

AGENDA  
ITEM

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**SOUTH HAMS DISTRICT COUNCIL**

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<b>NAME OF COMMITTEE</b>	Salcombe Harbour Board
<b>DATE</b>	7 November 2011
<b>REPORT TITLE</b>	<b>REVIEW of BYE-LAWS ENFORCEMENT POLICY</b>
<b>REPORT OF</b>	Salcombe Harbour Master
<b>WARDS AFFECTED</b>	All South Hams

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**Summary of report:**

To review the enforcement policy for Harbour bye-laws.

**Financial implications:**

There are no direct financial implications from this report.

**RECOMMENDATIONS:**

**That the Harbour Board RESOLVES to recommend the adoption of the Enforcement Policy at Annex A to this report.**

**Officer contact:**

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**1. BACKGROUND**

- 1.1 Salcombe Harbour Authority is a statutory harbour authority and has a duty to regulate navigation within its harbour. They also have a power to make bye-laws to provide an enforceable legal framework that can be used to assist in regulation.
- 1.2 Bye-laws provide general rules for navigation and the conduct of a vessel within the jurisdiction of a Harbour Authority.

In addition to these powers, a harbour master is able to give directions to vessels within his area of authority in respect of when and how they may enter the harbour and where and how they may moor.

- 1.3 In 2010 the Harbour Authority published their Enforcement Policy; this report instigates an annual review of that policy.

## 2. ISSUES FOR CONSIDERATION

- 2.1 The Bye-laws and certain other powers may be used to prosecute offences committed within the harbour area. When deciding whether or not to prosecute the Harbour Authority should be guided by a published enforcement policy. The existing policy has been revised and is at Annex A.

## 4. LEGAL IMPLICATIONS

- 4.1 The Harbour Board is responsible for making and enforcing policies for the regulation and safe conduct of Salcombe Harbour. It is right and proper to review the policies for conducting enforcement from time to time in the light of experience and prevailing circumstances.
- 4.2 The appended enforcement policy has been updated and accords with current legal requirements including the Human Rights Act.

## 5. FINANCIAL IMPLICATIONS

- 5.1 There are no direct financial implications from this report.

## 6. RISK MANAGEMENT

- 6.1 The risk management implications are:

<b>Opportunities</b>	<b>Benefits</b>
Without a clear and published enforcement policy, harbour users will not be clear of the implications of not complying with Harbour Bye-laws	By having a clear enforcement policy both harbour staff and harbour users will be in no doubt regarding the policy for the enforcement of the Harbour Bye-laws
Issues/Obstacles/Threats	Control measures/mitigation
Harbour Bye-Laws will not be enforced in a consistent way.	The Enforcement Policy gives a framework and guidance to both offices and harbour users on the enforcement of bye-laws and the consequences of non compliance.

## 7. OTHER CONSIDERATIONS

<b>Corporate priorities engaged:</b>	Community Life Economy Environment
<b>Statutory powers:</b>	The Pier and Harbour Order (Salcombe) Confirmation Act 1954 (Sections 22-36).
<b>Considerations of equality and human rights:</b>	A person accused of contravening civil or criminal law has the right to a fair hearing, to have their views considered before action is taken, and, if it comes to it, to a fair trial. They are also entitled to be treated without unlawful discrimination of any kind. The enforcement policy has been drafted with these requirements in mind.
<b>Biodiversity considerations:</b>	None
<b>Sustainability considerations:</b>	None
<b>Crime and disorder implications:</b>	The Enforcement Policy gives clear guidance on the enforcement of Harbour Bye-Laws
<b>Background papers:</b>	Salcombe Harbour Bye-laws
<b>Appendices attached:</b>	A. Salcombe Harbour Enforcement Policy dated 7 November 2011

Ian Gibson  
Harbour Master

Salcombe Harbour Board  
7 November 2011