



DESIGNATED PERSON'S REPORT

Report by Chief Officer, Assets and Infrastructure

PURPOSE

- 1.1 The purpose of the Report is to provide the Comhairle with an update on the Designated Person Report from August 2023.

EXECUTIVE SUMMARY

- 2.1 The Port Marine Safety Code (the Code) and the Health and Safety Executive (HSE) publication Safety in Docks: Approved Code of Practice (ACOP) relate to the marine and shore side safety of harbours. The Code requires an annual internal audit and a three-year independent external audit to verify compliance.
- 2.2 The Designated Person, David Phillips of Nash Maritime, was appointed on 1 July 2022 following which he has reported back on compliance with Port Marine Safety Code. As part of agreement for providing Designated Person service there will be two reports per annum.
- 2.3 In March 2024 the Designated Person visited the Ports of Leverburgh and Stockinish with the Harbour Master and the Report is provided at Appendix 2. The Report does not have any recommendations for these ports.
- 2.4 At Appendix 1 to the Report is an update on the High, Medium and Low Risk shortfall identified by the Designated Person with Harbour Master Comments on progress.

RECOMMENDATIONS

3.1 It is recommended that the Comhairle:

(a) note the April 2024 Designated Person Report; and

(b) note the Designated Person High, Medium, Low Risk Shortfalls at Appendix 1 to the Report.

Contact Officer: Kenneth Morrison, Harbour Master

Appendices:

1. Designated Person High, Medium, Low, Risk Shortfalls update
2. Designated Person Report April 2024 (Private)

Background Papers:

1. Comhairle nan Eilean Siar Marine Safety Management System
2. Reports to Transportation and Infrastructure Committee (Harbour Board) and Audit and Scrutiny Committee, April 2024

IMPLICATIONS

4.1 The following implications are applicable in terms of the Report.

Resource Implications	Implications/None
Financial	None in terms of Report but there will be financial implications in satisfying audit report recommendations. These financial implications will be considered against other requirements within the Marine Services portfolio of harbours.
Legal	<p>The Comhairle is Harbour Authority of 32 Harbours as identified in the Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002. The Transportation and Infrastructure Committee in its capacity as the Harbour Board, is the Duty Holder as defined in the Port Marine Safety Code.</p> <p>The duties and powers of a harbour authority in relation to marine operations are of three types, statutory duties imposed either in the local legislation for that authority or in general legislation; general common-law duties; and fiduciary duties.</p>
Staffing	Marine Services is a small team to manage all the Comhairle's harbours, piers and slipways.
Assets and Property	None
Strategic Implications	Implications/None
Risk	Risk assessments are in place for each facility and routine safety maintenance is undertaken. Also, lone working by members of staff.
Equalities	Consideration of equalities issues and compliance with legislation has been followed.
Corporate Strategy	In demonstrating compliance with the Port Marine Safety Code, Marine Services is working towards the outcome of strategic priority <i>"2.1.3 to ensure that economic investment, development and research is increased within the Outer Hebrides and people are provided with a safe, sustainable and healthy environment in which to live, work, visit or do business."</i>
Environmental Impact	None
Consultation	Pier Users

BACKGROUND

5.1 The Comhairle's compliance to the PMSC requires to be internally audited annually and externally audited every three years. This Report presents a progress update on how audit recommendations are being actioned.

DESIGNATED PERSON REPORTS

6.1 The 2024 Designated Person Report is included at Appendix 2 to this Report. Together with the Harbour Master the Designated Person visited the ports of Leverburgh and Stockinish in Harris in March 2024. The Designated Person observations can be found within the Report.

6.2 The Designated Person met with the Chair and Vice Chair of the Transportation and Infrastructure Committee to present the 2024 Report directly to them.

CONCLUSION

- 7.1 To ensure compliance with the Code and its performance, the Transportation and Infrastructure Committee (Harbour Board), as Duty Holder as defined in the PMSC and individually accountable for marine safety, will continue to monitor the outcomes of the three-year audit of the Comhairle's Piers and Harbours and the Designated Person's Report.
- 7.2 It is proposed that monitoring updates continue to be submitted in the current format as a combined Report to the Harbour Board.

