



Comhairle nan Eilean Siar

Marine Safety Management System (MSMS) (2017 – Version 1)



Volume 1: Policy and Processes Manual

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Revision History

Version	Date	Prepared By	Details
1.0	August 2017	ABPmer: Monty Smedley Principal Marine Consultant	Original
1.1	October 2020	Kenny Morrison Harbour Master	Organigram revised
1.2	November 2024	Kenny Morrison Harbour Master	New Environmental Statement Organisation amended DP details edited Dynamic Risk Assessments added



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Comhairle nan Eilean Siar

Marine Policy

The 'Comhairle nan Eilean Siar (CnES) Marine Policy' details how CnES as the Harbour Authority consistently and appropriately addresses the requirements laid out in the Department for Transport (DfT) 'Port Marine Safety Code'. This Marine Policy has been prepared using the latest version of the Code and the Guide to Good Practice.

The Marine Policy describes how the Harbour Authority's overarching responsibilities in respect of the Code are designed and implemented. This Policy is delivered as detailed within the 'Marine Safety Management System Policy and Procedures Manual' (MSMS, Volume 1).

Volume 1 provides the foundation for ensuring individual CnES ports and harbours adhere to the Code's requirements in a consistent way. Port and harbour specific plans, processes and operating procedures are detailed within CnES's Standard Operating Procedures (MSMS, Volume 2). All documentation, databases and certification referenced in Volume 1 and Volume 2 are considered to be part of the complete Marine Safety Management System.

Signature of Approval and Authority:

The following signatories agree and approve the Comhairle nan Eilean Siar Marine Policy:

Approved by **Chief Executive:** **Malcolm Burr** **Date: 19/12/17**

Approved by **Chair of Harbour Board:** **Uisdean Robertson**..... **Date: 20/12/17**
(as **Duty Holder** representative)

Approved by **Harbour Master:** **Kenneth Morrison**..... **Date: 21/12/17**

Approved by **Designated Person** **Paul Macaskill**..... **Date: 19/12/17**



Comhairle nan Eilean Siar

Marine Environment and Conservancy Policy

The 'Comhairle nan Eilean Siar (CnES) Marine Environment and Conservancy Policy' provides the assurance that CnES as the harbour authority recognises its duties responsibilities under national and local legislation; and recognises that ports and harbours play an important part in the economic, environmental, and social life of the surrounding communities.

The combination of these three elements allows CnES to exercise responsibility by promoting sustainable development for the benefit of businesses and people within the port community. CnES are committed to maintaining, developing and implementing management methods which prevent or minimise environmental impact. Specifically, the following provisions are made:

- Undertake and publish hydrographic surveys;
- Undertake maintenance dredging where appropriate;
- Remove sunken vessels and other obstructions that are, or may become an environmental danger, or endanger the safety of navigation;
- Ensure the provision of the necessary Aids to Navigation within port limits and maintain a close working relationship with the Northern Lighthouse Board;
- Promulgate tidal and weather information; and
- Ensure through risk assessment and harbour works licensing, that any marine works within port limits take due regard to environmental impacts.

Signature of Approval and Authority:

The following signatories agree and approve the Comhairle nan Eilean Siar Marine Environment and Conservancy Policy:

Approved by **Chief Executive:** **Malcolm Burr** **Date: 5 November 2024**

Approved by **Chair of Harbour Board:** **Uisdean Robertson**..... **Date: 5 November 2024**
(as **Duty Holder** representative)

Approved by **Harbour Master:** **Kenneth Morrison**..... **Date: 2 April 2024**

Approved by **Designated Person** **David Phillips** **Date: 2 April 2024**



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Glossary

AIS	Automatic Identification System
ALARP	As Low As Responsibly Practicable
CCTV	Closed Circuit Television
CE	Chief Executive
CHA	Competent Harbour Authority
CnES	Comhairle nan Eilean Siar
CPD	Continuous Professional Development
COPFS	Crown Office and Procurator Fiscal Service
DfT	Department for Transport
FSA	Formal Safety Assessment
GLA	General Lighthouse Authority
HRO	Harbour Revision Order
HSE	Health and Safety Executive
IALA	International Association of Lighthouse Authorities
IHO	International Hydrographic Organisation
IMO	International Maritime Organization
ISO	International Standards Organization
ISPS	International Ship and Port Facility Security
KPI	Key Performance Indicators
LLA	Local Lighthouse Authority
LPS	Local Port Services
MAIB	Marine Accident Investigation Branch
MCA	Maritime and Coastguard Agency
MGN	Marine Guidance Note
NLB	Northern Lighthouse Board
NtM	Notice to Mariners
PANAR	Ports Aids to Navigation Availability Reporting
PEC	Pilot Exemption Certificate
PMSC	Port Marine Safety Code
POLREP	Pollution Report
RCO	Risk Control Option
SHA	Statutory Harbour Authority
SOSREP	Secretary of States Representative
UK	United Kingdom
UKHO	United Kingdom Hydrographic Office
VTs	Vessel Traffic Services



Cross Reference Table

PMSC-Section Name	PMSC Subject Heading	PMSC Paragraph Reference	Document Page/Section Reference
1 - Accountability for Marine Safety	Duties and Powers	1.3 – 1.5	
	The Duty Holder	1.6 – 1.10	
	The Designated Person	1.11 – 1.12	
	Chief Executive or Equivalent	1.13	
	Harbour Master	1.14 – 1.15	
	The organisation's officers	1.16 – 1.17	
2 – Key Measures to secure marine safety	Review existing powers	2.3 – 2.6	
	Use formal risk assessment	2.7 – 2.11	
	Implement a MSMS	2.12 – 2.17	
	Competence standards	2.18	
	Incident reporting and investigation	2.19 – 2.23	
	Monitoring performance & auditing	2.24	
	Enforcement	2.25	
	Publication of plans and reports	2.26 – 2.28	
	Consensus	2.29	
	Monitoring compliance	2.30 – 2.32	
3-General Duties and Powers	Open port duty	3.5	
	Conservancy duty	3.6 – 3.7	
	Environmental duty	3.8	
	Civil contingencies duty	3.9	
	Harbour authority powers	3.10 – 3.11	
	Revising duties and powers	3.12 – 3.14	
4 – Specific duties and powers	Appointment of a Harbour Master	4.2	
	Byelaws	4.3 – 4.5	
	Directions (special)	4.6 – 4.7	
	Directions (general / harbour)	4.8 – 4.9	
	Dangerous vessel directions	4.10	
	Pilotage and Pilotage directions	4.11 – 4.12	
	Authorising of pilots	4.13 – 4.14	
	Pilot exemption certificates	4.15 – 4.16	
	Collecting dues	4.17 – 4.20	
	Aids to Navigation	4.21 – 4.24	
	Wrecks and Abandoned Vessels	4.25 – 4.32	

1. Introduction - Background to Port Marine Safety

The Port Marine Safety Code, referred to as ‘the PMSC’ within this document, applies to every Harbour Authority with statutory powers and duties. This also includes Competent Harbour Authorities which have specific powers and duties for marine pilotage. The PMSC is concerned with Harbour Authority responsibilities for port marine safety, but does not explicitly cover other duties derived from separate legislation, such as duties from health and safety legislation or those from Merchant Shipping Acts.

Every Harbour Authority has a statutory duty to manage safety and should have a Marine Safety Management System (MSMS) for marine operations in its waters, developed from formal risk assessment processes. The model for carrying out risk assessments is based on the Formal Safety Assessment (FSA) concept publicised by the International Maritime Organization (IMO, 2013). The linkage between risk assessment and the SMS is shown in concept in Figure 1.

