

# Dart Harbour and Navigation Authority

## Minutes of a Meeting of the Dart Harbour and Navigation Authority held at The Clifton Room, The Guildhall, Victoria Road, Dartmouth on Monday 9<sup>th</sup> April 2018, commencing at 1830 hrs.

**PRESENT:** Zoe Briant-Evans (ZBE)  
Mike Burden (MB)  
Captain Mark Cooper (MC) - Harbour Master/CEO  
Tim Dewing (TD)  
Julian Distin (JJD)  
Richard Eggleton (RE)  
John Ellwood (JE)  
Tristan Harwood (TH)  
Mark Hubbard (MH) – Chairman  
Tony Tudor (TT)

**IN ATTENDANCE:** Penny Johns (PJ) Senior Administrator  
Nick Clarence (Deputy Harbour Master)  
Simon Ellyatt (Designated Person)

### 033/18 Apologies for Absence

Apologies were received from JD, OH.

### 034/18 Minutes of the Meeting held on 12<sup>th</sup> February 2018.

JJD asked that a post meeting note be entered against Min Ref 024/18.2 to clarify the detail for the pontoons which had been stated as covered in the July minutes. Following verification this information had not been minuted in July 2017.

Subject to the post meeting noted being entered in the February minutes, it was **proposed** by JJD and **seconded** by TT with all in favour “**that the minutes represented a true record of the meeting**”.

### 035/18 Action Grid - Status of Actions set on 12<sup>th</sup> February 2018.

#### Ongoing Actions

<b>Issue/Min No</b>	091/17.1
<b>Description</b>	Develop policies for seasonal pontoons
<b>Action Required</b>	MC to develop policies for seasonal pontoons for 2018
<b>Notes</b>	Consideration will be given on how to police the seasonal pontoons.
<b>Status</b>	Complete February/March - develop principles on how to employ them and rules for use for when in position during April/May -

	complete – assistance from locals with similar principles to other pontoons (length limit 5m, 4 hour limit, all boats should have harbour stickers to avoid towing if in contravention of the rules). Some of the temporary pontoons need policies for their management and use and MC is making strides into this. MC advised that a new system of brown triangular stickers would be implemented for all vessels that are now exempt from harbour dues. This will enable staff to identify owners from stickers on boats as part of a safety/security campaign. Boats with stickers will have less of a chance of being towed away when berthed illegally.
<b>Update</b>	MC advised that the Dittisham/Stoke Gabriel pontoons will mirror the policy in place. There may be limitations on vessel size and waiting times. For the Stoke Gabriel the state of the tide will need to be taken into consideration. MC also advised that he had taken SHG feedback from the Dittisham pontoon use in 2017 and that a local person would be invited to police the pontoon during the summer.

<b>Issue/Min No</b>	<b>003/18.1</b>
<b>Description</b>	Young Champion Award
<b>Action Required</b>	MC to approach Kit Noble at the Royal Dart Yacht Club to ask if he would be interested in being co-opted to the Board to run the scheme.
<b>Status</b>	Ongoing
<b>Update</b>	<p><i>February Meeting:</i> MC advised that he had spoken to Kit Noble and Sue Pudduck and will continue to take this forward by arranging a meeting to discuss further. MC felt there was a need to broaden the membership on who can take this up. JD suggested that Anna Christie at Dart Sailability and the stakeholder groups. MH recommended that representatives from Totnes are also included in this scheme.</p> <p><i>April Meeting:</i> MC advised that there is a problem with resource to run this project. He stated that Kit Noble and Sue Pudduck are keen to take part, but they are keen for a Board Member to take an interest. Following a discussion <b>it was agreed</b> that TT be the Board Representative for the Young Champions Awards.</p> <p><b>ACTION:</b> TT and MC to liaise with Sue Pudduck and Kit Noble to take forward and arrange a meeting in May.</p>

<b>Issue/Min No</b>	<b>009/18.3</b>
<b>Description</b>	<b>Association of Dart River User Clubs (ADRUC)</b>
<b>Action Required</b>	JE and MC to give feedback to the next ADRUC meeting
<b>Notes</b>	An ADRUC meeting has not yet taken place. MC advised that some matters are being discussed online stuff but there is no formal meeting until 22 <sup>nd</sup> March
<b>Status</b>	Completed by Email

