



Department
for Transport



Maritime &
Coastguard
Agency

Ports & Marine Facilities Safety Code

Guidance for all ports, harbours, marine
facilities, berths and terminals

April 2025



Foreword



The ports sector is vital to the UK as an island nation. We rely on it to deliver 95 per cent of our imports and exports and much of the food, fuel and materials we need not only to prosper but for our basic daily needs. Ports also provide a range of other important sectors, such as the energy, tourism, marine recreation and fishing industries, with critical landside hubs and gateways they need to function.

Successful, world-class, ports are critical to the delivery of our mission to kickstart economic growth as a key driver and facilitator. Working together, we can break barriers to opportunity and breathe new life into coastal communities.

Safety will always be the first consideration and must be a keystone in the foundation of progress. The UK has always been a safe environment to conduct business, and we pride ourselves on ensuring we maintain the very highest standards. However, it is still too often the case that the importance of ensuring safety only becomes apparent following a serious accident.

We must improve. That will require a renewed effort from everyone across the industry and government working in partnership to solve problems, face new and emerging challenges and ensure continuous improvement.

This Code, and associated Guide to Good Practice, play an essential role in achieving this by setting out the national standards to which all ports and marine facilities should be managed. Its principles are designed to be applied in a proportionate manner whether to a major port, statutory harbour, terminal, marina, pier or other marine facility.

I want to stress that these are the minimum standards against which we will hold the sector to account for its safety performance. When considering safety, we must always be mindful of the consequences of failure. It is unacceptable that preventable fatalities still occur on a regular basis in the UK.

Remember that every individual can make a difference and there is always more that we can all do.

A handwritten signature in purple ink that reads "Mike Kane". The signature is written in a cursive, flowing style.

Mike Kane MP
Parliamentary Under Secretary of State

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Executive summary

What is the Ports & Marine Facilities Safety Code?

1. The Ports & Marine Facilities Safety Code¹ (the Code) sets out a national standard for every aspect of port and marine facility safety. Its aim is to enhance safety for everyone who works in, or uses, ports, harbours, marinas and other marine facilities. Recognising the significant differences in the role, powers, duties, responsibilities and risks that different organisations have and manage, the Code is intended to be sufficiently flexible to enable its principles to be applied in a manner proportionate to local requirements.
2. The Code was introduced in 2000 in response to lessons learned from the grounding of the *Sea Empress* in 1996. The involvement of the maritime sector during its development and evolution has been, and is, critical. Although compliance is not mandatory, there is a strong expectation that anyone who manages ports and other marine facilities will incorporate the relevant requirements of the Code into their safety management and other systems.
3. The Code includes references to the statutory responsibilities some organisations have for marine safety but does not purport to cover all legal duties or any wider, non-marine, safety responsibilities. Other legislation, such as that relating to security, can also impact marine safety. It is important for organisations to recognise this and strive to deliver cohesive and consistent policies and management across all these responsibilities.

What does the Code do?

4. The Code has been developed to improve the safety of ports and marine facilities by:
 - establishing nationally agreed standards;
 - defining the role of the Duty Holder, Designated Person and other key personnel;
 - clarifying responsibilities within, and between, different organisations; and
 - holding organisations to account for safe and effective management.
5. The Code should be read in conjunction with its companion Guide to Good Practice (the GTGP²). The GTGP is primarily written for operational staff, allowing them to implement the requirements of the Code by providing additional guidance on its requirements and examples of best practice.
6. Organisations may also wish to review the information contained in the Department for Transport's (DfT's) Port's Good Governance Guidance.³ This is primarily aimed at Statutory Harbour Authorities (SHAs) but also contains wider good practice on effective governance.

¹ Previously the Port Marine Safety Code

² www.gov.uk/government/publications/a-guide-to-good-practice-on-port-marine-operations

³ www.gov.uk/government/publications/good-governance-guidance-for-ports

Who is the Code for?

