

Friday, 24 November 2023

**HARBOUR COMMITTEE**

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

**Monday, 4 December 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

Councillor Brook

Councillor Carter

Councillor Fellows

Councillor Fox

Councillor Penny

Councillor Twelves

**External Advisors**

Mr Day and Mr Young

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**Together Torbay will thrive**

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

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) - [www.torbay.gov.uk](http://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 - 14)  
To confirm as a correct record the Minutes of the meeting of the Committee held on 4 September 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. **Harbour Committee Work Programme 2024/2025** (Page 15)  
To review a report on the above.
6. **Tor Bay Harbour Budget Monitoring 2023-24** (Pages 16 - 23)  
To consider a report setting out the overall budgetary position for Tor Bay Harbour Authority as at October 2023 compared with approved budgets.
7. **Harbour Budget 2024/25 and Schedule of Fees and Charges** (Pages 24 - 25)  
To consider a report on the Harbour Authority revenue budget and to set the level of fees and charges, for the forthcoming year.
8. **Tor Bay Harbour Operational Moorings Policy 2024/25** (Pages 26 -

To consider a report on the above.

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**9. Exclusion of the Press and Public**

To consider passing a resolution to exclude the press and public from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined by the Local Government (Access to Information) Act, 1985) is likely to be disclosed.

## **Minutes of the Harbour Committee**

**4 September 2023**

**-: Present :-**

Councillor Strang (Chairman)

Councillors Brook, Carter, Fellows, Penny and Twelves (Vice-Chair)

**38. Apologies**

An apology for absence was received from Councillor Fox.

**39. Minutes**

The Minutes of the meeting of the Harbour Committee held on 5 June were confirmed as a correct record and signed by the Chairman.

**40. Urgent Items**

The Committee were advised of a medical incident at Torquay Harbour to which the Harbour Team responded.

**41. Brixham Lighting Update**

Members received a presentation and a verbal update on Torbay Illuminations from the Tor Bay Harbour Master.

It was noted that the new lighting installation at Brixham Harbour had caused issues with navigation and this was currently being addressed.

**42. Harbour Master report (Port Marine Safety Code)**

Members received a presentation (as attached to these minutes) from the Tor Bay Harbour Master on the core principles of the Port Marine Safety Code which set out the statutory responsibility of the Harbour Committee. Members noted the individual and collective responsibilities for the duty holder role for port operations as set out in the code.

The Committee received a verbal update on a review to introduce a 'fish sellers licence' to potentially allow the sale of fish from vessels. It was noted the outcome of the review would be circulated to members.

The Harbour Master advised that Tor Bay Harbour Authority were up to date on all risk assessments, which had been submitted via the Council's Health and Safety System.

Members were also provided an update on the key headlines on recent events for Tor Bay Harbour Authority. The Harbour Master further explained, the short term, medium and long term operational priorities for the Tor Bay Harbour Authority.

**43. Financial Update (Budget Monitoring)**

The Harbour Committee noted a report that provided members with a financial update.

The Harbour Master informed Members that the budget overspend on the maintenance budget is due to some repairs and maintenance which were required to a building located at Paignton Harbour.

The Harbour Master asked members to note his concern of the opening balance of the Harbour reserve for this financial year. Members noted the importance of retaining the Harbour reserve level at a high level.

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Chairman



# Tor Bay Harbour Committee 4<sup>th</sup> September 2023

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Harbour Master and Divisional  
Director Maritime and Coastal  
Services

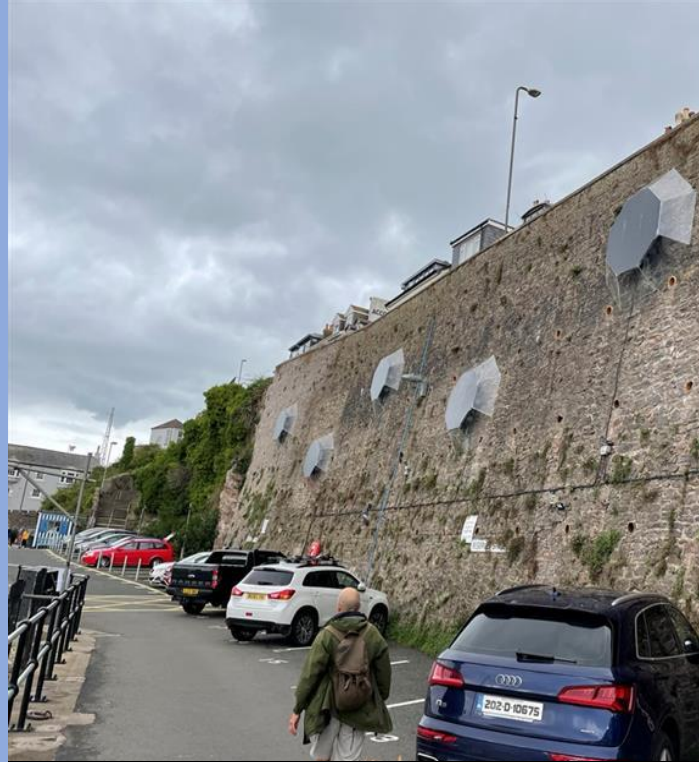
Minute Item 42



# Torbay Illuminations

- Aesthetics
- Planning Concerns
- Aids to Navigation
- Communication

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# Next Steps/ Recommendation

- Remove the Lights
- Set up initial meeting with the contractor (reuse options)
- Stakeholder engagement (Funds available) Natural England/EA
- Capture options – deliverability / Neighbourhood Plan / Conservation
- Consultation – Present 3 Options
- Outcome

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# Port Marine Safety Code



- *The Duty Holder are both Individually and collectively responsible under the Code*

# PMSC Core Principles Tor Bay Harbour Authority



Duty Holder (BPA Training) ✓



Designated Person ✓



Legislation (Fish Sellers Licence)?



Duties and Powers ✓



Risk Assessments (Elberry) (Assure) ✓



Marine Safety Management System -



Review and Audit ✓



Competence ✓

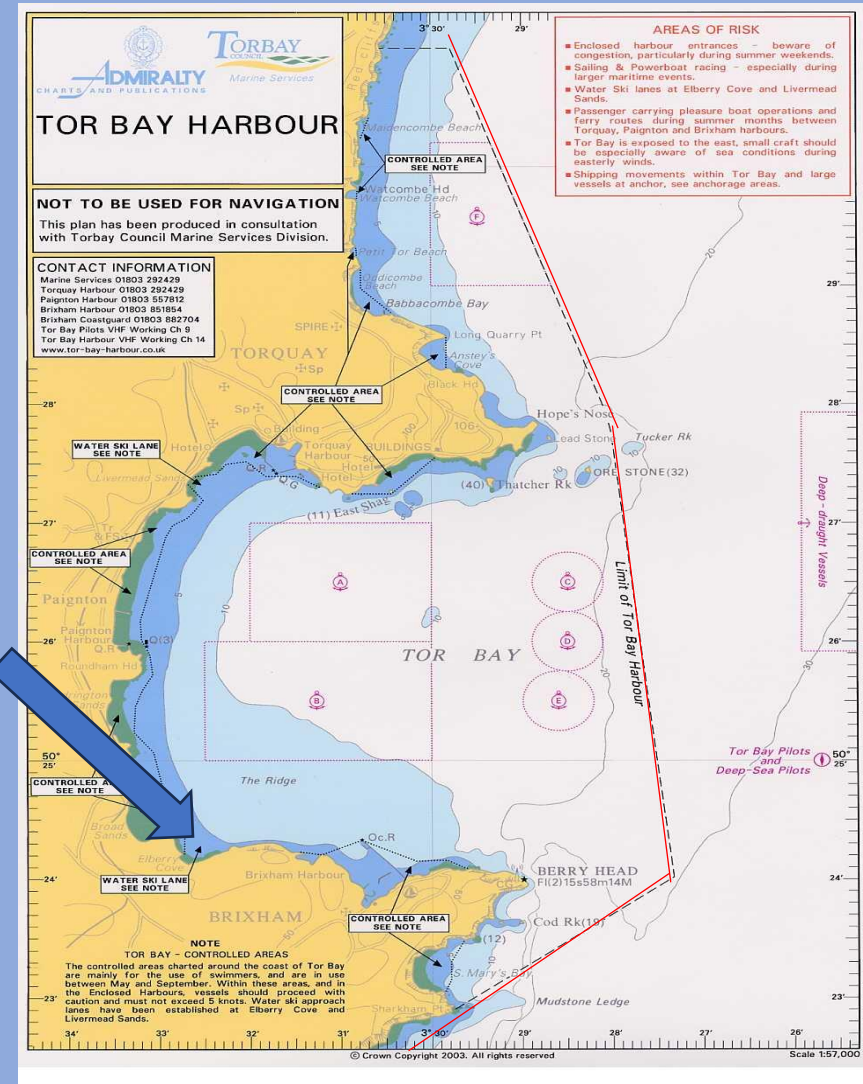


Plan ✓



Aids to Navigation ✓

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# Harbour Authority Key Headlines