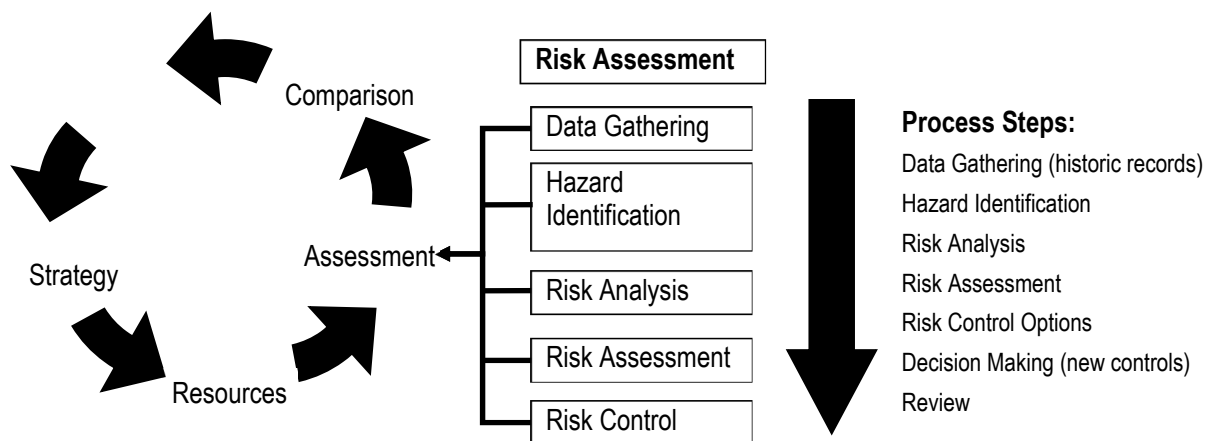


Figure 1. Marine Safety Management System and Formal Safety Assessment Relationship

The Guide to Good Practice on Port Marine Operations (GtGP) is used in combination with the PMSC to supplement the requirements by providing industry best practice. It contains useful information and more detailed guidance and examples on a number of issues relevant to harbour authorities and compliance with the PMSC. Like the PMSC, the Guide does not have any legal force, though it does refer to existing legal powers and duties.

1.1. The Harbour Authority

Comhairle nan Eilean Siar (CnES) is the local government council for Na h-Eileanan Siar council area of Scotland, which comprises the Outer Hebrides. The Comhairle is the Statutory Harbour Authority for 32 harbours and the owner and operator for 39 pier, jetty and slipway facilities. Each of the Comhairle’s 32 harbours is identified on UK Hydrographic Charts with harbour limits transcribed from the Comhairle nan Eilean Siar HRO (HM Government, 2002). These boundaries identify the Statutory Harbour Authority (SHA) boundaries within which the Comhairle has specific duties and powers, as the Harbour Authority.

The Comhairle does not have Competent Harbour Authority (CHA) status in respect of vessel pilotage.

The Comhairle’s 32 SHAs and 39 piers, jetties and slipway facilities are spread throughout the Outer Hebrides, many of which are located in areas with sparse populations, resulting in low numbers of harbour



users. The Comhairle's ports and harbours are generally unmanned during normal operations and are attended by Comhairle marine staff on a scheduled basis, and in response to specific harbour user information and requests.

1.2. Marine Safety Management System Components

The CnES MSMS (this document) is **reviewed annually** and updated in line with good practice, and to reflect experiences and lessons learned both within CnES and reported by other Ports and organisations (for example, MAIB reports).

Due to the diversity in size and scale of CnES Ports, there are a variety of local plans and operational procedures that apply at port level. The CnES MSMS ensures that the requirements of the PMSC are consistently achieved across all CnES ports, and focuses on the following functions:

- Harbour Master;
- Vessel traffic information;
- Hydrography;
- Conservancy;
- Emergency planning; and
- Marine services.

These functions may be facilitated by a number of components, for example:

- CnES Marine Policy;
- CnES Environment and Conservancy Policy;
- Volume 1 of the MSMS (this document);
- Volume 2 of the MSMS (the Standard Operating Procedures);
- Risk assessment and risk control measures;
- Accident/Incident reporting;
- Staff interaction and consultation (internal meetings and systems);
- Stakeholder interaction and consultation (external meetings and systems);
- Records and change-history; and
- CnES internal audit and review.

Volume 2 of the MSMS is comprised of CnES detailed operating processes.



Table 1. Volume 1 – MSMS – Document and Database List

Document/Database Name	Coverage
CnES - Emergency Response Plan	Council contingency plan,
CnES - Oil Spill Contingency Plan	Covering the CnES shore line area
CnES - Local Notice to Mariners	Issued on CnES website
CnES - Waste Management Plan	Covering CnES Ports, Harbours and Marine Facilities
CnES - Marine Staff training records	Maintained by the HR department, covering Marine Staff only
Marine/Navigational Risk Assessments	Maintained by the Marine Department, covering all CnES Ports, Harbours and Marine Facilities
CnES – Marine Accident/Incident Records	Covering CnES Ports, Harbours and Marine Facilities
Local Port - Visiting Craft Information	Information for all pier users is given on the Comhairle website: http://www.cne-siar.gov.uk/harbourmaster/documents/PierUsersLetter.pdf

1.3. Duties and Powers

PMSC	1.3 – 1.5	SOP(s)	
Legislation	<ul style="list-style-type: none"> Harbours, Docks, and Piers Clauses Act, 1847 The Comhairle nan Eilean Siar (Various Harbours) HRO, 2002 Dangerous Goods in Harbour Areas Regulations, 2016 Harbours Act 1964 Dangerous Goods in Harbour Areas Regulations 2016 	GtGP	1.3 – 1.4

Harbour Authorities have a range of statutory and non-statutory duties and powers relating to marine operations. CnES has a Duty of Care to its harbour users and will ensure the safety at work of employees and other persons who may be affected by the Authority's activities as far as is reasonably practicable to do so. This commitment is identified within the CnES Marine Policy and its Marine Environment and Conservancy Policy.

CnES's principal duties and powers are drawn from the following legislation:

- **Special Act:** The Comhairle nan Eilean Siar (Various Harbours) HRO, 2002
- **Model Provision:** The following provisions of the 'Harbours, Docks, and Piers Clauses Act, 1847' are incorporated within 'The Comhairle nan Eilean Siar (Various Harbours) HRO, 2002', these include:

Section	Clause Title
1	Extent of Act
2	Interpretations in this Act
3	Interpretations in this and the special Act
4	Short title of this Act
20	Power to purchase additional land required for extraordinary purposes
21	Power to construct warehouses and other works
23	Power to lease wharfs, warehouses, &c
27	Tonnage of British registered vessels to be ascertained according to law; of other vessels according to established rules
29	Vessels returning from stress of weather not to pay rates again



31	As to the rates on foreign vessels where treaties of reciprocity exist
36	Master of vessel to produce certificate of registry
43	Penalty on evading payment of rates
52	Powers of harbor, dock or pier master
66	Delivery of cargoes and placing of discharged vessels
68	Goods may be removed from the quays, &c. after lying there longer than allowed by byelaws
71	Penalties against offences herein named
73	Penalty for throwing ballast, &c., into the harbor or dock
77	Power to erect lighthouses and lay down buoys, with consent of Trinity House
78	Lights, beacons, or sea-marks not to be exhibited or altered without sanction of Trinity House
92	Railways Clauses Consolidation Act, 1845, as to damages, &c. to be incorporated with this and the special Act
94	All things required to be done by two justices in England and Ireland may, in certain cases, be done by one, and in Scotland by the sheriff, &c

- **Harbours Act:** The Harbours Act of 1964 established a National Ports Council; to provide for the control of harbour development and for giving financial assistance for the improvement of harbours. The act gives provision respecting the construction, improvement, maintenance and management of harbours; to make provision with respect to charges of certain harbour authorities and lighthouse authorities; and for purposes connected with the matters aforesaid.
- **Dangerous Goods in Harbour Regulations:** The Dangerous Goods in Harbour Areas Regulations of 2016 contain a set of safety provisions aimed at safeguarding ports against major accidents involving dangerous goods when they transit through ports, harbours and harbour areas. The purpose of the regulations is to put in place certain specific measures to reduce the risk of a serious incident occurring.
- **Railways and Transport Act 2003 – Part 4 Shipping Alcohol and Drugs** contains offences, enforcement and prescribed limits of alcohol for seafarers.

1.4. The Duty Holder

PMSC	1.6 – 1.10	SOP(s)	
Legislation		GtGP	Section 2

The Council Members collectively number 31 and each member is an elected representative. The decision making of the Harbour Authority function is therefore collectively shared amongst the Council Members. Council Members normally serve a term of 5 years. To manage the various Comhairle functions, these are shared amongst committees to allow particular interest areas to be considered by a selected group of representatives. This allows a more strategic approach to policy and decision making with subject matter experience developing over time within each committee. A number of committee members have long-standing experience with particular interest areas.

The Transport and Infrastructure Committee has a range of topic responsibilities including; transport strategy, highways authority, taxi/car hire licensing and the Harbour Board for the Comhairle's Statutory and non-statutory port and harbour facilities. In this respect, **the Transport and Infrastructure Committee**, in the capacity of Harbour Board, **is the 'Duty Holder'**, as defined in the Code.



The Comhairle's Transport and Infrastructure Committee is formed from 15 of the 31 elected Councillors. Membership of the Committee (along with other similar Comhairle committees) is listed on the Comhairle's website. This provides public knowledge and recognition of the Harbour Board membership. The Committee has an appointed Chair and Vice Chair, the Vice Chair taking over should the Chair declare any conflict of interests in a particular topic or vote.