<b>Issue/Min No</b>	<b>011/18.6</b>
<b>Description</b>	Cruise Ships
<b>Action Required</b>	<ul style="list-style-type: none"> <li>a) Review the Authority's commitment to cruise ships post 2018 season</li> <li>b) DHNA to continue to lead on cruise ships in Dartmouth</li> <li>c) Tricia Daniels to continue to be the marketing lead for cruise ships and to attend the Miami cruise convention in 2018.</li> <li>d) The Authority should engage with Dartmouth Town Council (DTC) and the TIC.</li> </ul>
<b>Notes</b>	<ul style="list-style-type: none"> <li>(a) MC advised that it had been decided that DHNA should continue to lead on the cruise ship campaign and that the TIC had been engaged to deal with the customer liaison on cruise calls to Dartmouth.</li> <li>(b) There would be no representation at the Cruise Convention in Miami in 2018 as Tricia Daniels cannot attend.</li> <li>(c) There will be potential to liaise with Plymouth in relation to the Mayflower 400 campaign.</li> <li>(d) MC advised that he had written to DTC and advised the Board that the TIC reception team is run by DTC. It was felt that DTC should show more enthusiasm. It was noted that the Board report did give budget support to cruise ships but that a long term plan was needed.</li> </ul>
<b>Status</b>	MC advised that the preparation and procedure is already in place for a normal visit. Unfortunately Saga Pearl 2 cancelled so there has not yet been a live run. MC wants to check the processes are working with a ship in port.

<b>Issue/Min No</b>	<b>012/18</b>
<b>Description</b>	<b>Marketing Report</b>
<b>Action Required</b>	<p>To increase the website budget and to begin the recruitment of the PR/Marketing contractor using the principles - competed, interviewed and companies with 8 people or more with an approximate hourly rate £30 per hour.</p> <p>To discuss this more broadly in one of our workshops with market research and mooring analysis.</p> <p><b>ACTION:</b> MC to progress the recruitment of a PR/Marketing contractor and the website upgrade.</p>
<b>Notes</b>	<p>Marketing – a workshop meeting is planned for June.</p> <p>Website – PJ has started writing the brief and will take advice from MH. Comments from Board Members:-</p> <ul style="list-style-type: none"> <li>• MH advised that a good provider will test us on what messages are needed. To an extent we can use material around us, develop major strands of direction and use as a guide to structure the website. There should be a flow from strategy to key areas of interest and then into the website design.</li> <li>• MC advised that the findings of the draft marketing strategy should be incorporated into the brief.</li> </ul>

	<ul style="list-style-type: none"> <li>• MB advised that the website is used for more than a marketing tool, but it is also an information system used for holding information, this needs to be kept.</li> <li>• MH hoped that the primary aim would be the site to be more searchable and that documents should be easier to find. It is critical that information is not lost.</li> </ul>
<b>Update</b>	MC advised that work is taking place for the new website and for marketing and social media.

## ACTIONS FROM FEBRUARY BOARD MEETING

<b>Issue/Min No</b>	<b>019/18 Minutes of the Meeting held on 8<sup>th</sup> January 2018</b>
<b>Description</b>	JJD asked about the current decision processes and asked for an opportunity to find out more
<b>Action Required</b>	MC to provide JJD with the background information surrounding decisions taken during 2017
<b>Status</b>	Complete

<b>Issue/Min No</b>	<b>012/18.2 Width of River for Competitions</b>
<b>Description</b>	AS asked whether the width of the river is getting narrower for the competitions at regatta.
<b>Action Required</b>	MC to ask the regatta committee about the width of the channel for rowing events for the 2018 regatta.
<b>Status</b>	MC advised that he has contacted the regatta committee and there are no concerns from them. MC mentioned that he could investigate the width of normal rowing lanes.

<b>Issue/Min No</b>	<b>024/18.2 River Dart Commercial Users Group (CUG)</b>
<b>Description</b>	
<b>Action Required</b>	MC to provide for JJD a paper trail on decisions taken from workshop meetings.
<b>Status</b>	Already covered under 019/18 above - complete

<b>Issue/Min No</b>	<b>025/18.5 GDPR</b>
<b>Description</b>	<b>It was agreed</b> to continue to develop the GDPR road map for compliance.
<b>Action Required</b>	MB and PJ to develop further
<b>Status</b>	Ongoing
<b>Notes</b>	Report done by MB for the April Board meeting

<b>Issue/Min No</b>	<b>025/18.6 Financial Delegations</b>
<b>Description</b>	(a) That the level of self approval within budget for the Moorings Manager be increased to £2000; and (b) Purchases increase from £250 to £500 to require more detailed authorisation.
<b>Action Required</b>	MC to update the Staff Financial Delegations
<b>Status</b>	Complete

<b>Issue/Min No</b>	<b>026/18.1 DC Pontoon Extension</b>
<b>Description</b>	<b>It was proposed by MH, seconded by JJD with all in favour</b> that the proposed DC extension goes out for a designed piece of consultation to include high quality graphical representation of the change and to give further consideration to this at a future meeting
<b>Action Required</b>	MC to obtain graphical representations of the project and carry out a public consultation (including Dartmouth Town Council).
<b>Status</b>	Discussion for the workshop meeting in May