- Storm Antoni
- Accumulate
- Oscar 4 Coding and Trials complete
- Cruise



# Operational Priorities

## Short Term

Recruitment (Manning Levels)

Key Positions (BM) (Beach M)

Fish Volume and sales requirement (Programme Plan)

Accumulate

Oscar 4 – coding and endorsements

Brixham Lights

Schedule of Charges /Budget

Internal PMSC Audit

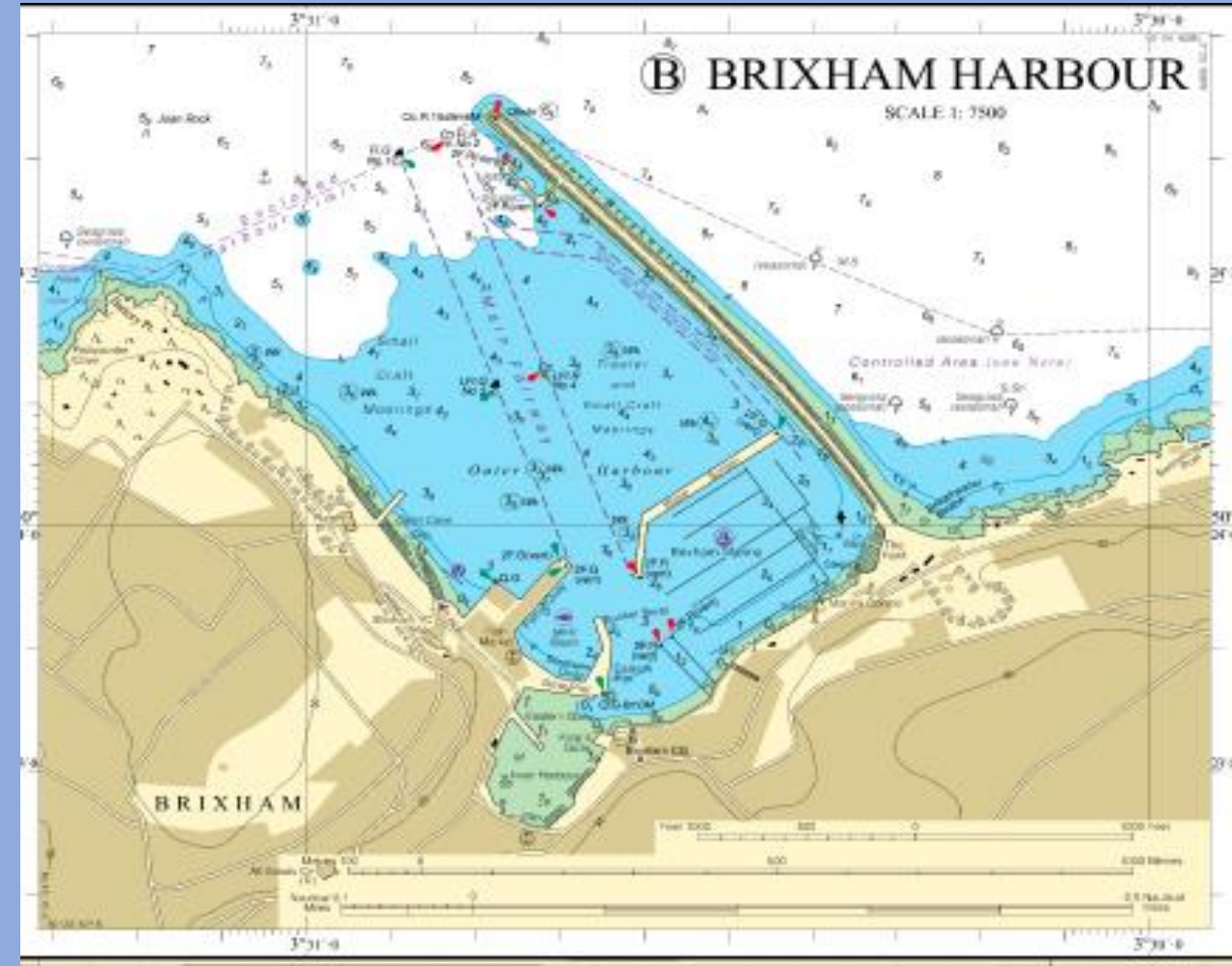
## Medium Term

- Dredging
- Port Master Plan
- Emergency Plan review
- Port Security Review (DfT)
- External Health Check



## Long Term

- Programme Plan
- Prioritisation of Projects
- Identification of Funds
- Employment Land
- Inclusion of All Harbour Users



# Questions

# TORBAY COUNCIL

## Harbour Committee Work Programme – 2024/2025 v1

Meeting	Standing items to be considered	Type of Report
March 2024	1. To review the delegated powers of the Head of Tor Bay Harbour and Harbour Master	Decision
	2. To receive the Harbour Master's Port Marine Safety Code Audit 2024	To note
	3. To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report	To Note

Meeting	Standing items to be considered	Type of Report
June 2024	1. To review the Harbour Committee's Terms of Reference as per the Council's Constitution	To Note
	2. To appoint: <ul style="list-style-type: none"> <li>a. a Harbour Appointments Sub Committee</li> <li>b. a Harbour Asset Review Working Party</li> <li>c. a Harbour Budget Review Working Party</li> </ul>	Decision
	3. To consider the Budget outturn for previous financial year	To note
	4. To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report	To note

Meeting	Standing items to be considered	Type of Report
Sept 2024	1. Annual Performance Report of the Tor Bay Harbour Authority Business Unit (SPAR.Net)	To note
	2. To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report	To note
	3. To review and approve the Tor Bay Harbour Asset Management Plan	Decision
	4. To agree the Tor Bay Harbour Authority Business Plan	Decision

Meeting	Standing items to be considered	Type of Report
	1. To consider the Tor Bay Harbour Authority Budget and Setting of Harbour Charges	Decision
	2. To Approve the Tor Bay Operational Moorings policy	Decision
	3. To consider the Tor Bay Harbour Authority quarterly Budget Monitoring Report	To note

**Meeting:** Harbour Committee

**Date:** 4<sup>th</sup> December 2023

**Wards affected:** All wards

**Report Title:** Tor Bay Harbour Budget Monitoring 2023-24

**Cabinet Member Contact Details:** Not a Cabinet function

**Director/Assistant Director Contact Details**

Rob Parsons, Harbour Master, [rob.parsons@torbay.gov.uk](mailto:rob.parsons@torbay.gov.uk)

Pete Truman, Principal Accountant, [pete.truman@torbay.gov.uk](mailto:pete.truman@torbay.gov.uk)



## 1. Purpose of Report

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- 1.1 This report updates the Committee on the overall budgetary position for Tor Bay Harbour Authority as at end October 2023 compared against the budget approved on 14<sup>th</sup> December 2022.

## 2. Reason for Proposal and its benefits

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- 2.1 As a standing agenda item, this report is presented to each Committee meeting to enable appropriate oversight and action to contain expenditure and maintain reserve at appropriate levels.

## 3. Recommendation(s) / Proposed Decision

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The Committee is asked to note:

- i. the amended revenue outturn projections and adjustments to the Reserve (Appendix 1);
- ii. the change in projected level of the harbour reserves by end 2023/24 (below the Committee's recommended level);
- iii. the Head of Torbay Harbour Authority's' use of delegated powers to make decisions in relation to the harbour budget;
- iv. the Harbour Master's use of delegated powers to waive certain harbour charges (not exercised in the current year to date).

### **Appendices**

Appendix 1: Harbour Revenue Account 2023-24

### **Background Documents**

DfT [Ports Good Governance Guidance](#)

## Supporting Information

### 1. Introduction

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- 1.1 The 2023/24 Tor Bay Harbour Authority budget was approved by the Committee on 14<sup>th</sup> December 2022. This is the second monitoring report for the 2023/24 financial year.

### 2. Options under consideration

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- 2.1 Appendix 1 to this report provides the Harbour revenue account statement with projected outturns and associated notes.