The Transport and Infrastructure Committee meetings are scheduled in advance and advertised on the Comhairle's website. Typically there are five meetings per year and the minutes from these meetings are publically available following each meeting. The meetings are open to the public and typically have attendance from other non-voting Council Members (who may be attending to contribute to specific topic discussions).

1.5. The Designated Person

PMSC	1.11 – 1.12	SOP(s)	
Legislation		GtGP	2.2.25 – 2.2.38

The Code states in Paragraph 1.11 that:

“Each organisation must appoint an individual as the “designated person” to provide independent assurance directly to the duty holder that the MSMS [Marine Safety Management System], for which the duty holder is responsible, is working effectively” (DfT, 2016).

The Comhairle has appointed Commander David Phillips as the Designated Person. In addition, the Comhairle has appointed a representative of the Transport and Infrastructure Committee to be the initial point of contact for the Designated Person. These appointments fulfil the requirements laid out within the Code.

The primary purpose of a Designated Person is to provide independent assurance directly to the Duty Holder that the marine safety management system (MSMS), for which the Duty Holder is responsible, is working effectively. The Designated Person's main responsibility is to determine, the effectiveness of the marine safety management system in ensuring compliance with the Code, through assessment and audit. For the Comhairle, this is achieved through direct audit of the port and harbour facilities, with the Designated Person's audit provided to the Audit and Scrutiny Committee. The scope of each year's audit is set by the Designated Person and agreed in advance. It is worth noting that the yearly Designated Person audits are direct audit and not a combination of monitoring, assessment and audit.

The inter-relationship between the CnES Duty Holder, Designated Person and Port/Marine staff within CnES is shown at the end of this section in Figure 2. The Designated Person's contact information is:

- David Phillips
- Email contact: d.phillips@nashmaritime.com
- Phone number: 07912670967



1.6. Chief Executive & The Organisations Officers

PMSC	1.13, 1.16 – 1.17	SOP(s)	NA
Legislation		GtGP	2.2.23

The Chief Executive is accountable for the operational and financial control of the authority. The Chief Executive has authority on all matters related to duties and powers. This role includes the following responsibilities under the PMSC:

- Oversee the implementation of CnES policies and decisions;
- Have overall executive responsibility for the safety of operations and staff; and
- Oversee the recruitment and training policy for staff and key officers.

1.6.1. Key Officers – Chief Officer, Assets and Infrastructure

The Chief Officer, Assets and Infrastructure is answerable to the CE for the operation of CnES's Ports and Harbours. This role includes the following responsibilities under the PMSC:

- Implementing the CnES Marine Policy.
- Health, Safety and Environmental Policies relevant to the CnES Port and Harbour operations, and ensuring compliance with relevant reporting duties to agencies such as the Health and Safety Executive (HSE), MAIB and MCA.
- Dealing with disciplinary measures according to the Policies when appropriate.
- Providing CnES's key officers (such as the Harbour Master and Assistant Harbour Master) and other Port and Harbour staff with appropriate support and resources to fulfil their responsibilities as required under the PMSC.
- Leads, directs and manages an efficient and effective Marine Service in accordance with the Comhairle's values, objectives, targets and statutory obligations.
- Provides professional technical advice to the Comhairle, Harbour Board, Chief Executive and Director and ensures the Comhairle fulfils all statutory requirements and implements policies in respect of Marine Services.
- Advises on the strategic direction and developments required in the Ports and Harbours to meet the Comhairle's statutory and legal duties in delivering the Comhairle's priorities and plans.
- Leads the setting of budgets for services, maintains effective budgetary control to achieve cost the most cost effective delivery of services within the statutory duties and policies of the Comhairle.



1.7. Harbour Master

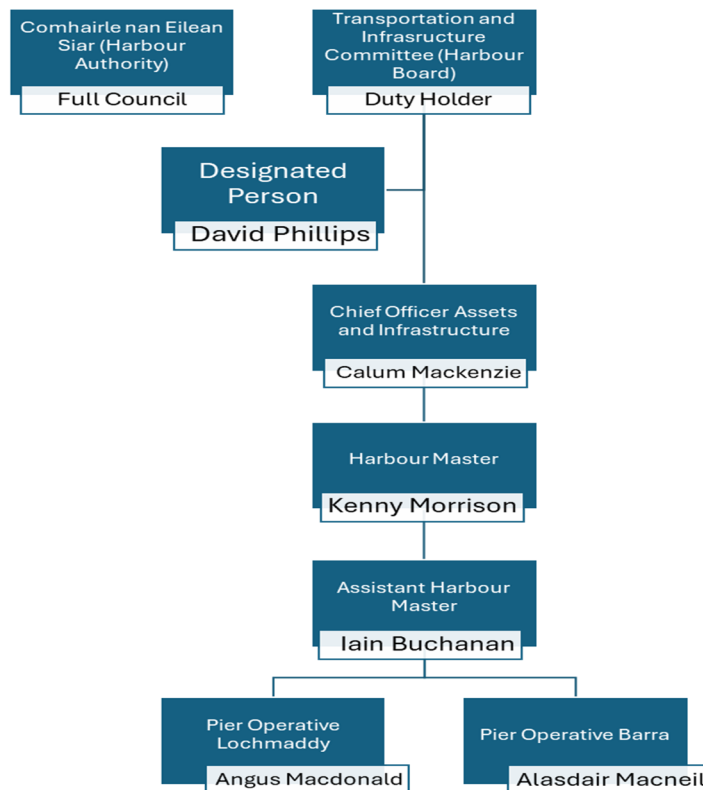
PMSC	1.14 – 1.15	SOP(s)	NA
Legislation	<ul style="list-style-type: none"> • Harbours, Docks, and Piers Clauses Act, 1847 • The Comhairle nan Eilean Siar (Various Harbours) HRO, 2002 • Dangerous Goods in Harbour Areas Regulations, 2016 	GtGP	1.4

The Harbour Master has day-to-day responsibility for the safe operation of navigation and other marine activities in CnES's Ports and Harbours. The Harbour Master has been **directly appointed by the Harbour Authority** to fulfil this function. The post holder must be competent and a suitably qualified person with sufficient experience for the role. Furthermore, the post holder must also be competent to undertake other relevant duties, in relation to Health & Safety at Work and Merchant Shipping legislation. The Harbour Master:

- Has powers of direction to regulate the time and manner of any vessel's entry to, departure from and movement within the harbour waters, and related marine safety purposes.
- Is responsible for developing and implementing emergency plans and procedures for regulating dangerous goods in transit on ships.
- Has responsibility for counter-pollution and waste disposal plans.
- Is in overall responsibility for the provision and maintenance of Aids to Navigation in relation to the authority's conservancy duties.

The Harbour Master's powers are determined by the 'The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002' (UK Government, 2002).

Figure 2. Harbour Authority Structure diagram





2. Key measures to secure marine safety

2.1. Review existing powers

PMSC	1.14 – 1.15	SOP(s)	002
Legislation	<ul style="list-style-type: none"> The Comhairle nan Eilean Siar (Various Harbours) HRO, 2002 	GtGP	1.6, 1.9.4 – 1.9.6

CnES Harbour Authority powers are detailed within the ‘The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002’ (UK Government, 2002). These powers are reviewed periodically through committees such as Transportation and Infrastructure Committee. Where additional powers are identified and appropriate means are used to extend, improve or amend these. Methods may include the use of Harbour Revision Orders, additional or amended Byelaws and the use of powers of General Direction. CnES ensures that these powers and local byelaws are kept under review and are fit for purpose at each port.

2.2. Use formal risk assessment

	1.14 – 1.15		001
			3.2.8 – 3.2.9, Section 4

Port marine risk assessments have been established in CnES Ports since the inception of the original Port Marine Safety Code in 2000. CnES has a set of Navigational Risk assessments for covering all the Harbour Authority’s ports, harbours, piers and slipway facilities, these risk assessments:

- Identify hazard and analyse risks;
- Assess those risks against an appropriate standard of acceptability; and
- Where appropriate, consider a cost-benefit assessment of risk reduction measures.

The process of assessment within CnES is continuous and reflective, so that new hazards to navigation and marine operations are identified and properly addressed. Central to the risk management process within is the concept of reducing risk to levels which are ‘as lowest as reasonably practicable’ (ALARP). The process adopted within CnES for managing risk is described in detail in the relevant SOP.

Dynamic Risk Assessments are used to identify, assess and control risk in real time and complements pre-planned Risk Assessments by addressing immediate hazards. A Dynamic Risk Assessment Procedure is in place.

