Item: 1

Harbour Authority Sub-committee: 19 May 2026.

Port Marine Safety Code – Annual Compliance Audit Report: Progress Update.

Report by Director of Enterprise and Resources.

1. Overview

1.1. The purpose of this report is to provide an update on progress with the action plan emanating from the Port Marine Safety Code Audit held between 29 September and 1 October 2025, for members' scrutiny.

1.2. Marico Marine Limited, as the Designated Person, undertook the annual audit of compliance with the Port Marine Safety Code. The audit report was scrutinised by the Harbour Authority Sub-committee on 20 January 2026.

1.3. The Sub-committee subsequently recommended that an action tracker be regularly shared with the Designated Person to monitor progress and allow continued assurance of compliance to be given to the Duty Holder.

1.4. Marine Services has generated an action plan based on this audit with 42 recommended improvement opportunities.

1.5. Appendix 1 provides the detail of the current progress against the points raised in the audit. Members of the Harbour Authority Sub-committee also receive a monthly update on progress.

1.6. Marico Marine will conduct a further audit in Autumn 2026.

2. Recommendation

2.1. It is recommended that the members of the Sub-committee:

i. Scrutinise the Port and Marine Facilities Safety Code progress update on outstanding actions, attached as Appendix 1 to this report, in order to obtain assurance that action is being taken.

3. Port and Marine Facilities Safety Code

3.1. The Port and Marine Facilities Safety Code (the Code) sets out a national standard for every aspect of port marine safety. Its aim is to enhance safety for everyone who uses or works in ports, harbours, marinas and other marine facilities. Recognising the significant differences in the role, powers, duties, responsibilities and risk that different organisations have and manage, the Code is intended to be sufficiently flexible to enable its principles to be applied in a manner proportionate to local requirements.

3.2. The Code was introduced in 2000 in response to lessons learned from the grounding of the Sea Empress in 1996. The involvement of the maritime sector during its development and evolution has been, and is, critical. Although compliance is not mandatory, there is a strong expectation that anyone who manages ports and other marine facilities will incorporate the relevant requirements of the Code into their safety management and other systems.

3.3. The Code includes references to the statutory responsibilities some organisations have for marine safety but does not purport to cover all legal duties or any wider, non-marine, safety responsibilities. Other legislation, such as that relating to security, can also impact marine safety. It is important for organisations to recognise this and strive to deliver cohesive and consistent policies and management across all these responsibilities.

3.4. The Code received an overhaul in 2025. The 2025 edition modernised the structure and language of the Code, strengthened its focus on governance, accountability and assurance, and clarified the respective roles of the Duty Holder, Harbour Authority, Harbour Master and Designated Person. Greater emphasis was placed on proportionality, evidence-based decision making, continuous improvement and alignment with wider regulatory and best practice frameworks, reflecting changes in the operating environment since the previous edition and lessons learned from audits, incidents and sector engagement.

4. Accountability for Marine Safety

4.1. Accountability for the management of marine safety is based on these general principles:

- The Duty Holder is accountable for safe and efficient operations. The Duty Holder should make a clear published commitment to comply with the standards laid down in the Port and Marine Facilities Safety Code.

- Executive and operational responsibilities for marine safety must be clearly assigned and those entrusted with these responsibilities must be appropriately trained, qualified, experienced and answerable for their performance.
- A 'Designated Person' must be appointed to provide independent assurance about the operation of its Marine Safety Management System (MSMS). The Designated Person must have direct access to the Duty Holder.

4.2. An MSMS should be in place to ensure that all risks are identified and controlled – the more severe ones must either be eliminated or reduced to the lowest possible level, so far as is reasonably practicable (that is, such risks must be kept as low as reasonably practicable or "ALARP"). Organisations should consult, as appropriate, those likely to be involved in, or affected by, the MSMS they adopt. The opportunity should be taken to develop a consensus about safe navigation. The MSMS should refer to the use of formal risk assessments which should be reviewed periodically as well as part of post incident/accident investigation activity.