### 3. Financial Opportunities and Implications

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- 3.1 There is a slight reduction in the latest projected deficit of the harbour revenue account against the original budget:

	<b>Original Budget £000</b>	<b>Projected Outturn Sept Cttee £000</b>	<b>Projected Outturn Dec Cttee £000</b>
Operational Surplus/(Deficit)	(44)	(41)	(37)

- 3.2 Increased expenditure on Repairs & Maintenance and Energy has been partially offset in-year by salary savings on vacant posts. Income levels remain generally on target with some additional revenue from licences and miscellaneous charges.
- 3.3 Fish toll levels are currently buoyant, but it remains too early in the season to forecast beyond the approved budget target.
- 3.4 The Harbour Reserve balance at the start of the year was £1,038k but is expected to fall back to £528k, below the minimum recommended level, by year end once all earmarked spends are completed. A breakdown of planned schemes is detailed in the table below and further expenditure of £100k is earmarked in 2024/25.

<b>Earmarked Funding from Reserve 2023/24</b>	<b>£k</b>
New Humberside Rib	76
Brixham Harbour Concrete pads	1
Harbours & Prom LED lighting	8
Paignton Harbour TJ's roof	25
Torquay Harbour truck replacement	30
Brixham Harbour Chillers	160
Brixham Town Pontoon Fendering	40
Brixham Harbour moorings replacement	50
Brixham Offices Fire Alarm	63
<b>Total from Reserve</b>	<b>453</b>

### 3.5 Prudential Borrowing

The Harbour's outstanding borrowing liability is:

<b>Capital Scheme</b>	<b>Amount Borrowed</b>	<b>Start of Repayments</b>	<b>Principal outstanding 01/04/23</b>	<b>Principal outstanding 31/03/24</b>
Town Dock (Torquay Harbour)	£1,140,000	2008/09	£358,087	£292,508
Haldon Pier (Torquay Harbour)	£1,200,000	2010/11	£736,384	£688,639
Brixham Harbour New Fish Quay Development	£4,750,000	2011/12	£3,433,307	£3,305,224
Torquay Inner Harbour pontoons (Inner Dock)	£800,000	2014/15	£607,581	£581,012
Brixham Harbour Jetty	£840,000	2020/21	£807,392	£795,809
<b>TOTAL</b>			<b>£5,942,751</b>	<b>5,663,192</b>

### 3.6 Debt Position

The aged debt position is set out below. The outstanding Harbour Charges debt largely reflects payment of user charges by instalments and the overall figure will reduce throughout the year.

	Corporate Debtor System		Harbour Charges	
	< 60 days	> 60 days	< 60 days	> 60 days
Debt outstanding	£76k	£186k	£31k	£101k
Bad Debt Provision	£27k			

## 4. Legal Implications

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- 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

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- 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

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- 6.1 Not applicable

## 7. Tackling Climate Change

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- 7.1 Not applicable



## 8. Associated Risks

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- 8.1 With the harbour reserve at a low level there is a risk that the Harbour will require a General Fund precept to retain a balanced budget.
- 8.2 If quayside facilities and services do not remain aligned with user need/requirements then there is a risk that incomes will decline.

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

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- 9.1 Not applicable

## 10. Cumulative Council Impact

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- 10.1 Not applicable

## 11. Cumulative Community Impacts

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- 11.1 Not applicable



## HARBOUR REVENUE ACCOUNTS 2023/24 - BUDGET MONITORING

### NOTES

- 1 Vacancy savings have accrued to date.
- 2 Additional expenditure over budget has been incurred on improvement to a leased asset at Paignton Harbour. Expenditure is likely to further increase by spend on approved work carried forward from 2022/23 with earmarked funding from the Reserve.
- 3 Energy cost pressures continue but are partially offset by reductions in Water useage.
- 4 Survey costs in respect of a leased property at Paignton Harbour
- 5 Security ANPR system installed at Brixham Harbour.
- 6 The Council maintained Internal recharges at 2022/23 level.
- 7 Borrowing costs of various Harbour schemes:

	£k
Torquay Town Dock	81
Torquay Inner Harbour pontoons	54
Torquay Haldon Pier	81
Brixham Harbour Regeneration	282
Brixham Harbour Jetty	38
Harbour Light	16
	<u>552</u>

- 8 First phase of Conservancy works across the three harbours. Earmarked funding of £150k forms part of the current Reserve balance.
- 9 A leased property was vacated during the year and an evaluation of the future use of the site is being undertaken prior to any new lease.
- 10 User facilities have achieved target at Paignton and Brixham. Torquay income is currently below budget and is being reviewed.
- 11 Income from Boat and Trailer Parking and advertising has exceeded budget expectations.
- 12 A reduced level was budgeted for Fish Buyer Licences pending a review which is ongoing. Charges have been invoiced for 2023/24.
- 13 Earmarked funding for the Conservancy spend at note 8.
- 14 Earmarked funding including schemes carried forward from 2022/23 and urgent works arising in the current year

New Humberside Rib	76
Brixham Harbour Concrete pads	1
Harbours & Prom LED lighting	8
Paignton Harbour TJ's roof	25
Tqy Harbour truck replacement	30
Bxm Harbour Chillers	160
Bxm Town Pontoon Fendering	40
Brixham Harbour moorings replacement	50
Brixham Offices Fire Alarm	63
<b>Total from Reserve</b>	<u><b>453</b></u>

# Agenda Item 7

## HARBOUR REVENUE ACCOUNTS 2022/23 to 2027/28

Expenditure	2022/23 Base Budget £ ,000	2022/23 Final Outturn £ ,000	2023/24 Cttee Budget £ ,000	2023/24 Draft Projected Outturn £ ,000	2024/25 Provisional Budget £ ,000	2025/26 Provisional Budget £ ,000	2026/27 Provisional Budget £ ,000	2027/28 Provisional Budget £ ,000	Notes
Harbour Employee Costs	686	688	824	794	849	870	892	914	1
Premises Costs:-									
Repairs and Maintenance	307	276	332	356	345	352	359	366	
Energy & Water	268	286	357	367	388	396	404	412	2
Cleaning & Waste	54	55	59	64	63	61	62	63	
Other Premises & Insurance costs	170	177	194	199	214	218	223	227	3
Operational Costs:-									
Security Services including CCTV	150	154	157	158	165	168	172	175	
Professional Services	72	60	75	82	78	78	80	81	4
Equipment and V&P	46	62	59	69	61	61	62	63	
SWISCo	88	88	96	96	100	102	104	106	
General & administration expenses	86	77	87	94	90	91	93	95	
Internal Support Services	249	251	274	253	263	268	273	279	
User Charges Concessions	13	17	25	18	26	26	27	27	
Conservancy (Dredging)			50	50	100	0	0	0	5
Capital Charges	559	551	552	552	587	587	587	587	6
IFCA Precept	28	27	28	27	28	29	30	30	
Contribution to General Fund - EHO	25	25	25	31	32	33	33	34	
Contbn to General Fund (Asset Rental)	618	652	652	652	652	652	652	652	
	<b>3,419</b>	<b>3,446</b>	<b>3,846</b>	<b>3,862</b>	<b>4,041</b>	<b>3,992</b>	<b>4,051</b>	<b>4,112</b>	
<b>Income</b>									
Rents and Rights :-									
Property and Other Rents/Rights	603	671	698	695	695	703	703	703	
Marina Rental	462	464	523	523	553	564	575	587	7
Operating Income :-									
Harbour Dues	158	45	43	49	45	45	46	47	8
Visitor and Slipway	67	96	98	89	102	104	106	108	8
Mooring fees	210	252	276	281	287	293	290	296	8
Pontoon Berths	613	668	749	734	763	778	794	810	8
Fish Tolls	1,000	1,491	1,100	1,100	1,100	1,100	1,100	1,100	
Recharged Services	163	98	131	123	127	132	135	137	
Harbour Facilities charges	78	85	60	71	70	71	72	74	8
Licences & Contractor passes	35	49	20	52	43	44	45	46	8
Reserved Car Parking	40	25	26	26	25	26	26	27	
Miscellaneous & Administration charges	29	43	28	32	22	22	23	23	
Contributions from Reserve	0		50	50	100	0	0	0	9
	<b>3,458</b>	<b>3,987</b>	<b>3,802</b>	<b>3,825</b>	<b>3,932</b>	<b>3,882</b>	<b>3,915</b>	<b>3,957</b>	
<b>Operating Surplus /(Deficit)</b>	<b>39</b>	<b>541</b>	<b>(44)</b>	<b>(37)</b>	<b>(109)</b>	<b>(110)</b>	<b>(136)</b>	<b>(155)</b>	
Insurance claim settlement									
Contributions to Reserve/Impairment provision									
<b>Net to/(from) Reserve</b>	<b>39</b>	<b>541</b>	<b>(44)</b>	<b>(37)</b>	<b>(109)</b>	<b>(110)</b>	<b>(136)</b>	<b>(155)</b>	
<b>RESERVE FUND</b>									
Estimated Opening Balance as at 1st April		483		1,038	528	336	236	108	
Interest Receivable		14		30	17	10	8	5	
Net Surplus / (Deficit) from Revenue Account		541		(37)	(109)	(110)	(136)	(155)	
Contribution to/from Revenue account				(453)	0	0	0	0	9
Earmarked contrbn re: dredging works				(50)	(100)	0	0	0	5
Withdrawals - Harbour Capital Schemes				0	0	0	0	0	
Expected Closing Balance as at 31st March		<b>1,038</b>		<b>528</b>	<b>336</b>	<b>236</b>	<b>108</b>	<b>(42)</b>	
Minimum Reserve Level			760		786	776	783	791	

