

Report to: **Salcombe Harbour Board**
Date: **10 July 2017**
Title: **Governance of Salcombe Harbour**
Portfolio Area: *Commercial Services*
Wards Affected: **All**

Relevant Scrutiny Committee:

Overview and Scrutiny Committee

Urgent Decision: **N** Approval and clearance obtained: **N**

Date next steps can be taken: **N/A**
(e.g. referral on of recommendation or implementation of substantive decision)

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Recommendations:

That the Board **notes** the report's contents regarding the constitution and context, and **resolves** to recommend to Council the financial plan and revenue-raising opportunities identified in para 4 to ensure long-term financial sustainability.

1. Executive summary

1.1 This report clarifies the relationship between South Hams District Council (SHDC) and the Salcombe Harbour Board (SHB). It sets out the individual and collective role and responsibilities of SHB members and outlines the boundaries of their powers and delegated authorities. It explains the relationship between ownership and management of Harbour-related infrastructure and sets out how payments for both for their use and administration are agreed between SHDC and Salcombe Harbour.

1.2 The report articulates the political and financial context within which SHDC and SHB are operating, and proposes a future financial plan to ensure that both the Harbour's and SHDC needs are met.

2. Background

2.1 Legal framework. The Pier and Harbour Order (Salcombe) Confirmation Act 1954 nominated South Hams District Council as the Statutory Harbour Authority (HA) for Salcombe Harbour. As a HA the Council has a range of statutory and non-statutory duties and powers relating to marine operations. These include a duty of care to those using the harbour which means they have an obligation to conserve and facilitate the safe use of the harbour as well as a duty of care against loss caused by the Harbour Authority's negligence.

2.2 Constitution. The Harbour is not an Executive function; the Council has instead delegated functions related to the operation of the Salcombe Harbour to the Salcombe Harbour Board (SHB), which is a committee of the Council. Its general function¹ is to:

'Improve, maintain and manage the whole of the Salcombe-Kingsbridge Estuary for the benefit of users ... and to balance the commercial outlook by conserving and protecting the estuarine environment.'

2.3 Duty Holder. The Council has also nominated the SHB as the 'duty holder' for Salcombe Harbour. This means that under the Port Marine Safety Code (PMSC) the members of the Board are individually and collectively *accountable* for safe and efficient marine operations. They are also *responsible* for ensuring that the organisation complies with the PMSC. This requires them to develop and maintain an effective Marine Safety Management System (MSMS) based on formal risk assessment to ensure that all risks are eliminated or reduced to 'as low as reasonably practicable'.

2.4 The PMSC and MSMS complement – but are separate to – responsibilities set out under Health and Safety legislation and regulations.

2.5 Extent of powers. The Council's Constitution states that the SHB will conduct operations in accordance with the powers granted to the Council as a HA. Inter alia it must:

- 2.5.1. develop strategic business plans for the Harbour for approval by Council;
- 2.5.2. make operational decisions based on advice from the Harbour Master, the Designated Person, harbour community forums and other officers with specialist knowledge of the Harbour;
- 2.5.3. monitor and analyse performance against the budget, other indicators and performance plans;
- 2.5.4. maintain commercial accounts to demonstrate the Harbour's commercial viability and remain self-financing. This includes recommending charges and subsidies for approval by the Council on a yearly basis;

¹ South Hams District Council, Constitution dated 2016, article 8.1

- 2.5.5. monitor and review all matters relating to the Harbour land and property in accordance with policies laid down by the Council. This includes overseeing contracts for harbour-related services (eg the provision of the night security patrol, diving, dredging etc).

2.6 Reserved competencies. The following functions are outside of the SHB's powers and are reserved to full Council. SHB may however make recommendations to Council concerning these matters:

- 2.6.1. amendments to governance arrangements (eg changes to the Harbour Board's constitution, terms of reference and membership);
- 2.6.2. approving and adopting budgets, and associated fees and charges;
- 2.6.3. appointing the Chair of the SHB;
- 2.6.4. adopting or amending policies, plans and strategies (eg the Moorings' Policy or the Harbours strategic business plan);
- 2.6.5. to borrow money;
- 2.6.6. to make, amend, revoke or adopt byelaws (eg the Salcombe Harbour byelaws).

