



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 the Designated Person Report for August 2024.

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 For the August 2024 report the DP re-visited the ports of Miavaig and Brevig and further details of his findings can be found in the report.
- 2.4 The report highlights that there is a medium risk shortfall in that there are no byelaws in place for Comhairle harbours. It was agreed at a meeting on 29th August between DP, Chair of Transportation and Infrastructure, Head of Assets and Infrastructure and the Harbour Master.
- 2.5 It was agreed at the meeting of 29th August that as the lack of byelaws does not substantially impact the safety of marine operations and navigation, CNES would not issue Byelaws until a clear nation-wide policy position on the need for Byelaws is stated by the UK and / or Scottish Governments. This position should be agreed by the Harbour Board as a whole, noting that all members are collectively and individually accountable for safe and efficient marine operations. It should be added that this DP would happily support this position should it ever be challenged.
- 2.6 Provision on how other recommendations will be progressed will be provided at a future series of Comhairle committees.

RECOMMENDATIONS

3.1 It is recommended that the Comhairle:

- (a) note the External Audit report at Appendix 1 to the Report;
- (b) does not issue Byelaws until a clear nation-wide policy position on the need for Byelaws is stated by the UK and / or Scottish Governments.

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Appendix: 1. Designated Person Report August 2024

Background Papers: 1. Comhairle nan Eilean Siar Marine Safety Management System

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	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. 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.
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 “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.”
Environmental Impact	None
Consultation	Pier users

BACKGROUND

5.1 The Comhairle’s compliance to the PMSC requires audited annually this Report presents a progress update on how audit recommendations are being actioned.

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6.1 The March 2023 Designated Person Report Action Plan is included at Appendix 1 to this Report, showing actions against observations and recommendations found within that Report.

CONCLUSION

7 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.

- 7.1 It is proposed that monitoring updates continue to be submitted in the current format as a combined Report to the Harbour Board.