**HARBOUR REVENUE ACCOUNTS 2022/23 to 2027/28**

**Notes**

- 1 The provision for 2024/25 reflects the full cost of the Harbour establishment.
- 2 High costs resulting from the Energy Crisis are likely to have a significant impact on the Harbour account in the medium term.
- 3 An increase above inflation level has been assumed for premia costs on specialist marine insurance on the back of recent claims history.
- 4 Service level agreement costs for Property and Estates services currently undertaken by Torbay Development Agency. Also includes ad hoc project management costs to TDA.
- 5 A programme of dredging will be implemented by the Head of Tor Bay Harbour Authority funded by the specific amount set aside within the Reserve.

	2023/24 £k	2024/25 on £k
Torquay Town Dock	81	20
Torquay Town Dock - replacement		96
Torquay Inner Harbour pontoons	54	54
Torquay Haldon Pier	81	81
Brixham Harbour Regeneration	282	282
Brixham Harbour Jetty	38	38
Harbour Light	16	16
	<u>552</u>	<u>587</u>

7 Marina rentals have been based on the audited income for 2019/20 (the 2020/21 figures were impacted by Covid) uplifted for assumed inflation year on year. The audited accounts for 2021/22 and 2022/23 are yet to be received.

8 The Provisional Budget 2024/25 assumes an inflationary increase of 4.0% on user charges (in line with expectation placed on General Fund income streams). CPI inflation at October 2023 was 4.6%. The effect of different increase levels is shown below:

	4% increase £k	5% increase £k	6% increase £k
Harbour Dues	45	45	46
Visitor and Slipway	102	103	104
Mooring fees	287	290	293
Pontoon Berths	763	770	778
Other income	111	112	113
	<u>1,308</u>	<u>1,320</u>	<u>1,334</u>

9 Earmarked funding including schemes carried forward from 2022/23 and urgent works arising in the current year.

	2023/24 £k
New Humber side Rib	76
Brixham Harbour Concrete pads	1
Harbours & Prom LED lighting	8
Paignton Harbour T.J's roof	25
Tqy Harbour truck replacement	30
Bxm Harbour Chillers	160
Bxm Town Pontoon Fendering	40
Brixham Harbour moorings replacement	50
Brixham Fire Alarm	63
<b>Total from Reserve</b>	<u><b>453</b></u>

**TOR BAY HARBOUR AUTHORITY**

**OPERATIONAL MOORINGS AND FACILITIES**  
**POLICY**

**TOR BAY**

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**HARBOUR**

**Version 2.0**  
**2024/2025**



## **Tor Bay Harbour Authority**

### **Operational Moorings and Facilities Policy**

#### **Introduction**

Tor Bay Harbour is a strategic asset of the Bay and of fundamental importance to the economic and cultural wellbeing of the area. Torbay Harbour Authority is the Statutory Harbour Authority which discharges the duties and responsibilities detailed in the Tor Bay Harbour Act 1970. This Act is in turn based upon the Harbours, Docks and Piers Clauses Act 1847, which confers certain powers upon the Harbour Master concerning management of the Harbour.

The provision and management of mooring facilities within Tor Bay is one of the Harbour Authority's core activities.

The purpose of this policy is to guide the management of the Harbour Authority whenever it takes decisions on issues relating to the provision of mooring or berthing facilities within Tor Bay. It also ensures that a consistent, fair and equitable approach is applied to new, existing and potential facility users in Tor Bay and upon the harbour estate. The policy does not form part of Torbay Council's strategic policy framework.

Every decision regarding mooring facilities will be based upon a number of factors, the principal factors being:

- Safety and efficiency.
- The requirements of safe navigation;
- Conservation of the environment.

This policy is not a legal document and the Harbour Authority reserves the right to exercise its absolute discretion over any decision and reserves the right to amend and or republish the conditions at any time.

Subject to the Council's Port Masterplan, nothing within this policy shall interfere with the Harbour Master's overall ability to allocate or regulate the number, location, size and type of facilities being used at any time within Tor Bay Harbour. It supplements the Tor Bay Harbour Act 1970 (and subsequent amending legislation), the associated harbour bye- laws, and the facility agreement conditions.

We have tried to include all situations and circumstances, however if an issue arises that has not been considered I will undertake to ensure that an open, fair and just resolution is sought.



**Rob Parsons**

**Tor Bay Harbour Master & Head of Tor Bay Harbour Authority**

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## **Definitions** (extracts from the Tor Bay Harbour Act 1970 & Harbour Byelaws)

1. “Harbour” means the limits of Tor Bay Harbour as comprised in the areas in Part I and Part II in the Schedule of Byelaws. “Enclosed Harbours” means at Torquay the area of water enclosed by an imaginary line drawn from the western end of Haldon Pier to the south eastern end of Princess Pier; at Paignton the area of water enclosed by an imaginary line drawn from the eastern end of North Quay to the northern end of Eastern Quay; and at Brixham the area of water enclosed by the Breakwater, an imaginary line from the northern end of the Breakwater to Battery Point and the shore.
2. “Harbour Estate” means the piers, wharves, quays, jetties, stages, berths, slipways, roads, sheds, and other works and conveniences and the lands, buildings and property of every description and of whatever nature which are for the time being vested in or occupied by the Harbour Authority and used for the purpose of the Harbour undertaking.
3. “Harbour Master” means the Harbour Master appointed by the Council and includes his authorised deputies, assistants and any other person authorised by the Council to act in that capacity.
4. “Inner part of Brixham Enclosed Harbour” means the area of water enclosed by an imaginary line drawn from the eastern end of New Pier to Kings Quay.
5. “Quays” means any quay, wharf, jetty, dolphin, landing stage or structure used for berthing or mooring vessels, and includes any pier, bridge, roadway or footway immediately adjacent and affording access thereto adjoining the Enclosed Harbours.
6. “Master” when used in relation to any vessel, means any person having the command, charge or management of the vessel for the time being.
7. “Vessel” means every description of water craft however propelled or moved including non-displacement craft and everything constructed or used to carry persons or goods by water.
8. “Council” means Torbay Council.
9. “Authority” means the Tor Bay Harbour Authority.
10. “Facility” means any mooring, berth, boat-park space, tender rack, locker, store etc.
11. “Facility holder” means the person or persons allocated the use of a facility subject to the conditions of use written on the appropriate Facility Agreement Form.
12. “Loss, injury or damage” means any loss, injury or damage, which may occur to any person, vessel, vehicle or their contents, or to any other goods or things.
13. “Facility Form Agreement and conditions” shown in Appendix 1.

## **Types of facility**

“Swinging Mooring” – a means to secure a vessel to a heavy ground chain on the seabed, via a single riser chain. The arrangement allows the vessel to move so that it will head into the wind or the tide – whichever is the stronger.

“Trot Mooring” – a means to secure a vessel fore and aft via separate riser chains. This arrangement does not allow the craft to move freely with the wind/tide and this enables many more boats to be moored in the same area. The fore and aft element of the mooring is tied together, via a single pick-up buoy, even when the facility is unoccupied.

“Pontoon Mooring” – a means to secure a vessel fore and aft alongside a pontoon or a ‘finger pontoon’ secured thereto. Some pontoons are connected to the shore and are known as “walk ashore” pontoons.

