

WEST DUNBARTONSHIRE COUNCIL

Report by Executive Director of Housing, Environmental and Economic Development

Housing, Environment and Economic Development Committee: 6 August 2008

Subject: Management of Dumbarton Harbour

1. Purpose

1.1 The purpose of this report is to highlight the duties and powers required of West Dunbartonshire Council in relation to Dumbarton Harbour and to seek approval for the appointment of Clydeport Operations Ltd as Agents to the Council to offer advice and assistance in delivering the Harbourmaster service. In addition it is necessary to formally confirm the Executive Director of Housing, Environmental and Economic Development's role as Harbourmaster of Dumbarton Harbour.

2. Background

2.1 At the 1996 local Government re-organisation, West Dunbartonshire Council inherited responsibilities as Harbour Authority at Dumbarton.

2.2 Until recently the harbour has been moribund with very little activity. However, use of the harbour is increasing requiring a more pro-active management approach. This is regulated by the Port Marine Safety Code (PMS Code).

2.3 The Port Marine Safety Code applies to all Harbour Authorities and introduces a national standard for every aspect of port marine safety. It establishes a measure by which Harbour Authorities can be accountable for the legal powers and duties that they have to run their Harbours safely.

There are three main duties:

- statutory, imposed either in local legislation for this authority or in general national legislation;
- general common law and fiduciary duties, including an obligation to conserve and facilitate the safe use of the harbour;
- a duty of care against loss caused by the Authority's negligence.

2.4 The Code states that each Harbour Authority should make a clear published commitment to the standard of marine safety required to comply with it. This would take the form of a Harbour Policy.

- 2.5** Executive and operational responsibilities for marine safety must be clearly assigned and those to whom they are entrusted must be held accountable for the performance. Harbour Authorities must have a designated person to provide independent assurance about the operation of their marine safety management systems.
- 2.6** This report summarises the significant implications of the Code with regard to Dumbarton Harbour.

3. Main Issues

- 3.1** With regard to operational matters concerning the role of Harbour Master, Clause 1.5.14 of the PMS Code states that:

"Every Harbour Authority should exercise the power to appoint a Harbour Master. The Harbour Master has principal operational responsibility for the safety of navigation in the Harbour, exercising the authority's operational powers with respect to the safety of marine activities in the Harbour and its approaches. The postholder must be a suitably qualified person, fit for these purposes. Competence standards are being developed which set a standard for the recruitment and appraisal of Harbour Masters. He or she must also be fit for other duties imposed upon the Harbour Master, for example, by Health and Safety in Merchant Shipping Legislation."

- 3.2** Currently there is no formal Harbour Policy nor appointment of Harbourmaster by West Dunbartonshire Council as the Harbour Authority.
- 3.3** Based on practice in other local authority harbours, the most appropriate Chief Officer to take on the role of Harbourmaster is the Executive Director of Housing, Environmental and Economic Development as the lead 'technical' officer in the Council. The day to day management duties are typically undertaken by a Council's Road Service as being generally considered the most competent officers to deal with most of the matters at hand.
- 3.4** It is however recognised that the Code requires a high level of marine experience and competence of a Harbourmaster. In order to meet this requirement, Clydeport Operations Limited have been approached and have agreed to provide a Harbour mastering agency service to the Council. A preliminary arrangement has been put in place by Road Services in May 2008, subject to review after an initial period of twelve months. This will provide for the development of a Harbour Policy, which is currently being drafted. The annual cost for this agency service will be approximately £3,000. Subject to satisfactory review this arrangement could be formalised in the longer term.

- 3.5** There is increasing use of, and interest in, the harbour area particularly by small watercraft that moor here. Moorings are currently ad hoc and may threaten the navigation channel. Some craft in the harbour are of poor quality and may pose a risk to other craft and users. There is no registration or certification of this usage. A moorings management system is required, with the opportunity to raise funding towards management and maintenance costs
- 3.6** There is a well-established tidal flood risk in the harbour and procedures already exist for management of flooding through Dumbarton, particularly along Riverside Lane. SEPA have a key role in this through their Flood Warning system. In the longer term the proposed canal project could deliver the necessary improvements to flood defence infrastructure. However, in the shorter term there is a significant role for the Council to continue to monitor river/sea conditions and issue public warnings as necessary.
- 3.7** The stone walls and sea defence walls, which combine to protect and form the edge of much of Dumbarton Harbour, are currently inspected and maintained by Road Services. There is ongoing ad hoc maintenance work required annually to these walls to maintain their integrity. The PMS Code imposes additional responsibilities on the Council in terms of duty of care and conserving safe use of such facilities.
- 3.8** Some of the plan surfaces and step areas which give public access to the Harbour and mooring areas are not currently within Road Services' area of responsibility. For the purpose of overall management and safety of the Harbour area it would be preferable to have these areas identified and brought within the remit of Road Services.

4. Personnel Issues

- 4.1** There are no personnel issues at this time.

5. Financial Implications

- 5.1** Funding for the appointment of Clydeport Operations Limited as an Agent to the Harbourmaster has been identified from existing resources allocated to the Harbour.
- 5.2** Whilst a small level of funding is made available annually for the ad hoc repair and maintenance of the Harbour facilities and structures, additional funding may need to be identified in future budget processes. Clydeport can assist in the development of a cost plan for this.
- 5.3** Fees and levies for moorings could be introduced with the income used to fund the management and maintenance of the harbour. Any charging should be on the basis of similar harbours elsewhere in Scotland and Clydeport will advise in this regard.

6. Risk Analysis

- 6.1** There is a considerable risk to the Council if the requirements of the Port Marine Safety Code are not met. The duties and powers are outlined in this report and clearly indicate that change to the current arrangements is required to formalise duties and responsibilities.

7. Conclusion

- 7.1** West Dunbartonshire has statutory powers and responsibilities for Dumbarton Harbour. New management structures and systems are required to comply with legislation. Whilst Service Departments and/or officers can be appointed to fulfil the various management roles, there is insufficient expertise in-house to carry out this function properly. The appointment of Clydeport Operations Limited to provide a Harbourmastering agency service and general clarification of duties and responsibilities will ensure that the Council is taking the necessary steps to address the requirements of the Port Marine Safety Code.
- 7.2** In time, this will allow the Council to maximise its use of this key asset and to protect the public interest in the use of the Harbour.

8. Recommendation

8.1 It is recommended that Committee:

- (i) acknowledge the responsibility of West Dunbartonshire Council as Harbour Authority;**
- (ii) delegate authority to the Executive Director of Housing, Environmental and Economic Development to act as Harbour Master; and**
- (iii) acknowledge that a Harbour Policy, funding requirements and potential income streams will be reported back at a future Committee meeting.**

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Appendices: None

Background Papers: None

Wards Affected: 2 and 3