<b>Issue/Min No</b>	<b>026/18.2 DA/DB Pontoon Project</b>
<b>Description</b>	<b>It was agreed</b> that MC goes ahead with the DA/DB proposal, tries to get as much consensus as possible from berth holders and communicates with the Board via email.
<b>Action Required</b>	MC to move ahead with the proposal to join the DA/DB pontoon and keeps the Board informed.
<b>Status</b>	Ongoing
<b>Notes</b>	MC advised that 2 customers were not content with the proposal but had accepted alternative berths after the join is made. MC advised that he proposed to use a temporary pontoon to do the join up in the near future and that the final join up would be done at the end of the summer season to reduce disruption to berth holders.  JJD asked if DC will it be used for the shuffle. MC clarified that the half of the outside of DA would be used for visitors and the rest for permanent berth holders.

<b>Issue/Min No</b>	<b>027/18 Pilotage Services</b>
<b>Description</b>	<b>it was agreed:</b>  (a) To supplement the pilotage services utilising the two Fowey Pilots already registered with DHNA as follows:  (b) That Fowey Pilots conduct pilotage for large vessels (over 90m LOA) entering the river with HM/RE understudying and able to provide advice to pilot on local knowledge in accordance with a formal risk assessment. (c) That RE/HM conduct pilotage for vessels entering the river of less than 90m LOA. (d) That RE/HM conduct pilotage for all vessels anchoring outside the Castles.  (e) That DHNA Board invite Captain Rich Eggleton to join the Board as a co opted member for pilotage experience and to assume the position of DHNA senior pilot.
<b>Action Required</b>	MH and MC to implement the decisions taken above
<b>Status</b>	On the agenda for the April meeting.

## **036/18 Urgent Business brought forward at the discretion of the Chairman**

There was no urgent business.

## **037/18 Declarations of Interest**

Board Members are invited to declare any personal or disclosable pecuniary interests including the nature and extent of such interests.

There were no changes in previously recorded registered interests.

## **038/18 Questions from the Public.**

There was a 15 minute period for questions from members of the public.

There was 2 members of the public present.

Alan Sherratt asked whether the Authority had considered using a digital sticker with a chip that is attached to boats. MC advised that the sticker design had been adjusted to make numbers bigger as staff cannot always get close enough to the boat (tidal situations) and that an electric scanner may not be useful. MC also mentioned the new triangular sticker initiative for vessels under 4m that are now exempt from harbour dues, whereby a sticker would be issued for all vessels and the Authority is encouraging people, who previously did not have stickers, to apply for one to enable Dart Harbour to be able to source owners of any vessels found adrift or to help identify vessels in relation to crime. MC advised that some PR activity would take place to encourage this.

**ACTION:** MC to instigate some PR activity to encourage the use of the triangular stickers.

## **039/18 Stakeholder Groups**

### **039/18.1 River Dart Non Beneficiary Group (Non Bens)**

MC advised that he had received a request for a river trip for the Non Bens. MC also stated that he was frustrated as he wants the Non Bens members to link their plans to the DHNA Strategic Plans and had suggested holding a joint session to discuss the strategic plan and to include a trip on the river to various development areas and a tour of the Hoodown workshop.

**ACTION:** MC to develop a programme for the next Non Bens meeting in June.

### **039/18.2 River Dart Commercial Users Group (CUG)**

No meeting has taken place.

### **039/18.3 Association of Dart River User Clubs (ADRUC)**

MC advised that NC had reported a good meeting of ADRUC, with five clubs represented. It was noted that the rowing clubs do not currently participate and that this should be encouraged especially when talking about the slipway proposals. MC advised that contact with the rowers is normally confined to a specific event (eg Head of the Dart) or when they want something. MC felt that it was important to get representation from the rowing clubs especially in regard to the safety system to impart relevant information to them (eg incorrect lights, near misses and rowing at night). It was noted that NC is attending the safety briefing for the Head of the Dart race.

JE praised the new chairman of ADRUC and advised that she is trying to get the rowers involved. He stated that NC gave a good update to the group. The main matters discussed were:-

- There had been support for the DA/DB pontoon join up.
- Early registration fee was felt OK, and although some felt it had been rushed through, no-one had objected
- Interested to get involved with the requirements for the Higher Ferry, slipway maybe someone from DYC and Rowers could set up a small group.

JE advised that it was a very positive meeting and that the new chair is moving things along well.

MC advised that he had worked hard on improving the navigation marks and is waiting for delivery, after which they will be installed as soon as possible.

The next meeting will take place in October (date to be confirmed).

### **040/18 Operational Report (including PMSC and Safety)**

MC reported on the Operational Report, and the following matters referred to:-

**040/18.1 Statistics.** MC advised that in May 2018 the information collected on the Operational Report would hold enough data to be able to provide a year on year comparison.