“Running/Outhaul Moorings” - used to tether small craft (< 16ft) to a looped line running from the shore to a fixing, on a riser chain, secured to the harbour fundus. The boat can be pulled in and out using the running line.

“Tender rack” are racks into which small and light craft may be stored on end. Tenders are to be used to transport to and from the parent vessel, not to be left unattended on chargeable areas

“Kayak rack” are racks into which canoes or kayaks can be securely stored.

“Boat Park Space” refers to an allocated quayside space for the dry storage of boats/dinghies on trolleys/trailers which are launched and/or recovered via a slipway.

“Berthing” means tying up against a harbour wall or pontoon.

## **Facility Charges**

All fees and charges can be found in the extant ‘Tor Bay Harbour Authority Schedule of Charges, Dues & Fees’.

## **Facilities Allocation**

Private facilities are only available to council taxpayers who's main or principal residence is within the Devon area, unless otherwise stated within this policy or as agreed by the Harbour Master. Proof of such residence maybe be required.

## **Private Facilities (Non-Commercial) Waiting Lists**

A non-commercial mooring or facility can only be offered and allocated to the person whose name is next on the appropriate waiting list subject to the priority definitions below. A non-refundable registration fee is required to join a waiting list. Lists will be closed if they are over-subscribed, to prevent unduly lengthy waiting time for a facility. Waiting list procedures can be found in Appendix 2. **Under normal circumstances the applicant will only be given two offers of a facility**, all subsequent offers will only be made in exceptional circumstances. **Any applicants that decline two offers of a harbour facility will have their name removed from waiting lists.**



## **Torquay Town Dock Allocation Restrictions**

The Torquay Town Dock waiting lists names will only be accepted from those with a primary address in the TQ1 to TQ5 postcode areas, on a first come first served basis, to be confirmed by a check of Council Tax records and/or Electoral Register information. Town Dock and Torquay Inner Dock Pontoon berths will only be allocated to people outside the TQ1 to TQ5 postcode areas but within Devon if no waiting list exists or at the Harbour Master's Discretion.

## **Mooring Exchange Scheme - Torquay Town & Inner Dock**

Customers with existing 6 metre, 8 metre, 9.14 metre and 10 metre berths on the Town Dock or Inner Dock at Torquay, may be able to exchange their facility for an alternative sized berth. Further details including eligibility criteria can be found in Appendix 3.

## **Commercial Moorings Waiting Lists**

Waiting lists exist for a number of specified commercial moorings. Currently these can be split into specific numbers of facilities for passenger carrying craft and other moorings identified for commercial craft such as fishing vessels. To avoid over-capacity the Council has an established policy to restrict the number of annual moorings/berths for passenger carrying craft at each of the enclosed harbours. Restrictions also exist to limit the number of commercial and fishing vessel moorings at Torquay and Paignton harbours. These restrictions will be managed by the Harbour Master. This policy allows the transfer of use of a commercial mooring facility to the new owner of a commercial boat. i.e. where a commercial boat ceases to operate at any Harbour and the operator sells his/her business, the Harbour Master may transfer the mooring facilities to the new owner. This mooring transfer does not apply to all commercial moorings but would normally apply if the owner has already received the benefit of this transfer policy. A specific number of fishing vessel moorings exist at Torquay and Paignton harbours.

Entry onto a commercial moorings waiting list requires a non-refundable registration fee.

Given the obvious demand for this type of mooring and the significant contribution made by passenger carrying boats to the English Riviera tourism product, the Harbour Authority will operate a "use it or lose it" policy. If a commercial or passenger boat owner does not put a vessel on the allocated mooring facility for two consecutive years, or in the view of the Harbour Master the commercial vessel is only infrequently and irregularly operated, the mooring facility will be allocated to the next appropriate applicant on the waiting list. In this context, a commercial vessel operated for fewer than 10 days in a year would be considered to be infrequently or irregularly operated.

## **Facilities for Heritage Vessels**

A limited number of 'Heritage' vessels are permitted, with the Harbour Master's consent, to berth on the Town Pontoon in Brixham Harbour, provided they have

alternative bad weather mooring facilities within the harbour. The Council's agreed criteria against which vessels could be measured for inclusion within the "fleet" of heritage boats based at Brixham Harbour is as follows :-

*"that a heritage boat in Torbay be defined as a vessel which is British built, 40 feet or more in length and built prior to 31st December 1935 and that, at the absolute discretion of the Council, is considered to have an historical relevance to Tor Bay and its operation and general activity is considered to be beneficial to the local community; and that compliance with the approved definition of a heritage boat should form the basic criteria against which vessels can be measured for inclusion within the "fleet".*

### **Boat Park Spaces**

Certain boat park spaces contain racking to permit more than one vessel to be stored in a single space. Racks provided by the Harbour Authority will be charged per rack in accordance with the extant 'Tor Bay Harbour Authority Schedule of Charges, Dues & Fees'. Recognised Youth Groups may apply to the Harbour Master for approval to erect their own racking and in these circumstances, if consent is granted; the charges will only apply to the quay space occupied by the racking.

### **Duration of Facility Agreement**

These run for a maximum of 12 months commencing on the 1<sup>st</sup> of April and expiring on the 31<sup>st</sup> March of the following year. However, vacancies that arise after 1<sup>st</sup> April will be filled from the waiting list and run from the acceptance date up to the 31<sup>st</sup> March. The Harbour Master reserves the right to determine whether to renew an allocated facility and will review such allocation on an annual basis.

The Harbour Master may at any time designate to the facility holder an alternative location for such a facility, whereupon the applicant will move their vessel and/or any other possessions or chattels from the previous location to the appointed new location for such a facility forthwith.

### **Facility Renewals**

At the beginning of each calendar year the Harbour Authority may invite existing facility holders to retain their facility(ies) via a rolling annual invoice contract detailing the appropriate fees and charges. Facilities that are not retained will be allocated to the next person on the appropriate waiting list.

Note that existing holders may not be invited to renew their facility if they:

- have failed to comply with harbour regulations
- have been abusive towards harbour staff
- have required repeated chasing for payment
- owe the Council or the Harbour Authority outstanding debts
- If the vessel is in a poor state of repair and therefore deemed injurious
- Insurance documents not provided upon request
- A discretionary facility being discontinued

## **Cancellation of Facility Form Agreement**

The facility holder may request that their Facility Form Agreement is cancelled by giving 1 month written notice to the Council. If there are no monies outstanding when the request is received then the facility will be withdrawn immediately. However some customers (especially those who elect to pay by Direct Debit) may still owe money and will not have their request accepted until this money has been paid and the facility has been re-allocated. However, the fee already paid may be retained by the Council where no latent demand exists. If the annual facility agreement is not cancelled prior to April 1<sup>st</sup>, it will be assumed that the customer wishes to continue with the facility and the customer will be liable for the annual facility fees and charges.

The Council may terminate the Facility Form Agreement at any time by giving 1 months' notice in writing to the facility holders last known address. For the avoidance of doubt, the Harbour Master has delegated authority to terminate Facility Form Agreements on behalf of the Council. **A facility may be terminated and/or not renewed for a number of reasons and these may include but are not limited to; bad debt, failure to comply with harbour regulations, abuse towards harbour staff, injurious vessel, proof of insurance not provided and a discretionary facility being discontinued.**

## **Risk, Liability, Insurance Requirements and Recommendations (Facility Agreement Conditions 1, 2, 3, 4 & 5)**

All reasonable care will be taken of the facility holder's property but whilst precautions will be taken to prevent loss and/or damage all vessels are berthed, moored, launched, moved and hauled out at the risk of the applicant. The applicant is therefore required to make sure that his/her vessel and property are adequately insured against all risks. Insurances shall be maintained and evidence that the vessel is insured shall be provided to Tor Bay Harbour upon request. Vessels found to be without insurances may have an allocated berth cancelled.

If the vessel sinks at the mooring or within the harbour limits it will have to be recovered and removed from the harbour by the vessel's owner. Failure to remove such a vessel from the harbour in such a period as shall be specified by the Harbour Master in his absolute discretion (including immediate notice) will result in the Council recovering and removing the vessel and the appropriate charges being made. Such charges shall be a debt due from the Facility Form Agreement holder to the Authority. It is therefore strongly recommended that your insurance policy includes a 'wreck removal' clause.