7. The Code is applicable to anyone who operates any form of port or marine facility including those which do not otherwise have defined statutory powers and/or duties. These are collectively referred to throughout the Code as 'organisations' and include, but are not limited to, the following:
 - Statutory Harbour Authorities (SHAs);
 - Competent Harbour Authorities (CHAs);
 - Municipal Port or Harbour Authorities;
 - Trust Port or Harbour Authorities;
 - Private Port or Harbour Authorities;
 - State-owned Port or Harbour Authorities;
 - Ministry of Defence dockyards and marine facilities;
 - Non-statutory port and harbour facilities; and
 - All other marine berths, marinas, terminals, piers and jetties even if they are located within, or adjacent to, an SHA.
8. Many of the organisations to which the Code applies will have important legal duties relating to the safety of people who work at, or use, their harbours or facilities, and to the wellbeing of the wider community and the environment. Responsibility for maintaining port and marine facility safety is governed not only by marine legislation, such as the Pilotage Act 1987⁴ and Merchant Shipping Act 1995⁵ referred to in the Code, but also by general legislation, such as the Health and Safety at Work etc. Act 1974.⁶
9. The Code is designed to provide a national standard and, although it describes national powers and duties, it is not practicable for it to cover the specific legal position for each organisation under its relevant local acts/orders (if any). It is incumbent on all organisations to review and be aware of their existing powers, role and responsibilities based on relevant national and local legislation. The Code does not contain legal advice, and it is recommended that individual organisations seek their own legal advice on any powers they may have and any duties or other responsibilities which are applicable to them.

Who should read the Code?

10. The Code has been primarily produced to assist the Duty Holder (see [Chapter 1](#)) in understanding its role and responsibilities. All organisations must have a Duty Holder and, for most, this will be any staff who both individually and collectively have accountability for safety. The Duty Holder should familiarise themselves with the Code and review any implications for their organisations on a regular basis.

⁴ www.legislation.gov.uk/ukpga/1987/21/contents










⁵ www.legislation.gov.uk/ukpga/1995/21/contents

⁶ www.legislation.gov.uk/ukpga/1974/37/contents

11. It is strongly advised that the Duty Holder, and all staff involved in marine safety, consider the additional advice and best practice in the GTGP as well as reviewing recommendations and lessons learned from major accidents and incidents investigated by the Marine Accident Investigation Branch⁷ (MAIB).

What do I need to do?

12. The Code is based around 10 key measures identified as critical to the management of port and marine facility safety. Some measures may not be relevant to some organisations, but all organisations should consider which may be applicable to the facilities they manage and what they need to do to demonstrate compliance given their safety responsibilities.
13. The Code does not create any new legal duties but does refer to the statutory powers and responsibilities some organisations may have. Where applicable, relevant legislation is referenced.

-  1. **Duty Holder:** whose members are typically, individually and collectively, accountable for compliance with the Code, and their organisation's performance in ensuring safe marine operations.
-  2. **Designated Person:** provides independent assurance about the operation of the organisation's marine safety management system and must have direct access to the Duty Holder.
-  3. **Legislation:** the Duty Holder must be aware of and review the organisation's legal powers, duties and responsibilities based on applicable local and national legislation and seek additional powers if necessary to improve marine safety.
-  4. **Duties & Powers:** organisations must comply with any statutory duties and responsibilities they have.
-  5. **Risk Assessment:** organisations must ensure that risks are formally assessed and are eliminated or reduced to the lowest possible level, so far as is reasonably practicable, in accordance with good practice.
-  6. **Marine Safety Management System:** organisations must operate an effective MSMS which is based on formal risk assessment.
-  7. **Review & Audit:** organisations must review and audit performance against applicable requirements of the Code.
-  8. **Competence:** organisations must use people who are appropriately trained, qualified and experienced to manage marine safety.
-  9. **Plan:** organisations must publish a marine safety plan showing how the standards in the Code will be met and produce a report assessing performance against that plan at least every 3 years.
-  10. **Conservancy Duty:** organisations must ensure their facilities are fit for purpose and have a duty of reasonable care to ensure that any vessel can utilise them safely.

⁷ www.gov.uk/maib

14. Government, other regulatory and/or enforcement authorities and industry associations expect that all organisations with responsibility for port and marine facility safety will comply with the Code to the extent appropriate.
15. Organisations should note that:
 - The Code does not contain any new legal obligations but includes, amongst other things, references to the main legal duties which exist and are relevant to many organisations.
 - Although failure to comply with the Code is not an offence, it represents good practice as recognised by industry stakeholders. An organisation may suffer significant commercial, legal and reputational damage if it has publicly stated compliance with the Code and subsequently fails to meet its requirements.
 - Periodically and/or following a major incident or accident, assurances will be sought that organisations are complying with the Code and levels of compliance will be monitored to assess the Code's effectiveness in delivering improved safety performance.
 - A link may be drawn between a failure to comply with the Code and prosecution under health and safety, as well as other, legislation.
16. The Code does not cover 'dry' side issues but guidance and advice on improving safety is available from Port Skills & Safety⁸ and the Health and Safety Executive.⁹