2.7 Asset ownership. Both SHDC and the HA own a number of Harbour-related assets. Since ultimately the HA is a part of SHDC, this distinction may seem peculiar, however it has utility since it relates to the different funding sources: assets 'owned' by the HA have been procured through the Harbour's ring-fenced accounts whereas those owned by the Council have been paid for from its General Fund. The following table identifies asset 'ownership', management and costs:

Ownership	Daily management	Daily maintenance	Who pays for repair/replacement?
SHDC			
Quay walls	SHDC	SHDC	SHDC (see 2.9)
Jubilee Pier	SHDC	SHDC	SHDC
Fish Quay*	Hbr Auth	SHDC	SHDC
Harbour slipways and steps*	Hbr Auth	Hbr Auth clean; SHDC maintain	SHDC (see 2.9)
Harbour office	Hbr Auth rent from SHDC	SHDC	SHDC
Harbour workshop		SHDC	SHDC
Batson boat park*	Hbr Auth	SHDC	SHDC
Bowcombe dingy park*	Hbr Auth		SHDC
The sub-lift*	Hbr Auth	Hbr Auth	SHDC
Whitstrand showers & toilets	SHDC	SHDC	SHDC
Harbour Authority			
Pontoons and walkways/bridges	Hbr Auth	Hbr Auth	Hbr Auth
Harbour launches	Hbr Auth	Hbr Auth	Hbr Auth
Outboard/inboard	Hbr Auth	Hbr Auth	Hbr Auth

engines			
Navigational marks and beacons	Hbr Auth	Hbr Auth	Hbr Auth
Mooring barge	Hbr Auth	Hbr Auth	Hbr Auth
Fixed and mobile cranes	Hbr Auth	Hbr Auth	Hbr Auth
Telehandler	Hbr Auth	Hbr Auth	Hbr Auth

2.8 Funding of repairs/replacement. SHDC repairs/replacement are funded from the Council's *General Fund*. Separately, the HA holds three reserves:

- *Renewals Reserve*, which for example funds replacement launches, boats, plant, barge;
- *Pontoon Reserve*, which funds the periodic maintenance and replacement of the pontoon infrastructure within the estuary; and,
- The *Harbour's General Reserve*, which is used as a source of working capital eg to make good any revenue shortfalls.

2.9 HA also contributes to a fourth reserve, which is a Council reserve called the Marine Infrastructure Reserve. The Authority pay an annual amount equivalent to the expenditure (averaged over a 25 year period) required to maintain the quay walls and slipways and steps. In 2016-17 this was £46,300.

2.10 Staff. The Harbour Staff are employed by, and are officers of, SHDC. The staff's salaries and associated costs are paid entirely from the Harbour's budget, with the exception of the Harbour Master who is paid 80% from Harbour budget and 20% from the Beach and Water Safety budget. This split reflects the time that is spent discharging his wider responsibilities as the SHDC Marine Officer.

2.11 Management recharges. In addition to the above, the HA recharge SHDC for the Harbour staff's time spent managing SHDC assets. In return, SHDC recharge the HA for business services. The following table provides a breakdown based on 2017-18 figures:

Paid by HA to SHDC	Amount (£)
Workshop and office rent	22,100
Business rates	14,600
Trade waste	4,000
Loan repayments	25,100
Recharge for services	46,400
Total	112,200
Paid by SHDC to HA	
Interest payable	700
Contribution to security patrol	4,300
Contribution to refuse collection	500
Salary recharges to SHDC	80,400
Total	85,900

2.11 The apparent imbalance of payments is artificial: in reality the rent, rates and loan are business costs which would be incurred irrespective of whether or not the Harbour Authority was a part of SHDC.