The facility holder shall indemnify the Council, their servants and agents against all actions, claims, costs and demands in respect of any injury or death of any person and any damage to any property which may arise out of the applicant's occupation and use of the harbour facilities including slipways, steps, jetties and staging and for this purpose shall maintain a Public Liability policy against such risks. Failure to maintain the appropriate insurance cover, evidence to be provided upon request by Tor Bay Harbour Authority, will result in the withdrawal of the mooring, launching and other facilities.

All facility holders using any part of the harbour facilities including slipways, steps, jetties and staging, for whatever purpose in connection with this application and

whether by the Council's invitation or not, are expected to have due regard for their own safety and do so at their own risk.

The facility holder shall at all times be responsible for the safety of his/her vessel and shall be liable for any damage occasioned to the Council's property, howsoever caused, during the navigation of any vessel by the applicant or his/her servant or agents, or whilst the applicant's vessel is berthed, moored, or launched, or by the vessel slipping her berth, mooring or being cast adrift and will pay to the Council on demand any claim for reasonable compensation in respect of such damage.

The Council's Harbour Master and other authorised officers and servants, whilst acting in the course of their duty, shall not be responsible for any loss or damage which may occur as a result of compliance, or attempted compliance, with any lawful order or directions given by the Harbour Master, or such other officers or servants, nor shall the Council be liable for any loss or damage arising out of compliance, or attempted compliance, with the officers' lawful orders. The Council, its servants, agents or employees shall not be liable for injury to any person, except where such injury arises through the negligence of the Council.

This section applies equally to visitors and temporary users of the harbour and harbour estate, whether using a vessel, vehicle or trailer.

### **Vessels Injurious to the Amenity of the Harbour (see Section 23 – Tor Bay Harbour Act 1970)**

If at any time the Harbour Authority are satisfied that a derelict vessel or structure moored in or lying in the water or on the foreshore of the harbour is in such a condition as to be seriously injurious to the amenity of that part of the harbour in which it is moored or lying, the Harbour Authority may by notice require the owner thereof within such time as may be specified in the notice (the period being not less than six weeks) to take such steps as may be necessary to abate the injury to amenity. A vessel may be considered to be injurious to the amenity of the harbour if it is badly dilapidated, seriously unkempt, unseaworthy and/or in danger of sinking, etc.)

For the avoidance of doubt, the Harbour Master is empowered, on behalf of the Harbour Authority, to determine whether a vessel is seriously injurious to the amenity of the harbour.

Failure to comply with such a notice issued by the Harbour Authority may result in the necessary action being taken directly by the Harbour Authority.

### **Prohibition on Assignment/Sub Letting of Facilities (Facility Agreement Conditions 12)**

The facility is personal to facility holder and may not be shared, assigned, transferred, sub let or otherwise used or made available to anyone other than the facility holder. In the event that it is discovered that a facility holder is sub-letting the facility will be withdrawn with immediate effect. (This includes the renting of beds/berths on board

vessels whilst using harbour facilities. e.g. via websites such as [www.bedsonboard.com](http://www.bedsonboard.com) and [www.airbnb.co.uk](http://www.airbnb.co.uk) )

The facility granted may not be loaned without prior notification to, and agreement of the Harbour Master in writing. Written notification must also be provided to the Harbour Master from both parties to the loan. If the Harbour Master's consent is obtained in no circumstances will this be given for a period greater than 12 months. In agreed loan circumstances the owner of the vessel borrowing the facility must confirm that he holds the necessary required insurance, confirm acceptance of all conditions and Byelaws and be liable for the appropriate level of harbour dues.

Any individual boat owner will only be permitted to borrow a facility for two consecutive years, assuming that two separate facility holders and the Harbour Master are agreeable to such an arrangement. i.e. the maximum stay without a properly allocated facility is 24 months.

### **Size of Vessel**

#### **(Facility Agreement Conditions 17)**

No vessel shall be placed on a facility of a different size than applied for. The facility is allocated according to the size of the vessel and the facility holder must not increase the size of his/her boat without ascertaining whether or not there is a suitable alternative mooring space available. The facility holder may lose the mooring without being offered a replacement. A vessel will be charged based on overall length, which includes any bowsprit, pushpit, stern davit, bathing platform, outboard engine, bumpkin or any other extension, etc. etc.

### **Inheritance**

The facility granted will be for one vessel only and is not transferable. Where a member of a family wishes to continue using the facility after the death or incapacity of the existing holder he/she must join the appropriate waiting list. The use of harbour facilities cannot be inherited other than by a legitimate 'partner' who meets the requirements of a partnership arrangement as set out elsewhere within this document.

### **Vessel Identification**

#### **(Byelaw 35)**

All boats, trailers and tenders used within the harbour must have their names and current Harbour Authority plaques displayed to the satisfaction of the Harbour Master. The facility holder should also ensure that the name of the vessel or mooring number is clearly displayed on any mooring buoy not provided by the Council.

### **Change of Vessel**

#### **(Byelaw 33)**

In the event of the facility holder selling or otherwise disposing of the vessel authorised to use the facility, the parties to the change shall ensure that immediate written notification is given to the Harbour Master

### **Vessel Not On Facility**

If the facility holder does not have his/her own vessel on the authorised facility for a period of one year then the facility will be forfeit and reassigned from the waiting list.

## **Partnerships**

Partnerships must have been registered with the Harbour Authority when the facility was first allocated. Any subsequent changes of ownership or partnership buy out **will not be recognised** or count towards facility allocation. The Harbour Authority will not recognise shared ownership beyond one third. i.e. a maximum of three partners inclusive of the applicant. All partners must be over the age of 18 and meet the local residence requirements detailed in this policy with regard to facility allocation priority.

## **Use of Facilities**

Facilities must only be used for the purposes stated in the original application. Vessels using facilities must not be used for residential purposes. i.e. no living on board is permitted and boats must not serve as the sole or main residence of any individual or group. Customers are not expected to sleep on board their craft, whilst berthed in the harbour, unless that vessel has a suitable manufacturers holding tank for grey water and sewage. Facilities will be withdrawn from those customers who regularly breach this expectation. Customers are not permitted to rent any beds/berths on board their vessels. e.g. via websites such as [www.bedsonboard.com](http://www.bedsonboard.com) and [www.airbnb.co.uk](http://www.airbnb.co.uk). Such activity will be seen as sub-letting and facilities will be withdrawn from those customers who breach this condition.

The right to berth a vessel on a facility relates to a particular user and vessel. Tor Bay Harbour reserves the right to cancel an offer of berth if on inspection of the vessel it is considered unsuitable for berthing on the facility because of its dimensions, weight, method of construction, state of repair, type of fendering or other reason.

The Harbour Master may at any time berth a suitably sized vessel on any vacant mooring should the need arise. In these circumstances the berth holder will be notified and the berth will be made available when required by the berth holder.

Privately owned vessels paying harbour charges as private craft must not operate their craft on a commercial basis. The number of available commercial moorings is restricted under this policy (please refer to the 'Facilities Allocation' section in this document under the heading 'Commercial Moorings – Waiting List'). Consequently any owner who changes the use of their craft from a private vessel to a commercial vessel (either by conversion or replacement) will have their facility agreement terminated.

Privately owned fenders **must not** be fixed to harbour authority property (other than by rope) without the prior consent of the harbour authority. Installation of owner's 'dock fenders' will normally be permitted, subject to prior approval. Any fixing that requires drilling into steel, stone or concrete **must be undertaken** by harbour authority staff.

Privately owned 'dock boxes' **must not** be fixed to harbour authority property without the prior consent of the harbour authority and a charge may be applicable.

The use of power cables on pontoons is permitted provided the cable is within a protective cover to prevent a trip hazard and is not seen as a permanent connection. Any cables presenting a hazard of any nature will be removed and the credit on the meter will be cleared. Cable covers are available from the Harbour Office.

## **Abandoned Vessels and Property**



Tor Bay Harbour shall have the power to remove and dispose of or sell vessels and property with reasonable notice given to the owner (to be determined on a case by case basis by the Harbour Master). If the owner is not known then Tor Bay Harbour can remove and dispose or sell the vessel or property after leaving written notice on the vessel or property for a reasonable period of time.

### **Fuel and Refuelling**

No fuel or combustible material is permitted to be kept on or within the allocated facility save in authorised storage tanks and containers.

Other than for small outboard engines, no petrol refuelling from cans or containers is permitted on the harbour side, pontoons, steps, slipways, or moorings. Petrol refuelling is permitted at a licensed marine fuel station or when using an approved siphoning/pumping device agreed specifically with the Harbour Master or at Paignton Harbour from cans onto moored vessels when the harbour has dried.

