streams exceeded target.
- 3.3 Fish toll levels were strong throughout the period and remained buoyant during the last few weeks of the year contributing significantly to the higher than projected operational surplus.

3.4 Prudential Borrowing

The harbour's liability for prudential borrowing at the end of 2022/23 was:

Capital Scheme	Amount Borrowed	Start of Repayments	Principal outstanding
Town Dock (Torquay Harbour)	£1,140,000	2008/09	£358,087
Haldon Pier (Torquay Harbour)	£1,200,000	2010/11	£736,384
Brixham Harbour New Fish Quay Development	£4,750,000	2011/12	£3,433,307
Torquay Inner Harbour pontoons (Inner Dock)	£800,000	2014/15	£607,581
Brixham Harbour Jetty	£840,000	2020/21	£807,392
	TOTAL		£5,942,751

3.5 Debt position

The debt position at the end of 2022/23 was:

	Corporate Debtor System		Harbour Charges	
	< 60 days	> 60 days	< 60 days	> 60 days
Debt outstanding	£21k	£201k	£42k	£37k
Bad Debt Provision	£32k			

3.6 Reserves

The level of the Reserve at 31st March 2023 stood at £1.038million following transfer of the operational surplus for the year. In 2011 the Harbour Committee set a reserve target of 20% of budgeted turnover and the current balance now exceeds that target.

3.7 However, there are a number of critical projects which the Head of Tor Bay Harbour Authority has earmarked against this balance (listed at note 15 to the Appendix). Furthermore, current projections are for potential deficits by the Harbour Account in the medium term which, combined with the project funding, could potentially exhaust the Reserve in five years.

4. Legal Implications

- 4.1 The Harbour finances are currently not being run in accordance with the DfT's Ports Good Governance Guidance (March 2018). While not a statutory publication this is considered national 'best practice' for the ports industry.

5. Engagement and Consultation

- 5.1 Feedback from harbour users and liaison forums
Feedback from Committee members
Feedback from fishing industry leaders
Previous Harbour Committee reports

6. Purchasing or Hiring of Goods and/or Services

- 6.1 Not applicable

7. Tackling Climate Change

- 7.1 Not applicable

8. Associated Risks

- 8.1 There is a risk that, should the harbour reserve balance reduce below the target level, the Harbour will require General Fund assistance in future years.
- 8.2 If quayside facilities and services do not remain aligned with user need/requirements then there is a risk that incomes will decline.

Equality Impacts

Not applicable

9. Identify the potential positive and negative impacts on specific groups

9.1 Not applicable

10. Cumulative Council Impact

10.1 Not applicable

11. Cumulative Community Impacts

11.1 Not applicable

HARBOUR REVENUE ACCOUNTS 2022/23 - OUTTURN

TOR BAY HARBOUR AUTHORITY

Expenditure	2022/23	2022/23	2022/23	Notes		2022/23	2022/23	2022/23	Notes
	Original Budget £ ,000	Projected Outturn £ ,000	Final Outturn £ ,000			Original Budget £ ,000	Projected Outturn £ ,000	Final Outturn £ ,000	
Harbour Employee Costs	686	703	688	1					
Premises Costs:-									
Repairs and Maintenance	307	320	276	2	Expenditure brought forward	3,419	3,546	3,446	
Energy & Water	268	284	286	3	Income				
Cleaning & Waste	54	66	55	4	Rents and Rights :-				
Other Premises & Insurance costs	170	182	177	4	Property and Other Rents/Rights	648	661	671	10
Operational Costs:-					Marina Rental	498	498	464	11
Security Services including CCTV	150	157	154	5	Operating Income :-				
Professional Services	72	67	60	5	Harbour Dues	55	44	45	
Equipment and V&P	46	66	62	6	Visitor and Slipway	74	96	96	
SWISCo	88	88	88	7	Mooring fees	251	250	252	
General & administration expenses	86	89	77	7	Pontoon Berths	681	670	668	
Internal Support Services	249	251	251	7	Fish Toll Income	1,000	1,355	1,491	12
User Charges Concessions	13	17	17	8	Recharged Services	101	91	98	13
Capital Charges	559	552	551	8	Harbour Facilities charges	54	85	85	
IFCA Precept	28	27	27		Licences & Contractor passes	10	48	49	14
Contribution to General Fund - EHO	25	25	25		Reserved Car Parking	35	25	25	
Contribution to General Fund	618	652	652	9	Miscellaneous & Administration charges	32	45	43	
						3,439	3,868	3,987	
	3,419	3,546	3,446		Operating Surplus /(Deficit)	20	322	541	

RESERVE FUND

Opening Balance as at 1st April	483
Interest received	14
Net Surplus / (Deficit) from Revenue Account	541
Capital Funding*	0
Closing Balance as at 31st March	1,038

*subject to final closure of capital accounts.

Note: In line with Harbour Committee minute 398 (5) December 2011 the minimum Reserve level at year end 2022/23 is **£688k** based on 20% of budgeted turnover to meet any deficit in the revenue budget or winter storm damage. The balance is earmarked for harbour related capital projects.