4.3. In discharging its responsibilities, the Duty Holder should be provided with relevant background information to support informed decision making and effective oversight of marine safety. This information will be presented by the Harbour Master as the officer responsible for making professional recommendations on marine safety matters. It may include clarification of the current legislative and regulatory framework, any anticipated changes to it, and an explanation of how these impact upon the Council's duties and liabilities. Where appropriate, reference may also be made to the position being adopted relevant professional bodies. This context is intended to provide assurance to the Duty Holder about where accountability for marine safety rests and to demonstrate that the Harbour Master's recommendations are consistent with statutory requirements, recognised best practice, and sector expectations.

5. Legislative Position

5.1. The Council, as Harbour Authority, has certain legal duties with regard to port safety, some of which are referred to in the Port and Marine Facilities Safety Code. The Code does not itself create any new legal duties but a failure to adhere to the good practice set out in it may be indicative of a Harbour Authority being in breach of the legal duties relating to port safety. The Code has introduced a national standard for every aspect of marine safety and establishes a measure by which harbour authorities can be accountable for discharging their legal powers and duties to run a harbour or facility safely and effectively. Ensuring compliance with the Port and Marine Facilities Safety Code will assist the Council in discharging its duties as Harbour Authority.

5.2. The Harbour Authority Sub-committee, as Duty Holder, is responsible for ensuring that the Council complies with the Port and Marine Facilities Safety Code. This includes:

- Being aware of the organisation's powers and duties related to marine safety.
- Ensuring that a suitable Marine Safety Management System (MSMS), which employs formal safety assessment techniques, is in place.
- Appointing a suitable Designated Person to monitor and report the effectiveness of the MSMS and provide independent advice on matters of marine safety.
- Appointing competent people to manage marine safety.
- Ensuring that the management of marine safety continuously improves by publishing a Marine Safety Plan and reporting performance against the objectives and targets set.
- Reporting compliance with the Code to the MCA every three years.
- Reviewing existing powers on a periodic basis to avoid a failure in discharging its duties or risk of exceeding its powers.

For Further Information please contact:

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Implications of Report

1. **Financial:** There are no financial implications arising directly from the recommendations of this report; however, any costs associated with completion of the audit recommendations, will require to be funded from within existing service budgets.

2. **Legal:** The legal implications are as detailed in section 5.

3. **Corporate Governance:** In accordance with the Scheme of Administration, referred functions of the Harbour Authority Sub-committee include receiving reports on assurance from the Designated Person in relation to compliance with the Port and Marine Facilities Safety Code, including an annual compliance audit report.

4. **Human Resources:** The audit process is designed to ensure safe operations of the Harbour Authority with appropriately trained and qualified personnel.

5. **Equalities:** An Equality Impact Assessment is not required for performance monitoring.

6. **Island Communities Impact:** An Island Communities Impact Assessment is not required for performance monitoring.

7. **Links to Council Plan**: The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Council Plan strategic priorities:
   ☐Growing our economy.
   ☐Strengthening our Communities.
   ☐Developing our Infrastructure.
8. **☐Transforming our Council.**
9. **Links to Local Outcomes Improvement Plan:** The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Local Outcomes Improvement Plan priorities:
   ☐Cost of Living.
   ☐Sustainable Development.
   ☐Local Equality.
   ☐Improving Population Health.
10. **Environmental and Climate Risk:** Not relevant to this report.
11. **Risk:** Not relevant to this report.
12. **Procurement**: Not relevant to this report.
13. **Health and Safety:** The audit is designed to assist in maintaining the health and safety of all users of the Harbour Authority.
14. **Property and Assets:** Not relevant to this report.
15. **Information Technology:** Not relevant to this report.
16. **Cost of Living:** Not relevant to this report.

Background Papers

Orkney Islands Council Harbour Authority Port Marine Safety Code Audit 29 September to 1 October 2025 issued on 3 December 2025 by Marico Marine.

Appendix

Appendix 1: PMSC Audit Action Plan April 2026 Update.