Compliance

17. Although compliance with the Code is not mandatory, ensuring relevant policies, procedures and practices are in place to meet its requirements provides significant assurance that port and marine facility safety is being appropriately managed.
18. For example, a successful prosecution has previously been brought against an organisation for breach of section 3 of the Health and Safety at Work etc. Act 1974 following a multiple-fatality accident. The judgment noted that non-compliance with the fundamental elements of the Code evidenced a failure to provide a safe system of work and the organisation was fined a significant sum.
19. Compliance with the Code can, therefore, assist when accidents and incidents occur, and an organisation's safety management systems may be subject to intense scrutiny.
20. Best practice constantly evolves, particularly following accident and incident investigations, and it is therefore vital that organisations consider recommendations made by MAIB which may be relevant to them and review their safety management systems to ensure these capture any lessons learned.
21. While neighbouring organisations should assist and support one another it is not the responsibility of anyone other than the organisation itself to ensure

⁸ www.portskillsandsafety.co.uk/safety-ports-guidance

⁹ www.hse.gov.uk/ports/topics.htm

compliance unless a specific agreement has been made. For example, an SHA with a facility managed by a third party within its limits is not responsible for the compliance of that third party with the Code. In such circumstances, it is vital that both organisations' MSMS operate in tandem to ensure safety (see Chapter 6).

22. It is the role of DfT, supported by MCA, and industry bodies to promote understanding of, and compliance with, the Code.
23. A list of those ports and other marine facilities which have indicated compliance is maintained on gov.uk.¹⁰

Health Checks

24. Health Checks are conducted by the Maritime and Coastguard Agency (MCA) and its main objective is to measure an organisation's compliance with the Code and, where appropriate, identify ways in which compliance can be further enhanced. They also aim to identify and share any best practice through anonymised Health Check Reports.¹¹
25. Organisations are identified as candidates for a Health Check for a variety of reasons ranging from MAIB investigations, complaints or a perceived failure in the delivery of statutory duties and other safety responsibilities including those arising from the Code.
26. Organisations may also volunteer for a Health Check which can assist them in understanding the strengths of their current management of safety and highlighting where further improvements can be made.

Updating

27. The Code is reviewed every three years with the GTGP, as a living document for marine practitioners, being updated on a more frequent basis, for example following accidents, to ensure it reflects the latest best practice.
28. A Steering Group, comprising representatives from government, industry, trade unions and other professional organisations, meets twice a year to consider issues relevant to both the Code and the GTGP.

Role of the Maritime and Coastguard Agency

29. The MCA is responsible for supporting DfT in developing and implementing the government's maritime safety and environmental protection strategy.
30. The MCA is responsible for advising DfT on the application of this Code to all organisations in the UK. This includes, but is not limited to:
31. providing advice and assistance on compliance;
 - promoting awareness and compliance;
 - conducting Health Checks;

¹⁰ www.gov.uk/government/publications/port-marine-safety-code-compliant-ports

¹¹ www.gov.uk/government/publications/port-marine-safety-code

- monitoring compliance;
- publishing on gov.uk an up-to-date list of organisations which have indicated they are compliant, or are working towards compliance;
- the facilitation of regular meetings between government and the sector to exchange opinions and developments which may have a bearing on the content of the Code and the way in which it is applied;
- the production of an annual report including emerging trends and considerations identified from the Health Check program; and
- any other technical assistance which may be required by DfT.

Role of the Marine Accident Investigation Branch

32. The MAIB is an independent part of the DfT which investigates marine accidents involving UK-flagged vessels worldwide and all vessels in UK territorial waters. Its powers are derived from the Merchant Shipping Act 1995 and the sole objective of its investigations is to prevent future accidents by understanding their causes and making recommendations to prevent reoccurrence. It does not determine liability nor, except so far as is necessary to achieve its objective, apportion blame.
33. Reporting accidents and incidents is a statutory obligation and guidance on what needs to be reported, and how to make a report, can be found in Marine Guidance Note 564¹².
34. The MAIB works closely with the MCA and the Health and Safety Executive (HSE) during its investigations. The recommendations it makes are integral to the continued development and evolution of the management of port and marine facility safety. Key safety messages are highlighted in its Safety Bulletins and lessons learned from recent investigations are summarised in its biannual Safety Digests¹³.
35. As well as responding to, for example, changes in local trade and the operation of the facility, it is vital that organisations also review their Marine Safety Management Systems (MSMS) to incorporate lessons learned following relevant marine incidents and accidents.