HARBOUR REVENUE ACCOUNTS 2022/23 - OUTTURN

NOTES

- 1 An inflationary pay rise for staff for 2022/23 was settled above the budgeted level. Savings were achieved at year end through reduced levels of Agency staff.
- 2 The Projected Outturn includes costs carried forward from 2021/22 now funded directly from the current year revenue account without the need for a call on earmarked funds within the Reserve. Other planned work could not be completed by year end and will be met in 2023/24 from increased Reserve balances generated from this year's operational surplus.
- 3 An initial impact of the energy crisis was built into the projected outturn. This position was closely monitored and the in-year affect was less than originally estimated. The overall position was improved by reduced water consumption levels.
- 4 A refund for overpaid NNDR in prior years at Torquay was received.
- 5 Project management fees to Torbay Development Agency were lower than budgeted.
- 6 Works to the Brixham work boat, carried forward from 2021/22, were met directly from the current year revenue position without the need for a call on earmarked funds within the Reserve.
- 7 Underspends were achieved over a number of administrative headings

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	Budget 2021/22	Outturn 2021/22
	£k	£k
Torquay Town Dock	81	81
Torquay Inner Harbour Pontoons	54	54
Torquay Haldon Pier	81	81
Brixham Harbour Regeneration	282	282
Brixham Harbour Jetty	38	38
Harbour Light (interest only)	16	16
Day Boat Pontoon - Brixham	2	
PrincessPier railings	5	
	559	552

- 9 The budget approved by Harbour Committee on 6th December 2022 included a request for a reduction in the General Fund contribution of £134k. The full Council budget approved on 6th March 2022 limited the reduction to £100k.
- 10 The forecast was revised on the basis of the outturn for 2021/22 and further increases were achieved at Paignton Harbour.
- 11 The budget was based on 2020/21 actuals with an assumed uplift over following years. There has been a delay in receiving the audited turnover details for 2021/22 from the leaseholder and without more timely information the Harbour Account has been closed on the prudent basis of the 20/21 figures.
- 12 Fish toll levels remained buoyant throughout period and remained strong during the peak winter months giving confidence that the budget target would be exceeded. Subsequently, the levels for the final weeks of the year were higher than anticipated, contributing significantly to the increased operational surplus.

HARBOUR REVENUE ACCOUNTS 2022/23 - OUTTURN

- 13 An increase was assumed in line with the estimated rise in energy prices but water recharges reduced due to lower consumption.
- 14 A reduced level was budgeted for Fish Buyer Licences in light of discussions regarding online auctions. In the event, the licences were issued and invoiced for 2022/23 and the position remains under review for 2023/24.
- 15 The Head of Tor Bay Harbour Authority has identified a number of critical projects for which Reserve funding is likely to be required:

	£k
New Humberside Rib	65
Brixham Harbour - concrete pads	1
Harbours & Prom LED lighting	8
Paignton Harbour - TJ's restaurant roof upgrade	12
Torquay Harbour truck replacement	30
Brixham Harbour Chillers replacement	160
Brixham Town pontoon fendering	40
Conservancy/Dredging operations	150
Total from Reserve	466

Harbour Committee Work Programme – 2023/2024 v1

Meeting	Standing items to be considered	Type of Report
27 st March 2023	1. To review the delegated powers of the Head of Tor Bay Harbour and Harbour Master	Decision
	2. To update the Committee on Port Marine Safety Code issues and HM recommendations	To note
	3. To review the Operational Moorings Policy	Decision
	4. To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report	To note
	5. To agree the Harbour Committee Work Programme for 2022/23 (Review Post Election)	To note

Meeting	Standing items to be considered	Type of Report
	1. To update the Committee on Port Marine Safety Code issues and HM recommendations	To Note
	2. To review the Harbour Committee's Terms of Reference as per the Council's Constitution	To Note
	3. To appoint: <ul style="list-style-type: none"> a. a Harbour Appointments Sub Committee b. a Harbour Asset Review Working Party c. a Harbour Budget Review Working Party 	Decision
	4. To consider the Budget outturn for previous financial year	To note

Meeting	Standing items to be considered	Type of Report
	1. To update the Committee on Port Marine Safety Code issues and HM recommendations	Decision/To note
Sept 2023	2. Annual Performance Report of the Tor Bay Harbour Authority Business Unit (SPAR.Net)	To note
	3. To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report	To note
	4. To review and approve the Tor Bay Harbour Asset Management Plan	To Note
	5. To agree the Tor Bay Harbour Authority Business Plan	Decision

Meeting	Standing items to be considered	Type of Report
	1. To update the Committee on Port Marine Safety Code issues and HM recommendations	Decision/To note
December 2023	2. To consider the Tor Bay Harbour Authority Budget and Setting of Harbour Charges	Decision
	3. To consider the Annual Compliance Audit of the Port Marine Safety Code	Decision
	4. To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report	To note