**040/18.2 Mooring Allocation.** MC advised that DHNA have relocated a new dinghy rack at Blackness Marine, but are not seeing a take up yet. He also reported that the deeper moorings up river are let, but there is availability for shallower moorings.

**040/18.3 Maintenance.** MC advised that a new trot mooring has been installed for Premier Marina on a commercial basis and it was noted that a danger mark will need to be placed in the vicinity of the anchor at the Northern end.

MC referred to the mooring barge being available in the summer and could be hired for private mooring work. He felt that there was potential development in this area.

MC suggested that DHNA could assist with running mooring maintenance. A discussion took place and it was noted that running moorings were very high maintenance and that a cost benefit analysis should be done before making the decision to undertake maintenance on these.

MC advised that DHNA has been working with South Hams District Council (SHDC) to repair ladders.

**040/18.4 Vessel Maintenance Update.** It was noted that the work and sea trials/MOB training on Lynx was complete.

**040/18.5 Reportable Incidents - Higher Ferry.** MC advised that he had received 2 reports in March of the Higher Ferry pulling out from the slipway without looking. On one occasion the ferry stopped, but on the second occasion the ferry did actually pull out in the path of the DHNA barge. MC advised that he had asked The Dartmouth-Kingswear Floating Bridge Company Ltd (DKFBC) to brief all skippers and all other staff be informed to ensure observation takes place. It was noted that CCTV on the ferry had also recorded that the skipper driving did not look before pulling out. TT advised that on one occasion during the winter the Higher Ferry ended up on wrong side of the river. MC advised that NC is working with the DKFBC for a solution to prevent this happening. This will involve mechanical engineers and MCA load testing. NC is waiting to hear back on their final procedure. MC also advised that there is a contingency procedure in place.

**040/18.6 Finance.** MC advised that purchases were up and had spent slightly more than expected because chain had been purchased early. Income was £30k up this month as the Authority has taken slightly more in mooring fees. The Authority has not spent £35k capital (pontoons). £21k has been paid to CVS to close their claim (business rates).

**040/18.7 Routine Administration.** MC advised that office staff are covering evenings in April until 1900 so that there are no lone taxi drivers working. There will be 2 taxis at weekends and a casual river officer will also be working at weekends.

**040/18.8 Harbour Guide.** MC advised that there is a link on the front page of the website for an electronic version of the 2018 Harbour Guide. MC advised that this was a great step forward and would benefit customers. The link for this is <http://tinyurl.com/darharbourguide2018>

**040/18.9 Harbour Assist Upgrade** – MC advised that staff are able to run trials on a test version of the system. The new system will have some new and different functions. He advised that it is great news should give more fidelity to track mooring occupancy. Training is taking place during April with the update going live during May. MC also advised that there will still be some information that he cannot access and that he proposed to seek a computer/programming student to look into the back of the system to develop methods to access this information more easily.

## **041/18 Designated Person Report (Simon Ellyatt)**

MH asked Simon Ellyatt (Designated Person) (DP) to present his report it is appropriate for an update on what the Board are jointly and severally undertaking.

**041/18.1 DP Overview.** The DP advised that the Port Marine Safety Code (PMSC) requires that the DP is qualified. The DP's experience and qualifications include:-

- 1982 Managing Director at Baltic Wharf and Docking solutions until 2008,
- Marine consultant,
- Yacht Master with commercial endorsement up to 72ft.



- Previous DHNA Board member and Chairman, with reasonable experience from Board.
- Invited to be the DP in 2011.
- Has worked alongside 3 Harbour Masters.
- Attended a DP maritime safety course in Southampton in 2016.

**041/18.2 DP Remit.** The DP's original remit was to audit the Safety Management System (SMS) twice a year but this was later amended to an annual audit with an interim inspection after six months.

**041/18.3 DP Audits and Reporting.** The audit reports are currently emailed to Board Members, the Harbour Master and the Deputy Harbour Master. The DP advised that he has been trying to condense the reports and to make them more concise. The DP suggested the following cycle of activity.

- October – Audit
- November – Present report to Board Meeting
- December – Presentation at the Annual Meeting
- April – Interim inspection.

The DP advised that MH had asked for an overview of the last report (October) and this will be discussed at the interim audit taking place on 16<sup>th</sup> April.

#### **041/18.4 DP Comments and Recommendations**

During the period between March 2016 and November 2017 there was a gap in compliance because of the St Christophe II incident, a MAIB inspection and the departure of Rob Giles until the arrival of MC as Harbour Master in 2018. In 2017 the new MarNis system was introduced to accompany the Safety Management System (SMS) and Harbour Assist being used by DHNA. The DP saw the systems working well and being used by all staff.