Marico Ref	GtGP Ref	Recommendation	Comments	Status	Location	Action By	Completion Date
3	1.2	There are no formal training requirement or training records accessible for the Duty Holder. Suggest clear Terms of Reference should be developed for members of the Harbour Authority Sub-committee (which should be signed by each member to show that they have been received and understood)	All Members of the Harbour Authority Sub-committee have received training on their responsibilities from Marico. This was delivered by the previous DPA. Terms of Reference will be developed and signatures obtained to evidence receipt.	In progress			
5	1.3	Update Organogram in MSMS.	Review of current organogram in process	In progress			
6	1.3	Section 3 of MSMS should be developed from policy to procedure and ensure Duty Holder review of performance is recorded.	Section added to show reporting to Harbour Authority Sub-committee	Completed	MSMS 7.4. sop03-001	RS	Mar-26
7	1.3	As 6 above, document process for reporting incidents to Duty holder.	As above, document process through minutes	Completed	MSMS 7.4	RS	Mar-26
12	1.6	Clarify that HASC chairman is nominated point of contact between DH and DP.		Completed		DM	Jan-26
14	2.1	Update DP details on page "x" of MSMS.	MSMS updated	Completed	G:\Common-KEEP RS\Safety Management System\SMS Rev 7.4	RS	Dec-25
19	2.2	Audit actions etc. are tracked, but the document used is not referenced in the MSMS document control system.	Added to MSMS now in use	Completed	MSMS 7.4	DM	Jan-26
20	3.2	Check all national is included in list in MMS section 1.6 and also add local acts to appendix.	Add General Directions to section 1.6	Completed	MSMS 7.4	RS	Mar-26
21	3.3	Document needs to maintain BPA membership to keep informed of changes in legislation.	Membership is renewed automatically. We don't believe this is a requirement to add further procedure for an automatic renewal process	Remove			
22	3.4	Clarify those officers with delegated HM powers, either by references to job title (check current list is complete) or named individuals.	Already part of the MSMS - 5.6. named by job title. No requirement to individual name.	Remove	section 5.6 special directions		
26	3.8	Licensing powers are clearly described but appear unused. Consider a review of need/use of such powers.		Remove			
27	3.9	Ensure enforcement policy is clearly published (e.g. on website).	Add to website	Completed		DM	Jan-26
28	3.10 and 3.14	Consultation procedures are described, but little evidence any consultation has followed those procedures. Revive meeting timetable and formal minutes for all stakeholder meetings.	Regular meeting with stakeholders are conducted with minutes now produced	Completed	Stakeholder engagement meetings taking place with minutes.	RS	Feb-26
31	3.12	Consultation for the NRA is clear and well recorded, This is not the case for operational assessments. Section 2.2 of MSMS needs review to reflect reality / intentions.	Reviewed to show reality and intentions	Completed		RS	Dec-25
32	3.13	See comment 28. Revive user groups.	Users groups to be revived	Completed	User groups revived, monitoring register saved in DP monitoring	RS	Apr-26
33	3.14	Auditor finds website difficult to navigate through the eyes of a mariner. Suggest a review with a user group.	Website reviewed, no issues found	Completed		RS	Dec-25
34	3.16	Internal consultations (with employees) are said to occur, but this is difficult to demonstrate. See comments 28 and 32.	Consultation in progress	Completed	Consultations saved in employee good conversations	RS	Apr-26
37	4.5	It is recommended that the need for the Pilotage service should be subject to a stand-alone risk assessment.	Risk assessments being reviewed	In progress		DM	Feb-26
40	4.5.25	Develop fatigue management procedures for pilots.	Procedures in place	Completed	G:\Common-KEEP RS\Safety Management System\SMS Rev 7.4	DM	Dec-25
42	4.6.1	Publish towage Guidelines (on website).	Guidelines published on website	Completed	Orkney Islands Council Marine Services Towage Guidelines Website	DM	Dec-25
44	4.6.1	Clarify procedure for third party tug/workboat operator approval.	Pre approval being prepared	In progress		DM	Feb-26
46	4.8.1	Review procedures for management of commercial diving (following recent MAIB report).	Risk Review actions being implemented	In progress		RS	Nov-26
47	4.8.2	See comment 46 above and review permitting system.	Permit system being moved to digital	In progress		RS	Jan-26
48	4.8.3	Consider formal policies and procedures for third party providers of mooring and berthing services.	Audit third party providers	In progress		RS	Mar-26
49	4.9	Ensure old paper copies of emergency plans are destroyed. Develop an exercise schedule and a procedure for formally following up lessons learned.	Plans replaced, exercise schedule created	Completed		RS	Feb-26