Devolution

36. Generally, with a small number of exemptions, policy responsibility for ports lies with the Scottish and Welsh Governments and the Northern Ireland Executive. Policy on marine safety remains a matter reserved to the UK Parliament.
37. The Code reflects UK and English law but also highlights, as far as possible, where alternative legislation and procedures are followed in Scotland, Wales and Northern Ireland. The term 'relevant Minister' is used where matters are decided by the Secretary of State or a Minister of the relevant administration.

¹² www.gov.uk/government/publications/mgn-564-marine-casualty-and-marine-incident-reporting

¹³ www.gov.uk/government/publications/maib-safety-digests-20-24

Enquiries

38. Operational and compliance enquires should be made to:

[Maritime and Coastguard Agency](#)

UK Technical Services Navigation, Spring Place, 105 Commercial Road,
Southampton, SO15 1EG

navigationsafety@mcga.gov.uk

39. Policy enquiries should be made to:

[Department for Transport](#)

Maritime Navigation Safety & Wrecks, Great Minster House, 33 Horseferry Road,
London, SW1P 4DR

maritimesafety@dft.gov.uk



1. Duty Holder

- 1.1 All organisations must have a Duty Holder which is accountable for compliance with the Code.
- 1.2 The Duty Holder may be different depending on the size, duties and responsibilities of an organisation. For larger organisations, the Duty Holder is likely to be members of the management team or board who are, both individually and collectively, accountable for marine safety. However, if accountability or decision-making powers of these bodies is limited, such as in a municipal port where safety is overseen by a local authority committee, it is acceptable for the role to reside elsewhere. For smaller organisations, which may not have such formal structures, the role may be performed by an individual.
- 1.3 Given these differences, organisations should publish information explaining who their Duty Holder is and how they can be contacted.

Responsibilities

- 1.4 The Duty Holder is responsible for ensuring compliance with the relevant parts of the Code. To ensure they are effective, the Duty Holder must:
 - be aware of the organisation's powers, duties and responsibilities relating to marine safety;
 - ensure that a suitable MSMS, which employs formal safety assessment techniques, is in place;
 - appoint a suitable Designated Person to monitor and report the effectiveness of the MSMS and provide independent advice on matters of marine safety;
 - appoint competent people to manage marine safety;
 - ensure that appropriate resources are made available for discharging their marine safety obligations;
 - ensure that the management of marine safety continuously improves by publishing a marine safety plan and reporting against the objectives and targets set and performance against the MSMS on an annual basis; and
 - report on the organisation's compliance with the relevant parts of the Code to the MCA every three years.
- 1.5 Some organisations will have the power to appoint a Harbour Master and may entrust the operation of their facilities to such professionals. However, the Duty Holder cannot assign or delegate its accountability for compliance with the Code.



- 1.6 The Duty Holder should take time to gain an appropriate insight and understanding of their organisation's marine activities, MSMS and supporting policies and procedures. This can be accommodated through briefings and operational visits. If the organisation has a board, consideration should be given to appointing a board member who has relevant maritime experience and can act as the initial point of contact for the Designated Person (see [Chapter 2](#)).
- 1.7 The Duty Holder should also be aware of any other specific powers and duties which the organisation may have such as:
- powers to direct vessels to support safe navigation;
 - dangerous vessels and dangerous substances (including pollution) which must be effectively managed;
 - provision of a pilotage service if required in the interests of safety; and
 - any responsibilities as a local lighthouse authority including provision and proper maintenance of aids to navigation and management of any danger to navigation.

Reporting Compliance

- 1.8 The Duty Holder is responsible for reporting their organisation's compliance with the Code to the MCA on a three-yearly basis. The MCA will announce and publicise when the next compliance statement is due and explain the process for responding in a Marine Information Note¹⁴.
- 1.9 The Duty Holder must submit a statement describing their organisation's compliance with the relevant parts of the Code. The statement should include a reference to the areas of the Code the organisation has identified as not being applicable to them and explain why. If the organisation is non-compliant, or not fully compliant, with the relevant provisions of the Code, the statement should also describe what the organisation is doing to achieve compliance, including indicative timescales. The statement should also name any other facilities for which it covers compliance.
- 1.10 A list of all organisations which have reported compliance is published on gov.uk¹⁵.