DP advised that he had seen evidence that the Authority has considered the recommendations of the MCA review of the DHNA SMS edition 1 with one of the most important aspects being that the Board and staff are familiar with the document. The DP advised that MC must be commended on SMS edition 1.

The DP had made recommendations that the SMS must be dated and that consideration should be given to moving the mooring maintenance records into an electronic format.

The DP had also recommended that because the Duty Holders change relatively frequently, it is important that Board Members familiarise themselves with the SMS on a regular basis. It was noted that the Board are required to sign the Duty Holders declaration. The DP advised that he has a duty to Board Members but that the Board also have a duty and must read the declaration as their responsibility cannot be assigned to the DP.

The DP advised that the SMS policy document will need to be updated with effect from January 2018.

The DP noted that consultation takes place with staff, taxi drivers and stakeholders.

The DP had noted that DHNA have made every effort to consult with SHDC and had made huge strides. He advised that this is a weak area for the Authority as it is left exposed by not having a grievance in place. In particular the issue with the Dartmouth grid as the Authority does not own it. The DP advised that he and MC do not agree on the way ahead and the DP believes the Authority is exposed and remains exposed and that the matter needs to be resolved.

It was noted that MC and the Board have committed to review the byelaws.

The DP will check the Risk Assessment reviews.

The DP reported an improved safety culture with more reporting on accidents and incidents with a robust system for reporting which is understood by staff.

The DP recommended further consideration on how a MAIB star report could be done for river users. This would mean the people involved in incidents would need to understand it and he advised that he would continue to encourage this takes place.

The DP advised that the Pilotage Policy is a good policy and a lot of recommendations and advised that these need to be updated following the death of David White. He advised that he would look at this in detail to see evidence that this is happening.

#### **041/18.5 Board Members' Discussion**

MH commented that the Authority should be happy and it does perform well in most areas, is under control and is challenging and questioning. He felt that there the Authority should keep a degree of personal discomfort, which should be taken on board at a fundamental level to build on this progress. He advised that the PMSC mentions that the DP should have unfettered access to the Board and requested that if the DP wants to speak, Board Members should listen and be available.

The DP advised that the communication with what MC requires is not perfect yet and the audit process to evaluate and measure KPIS is still a work in progress.

TD asked whether the DP felt he had unfettered access to the Authority.

SE advised that, so far, MC is doing an excellent job and he has nothing to be concerned about and that MC wants the DP to look and dig deeper and expressed satisfaction that there was a very different feel to the past.

The DP advised that it was not his job to write risk assessments, but to examine them and he expected staff to be involved in the reviews of risk assessments.

TD advised that the DP should ensure the Board take the Harbour Master to account if necessary, but TD had no concerns over MC.

JJD had noted from the Board Member training that the number of audits was halved in the past and that the Authority may want more checking of risk assessments and asked if the DP would be prepared to do more.

The DP advised that he could do more and felt he needed to be more involved in order to obtain more information, for instance for checking safety signage.

MC advised that a discussion on this could take place during the item on the DP Terms of Reference. MC also advised that the first section of the UKHM Certificate is on safety, where on or each unit evidence is submitted to demonstrate understanding.

MH advised that there should be no resource restriction if the DP needs more time to do the job. He asked if the Authority should get additional resource from an external party to look at that the risk assessments in more detail in order to reinforce these areas.

MC advised that appropriate expertise is obtained via board recruitment, and he had written to the previous Chairman to ask for specific expertise for new board members in the areas of structural engineering and for a master mariner. There was currently no-one with this expertise on the Board and this presents a significant area of risk. MC stressed that the Authority would need to recruit that expertise in the next round of Board Member recruitment.

#### **041/18.6 Dartmouth Scrubbing Grid**

A discussion took place about the Dartmouth scrubbing grid, when the following comments were made:

MC advised that the grid currently has a SHDC sign on it advising that it is operated at the public's own risk. The grid is a SHDC asset. MC advised that he wanted to help them and that an agreement may be signed with them.

The DP expressed the view that the public should not use the grid, in view of the history of one in 15 boats using the grid having accidents. In his opinion use of the grid is fundamentally dangerous and it would leave the Authority exposed in the event of a liability claim. He felt that a proper solution was needed and that the Authority should have nothing to do with it.

MC advised that even if the grid was closed and the Authority could direct every vessel away, people will use the grid anyway. MC advised that he was trying to reduce the risk.

MH advised that the Authority has the power to stop unsafe practices on the river.

SE advised that public meetings could be used to help the public understand that the Authority is not being vindictive, but trying to manage risk.

MC advised that the Authority is not managing the grid but does have a risk assessment people can use if they choose to use it in an effort to make it safer.

TH advised that the Authority should not issue risk assessments as this would be stepping into the breach.