2.12 Borrowing and loans. Borrowing facilities may at SHDC discretion be made available to the HA to fund revenue generating projects where it can demonstrate that such projects are consistent with SHDC policies and plans. Interest on loans is levied at lower than commercial rates, and is not compounded but instead divided equally across the duration of the loan. Furthermore, there are no penalties for early repayments.

2.13 Strategic Context. Due to reductions in Central Government funding and New Homes Bonus funding, the projected South Hams budget gap in 18/19 is £560,000. The cumulative deficit budget position rises by £0.56m every year for the next 4 years so that by 2021/22 there is a £2.3m budget deficit problem if measures have not been put in place to address it. This is in spite of a number of cost-sharing measures already having been taken, such as the Transformation Programme (T18), shared services with West Devon, budget scouring exercises and a reduction in staff.

Nationally the rising costs of social care (a function carried out by Unitary and County Councils) and factors such as Brexit, are factors nationally to be taken into account.

3. Outcomes and outputs

3.1 Despite the HA budget and reserves being ring-fenced, and the 1954 Act's prohibition on it making a profit, as a committee of the Council it should nevertheless contribute positively to the Council's medium term financial approach. This also provides an opportunity to improve the Harbour's customer-facing facilities and services – eg a 'win-win' scenario. These include:

Proposal	Benefit to HA	Benefit to SHDC
HA borrow money from SHDC to fund new Harbour infrastructure	Increased moorings income, reduced waiting lists, improves customer access to the Harbour	Interest receipts on loans
SHDC rebuild Harbour Office building including showers & toilets	Improved customer experience eg more showers; co-location of TIC	Increased rent; transfer costs of toilets to HA
SHDC build new Harbour Workshop at Batson	Improved oversight & safety of marine activities; ease of workshop access	HA rent for new workshop + rent of old building to new tenant
Increase scope of, and contributions to, Marine Infrastructure Reserve (eg Batson car park)	Assured repairs to Harbour-related assets more widely, and improved customer experience	Exposure to liabilities reduced

4. Options available and consideration of risk

4.1 The Salcombe Harbour Strategic Business Plan 2017-22, which has been adopted by Council, contains some of the proposals set out in section 3.1. These are:

Proposal	17/18	18/19	19/20	20/21	21/22
Batson, Shadycome & Dentrige pontoons	£239K				
Ox Bay pontoons		£162K			
Upgrade Whitestrand toilet and shower facilities		£115K ²			
New work barge					£400K ³

4.2 The suggested funding profile for remaining proposals at 3.1 is:

Proposal	17/18	18/19	19/20	20/21	21/22
New Harbour workshop at Batson			£350k		

5. Proposed way forward

5.1 That the Harbour Board recommend to Council to adopt the proposals set out in section 4.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	This report draws on existing statutory and non-statutory regulations and policies. In the event that any of these are amended in the future the context and recommendations of this report may change. Should this occur an updated report will be brought to the Harbour Board.
Financial	Y	Paras 4.1 and 4.2 propose a future funding profile to Council. If adopted these will be incorporated into the MTFs as they are substantial sums of money, however they all also provide benefits to both the Harbour Authority and SHDC as outlined at table 3.1
Risk	Y	This report contains sensitive information regarding existing and potential commercial opportunities
Comprehensive Impact Assessment Implications		

² This is the contribution made by the HA; the total cost is expected to be c£350-£400K.

³ This item is contingency funding only should legislation become more onerous – the serviceable life of the existing barge is expected to go beyond this.

Equality and Diversity	N	None
Safeguarding	N	None
Community Safety, Crime and Disorder	N	None
Health, Safety and Wellbeing	N	None
Other implications	Y	If the proposals at section 4.1 (and already agreed by Council) are not funded then the Harbour's Strategic Business Plan is not deliverable.

Supporting Information

Appendices: None

Background Papers: None

Approval and clearance of report

Process checklist	Completed
Portfolio Holder briefed	Yes/No
SLT Rep briefed	Yes/No
Relevant Exec Director sign off (draft)	Yes/No
Data protection issues considered	Yes/No
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	Yes/No