APPENDIX 1: DESIGNATED PERSON HIGH, MEDIUM, LOW RISK SHORTFALLS

Issue	PMSC Audit Ref	Status now	DP Comment from Report	HM Update comments
Does the MSMS contain or refer to procedures to cover the main aspects of marine safety within the port?	3.1.1	Complete	A set of standard operational procedures covering all standard operations was sent to the Harbour Master in March 2022 for review.	Complete
Does the harbour have Byelaws?	3.2.1	Not Complete	The DP has opined that Byelaws are important and should be made as soon as practicable.	While Byelaws are considered by DP as important, the issues that byelaws would predominately address are not major issues at CNES Harbours as we do not have large shoreside facilities. Byelaws may be considered in the future.
Does the harbour authority have powers of General Directions / Harbour Directions?	3.2.2	Complete	General Directions are now issued and posted on the Ports, Piers and Harbours website under 'Forms and Documents'.	Complete
Does the organisation consult appropriate stakeholders involved with or affected by the MSMS?	3.3.1	Ongoing	Para 2.9 of the Safety Management System Manual does very briefly address this point, but more detail is needed. Pier User Groups exist and there is also the Fisheries Joint Consultative Committee, which is led by councillors and includes fishermen and business, but this latter group deals mainly with material things like fuel and waste rather than more specific safety of navigation issues. It is evident that there is plenty of informal consultation. Nevertheless, consultation is a specific requirement laid down in the PMSC and it should be more formally executed with records (notes of meetings, lists of actions and deadlines) kept of consultation processes, accordingly it is noted as a LOW RISK shortcoming.	Ongoing Consultation
Does the organisation have a Marine Safety Management Plan and routinely publish an assessment of their performance against the plan?	3.3.2	Complete	The current Plan posted on the website expired on 31 Mar 2021 and there is no evidence of an assessment of performance being published either. These are specific requirements of the PMSC which is why this shortfall is noted as LOW RISK, a new plan is overdue.	2024-2027 Marine Safety Plan completed.

Issue	PMSC Audit Ref	Status now	DP Comment from Report	HM Update comments
Does a communication channel exist with employees / contractors affected by the MSMS?	3.3.3	Ongoing	Contractors go through Engineering or Property Maintenance Sections following the processes detailed at the 'Construction Design and Management Manual 2016 It is not clear whether the process above adequately addresses the PMSC aspects, for example does this process address safety of navigation issues when works are conducted in the harbours, piers and slipways? Furthermore, it is unclear if an 'agreement with contractors' document exists; such a document, signed off by all contractors before starting work would include contractor terms and conditions, and a requirement for contractors to provide risk assessments (including risk management and risk controls) and method statements for contracted works, hence this shortfall is assessed as LOW RISK. The DP has personal experience of the drawbacks of not having a proper and formal 'agreement with contractors'.	Ongoing
Does the NRA process allow for special circumstances (e.g. "Dynamic RA" for an unusual operation or event)?	3.3.4	Ongoing	No. The "Dynamic RA" process should be documented in the SMS Manual	Dynamic RA Standard Operating Procedure to be created.
Does the NRA output rank hazards by risk score?	3.3.5	Complete	No. The scores in the NRA are not averaged to give an overall risk score so making ranking impossible	Completed. Latest Risk Assessments are ranked by risk score.
Is the Duty Holder aware of the top risks?	3.3.6	Complete	Although the hazards are not ranked, the layout of the risk assessment makes clear that 'fire aboard a vessel' and the point that 'Small fishing vessels in unmanned harbours may not follow CNES Diving Policy' emerge as the top risks. Nevertheless, the top risks should be clearly ranked as such which will require the risk scores to be averaged.	Risk Assessments have been ranked and Raking Averaged 1- Fire, 2- Grounding, 3-Foundering, 4-Collision with Fixed Object, 5-Pollution, 6-Collision, 7-Diving Ops, 8-Breakout, 9-Hazardous Cargo.
Does the organisation have a published emergency preparedness exercise programme and has it carried out exercises?	3.3.7	ongoing	There is no exercise plan in place, and one should be established as soon as possible. Partnering with Calmac for exercises would be effective and is recommended. This point was also identified at the Sep 2022 DP report.	An exercise plan is to be developed.