MH suggested that the Authority should test best practice in this area and could stop people using it.

MC advised that there is an issue in that it is difficult to stop vessels before they dry on the grid.

MC advised that use of the Hoodown grid has been improved with proper safety briefings for users and staff training which has made its use safer.

The DP advised that it is very different where you do not own it, unless there is an agreement in place with SHDC.

MC advised that people will use it and reputationally it is DHNA who would suffer. The Authority could get agreement with SHDC, but there would be no incentive to fix it, replace fendering, bollards, or install water and electricity.

MH advised that this should be done properly or not at all and if SHDC cannot find a way to repair the asset to be used, then they should not encourage use of it.

DP advised that a bollard pulled over by boat using the grid had not been repaired by SHDC. He understands where MC is coming from, but views it from the point of view of an accident taking place and he had advice from DHNA lawyers that the Authority will definitely be in the firing line and recommended that the Authority does everything possible to mitigate the risk.

MH proposed that the Authority takes the DP's advice on board and identifies a way to actively discourage people from tying up to the Dartmouth scrubbing grid.

MH advised that the Board needs to grasp the situation and come to firm conclusion.

**It was agreed** to give this further consideration through a working group in order to stand back and recognise the issues.

**ACTION:** Board Members and MC to circulate their views and background information, including the advice from Dorade Law to MH.

## **042/18      GDPR Report (MB)**

MB advised that having studied the literature from the Information Commissioners Office and met with PJ, he does not believe it is necessary or desirable for the DHNA to have a designated Data Protection Officer (DPO).

This is mandatory for all Public Authorities but the Regulation leaves it up to national governments to define a "Public Authority". The Data Protection Bill gives the following definition:

*6      Meaning of "public authority" and "public body"*

*(1) For the purposes of the GDPR, the following (and only the following) are "public authorities" and "public bodies" under the law of the United Kingdom—*

*(a) a public authority as defined by the Freedom of Information Act 2000, subject to subsection (2),*

*(b) a Scottish public authority as defined by the Freedom of Information (Scotland) Act 2002 (asp 13), subject to subsection (2), and*

*(c) an authority or a body specified by the Secretary of State in regulations.*

*(2) The Secretary of State may by regulations provide that a person specified in the regulations that is a public authority described in subsection (1) (a) or (b) is not a "public authority" or "public body" for the purposes of the GDPR.*

*(3) Regulations under this section are subject to the affirmative resolution procedure.*

The DHNA is not a public authority as defined by the Freedom of Information Act and consequently is not a public authority for the purpose of GDPR. The “Public Authority” criteria therefore does not apply and there is no other relevant criteria that mandates the Authority to have a DPO. Appointing a DPO voluntarily would be costly and unnecessary for an organisation of our size.

The Information Commissioner makes it very clear that GDPR compliance is not focussed on 25th May 2018. This is not a deadline as suggested by many companies selling GDPR solutions. GDPR compliance will be an on-going journey taking months and perhaps years. In particular, it appears that there are currently no plans for organisations to register or certify that they are GDPR compliant.

One of the major new obligations that GDPR places on organisations is for them to specify the lawful basis by which they process any personal data. To do this the Authority will need to undertake an Information audit.

The Authority’s priority will be to ensure that all major on-going processes are compliant with GDPR. Issues such as the destruction of old redundant information will be addressed later. Below are the major steps we will be undertaking.

1. Undertake an information audit of all personal data processed by the DHNA.
2. This audit will be documented on a template developed by the Information Commissioners Office.
3. As part of this process the lawful basis of all processing of personal data will be documented.
4. The information provided by the audit will enable us to develop the Privacy Notices necessary for GDPR compliance.
5. The documentation produced will be in the format that is required for on-going GDPR compliance.
6. Develop compliant privacy notices
7. Develop procedures to respond to individuals requests for data access, rectification or erasure.
8. Develop procedures to handle data breaches.
9. Implement a programme of staff training to ensure everyone is aware of their responsibilities.

MB advised that he will continue to help PJ to move into data compliancy.

**It was agreed** to proceed with the programme to move to GDPR compliance.

**ACTION:** MB/PJ to develop the GDPR procedures

## **043/18 DHNA Review of Powers Including Byelaws**

The Board considered a report by MC concerning the review of powers including byelaws as follows:-

The MCA conducted a health check in April 2017 in which they raised the requirement for DHNA to keep Authority Powers and Responsibilities under review. The PMSC has the following text:

*Review existing powers*

*2.3 Existing powers should be reviewed on a periodic basis by organisations to avoid a failure in discharging their duties or risk exceeding their powers. A summary of the main duties and powers for organisations is included in chapters three & four of the Code; not all of these are relevant to every harbour authority or organisation.*