2.3. Implementing a MSMS

	1.14 – 1.15	SOP(s)	NA
Legislation		GtGP	Section 5

The PMSC requires Harbour Authorities to establish and maintain a MSMS. This document, together with Volume 2 discharges that responsibility. In providing the MSMS, this document:

- Confirms roles and responsibilities of key personnel;
- Sets measures for performance against targets (for reporting to the Designated Person); and
- Refers to common CnES Port and Harbour practices, procedures and manuals.



Volume 2 of the MSMS, provides more detailed SOPs for the Harbour Authority, plus segregated types of harbour facilities. Through the application of SOPs, as stated in Volume 2, CnES is able to:

- Maintain proper control of shipping movements within its harbour areas;
- Protects the general public from dangers arising from marine activities within the harbour;
- Outlines present procedures for maritime safety (typically, through reference to an operational manual);
- Has regard to possible environmental impact; and
- Prevents acts or omissions which may cause injury to employees or others.

Both Volume 1 and Volume 2 are subject to ongoing review as a result of incidents which may lead to a review of risk assessments and controls, impacting on the implementation of the MSMS. In addition, every three years, a comprehensive review of PMSC's compliance will be completed.

The three yearly review will take into account the results of annual (internal) audits, examples of best practice from other ports and organisations, plus other relevant reports (for example MAIB accident/incident investigations). The MSMS is reviewed and updated annually, taking into account lessons learnt and best practice from industry.

2.4. Competence standards

PMSC	1.14 – 1.15	SOP(s)	NA
Legislation		GtGP	Section 12

Under the PMSC, all persons involved in the management and execution of marine services should be qualified and trained to the requirements of the position. Appropriately trained and competent members of staff are key elements of many risk control measures, and are essential in determining risks and appropriate controls at the outset. Recruitment and training policy is described in the relevant Council policy.

Competence assurance begins at the recruitment stage and is maintained thereafter. In order to assure initial competence, within CnES a four-stage process is followed:

1. **Prior to Job Commencement:** no staff member will be permitted to undertake work until the entry level criteria (as defined in the job description / vacancy advertisement) have been met;
2. **Induction Training:** All new staff (including temporary) will receive appropriate induction training and specific job related operational and procedural training, which will be overseen and recorded by appropriate line managers;
3. **Supervision and On Job Training:** Full competence for the post will be assessed once the staff member has completed a probationary period in the role. This may be achieved by working under the supervision of a competent person who will recommend when the new starter is to be considered competent, or by means of formal assessments after pre-determined periods of on-the-job training; and
4. **Competence:** When all the above stages have been satisfactorily completed, the person may be considered competent.

CnES maintains a training matrix for marine staff and is shown in Appendix A of this document, this includes the following roles:



- Harbour Master, Deputy Harbour Master
- Assistant Harbour Master
- Marine Assistants

Staff training certification is maintained by CnES's Human Resources Department.

The training matrix informs the audit process by identifying the training requirements for staff. Training certification and records identify qualifications held, and provides a prompt to kept renewable certification current. This is part of continuous professional development (CPD) and/or formal refresher training.

2.5. Incident reporting and investigation

PMSC	1.14 – 1.15	SOP(s)	003
Legislation	<ul style="list-style-type: none"> • The Merchant Shipping (Accident Reporting and Investigation) Regulations 2012 • IMO Resolution MSC.255(84) Casualty Investigation Code 	GtGP	Section 13

CnES recognises that however effective the safety regime is, incidents and 'near misses' will occur. A clear process of incident recording, investigation, follow up and closure has been established, and all stages of this process are recorded. The process will recognise the often conflicting essential purposes of an investigation:

- To determine the cause of the incident, with a view to preventing a recurrence; and
- To determine if an offence has been committed and whether enforcement action is appropriate.

The Guide to Good Practice (DfT 2013) identifies that 'a harbour authority's Safety Management System should carry clear guidelines on the procedures to be adopted with respect to accident and incident investigation. Those guidelines should provide clear indicators to the authority's officers on how to determine, at an early stage, whether the purpose of the investigation is either for **safety purposes** or for **enforcement purposes**'.

CnES, as the Harbour Authority, considers that the principle requirement of a marine incident investigation should be to determine the probable causes and contributing factors, so that precautions can be put in place to ensure known risks are managed to ALARP. By identifying the 'what' and 'why' of an incident CnES is better equipped to prevent a recurrence. In meeting this objective an investigation to determine if an offence has been committed (a criminal investigation) may be compromised and in such cases CnES will seek assistance through an agency of another authority such as the Police, HSE or the MCA.

2.5.1. Independent Investigation

In respect of incident investigation, the PMSC identifies that: "by ensuring that a robust, rigorous, independent investigation has been carried out, the board and the duty holder can be assured that their obligations for compliance have been addressed". CnES considers that 'independent investigation', following the GtGP sections 12.7.2 to 12.7.3, and 12.9.6', means that the investigating officer is independent of the incident. For example, if an incident involves a Pilot and/or PEC, the investigating officer will be a marine professional drawn from a non-related department, who is not personally associated (friend or relation) of those directly involved in the incident. To establish independence, a group of at least two management grade staff will identify the investigating officer and establish their credible independence. In the instance that an independent investigating officer cannot be identified,



CnES will consider making a request for assistance to nearby Harbour Authorities, or may engage the services of an external contractor.



2.5.2. Incident Investigation Process

Circumstances where an investigation to determine cause should take primacy include:

- Where it is necessary to determine the cause of the incident so that precautions can be put in place at the earliest opportunity to prevent a recurrence;
- Where it is necessary to promulgate the cause of an incident to interested parties and other Harbour Authorities so that lessons can be learned; and
- Where it is necessary to determine the cause of the incident where those causes may initiate amendments to the MSMS which in turn will ensure CnES continues to comply with the PMSC.

When conducting an investigation to determine cause due regard will be given to the IMO (2008) 'Casualty Investigation Code' (resolution MSC.255(84) adoption of the PMSC of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident) insofar as it provides guidance to the Harbour Authority.

The following schematic (Figure 3) provides an overview of accident/incident reporting as applied by CnES:

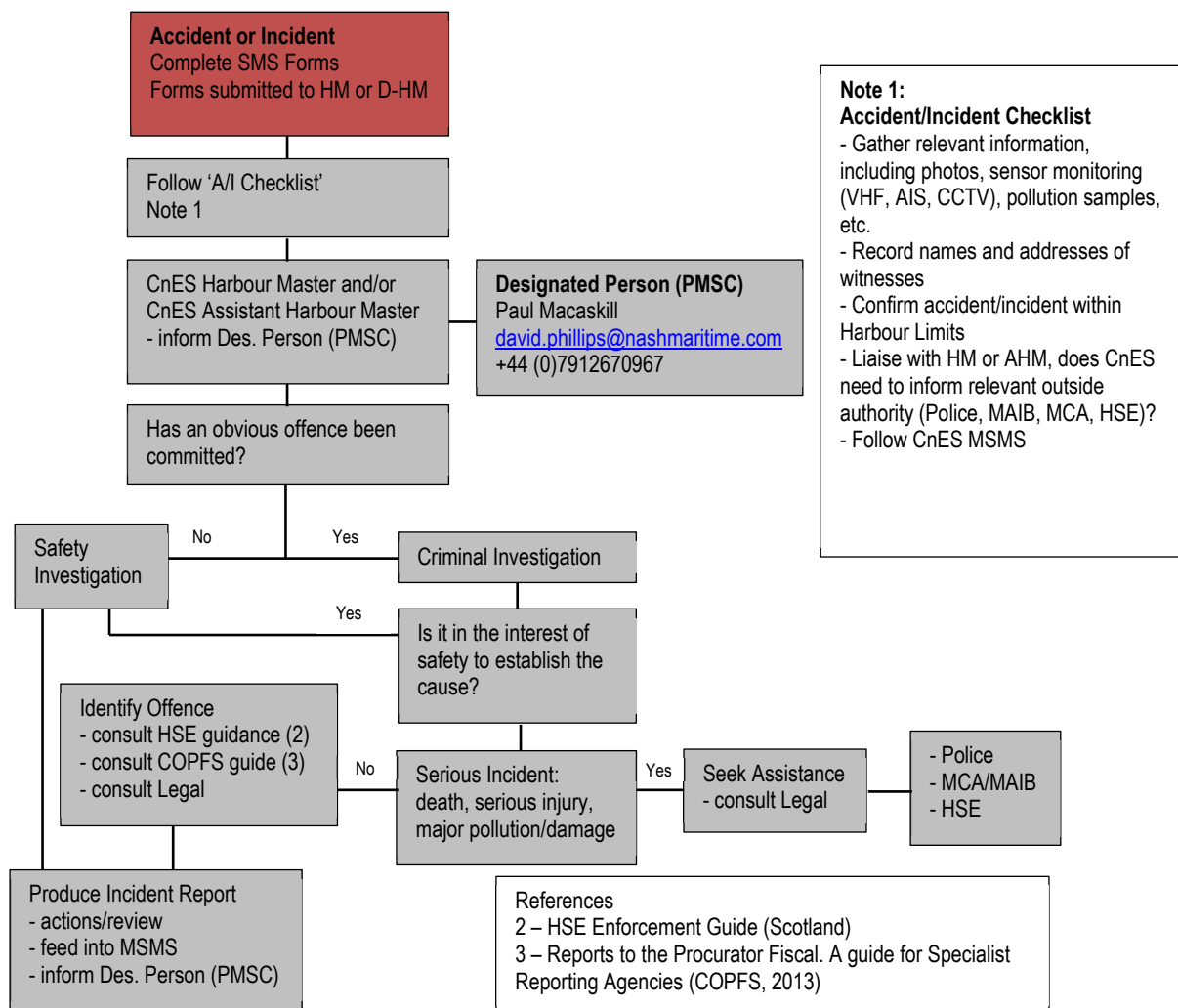


Figure 3. CnES Accident/Incident Structure



The format for reporting is not specified allowing adaptability on a case-by-case basis depending on the scale of the accident or incident. Having completed an investigation to determine cause, a report will be compiled. Before a report is finalised, parties that are involved in the incident may be given the opportunity to make representations. The object of the report will not be to apportion blame but to inform and improve the MSMS and in particular to inform a review of relevant risk assessments.

Reports on an investigation to determine cause will not be made public or published where it may prejudice an investigation conducted by another agency or when legal actions are anticipated. Although a report may not be published any lessons learned will be promulgated on a confidential basis to parties that can assist in the management of risks identified in the report. The TWG will review and consider the best method of implementing the findings of accident and incidents reports. Accidents and Incidents are also recorded on the CnES Port Information System to ensure marine staff can identify occurrence to individual vessels, which contributes to enhance safety through planning when the same vessel(s) make repeat visits.

2.5.3. Near Miss Incident Investigation

CnES places particular emphasis on reporting potential incidents (including near miss and close-quarters situations) which are investigated and followed up using the same procedure as actual incidents. This enables a review and/or creation of risk assessments with associated risk control measures to reduce the potential for an actual incident.

2.6. Monitoring performance & auditing

	1.14 – 1.15	SOP(s)	004
Legislation		GtGP	5.1

2.6.1. Key Performance Indicators (KPIs)

The PMSC states that: 'The marine safety management system must have a regular and systematic review of its performance. This should be based on information from monitoring the system itself and from independent audits of the whole system. Performance of the system should be assessed against internal performance indicators and where appropriate, by benchmarking against other ports that have adopted good practice'.

To assess the validity and effectiveness of indicators used to measure performance against the requirements and standard of the PMSC is more difficult than the monitoring exercise. It is well known in industry that for a Key Performance Indicator (KPI) to be of any value there must be a way to accurately define and measure it. CnES has determined that meaningful statistical measurements of performance are appropriate for the following five performance indicators:

1. The number of completed marine incident/accident reports;
2. The total number of marine risk assessments for the Harbour Authority. With the percentage in date, out of date, and reviewed during each quarter of the year.
3. The number of time-expired qualifications required for marine staff job roles.
4. The availability of Aids to Navigation (in three classification bands) expressed as a percentage of total availability over a three year period, [NLB Aids to Navigation report].
5. The number of incidents that occur within the SHA area. Monitoring severity classification, causes and time taken to investigate and close out.



2.6.2. Audit Requirements

The MSMS is subject to regular audits. The PMSC identifies that internal audit should be carried out annually, with an external audit carried out on a three yearly basis. For PMSC compliance, a statement about the performance standard of CnES Ports and relevant audit findings are included in Harbour Board Reports. As part of this process, changes to the MSMS are made to reflect the lessons learnt from other ports and incorporate the recommendations and conclusions of any port related MAIB investigations.

Within CnES, auditing is conducted as a centralised activity. The following audit in respect of the PMSC is adopted within the overall framework of business auditing:

- Annual internal MSMS audit (carried out at selected CnES Ports on a rolling basis);
- Annual internal review of the CnES Marine, Environment and Conservancy Policies;
- Three yearly external MSMS audit; and
- Three yearly internal review of the whole Safety Plan for Marine Operation.

2.6.3. Internal Audit

An internal audit of on select CnES ports is carried out on a rolling basis by the Designated Person, this examines Volume 1 and Volume 2 of the MSMS. Internal MSMS audits are conducted to achieve the following objectives:

- To determine if the MSMS is being operated in accordance with the CnES Marine, Environment and Conservancy Policies;
- To monitor the overall effectiveness of the system;
- To identify and implement ways of improving overall performance; and
- To confirm that relevant procedures are understood and being followed by all those involved.

The Designated Person uses the results of the internal audits to monitor and report upon the effectiveness of the MSMS and compliance with the PMSC to the CnES Harbour Board. The Duty Holder is responsible for publishing an assessment (every three years) of the Harbour Authority's performance against the CnES Marine, Environment and Conservancy Policies. This report will draw heavily on the results of the audit process.

2.6.4. External Verification

CnES will arrange an external audit of its MSMS on a three year rolling cycle also by the Designated Person. In addition, from time to time, ports may be subject to external verification visits to ensure PMSC compliance (e.g. by the MCA). CnES will ensure that lessons learned from audits are reviewed and considered as a revision to the CnES MSMS and associated local policies and procedures.



2.7. Enforcement

	1.14 – 1.15	SOP(s)	
Legislation		GtGP	1.9.12

CnES, as Harbour Authority, is responsible for enforcing relevant laws within its jurisdiction. Local Byelaws will be used to prosecute offenders if appropriate. CnES provides internal resources to support the Harbour Master in this regard when required; including advice from Designated Person and access to CnES's legal service. If necessary, external support and advice will be utilised.

It must be noted however, that enforcement does not necessarily mean prosecution. Prosecution and the associated penalties imposed by a Court provide the ultimate sanction; enforcement provides a range of responses from informal verbal warnings, through formal written warnings to action in the Courts. CnES has developed a consistent approach for dealing with those persons who use its Ports and Harbour and fail to meet acceptable standards. CnES acknowledges that in order to maintain its credibility it must demonstrate that it can effectively utilise the full range of enforcement options.

2.7.1. Range of CnES Enforcement Options

Enforcement covers everything from information and education on the conduct expected of port and harbour users to prosecution on indictment in the Crown Court where the Court may send someone to prison. The range of options available in CnES Ports and Harbours include:

- Information and Instructional leaflets;
- Informal education;
- Formal education, for example seminars, briefings etc;
- Formal advice, for example local Notices to Mariners (NtM);
- Informal warnings;
- Formal warnings; and
- Prosecution.

The option used will depend on the circumstances of each particular incident, the following will be considered when selecting the Enforcement Option:

- Misconduct severity;
- Misconduct risk and potential consequential outcome;
- Any repetition of the misconduct;
- The attitude of the person involved;
- Known knowledge and experience of the suspect;
- Available evidence (quality and reliability);
- The need to provide a deterrent; and
- The interests of the public safety.

The conduct of a criminal investigation has to meet strict requirements; failure to meet this standard will make it almost impossible to prosecute an offender regardless of the evidence. When an incident indicates that a criminal investigation is appropriate but in the interests of safety an investigation to determine cause should take precedence, assistance will be sought from outside agencies. In the case where CnES elects to conduct its own criminal investigation, it will be conducted in accordance with the requirements of the 'Reports to the Procurator Fiscal. A guide for Specialist Reporting Agencies' (COPFS, 2013).



2.8. Publication of plans and reports

PMSC	1.14 – 1.15	SOP(s)	NA
Legislation		GtGP	2.2

The PMSC provides detail on the way in which Harbour Authorities should show commitment to maritime safety and to ensuring the involvement of harbour users. The PMSC specifically requests a 'safety plan for marine operations' which should be published at least once every three year. This document is reviewed and reissued by the Duty Holder, and confirms how commercial pressures are managed without affecting the safe provision of services and the efficient discharge of its duties.