50	4.9.11	Ensure oil spill plan returns are suitably filed and accessible.	Reviewed and filed in accessible location	Completed	G:\POLLUTION KEEP DM\OPRC\OPRC Returns\OPRC Returns 2024	RS	Dec-25
53	5.4	Some operational assessments out of date, but system to manage assessments and alert when review required is actively been sought, and should be implemented ASAP.	Risk assessments reviewed, software being implemented	Completed		RS	Dec-25
54	5.5	Document annual review meeting and other evidence.	Document review process through My Compliance	In progress		RS	Mar-26
60	6.6	Consider an awareness campaign to increase rate of incident/near miss reports.	Ports safety handbook issued, staff awareness campaign	Completed		RS	Dec-25
62	6.8	Continue to develop, and document a process to establish bridging documents with third party marine facilities.	SMH MOU in place	In progress			
66	7.2	Although an internal audit process is in place (but current audit very prolonged), outcomes of the audit are not referenced in annual report. Not clear how any findings are followed up (document process)	Outcomes referenced in annual report	Completed		RS	Dec-25
70	8.1	relevant section of MSMS - suggest adding policy reference to existing statement and adding to policy list in appendix 2.	add to MSMS	In progress		RS	
71	8.2	Document the procedure to verify competence of third-party contractors by adding a procedure at section 8 of MSMS.	Dynamic purchasing system for third party contractors	Completed		RS	Dec-25
72	8.4	A training and competence matrix is strongly recommended, both as a useful tool, and to evidence PMSC compliance.	Training matrix in place, implementaion of compliance software	Completed		RS	Jan-26
73	8.1	Spreadsheet documenting internal training and safety updates is unclear, and procedures to maintain it (including who) need to be developed.	Training matrix in place, implementaion of compliance software	Completed		RS	Jan-26
74	8.5 8.9	Various systems document personnel qualifications and experience, but descriptions and accountabilities for maintaining systems need to be fully documented.	All personnel checked during recruitment process via Human Resources	Completed		RS	Dec-25
76	9.1	There is no evidence of stakeholder engagement in the development of the MSP, and it is not published.	Marine safety plan to be added on website	Completed			
78	9.1	Progress updates against the MSP are not published (though are shared with HASC at monthly meetings).		In progress			
79	10.2	While facilities were observed to be kept in good order, and SOPs (e.g. for Pier Masters) were in place, there is no general overview of facilities maintenance in the main MSMS manual, pointing to the relevant procedures and accountabilities.	Current procedures to be reviewed with maintenance plan added	In progress			
80	10.3	While there is a strong positive policy (e,g. charting, data exchange and general conservancy) Section 4.2 of the MSMS needs more procedure documented (capture good practice in place). It is recommended that a bilateral agreement be established with the UKHO, if not already in place.	I can find no where in the PMSC or guide to good practice which references the need for a bilateral agreement.	Delete			
81	10.4	Assign responsibilities and develop procedures for ensuring live weather data is always available via the website / VTS. Consider measuring tidal height data at principal locations (Risk assess?).	Is a procedure required for this?	Delete			
84	10.8	Full procedures need to be developed for scheduling and undertaking hydrographic surveys. (Surveys are appropriately undertaken, but there is no documented procedure).	Procedures in place	Completed		RS	Dec-25