*2.4 Harbour authorities must understand their local legislation – harbour acts, harbour orders and byelaws – as well as the procedures and systems that are in place. Additional powers should be sought, if a risk assessment concludes that this would be the best means of meeting their safety obligations.*

*2.5 In particular, harbour authorities would be well advised to secure powers of general direction or harbour direction to support the effective management of vessels in their harbour waters if they do not have them already.*

*2.6 Conversely, there may be circumstances where a risk assessment concludes that a harbour authority should relinquish powers, for example pilotage functions, or its status as a statutory harbour authority. The Marine Navigation Act 2013 has provided simplified processes for this to be achieved.*

The current HM (joined in Jan 2017) asked the Board to delay their review of powers until he had had a year of experience and could assess the usefulness or otherwise of current powers. The Board agreed that he should take his time and review Authority powers and laws in light of his experience and report to the Board in March 2018.

**043/18.1 Incident Reporting:**

In 2017, the Authority introduced a campaign to ensure that incident reporting captured more of the incidents and near misses that occur on the river. This is in line with the PMSC which encourages the analysis of incidents to gain an understanding of causes in order to reduce risk of reoccurrence, but also to determine if an offence has been committed that would initiate enforcement of byelaws.

The revised incident reporting system includes the use of a simplified initial incident reporting format and if required an enhanced collection of information using the MarNIS system. MarNIS helps to categorize incidents and to provide indications of when external reporting is required. The new system has been advertised widely using the website, newsletter, articles in local press and in stakeholder meetings. The revised simplified incident reporting system has been enormously successful with the number of reports increasing from a handful in 2016 to 157 reports in 2017.

Incident reports are analysed and lessons from individual occurrences or trends are then used to update risk assessments and procedures. Once the causes of incidents have been determined risk mitigations can be examined and improved or added to as required. In 2017 there were numerous examples of updates to safety equipment and signage that were identified by risk assessment review following incidents and near misses. Examples include the update to safety equipment for the water taxi and pilot vessel.

In many cases analysis indicated that there were mitigations in place that were considered appropriate but had failed to reduce risk. It has been determined that the cause of some of these events was related to either lack of awareness of rules and guidance or an intent to ignore rules. Of particular note, the trends indicated that speeding and the use of tenders and dinghies without proper lighting were very common offences where the public acted outside of the rules. In response, the Authority issued torches with 2017 harbour guides and introduced additional out of hours night patrols in order to enforce the speed limit. It is anticipated that future incidents will continue to follow the 2017 trends (speeding and unlit small craft) and enforcement will be necessary using Authority powers.

HM used other powers in 2017 including:

- Powers to detain and if necessary sell vessels to cover non payment of dues and charges Harbour Act section 3.(1)(IV) ( almost mirrors the Harbour Clauses Act 1847)
- Direction given to unsafe vessels Byelaw 12(i) and (II)
- Towing of vessels left on temporary facilities (Byelaw 10)

In addition to the Harbours Authority powers to give special directions (normally limited in time and specific to the movement of individual vessels), DHNA has also been granted DfT permission (Ref D) to issue general directions as result of work done by the previous harbour master to seek these powers. DHNA has not given any general directions since being conferred with these powers.

#### **043/18.2 Issue for Consideration**

Although some Authority powers are used frequently and some of the laws are often quoted in our correspondence with customers and river users many of the powers are not routinely used. These powers, and the wording in the current HMSO documentation including the Harbour Act 1975 and Harbour Revision Order 2002 and Byelaws 1998, have been developed as a result of experience gathered in over 150 years of port operations.

Since the byelaws were revised in 1998, there has been little change in either the business of the port or in the types of vessels using the river. There has also been little need for the powers to be revised to meet changes in national legislation, including the need to take account of increased environmental restrictions.

Leisure craft such as sail boards and wind surfers are included in byelaws but other craft such as jet skis, canoes and paddle boards are not mentioned other than within a category of small craft. Ports that have amended their powers and laws in order for them to regulate activity of new design vessels and leisure activities appear to have done so to tackle activities that would have been otherwise unregulated in areas where there are high speed limits and sufficient sea room. The 6 knot limit in waters under DHNA jurisdiction make this unnecessary. Recent legal cases have demonstrated that for purposes of enforcement and prosecution, masters of personal water craft and other such vessels can be treated as the master of a vessel (ships).

In the experience of the current HM there has been no occasion when additional powers would have been of any benefit to the executive in the pursuit of their duties. This logic is supported by the lack of any desire to publish any general direction since Dft conferred this power in 2015.

There will undoubtedly be many powers that are translated into byelaws that may never be required, but this does not mean that they should not be available to use if the occasion arises.

If there was a desire of the Board to update the 1998 Byelaws, it is anticipated that this would be restricted to minor adjustments to wording of a cosmetic nature. It would be possible to update some of the language and to update some of the references (laws and Acts that underpin the principles of harbour related activities).