The Harbour Master facilitates the supply of information to the Designated Person, including details of meetings, training, audits and specific Port KPIs, plus other matters of relevance to Port Marine Safety. These reports, together with a summary document, are provided to the Duty Holder (CnES Harbour Board as Harbour Authority) in writing by the Designated Person. During formal presentation at a Board meeting, time is made available for discussion of marine safety issues, and for the Designated Person to answer any questions raised by the Harbour Board members. The Designated Person attends at least one Harbour Board meeting in person on an annual basis.

2.8.1. Reporting

Details of any marine reportable incident which meets the criteria published by the MAIB from the 'Merchant Shipping (Accident Reporting and Investigation) Regulations 2012' will be reported by the quickest means available. Investigations by the CnES (detailed in Section 3.6) will be provided to the relevant authorities, generally by email as soon as the report is completed.

2.9. Consensus

	1.14 – 1.15	SOP(s)	
Legislation		GtGP	Section 3

Within each local MSMS document, the arrangements for consultation with port users and stakeholders are described. There is no CnES policy on this matter; each Port location arranges suitable local forum(s) for meetings and consultation. Typically this includes regular meetings with customers, leisure users and port marine service providers (for example agents, tugs, mooring services).

2.10. Monitoring compliance

PMSC	1.14 – 1.15	SOP(s)	
Legislation		GtGP	2.2.2

The Guide to Good Practice on Port Marine Operations (DfT, 2016) states: 'the Designated Person will take appropriate measures to determine whether the individual elements of the marine SMS meet the specific requirements of the PMSC'. These measures will include:

- **Monitoring** the thoroughness of the risk assessment process and the validity of the assessment conclusions;
- **Monitoring** the thoroughness of the incident investigation process and the validity of the investigation conclusions;



- **Monitoring** the application of lessons learnt from individual and industry experience and incident investigation;
- **Assessing** the validity and effectiveness of indicators used to measure performance against the requirements and standards in the PMSC; and
- **Assessing** the validity and effectiveness of consultation processes used to involve and secure the commitment of all appropriate stakeholders.

To achieve this, the following is undertaken by the Designated Person for CnES:

- Monitoring the do you attend any marine safety or local users group meetings?
 1. Copy of each meeting's agenda;
 2. Copy of each meeting's minutes; and
 3. Copy of any reports which may be produced by the Group.
- Monitoring the activities of the Ports & Harbours Safety Sub Committee by consulting the following documentation:
 1. Copy of each meeting's agenda; and
 2. Copy of each meeting's minutes.
- Monitoring incident and accident reports for CnES Ports and Harbours by consulting the following documentation:
 1. Copy of the completed marine Incident/Accident Report form for each incident/accident occurring in CnES Port and Harbour limits;
 2. Copy of each completed report forms sent to the MAIB; and
 3. Copy of each Incident/Accident entry entered onto the Port's Information System.
- Monitoring internal and external audits of all, or selected operations within CnES Ports and Harbours by consulting the following documentation:
 1. Copy of each internal audit report;
 2. Copy of each external audit report; and
 3. Copy of each verification visit audit report.
- Monitoring the training of all CnES employees undertaking port marine activity by consulting the following matrices:
 1. Volume 1 MSMS, training matrix; and
 2. Certification records held.
- Monitoring the validity and effectiveness of consultation processes used to involve and secure the commitment of all appropriate stakeholders by consulting the following documentation:
 1. Notices to Mariners;
 2. Copy of the terms of reference, agenda and the minutes of every meeting organised by an external body to which representatives of CnES and representatives of the Harbour users are invited to attend; and



3. Copy of all CnES correspondence sent formally to representatives of the Harbour users in for the purpose of obtaining their views on such issues as changes to:

Every three years, CnES will ensure that a prompt and internally verified response is made to the MCA compliance programme. CnES will always assist the MCA should a verification visit be required at any CnES Port or Harbour. Should internal audits reveal potential compliance issues which cannot be resolved internally, CnES will seek advice from the MCA to assist in gaining confirmation of compliance.



3. General Duties and Powers

3.1. Open port duty

PMSC	3.5	SOP	NA
Legislation	<ul style="list-style-type: none"> Section 33 of the Harbours, Docks and Piers Clauses Act 1847 	GtGP	8.2

Every CnES port has the Open Port Duty meaning that the harbour must be open for the shipping and unshipping of goods and the embarking and landing of passengers, on payment of rates. This duty is a requirement of Section 33 of the Harbours, Docks and Piers Clauses Act 1847

3.2. Conservancy duty

PMSC	3.6 – 3.7	SOP	
Legislation	<ul style="list-style-type: none"> Section 198 of the Merchant Shipping Act 1995 	GtGP	Section 7

CnES contracts hydrographic survey services, enabling the charting of the harbour area. Where bathymetric surveys show a reduction in navigable depths due to accretion, maintenance dredging will be undertaken. Surveys are conducted to the standard required by the International Hydrographic Office (IHO) SP44. In accordance with The Code, hydrographic records are maintained and passed to the UK Hydrographic Office (UKHO) to update their records.

Performance of navigation aids is monitored with maintenance work carried out under contract with the General Lighthouse Authority, the Northern Light Board (Commissioners of Northern Lighthouses).

3.3. Environmental duty

PMSC	3.8	SOP	
Legislation	<ul style="list-style-type: none"> Section 48A of the Harbours Act 1964 Regulation 3(4) of the Conservation (Natural Habitats &c) Regulations 1994 (SI 1994 No 2716) Section 262 of the Town and Country Planning Act 1990 Section 40 of the Natural Environment and Rural Communities Act 2006 	GtGP	6.4, 6.5.4

All Statutory Harbour Authorities have a duty to conserve the Marine Environment, and many of the control measures introduced to enhance marine safety also serve to protect the environment.

3.4. Civil contingencies duty

PMSC	3.9	SOP	
Legislation	<ul style="list-style-type: none"> Civil Contingencies Act 2004 	GtGP	6.1.2 – 6.1.4

The Harbour Master is responsible for marine contingency and planning functions. This may include vessel licencing functions where appropriate, as well as emergency and security planning in accordance with the regulatory framework, and national and international legislation. In addition there



will be the requirement to revise and enforce local byelaws and directions; and to publish navigational information and advice such as Local Notices to Mariners.

Each CnES port has established suitable emergency response plans for specific marine incidents. Appropriate training exercises are arranged at suitable intervals, and the outcomes of such exercises will be logged and reviewed to ensure the continual improvement and relevance of the plans.

3.5. Harbour authority powers

PMSC	3.10 – 3.11	SOP	
Legislation	<ul style="list-style-type: none"> • Section 40 of the Harbours Act 1964 • Local Legislation 	GtGP	NA

The Code requires Harbour Authorities to review their powers to ensure they discharge their duties correctly, and do not exceed their powers. Powers and duties of CnES as the Harbour Authority are contained within the HRO. Further powers are provided for through Bye-laws, which must be agreed with Scottish Ministers before issue; there are currently no Bye-laws issued however powers to create such are contained within the CnES HRO. CnES is the Statutory Harbour Authority and Local Lighthouse Authority for the respective ports. In these capacities it is directed by Acts of Parliament and answerable to Parliament and Scottish Ministers should it exceed its powers, or fail in its duty. Should this occur, CnES is subject to a full range of review procedures. CnES's powers and duties are derived primarily from the following legislation:

- Harbours, Docks and Piers Clauses Act 1847;
- The Harbours Act 1964;
- The Comhairle nan Eilean Siar (Various Harbours) Harbour revision Order 2002; and
- Merchant Shipping Act 1995.

3.5.1. General functions

Section 5 of The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 reads:

“(2) For those purposes, and without prejudice to the generality of the foregoing, the Comhairle may –

- (a) improve, maintain, regulate, manage, mark and light the harbour areas and provide harbour facilities;
- (b) place, execute, operate, maintain, renew, alter, remove and reconstruct structures and works and equipment in the harbour areas; and
- (c) do all other things which in its opinion are expedient to facilitate the proper carrying on or development of the harbour areas.”

3.5.2. Power to dredge

Section 6 of The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 reads:

“(1) Subject to the provisions of this Order, the Comhairle may from time to time deepen, widen, dredge, scour, cleanse, alter and improve the bed and foreshore of a harbour area and the seaward approaches thereto and may blast any rock in that area.



(2) The Comhairle may use, appropriate or dispose of any material (other than any wreck within the meaning of Part IX of the Merchant Shipping Act 1995(a)) from time to time dredged or removed by it from a harbour area.

(3) Subject to the provisions of this Order no materials so dredged shall be deposited below the level of mean high water except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Scottish Ministers.”

