

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>	9 July 2012
<b>REPORT TITLE</b>	<b>MOORINGS POLICY ENFORCEMENT</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 draft Moorings Policy and approve the publication of the draft for public consultation.

**Financial implications:**

There are no direct financial implications from this report.

**RECOMMENDATIONS:**

**That the Harbour Board RESOLVES to publish the Draft Moorings Policy Public Consultation document with a consultation closing date of 21 September 2012.**

**Officer contact:**

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**1. BACKGROUND**

- 1.1 The current edition of the Moorings Policy was published in 2007 following an extensive public consultation. The Salcombe Harbour Board (“SHB”) recommended to Full Council on 21 September 2007 that the updated Moorings Policy be adopted (SH32/07). The Moorings Policy was adopted by Full Council on 15 November 2007 (59/07).

- 1.2 The Moorings Policy is reviewed every five years and is now due for review.
- 1.3 A first round of consultation on the 2012 draft with the Harbour Community Forums closed on 25 May 2012. The feedback from this round of consultation is at Appendix 1.

## **2. Review of Moorings Policy**

- 2.1 A working group of Harbour Board members consisting of Cllrs Carter and Wright, Mr Harling, Marriage and Barrett has been established **SH42/11**.
- 2.2 The working group met on 13 June and worked through the 1<sup>st</sup> round of consultation feedback and agreed the draft revised draft Moorings Policy for the full Board's approval, which is incorporated into the draft Public Consultation Document at Appendix 2.
- 2.3 It is proposed that the draft Moorings Policy be published for the second round of consultation with the general public, with a closing date of 21 September 2012.
- 2.4 Thereafter the consultation feedback will be considered and incorporated where appropriate with the aim of bringing the final draft to the Board on 12 November 2012.

## **3. LEGAL IMPLICATIONS**

- 3.1 Statutory Powers: Local Government Act 1972, Section 151. The Pier and Harbour Order (Salcombe) Confirmation Act 1954 (Sections 22-36).
- 3.2 A local authority is entitled to make policies in order to provide guidelines for its own decision-making (whether by members or officers) but it should not regard itself as completely restricted by policy. It must always be possible for the authority to make an exception to policy; if it isn't, the authority will be regarded as having "fettered its discretion" and that is unlawful. However, in order to be fair to everyone, the authority should have good reasons both for making an exception, or refusing to do so.

## **4. FINANCIAL IMPLICATIONS**

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

## 5. RISK MANAGEMENT

5.1 The risk management implications are:

<b>Risk</b>	<b>Mitigation</b>
The Harbour Authority is not delivering a satisfactory service to harbour users.	The Harbour Board, through its contact with harbour Community Forums and the public consultation process will monitor the stakeholders' reaction to the service provided and keep the Moorings Policy under regular review in order to remain relevant to the majority of harbour users' requirements.
The Harbour Board fails to comply with its statutory responsibilities.	Continuous monitoring and an annual audit by an independent designated person will highlight potential issues early to enable corrective action to be taken.
The Harbour Board is accused of discrimination in its allocation of harbour facilities.	As part of the policy review an Equality Impact Assessment has been undertaken to ensure compliance with equality legislation and the needs of Harbour users. The Harbour Authority will have a fit for purpose moorings allocation policy which is strictly adhered to and kept under constant review. Mooring allocation has an appeals process.
Data Protection, disclosure of information and Freedom of Information (FOI).	Harbour records, including customer accounts are maintained within the office. Staff training is given to prevent any unauthorised disclosure. FOI forms are required before any information is given out.
Corporate activity with an impact on Areas of Outstanding Natural Beauty, National Parks, and Sites of Scientific Interest.	The Harbour Authority part fund a Marine Conservation Officer who monitors all activity within the estuary to ensure the harbour Authority fully respects the ANOB and SSSI status of the Estuary. The moorings policy clearly sets out what activity is allowed within the various areas of the Estuary.
Financial Risks and Impact on Councils Assets	By monitoring performance in relation to the moorings policy, the Harbour Board will be in a strong position to invest Harbour Funds where they can provide the best value for money and return on investment and safeguard the Harbour's future on behalf of the District Council.

## 6. OTHER CONSIDERATIONS

<b>Corporate priorities engaged:</b>	Community Life Economy
<b>Statutory powers:</b>	Local Government Act 1972, Section 151. The Pier and Harbour Order (Salcombe) Confirmation Act 1954 (Sections 22-36).
<b>Considerations of equality and human rights:</b>	None
<b>Biodiversity considerations:</b>	None
<b>Sustainability considerations:</b>	None
<b>Crime and disorder implications:</b>	None
<b>Background papers:</b>	Moorings Policy 2007 (SH 32/07) Harbour Board Working Group ( SH 42/11)
<b>Appendices attached:</b>	1. Consultation feedback from Harbour Community Forums. 2. Moorings Policy 2 <sup>nd</sup> Edition 4 <sup>th</sup> draft, Draft Consultation Document.

Ian Gibson  
Harbour Master

Salcombe Harbour Board  
9 July 2012