An update and revocation of the current byelaws would need to be approved by the Department for Transport under the signature of the Head of the Ports Division.

#### **043/18.2 Risk**

Since there appear to be no known gaps in the powers conferred on the Authority the risk is considered to be insignificant. The risk is limited to a potential reputational risk from being unable to act to encourage or enforce any desired constraints on the activities of river users that impact upon safety, port operations or on the environment.

**It was proposed by MH and seconded by TD with all in agreement that** the Board note the outcome of the review of DHNA byelaws conducted by MC and set the next periodic review for 2023. This option would not preclude any update of byelaws driven by subsequent risk assessment, the outcome of investigation of an incident or near miss, or driven by any other factor

**ACTION:** The periodic review to be noted for 2023.

#### **044/18 Pilotage Risk Assessment**

MC asked the Board to approve the pilotage risk assessment, shown in italics below:

1. *Following the sad death of the DHNA senior pilot (Captain David White) DHNA board reviewed the pilotage arrangements for 2018 in their February meeting and agreed:*
  - a. *To supplement the pilotage services utilising the two Fowey Pilots who were registered with DHNA as follows:*

*Fowey Pilots conduct pilotage for large vessels (over 90m LOA) entering the river with HM/RE understudying and able to provide advice to pilot on local knowledge in accordance with a formal risk assessment.*
2. *DHNA pilots (Captain Rich Eggleton and Captain Mark Cooper) met with both Fowey Pilots (Captain Paul Thomas and Captain Will Mitchel) on 26 March to refamiliarize them with the Dart and discuss the arrangements and all agreed that pilotage could be conducted safely for the vessels greater than 90m (the current restriction on both DHNA pilots) under the following conditions:*
  - a. *DHNA would act as pilots for the movements of the vessels and when required would retain normal pilotage control in accordance with DHNA pilotage directions and policy but they would be assisted with advice on the handling and manoeuvrability of the large vessels by a Fowey Pilot who have large vessel experience.*



- b. Owing to the lack of experience of DHNA pilots in handling large vessels and the lack of recent experience in Dartmouth it would be appropriate to have a tug available for the movement of these vessels. Any instructions to the tug would be given by the DHNA pilot although advice would be given if appropriate from the Fowey Pilot.*
3. *The Fowey Pilots were able to refamiliarize themselves with the Dart river, the pilot vessel Lynx and have been given access to:  
  
The Risk Assessment for the use of Lynx  
The MarNIS risk assessment for the risk of grounding a large vessel  
Sailing directions updated 2017  
Autumn 2017 survey data*
4. *Discussion onboard Lynx included the use of man overboard equipment, the updated sectorised light arrangements (including in sailing directions), tidal stream details and effects around Kingswear and the conditions in the location for turning vessels above the higher ferry.*
5. *This arrangement will be reviewed after the first large vessel movement and updated as required based on experience.*

A discussion took place when the following points were raised:-

- a) MC and RE are both licenced Dart Pilots and they were satisfied with the risk assessment.
- b) Fowey Pilots were uncomfortable moving large ships without the presence of a tug and RE advised that the issue of tugs should be investigated more thoroughly.
- c) TD suggested looking at simulation systems to practice pilot trips. RE advised this would not be a requirement and had large cost implications.
- d) MC advised that unlimited licences would be required for RE/MC and that these should be signed off by Fowey Pilots.
- e) MH advised that the Authority should look at the long term position and consider how to bring on the next pilot. MC advised that he was aware of a potential candidate who had been a Harbour Master in Dover and who now lived in Hope Cove.
- f) RE suggested that the Authority should choose pilots from the merchant navy rather than the Navy as you would get a better diversity of ship handling and more experience.
- g) ZBE asked whether there was a source for tugs and MH advised that there was a list of suitable tugs that could be contacted.

**It was agreed** to sign off the Risk Assessment for Pilotage Arrangements.

**ACTION:** MC to implement the Risk Assessment for Pilotage Arrangements.

## **045/18 Preparation for DHNA May Workshop**

MC advised that this would be circulated to the Board by email.

## **045/18 Correspondence**

Board Members to advise on any correspondence received.

There was one item to be discussed In Committee.

**046/18 Any Other Business**

There was none.

**047/18 Move “In Committee”**

It was proposed by ZBE and seconded by JE with all in favour, *“that the meeting move into Committee”*.

**048/18 Decisions Made “In Committee”**

It was proposed by TD and seconded by JE with all in favour “to ratify decisions made “In Committee””.

**049/18 Date of next Meeting**

**It was agreed to circulate dates for the May 2018 to Board – Clifton Room, The Guildhall, Dartmouth at 1830 hrs  
Workshop Meeting – Capital Planning**