Dredging and disposal of dredgings at sea is licensable under the Marine (Scotland) Act 2010. Maintenance dredging of ports and harbours, carried out by the Harbour Authority in accordance with its local Act or harbour order is exempt from needing a Marine Licence for established dredged techniques. In order to deposit dredgings at sea, consent is still required under the Marine Licensing regime.

3.5.3. Detention of vessels

Section 9 of The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 reads:

“(1) This article applies to any damage caused to any work or property of the Comhairle in a harbour area–

- (a) by any person who contravenes any provision of this Order or any other enactment relating to a harbour area; or*
- (b) by a vessel, whether or not as a result of any contravention of any such provision.*

(2) Where damage to which this article applies has occurred, the Comhairle may detain any vessel which caused the damage, and any other property belonging to or in charge of the person causing the damage, or belonging to his employers, until the cost of the damage has been paid or until reasonable security therefor has been given to the Comhairle.

(3) The owner of any vessel causing damage to which this article applies and the master (if it was through his intentional act or failure to act that the damage was done) shall be liable for the cost of the damage.”

In addition to this The Harbour Master may also detain vessels under the provisions of the Railways and Transport Safety Act 2003 (Section 84), where it is suspected that a mariner (master, pilot or seaman) has committed a drink or drugs related offence when on duty.

3.5.4. Boarding of vessels

The Harbour Master is permitted to board vessels for the following reasons:

- (a) “for the purposes of any enactment relating to the Comhairle or of any byelaw of the Comhairle, including the enforcement thereof; or*
- (b) to prevent or extinguish fire;*

but, except in an emergency, no entry shall be made under this article without notice first having been given to the owner or the person appearing to have charge of the vessel; and the notice shall have annexed to it a copy of this article.”



The Harbour Master also has the power to board a vessel to determine the cause of a discharge of oil into the Harbour. This power has been established by the Merchant Shipping Act 1995.

3.5.5. Power to appropriate parts of harbour areas

Section 14 of The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 reads:

“(1) Notwithstanding anything in this or any other statutory provision of local application, the Comhairle may from time to time set apart or appropriate any part of a harbour area, or any lands, works, buildings, machinery, equipment or other property of the Comhairle in a harbour area, for the exclusive, partial or preferential use or accommodation for any particular trade, activity, person, vessel or class of vessels or goods, subject to the payment of such reasonable charges and to such terms and conditions as the Comhairle think fit.”

3.5.6. Power to lay down moorings

Section 15 of The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 allows CnEs to control moorings within the Harbour Area:

“(1) The Comhairle may provide, place, lay down, maintain, renew, use, have or remove such moorings within a harbour area as it considers necessary or desirable for the convenience of vessels.”

3.5.7. Licensing of works

Section 32 of The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 reads:

“(1) The Comhairle may upon such terms and conditions as it thinks fit grant to any person a licence to construct, place, alter, renew or maintain works within a harbour area on, under or over tidal waters or tidal land below the level of high water, notwithstanding any interference with public rights of navigation or other public rights by such works as constructed, placed, altered, renewed or maintained.”

Section 33 of The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 reads:

“(1) The Comhairle may upon such terms and conditions as it thinks fit grant to any person a licence to dredge in any part of a harbour area.”

3.6. Revising duties and powers

PMSC	3.14	SOP	
Legislation	<ul style="list-style-type: none"> • Schedule 2 of the Harbours Act 1964 • Section 7(5) of the Pilotage Act 1987 • Sections 17A to 17F of the Harbours Act 1964 	GtGP	3.2.2 – 3.2.5

A harbour revision order can be used to amend statutory powers in a Harbour Authority’s local legislation. It can be used to achieve various outcomes, one of which is to impose or confer additional duties or powers on a harbour authority (including powers to make byelaws). It can also be used in the context of the Code to substitute or amend existing duties and powers. The following are some



examples of the purposes for which duties and powers may be imposed or conferred, substituted or amended by a harbour revision order:

- improving, maintaining or managing the harbour;
- marking or lighting the harbour, raising wrecks or otherwise making navigation safer; and
- regulating the activities of other individuals and groups in connection with the harbour and the marine/shoreside interface.

Harbour revision orders can also be used to change the harbour limits and to extend compulsory pilotage beyond the harbour.

Harbour revision orders are made by the Secretary of State to whom order-making powers have been. The order can only be made if the person making it is satisfied that the order would be desirable:

- to secure the improvement, maintenance or management of the harbour in an efficient and economical manner; or
- to facilitate the efficient and economic transport of goods by sea; or
- be in the interests of the use of sea-going ships for leisure purposes.



4. Specific Duties and Powers

4.1. Appointment of a Harbour Master

PMSC	4.2	SOP	
Legislation	<ul style="list-style-type: none"> Section 52 of the Harbour, Docks and Pier Clauses Act 1847 Sections 40A to 40D of the Harbours Act 1964 The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 	GtGP	2.2.4, 12.4

Section 4 of The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 reads:

“The Comhairle may employ and appoint harbour masters for and incidental to the performance of their functions under this Order and all other enactments relating to a harbour area.”

4.2. Byelaws

PMSC	4.2	SOP	
Legislation	<ul style="list-style-type: none"> Section 83 of the Harbours, Docks and Piers Clauses Act 1847 Section 236 of the Local Government Act 1972 The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 	GtGP	1.7, 1.9.7 – 1.9.10

Section 30 of The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 provides for CnES to create Bye-Laws for the efficient management and regulation of the port.

“(1) The Comhairle may from time to time make byelaws for the efficient management and regulation of a harbour area and the harbour undertaking.

(2) Without prejudice to the generality of paragraph (1) above, byelaws may be made under this article for the following purposes:

- (a) regulating the use, operation and superintendence of a harbour area and the docks, berths, wharves, quays, piers, jetties, staiths, warehouses, sheds, landing places, locks, sluices, equipment, works and conveniences (including moorings);*
- (b) regulating the admission to, and the movement within, and the departure of vessels from a harbour area or the removal of vessels, and for the good order and government of vessels whilst within a harbour area;*
- (c) regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of goods, including marine creatures of any type, within a harbour area;*
- (d) regulating the navigation, berthing and mooring of vessels within a harbour area and their speed and manner of navigation, and the use of tugs within a harbour area;*
- (e) preventing damage or injury to any vessels, goods, vehicles, plant, machinery, property or persons within a harbour area;*
- (f) regulating the conduct of all persons in a harbour area not being members of a police force or officers or servants of the Crown whilst in the exercise of their duties;*
- (g) regulating the placing and maintenance of moorings within a harbour area;*
- (h) preventing and removing obstructions or impediments within a harbour area;*
- (i) prohibiting or regulating the discharge or deposit of ballast, ashes, refuse, rubbish or other material (including any polluting liquid) into a harbour area;*



- (j) *regulating the use of ferries within a harbour area;*
- (k) *regulating in a harbour area the use of yachts, sailing boats, sailboards, rowing boats, pleasure craft and other small craft;*
- (l) *regulating the holding of regattas and other public events in a harbour area;*
- (m) *regulating or prohibiting the activities in a harbour area of divers, surfers, water skiers and other persons engaged in similar recreational pursuits but not so as to prohibit the use for navigation of the vessels referred to in sub-paragraph (k) above;*
- (n) *regulating the launching of vessels within a harbour area;*
- (o) *prohibiting persons working or employed in or entering a harbour area, or any part thereof, from smoking therein;*
- (p) *regulating or preventing the use of fires and lights within a harbour area, and within any vessels within a harbour area;*
- (q) *regulating the movement, speed and parking of vehicles within a harbour area;*
- (r) *regulating the use of any fish market provided by the Comhairle and the conduct of persons working therein or resorting thereto, and for preventing nuisance or annoyance thereat;*
- (s) *regulating the exercise of the powers vested in the harbour master;*
- (t) *making the carrying out of specified harbour operations, or the conduct of persons in a harbour area, subject to the approval (with or without conditions), control or direction of the harbour master, and for authorising him to take such action as may be reasonably required in default of compliance with any such condition, control or direction;*
- (u) *for the conservation of the natural beauty of all or any part of a harbour area or of any of the fauna, flora or geological or physiographical features in a harbour area and all other natural features.”*

4.3. Directions (special)

PMSC	4.6 – 4.7	SOP	
Legislation	<ul style="list-style-type: none"> • The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 	GtGP	1.8

Section 20 of The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 allows for the Harbour Master to issue special directions:

“(1) *The harbour master may give a direction under this article in respect of a vessel anywhere in a harbour area for any of the following purposes:–*