Any fuel spillage must be reported to the Harbour Master

### **Pollution**

#### **(Byelaw 91 and Byelaw 102)**

Facility holders must not pollute the harbour by spillage, dumping of waste, effluent, human waste, detergent and/or fuel or otherwise deposit refuse or scrap on the harbour estate, in the waters of the harbour or on the harbour bed.

### **Fitting of Moorings**

#### **(Facility Agreement Condition 16)**

Any swivel, riser chain, mooring rope or buoy, not provided by the Council, shall comply with the Council's specification in that behalf and shall only be fitted by a person licensed by the Council to do such work or by the facility holder personally in respect of his/her allocated mooring. The Facility Holder shall as soon as any swivel, riser chain, mooring rope or buoy has become fitted, immediately notify the Harbour Master of the fact. The applicant shall also arrange for regular inspection and maintenance of such equipment not provided by the Council.

### **Buoyant Rope**

#### **(Byelaw 98)**

No person shall within any enclosed Harbour use buoyant pick-up ropes on moorings.

### **Removal of Moorings**

#### **(Byelaw 100)**

A mooring, buoy or similar tackle shall as soon as reasonably practicable be removed by its owner or any other person claiming possession of it if the Harbour Master so directs.

### **Vessel Monitoring**

All vessels should be monitored by the owner or owner's agent, on a regular basis, particularly during periods of bad weather.

### **Propeller Covers**

#### **(Facility Agreement Conditions 22)**

When moored outboard engines in the raised or tilted position must have the propeller and skeg covered with a plastic bucket or other approved protective cover in order to prevent damage to other boats.

### **Provision of Proper Fenders**

#### **(Byelaw 46)**

The facility holder shall ensure that his/her vessel is provided with a sufficient number of fenders adequate for the size of the vessel, and when berthing or leaving, or lying at a quay or against other vessels, the master shall cause the vessel to be fendered off from that quay or those other vessels so as to prevent damage to that quay, those other vessels or other property

### **Mooring, Berthing, Anchoring in the Harbour**

No vessel shall deploy their anchor within the confines of Torquay, Paignton or Brixham unless in an emergency. If any anchor is deployed the Harbour Master or designated Harbour officer is to be contacted.

### **Vessels to be Moored Etc as Directed**

Masters of vessels in the harbour shall moor, anchor, berth and/or cease to moor, berth or anchor and be moved in accordance with directions given from time to time by the Harbour Master.

### **Vessels not to Anchor in a Fairway**

#### **(Byelaws 11 & 18)**

No person shall anchor so as to obstruct a fairway.

### **Vessels not to be Made Fast to Unauthorised Objects, Navigational Buoys or Seasonal 5 Knot Buoys**

#### **(Byelaws 13 & 50)**

The master of a vessel shall not make fast his/her vessel to or lie against any buoy, beacon or mark used for navigation. No person shall make a vessel fast to or interfere with any post, quay, ring, fender or any other thing or place not assigned for that purpose.

### **Vessels not to Obstruct Free Passage**

The master of a vessel shall not cause or permit the vessel to manoeuvre, come to anchor or be moored or placed so as to intentionally obstruct in any manner whatsoever the passage of vessels in the harbour.

### **Vessels to be Properly Secured**

No vessel shall be insecurely moored or improperly made fast within the harbour.

### **Vessels not to Obstruct Steps, Slipways**

#### **(Byelaw 26)**

No person shall allow any vessel to obstruct any pontoons, steps or slipways or to lie at any pontoons steps or slipways without the permission of the Harbour Master.

### **Reckless Conduct and Disorderly Behaviour**

The facility holder shall not use the mooring facility in a reckless manner so as to cause danger to other users of the Harbour or damage to their property.

The facility holder (including any persons on board a vessel on the harbour facility) shall not cause unreasonable noise, nuisance or annoyance to other users of the Harbour.

### **Compliance with Statute, Byelaws and Directions of the Harbour Master**

The facility holder and all persons having control or having charge of or being aboard his/her vessel shall observe and perform all statutory and other obligations relating to the Harbour including all Byelaws and Regulations made by the Council and Directions given by the Harbour Master.

In the event of the holder of the Facility Form Agreement, or their staff or crew failing to comply with the conditions of the Facility Form Agreement the Council may give notice to remove the vessel. Should this notice not be complied with or the conditions of the Facility Form Agreement not met within fourteen days of the sending of the notice to the last known address of the facility holder the Authority may remove the vessel to any place where so ever. The facility holder shall pay the cost of such removal, storage, mooring or berthing and subsequent replacement to the Authority. Such charges shall be a debt due from the facility holder to the Authority.

### **Disabled Access**

The Harbour Authority provide a range of moorings and other facilities, which by their very nature, have various forms of access. Consideration has been given to providing facilities for disabled persons, wherever this is reasonably practicable, in accordance with the Disability Discrimination Act 1995/2005 (DDA). The Harbour Authority is obliged to make such adjustments as is reasonable to prevent disabled persons from being placed at a substantial disadvantage when compared to others.

Anyone who has a disability should assess the most suitable facility that meets their needs and if necessary join the relevant waiting list. The Harbour Authority staff can provide advice to anyone who is uncertain about which facility would be the most appropriate.

### **Young People**

Young people are encouraged to use the harbour facilities and in certain circumstances they will be eligible for a 50% discount on applicable harbour charges. Please see the current 'Tor Bay Harbour Authority Schedule of Charges, Dues & Fees' for details. Unfortunately it is not lawful for the Harbour Authority to enter into a contract

with a minor (under 18 years of age) and the facility form agreement will therefore be in the name of a responsible adult. Please note that this discount is discretionary.

### **Visitor Moorings**

To avoid the abuse of visitor moorings by local vessels, all craft using visitor mooring facilities are normally restricted to a maximum stay of three weeks (21 days) with no return within one week (7 days).

## **Appendix 1**

### **GENERAL CONDITIONS - TOR BAY HARBOUR.**

#### **DUES, TOLLS, LEVY RENTS, FEES AND OTHER CHARGES ARE ACCEPTED ONLY ON THE FOLLOWING CONDITIONS:**

**Definition:** The phrases 'loss, loss of, damage, injury or death' in these conditions shall mean any loss and / or loss of and / or damage and / or injury and / or death, which may occur to any vessel, vehicle, property or any person(s). Words denoting the singular and plural shall be interchangeable.

1. The Council will not be responsible for any loss and / or damage as occasioned to the applicant's vessel and / or property in the course of berthing, mooring, launching, moving or hauling out, unless as a direct consequence of the Council's negligence.
2. The applicant is required to possess "all risks" insurance for their vessel, which must include adequate third party liability cover and evidence that the vessel is so insured shall be provided by Tor Bay Harbour upon request.
3. The applicant shall indemnify the Council, their servants and / or agents where they are at fault for any injury and / or death of any person(s) and / or any loss of or damage to any property, which may arise out of the applicant's occupation or use of the harbour facilities.
4. All applicants using the harbour facilities, including but not limited to slipways, steps, jetties, pontoons and staging, for whatever purpose and whether or not by the Council's invitation, are expected to have due regard for their own safety and utilise the facilities entirely at their own risk, unless negligence can be proven against the Council.
5. The applicant shall at all times be responsible for the safety of their vessel and shall be liable for any loss of and / or damage as occasioned to the Council's and / or any third party's property and / or injury to and / or death of any person(s), howsoever caused, during the navigation of any vessel by the applicant or their servant or agents, or including but not limited to, whilst the applicant's vessel is being berthed, moored, launched, being slipped, being cast adrift or being worked upon and will indemnify the Council on demand any claim for compensation in respect of any such loss.
6. The Council's Harbour Master and / or other authorised officers and /or servants, whilst acting in the course of their duty, shall not be responsible for any loss of or damage and / or injury and / or death which may occur as a result of or arising from compliance, or attempted compliance, with any lawful order or directions given by the Harbour Master, and / or such other officers and / or servants and / or agents, unless negligence can be proven against the Council.
7. The lawful orders and / or directions of the Council's Harbour Master and other authorised officers must always be obeyed promptly and at all times.

8. The Council may terminate this agreement at any time during the contract period, by giving one month's notice in writing to the applicant, at their last known address.
9. Following the termination of this agreement, the applicant shall forthwith remove their vessel and / or any other possessions from the Council's property.
10. The Council will, upon receipt of payment in accordance with this account, allocate a facility to the applicant as described in this account in a location in Tor Bay Harbour determined at the sole discretion of the Harbour Master and the Harbour Master may at any time re-designate the applicant to an alternative location for such a facility, whereupon the applicant will be required to move their vessel and / or any other possessions from the previous location to the appointed new location within a reasonable time period.
11. This facility as provided to the applicant is on the basis that the applicant agrees it will not be **shared, assigned, transferred, sublicensed or sub let** or otherwise used by or made available to anyone other than the applicant, unless with the prior written consent of the Harbour Master.
12. The facility as provided to the applicant shall not be used other than for the purpose described in the Schedule of Charges, Dues & Fees.
13. Details of the breakdown of mooring fees and dues are shown in the Schedule of Charges, Dues & Fees.
14. The Council has the right to exercise a general lien upon any vessel, and / or gear and / or equipment and / or property, whilst in or upon the harbour premises, or afloat, until such time as the monies due to the Council from the applicant in respect of such vessel and / or gear and / or equipment and / or property, whether on account of storage, mooring, berthing, slipping charges or otherwise, shall have been paid. Should these charges remain unpaid, the Council reserves the right to dispose of the applicant's vessel and / or gear and / or equipment and / or property and pay to the applicant the funds net of any charges as due.
15. The applicant shall also arrange for regular inspection(s) and maintenance of such mooring equipment.
16. The applicant shall not place a vessel on a mooring prescribed in the mooring scheme as prepared by the Council, which is of a different size than that for which the application was made, unless with the prior written consent of the Harbour Master.
17. The applicant must also ensure that the name of the vessel or a mooring number is clearly displayed on any mooring buoy not provided by the Council.
18. Any mooring position and type shall be subject to the Harbour Master's prior approval. Failure to obtain such approval will result in the vessel being moved



at the owner(s) expense, to a suitable location and the latter shall be at the sole discretion of the Harbour Master.

19. No attachment whatsoever is to be affixed to the mooring chain provided by the Council, without the prior approval of the Harbour Master.
20. Outboard engines must be in a raised position when vessel(s) are moored and have the propeller and skeg covered with a plastic bucket or other approved protective cover, in order to prevent damage to other boats.
21. The storage of petroleum spirit and / or flammable substances and / or toxic chemicals and / or corrosive substances and / or noxious substances in storage lockers, is strictly prohibited.

Failure to comply with any of these terms and conditions will result in the owner being required to remove their vessel and / or gear and / or equipment and / or property from the Council's property. The Council retains the right to remove such items, should the applicant not do so, at the applicant's expense. If any part of these terms and conditions shall be held to be illegal, invalid or unenforceable this will in no way affect the validity of the remaining parts of these Terms and Conditions.

#### **Enquires, Arrangements to Pay & Failure to Pay**

If you wish to speak to someone concerning this invoice or are unable to make payment in full please telephone the Harbour Office as detailed on the front of this invoice. If you fail to pay or arrange a monthly direct debit plan within 28 days and do not contact the Harbour Office, legal proceedings may be commenced, and the Council will claim a penalty for evading payment of charges equal to the debt due – See Section 30 of the Tor Bay Harbour Act 1970. If you are experiencing financial difficulties, please contact your nearest Citizens Advice Bureau who offer free independent advice, or telephone the National Debtline on Freephone 0808 808 4000.

#### **Fair Processing Notice**

Torbay Council processes data in accordance with the General Data Protection Regulation (GDPR) and Data Protection Act 2018. We will only use your data for the purpose in which it was collected or for the purposes of ensuring that the information held on our systems is correct. It may be shared with third parties for the prevention and detection of crime/fraud or other applicable legislation. If you would like further details on how Torbay Council processes your data please go to the Data Protection pages at [www.torbay.gov.uk/council/information-and-data/data-protection](http://www.torbay.gov.uk/council/information-and-data/data-protection).

## Appendix 2

# WAITING LISTS

## TOR BAY HARBOUR

### WAITING LIST PROCEDURE

- 1) The waiting list registration fee is **£25** for private berths and £50 for commercial berths. On receipt of the appropriate fee, your name will be placed on the relevant list.
- 2) The waiting list entry will be dated the same day the fee is received.
- 3) The registration fee is **NOT REFUNDABLE OR TRANSFERABLE**.
- 4) Under normal circumstances the applicant will only be given two offers of a facility. A third offer will only be made in exceptional circumstances. All applicants will have their name removed from the list if they have declined two offers of a harbour facility.
- 5) When a facility is offered and accepted, it can only be allocated to the person whose name is on the waiting list. The facility is **NOT TRANSFERABLE**.
- 6) When a facility is offered and accepted and no boat is immediately available, then the applicant **must pay the full fee** for the size of facility applied for, and then has twelve months to place their craft on the facility.
- 7) Often a waiting list will be banded dependent on the size of the facility. It is therefore important that applicants are certain about the size of facility required. The length entered on the waiting list form will not be adjusted up at a later date and an adjustment down in size may result in a transfer to a new list with a new entry date.
- 8) Applicants who live locally will be given priority over those applicants who live outside the Torbay area. (see the Tor Bay Harbour Operational Moorings and Facility Policy)
- 9) Unfortunately applicants who have a disability do not have priority over other people on the waiting list.
- 10) From time to time applicants will be asked to provide written confirmation of their wish to stay on a particular waiting list. The applicant's details will be deleted from our records if written confirmation is **not** provided.
- 11) It is the applicant's responsibility to keep us advised of any change in the applicant's details, especially any **change of address**.
- 12) The terms and conditions of use of any facility are shown on the reverse side of any invoice/facility form agreement and are also found within the Tor Bay Harbour Operational Moorings and Facility Policy.

13) Partnerships must have been registered with the Harbour Authority when the facility was first allocated. Any subsequent changes of ownership or partnership buy out **will not be recognised** or count towards facility allocation. The Harbour Authority will not recognise shared ownership beyond one third. i.e. a maximum of three partners inclusive of the applicant. All partners must be over the age of 18 and meet the local residence requirements detailed in this policy with regard to facility allocation priority.

**Note**

**Torquay Town Dock & Inner Dock pontoons Priority**

The Town Dock waiting lists names will only be accepted from those people with a primary address in the TQ1 to TQ5 postcode areas, on a first come first served basis, to be confirmed by a check of Council Tax records and/or Electoral Register information. Town Dock and Torquay Inner Dock Pontoon berths will only be allocated to people outside the TQ1 to TQ5 postcode areas but within Devon if no waiting list exists.

## **Appendix 3**

### **Mooring Exchange Scheme - Torquay Town Dock & Inner Dock**

Customers with existing berths on the Town Dock or Inner Dock may be able to exchange their facility for an alternative sized berth within the facility area currently berthed in e.g., Town Dock 6m exchanged to Town Dock 8m with prior agreement from the Harbour Master.

Customers may be eligible to exchange their allocated berth, so long as they fulfil the following conditions of exchange.

The 12 metre berths will not feature in this scheme.

Exchanged vessels must be of a length appropriate for the alternative sized berth requested.

Original Partnerships recognised during first allotment will remain exactly the same and cannot be added to.

Exchanges may only occur when 'pairs' are authorised by the Harbour Master. Customers will be notified when an exchange can be made, followed by any account for adjustment.

Requests for exchanges will be treated on a first come first served basis and each exchange will be appraised by the Harbour Authority to ensure correct use of facility and compatibility of vessels features.

An administration charge of £50 will apply per applicant and will feature in the account adjustment, when the exchange has taken place.

The decision to approve or decline an exchange request will be based, among other things, on maximising income for the harbour authority and will be at the Harbour Master's complete discretion.

#### **Step 1**

Complete form for existing berth to *move from*

#### **Step 2**

Enter details of preferred facility to *move to* – e.g. 6m 8m 9.14m or 10m

#### **Step 3**

Submit form and wait until a suitable 'pair' is made, then await acknowledgement and further details from the Harbour Office.

#### **Step 4**

Move your boat as directed by the Harbour Authority, then pay the balance or receive a refund for the new facility (subject to the inclusion of the administration charge).

The Harbour Authority will reserve any right to withhold an 'exchange' especially if customers have found to have been sub-letting, not conforming to the local TQ1-5 post code restriction or have a history of late payment.

### Mooring Exchange Scheme – Application

(TOWN DOCK & INNER DOCK ONLY)

# TOR BAY --- HARBOUR

Name: .....

Boat Name: .....

LOA .....

Facility Pontoon..... Number.....

I wish to move to a :- (circle)

6m      8m      9.14m      10m      berth.

Signature .....

Date .....

Please return completed form to the Harbour Office