- (a) *requiring persons to comply with a requirement made in or under a general direction;*
- (b) *regulating or requiring the movement, berthing, mooring or unmooring of the vessel;*
- (c) *regulating the loading, discharging, storing and safeguarding of its cargo, fuel, water or stores and the dispatch of its business in the harbour area;*
- (d) *specifying the precautions to be taken in respect of apparatus, machinery and equipment;*
- (e) *as to the use of the motive power of the vessel;*
- (f) *prohibiting or restricting the use of fires or lights;*
- (g) *as to the use of ballast;*
- (h) *requiring the removal from any part of a harbour area of a vessel if –*
 - (i) *it is on fire; or*
 - (ii) *it is in such condition as to be liable to become immobilised or waterlogged, or to sink;**or*



- (iii) *it is making an unlawful use of a harbour area or interfering with the reasonable use or enjoyment thereof by other vessels or persons or the dispatch of business therein; or*
- (iv) *its removal is necessary to enable maintenance or repair work to be carried out in the harbour area or to premises adjacent thereto; and*
- (v) *its removal is considered by the harbour master to be necessary in order to avoid danger to life (including wildlife) or to property.”*

4.4. Directions (general / harbour)

PMSC	4.8 – 4.9	SOP	
Legislation	<ul style="list-style-type: none"> • The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 	GtGP	1.9

Section 18 of The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 reads:

“(1) The Comhairle may after consultation with the Royal Yachting Association give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation and the safety of persons and property in a harbour area and, without prejudice to the generality of the foregoing, for any of the following purposes:

- (a) *for designating areas, routes or fairways in a harbour area which vessels are to use, or refrain from using, for movement, mooring or anchorage;*
- (b) *for securing that vessels move only at certain times or during certain periods;*
- (c) *for securing that vessels make use of descriptions of aids to navigation specified in the direction;*
- (d) *for prohibiting–*
 - (i) *entry into a harbour area by a vessel which for any reason would be or likely to become a danger to other vessels in a harbour area, or to persons, property, flora or fauna in a harbour area; and*
 - (ii) *entry into or navigation within any of the main fairways during any temporary obstruction thereof;*
- (e) *for prohibiting entry into or movement in a harbour area or the approaches by vessels at times of poor visibility due to the weather or to the presence of dust or smoke;*

Provided that no direction given under sub-paragraph (e) above shall prevent the entry into a harbour area or the approaches of any vessel seeking refuge from stress of weather;

- (f) *requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master for effecting any of the purposes of this paragraph.”*



4.5. *Dangerous vessel directions*

PMSC	4.10	SOP	
Legislation	<ul style="list-style-type: none"> The Dangerous Vessels Act 1985 The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 	GtGP	6.3

The Harbour Master may give prohibiting the entry into, or requiring the removal from the Harbour of any vessel if, in his opinion, the condition of the vessel or the nature of anything it contains, presents a grave and imminent danger to the safety of persons or property. This includes the risk of sinking or foundering in the Harbour, or preventing or seriously prejudicing the use of the Harbour by other vessels. Such directions may be overridden by the SOSREP who may issue contrary directions to the Harbour Master.

A Harbour Master also has powers to prohibit the entry into the Harbour of any vessels carrying dangerous goods, if the condition of the goods or packaging, or the vessel carrying them is such that it creates a risk to health and safety. These powers are conveyed by the 'Dangerous Substances in Harbour Areas Regulations 1987'. Harbour Authorities have a duty to prepare emergency plans for dealing with dangerous substances.

4.6. *Pilotage and Pilotage directions*

PMSC	4.11 – 4.12	SOP	
Legislation	<ul style="list-style-type: none"> The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 	GtGP	3.2.6 – 3.2.7, 8.7.15 – 8.7.2, 8.8, Section 9

CnES is not a Competent Harbour Authority (CHA). Should CnES wish to become a CHA, a Harbour Revision Order would need to be applied for under the Pilotage Act 1987 and approved by Scottish Ministers.

4.7. *Authorising of pilots*

PMSC	4.13 – 4.14	SOP	
Legislation	<ul style="list-style-type: none"> The Pilotage Act 1987 	GtGP	9.4.25 – 9.4.29

CnES is not a CHA.

4.8. *Pilot exemption certificates*

PMSC	4.15 – 4.16	SOP	
Legislation	<ul style="list-style-type: none"> The Pilotage Act 1987 	GtGP	9.5

CnES is not a CHA.



4.9. Collecting dues

PMSC	4.13 – 4.14	SOP	
Legislation	<ul style="list-style-type: none"> The Pilotage Act 1987 	GtGP	9.4.25 – 9.4.29

The collection of dues forms an important aspect of safety management, by providing the necessary resources to discharge Harbour Authority duties in respect of The Code. CnES is able to charge dues by virtue of Section 26 (2) of the Harbour Act 1964.

In addition, CnES has the power to make charges for services performed as part of its Statutory powers and duties, as detailed in Section 27 of the HEO.

4.10. Aids to Navigation

PMSC	4.17 – 4.20	SOP	
Legislation	<ul style="list-style-type: none"> The Merchant Shipping Act 1995 	GtGP	3.2.13, 7.5

Within the meaning of the Merchant Shipping Act 1995, CnES is the Local Lighthouse Authority. This empowers CnES to carry out and maintain markings and navigation lights within the Statutory Harbour Authority areas. Any removal, alteration or placement of lighthouses, buoys or beacons are subject to consent of the General Lighthouse Authority. All characteristics of navigational aids used by CnES comply with the requirements of the 'International Association of Lighthouse Authorities (IALA) Guidelines and Recommendations'. CnES recognise the responsibility and duty of Northern Light Board (Commissioners of Northern Lighthouses) as General Lighthouse Authority, to inspect their lighthouses, buoys, beacons and other aids to navigation as necessary.

4.11. Wrecks and Abandoned Vessels

PMSC	4.25 – 4.32	SOP	
Legislation	<ul style="list-style-type: none"> The Merchant Shipping Act 1995 	GtGP	7.6

Section 252 of The Merchant Shipping Act 1995 reads:

- (a) *“to take possession of, and raise, remove or destroy the whole or any part of the vessel and any other property to which the power extends;*
- (b) *to light or buoy the vessel or part of the vessel and any such other property until it is raised, removed or destroyed; and*
- (c) *subject to subsections (5) and (6) below, to sell, in such manner as the authority think fit, the vessel or part of the vessel so raised or removed and any other property recovered in the exercise of the powers conferred by paragraph (a) or (b) above;*
- (d) *to reimburse themselves, out of the proceeds of the sale, for the expenses incurred by them in relation to the sale.”*

Section 26 of The Comhairle nan Eilean Siar (Various Harbours) Harbour Revision Order 2002 reads:

“(1) In addition to the powers conferred on the harbour master by section 57 of the Act of 1847 and on the Comhairle by virtue of the Merchant Shipping Act 1995 and by other provisions of this Order, the



Comhairle may remove, sell, destroy or otherwise dispose of any vessel laid by or neglected as unseviceable in, or on land adjoining, the waters of a harbour area.”

CnES exercises its powers in respect of wrecks to mark and remove wrecks which in their opinion, are a danger, or likely to become a danger to navigation.



5. References

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Appendix A Training Matrix

This document sets out the requirements for Marine personnel training which is in addition to the general and safety training required of by CnES employees. This appendix forms part of the Port's MSMS. Training can be delivered as an off-job training course (denoted by a © symbol) or as part of on-the-job training.

Notes:

- All employees undertaking Marine activity as part of their work must undergo training and assessment to ensure that they are competent to carry out their assigned roles.
- For certificated courses, Personnel Files will contain staff course completion certificates
- The Harbour Authority is responsible for recording training and certification and meeting Marine employee training requirements.
- Off-job courses are indicated by © symbol.

Key: E = Essential D = Desirable S = In Specific Cases STCW = STCW Certificate of Competency © = Off-Job Course	Role/Position		
	▪ Port Operative	▪ Assistant Harbour Master	▪ Harbour Master ▪ Deputy Harbour Master
Marine PPE (Donning and pre-wear safety checks)	E	E	E
VHF Operator ©	D	E or STCW	E or STCW
Oil Spill Level 1P ©	E	E	
Oil Spill Level 4P ©			E
Oil Spill Level 5P ©			D
STCW Class 1 (or equivalent) © / HM Diploma / HM certificate of competence			D
Port Facility Security Officer ©			S
IMDG Code ©		D	S
Marine Risk Assessment			E
Local Port Emergency Plan (briefing to employees)	E	E	E
First Aid ©	S	S	S
Port Marine Safety Code Training / Briefing		E	E
Marine Accident / Incident Investigation Training		D	E