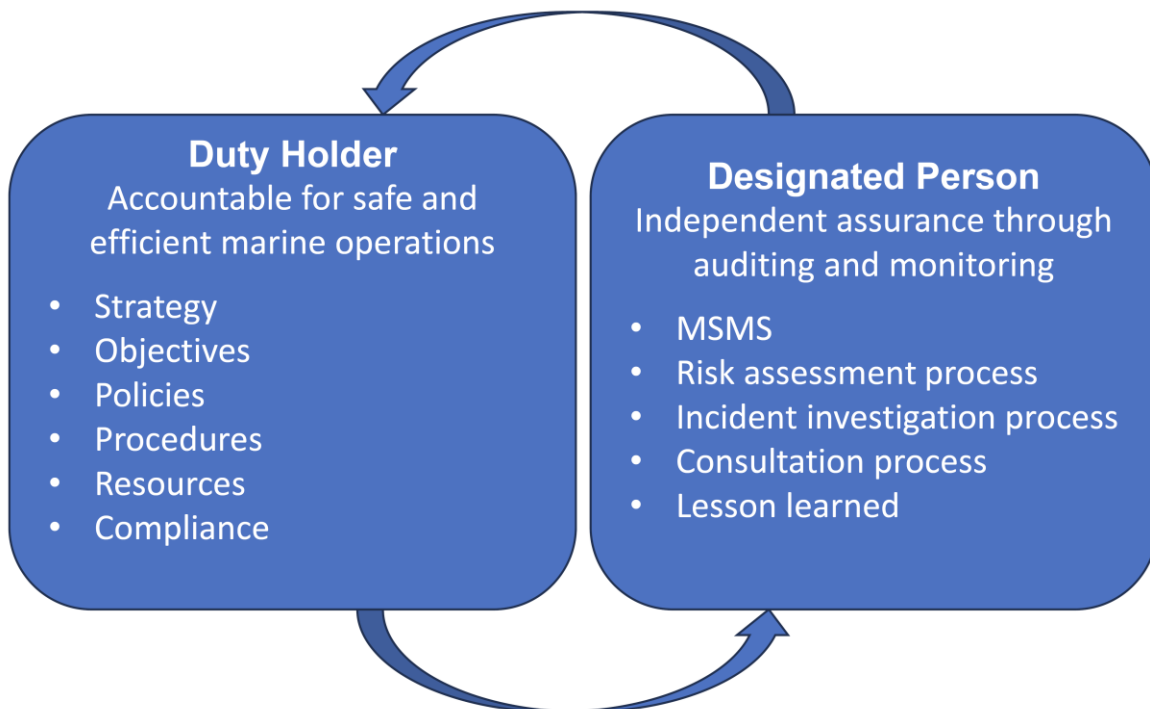
¹⁴ www.gov.uk/government/publications/min-641-m-navigation-port-marine-safety-code-compliance-submission-for-2021-2024

¹⁵ www.gov.uk/government/publications/port-marine-safety-code-compliant-ports



2. Designated Person

- 2.1 All organisations must appoint a suitably qualified individual as their Designated Person.
- 2.2 The main responsibility of the Designated Person is to provide independent assurance directly to the Duty Holder that the MSMS, for which the Duty Holder is responsible, is working effectively in ensuring compliance with the Code.
- 2.3 To fulfil this function, the Designated Person must have a thorough knowledge and understanding of the requirements of the Code (and the GTGP) and associated marine legislation.
- 2.4 The role of the Designated Person does not obscure the accountability of the Duty Holder and respective roles are summarised below.





3. Legislation

3.1 Many organisations will have important legal duties relating to the safety of people who work at, or use, their facilities, and to the wellbeing of the port marine environment and community. It is vital that organisations are aware of these duties and responsibilities as well as their own powers. Effective application and management can significantly improve marine safety and new powers can be obtained if these might further enhance performance.

3.2 Note that the Code is not legal advice and does not purport to cover all of the wider legal duties, responsibilities or powers that organisations may have. It is recommended that organisations seek their own legal advice on these issues.

National Legislation

3.3 Responsibility for marine safety is governed by a wide range of national legislation. A map of the most relevant national legislation to organisations is available from the British Ports Association¹⁶. However, key duties and responsibilities are contained in the:

- Harbours Act 1964 (or the Harbours Act (Northern Ireland) 1970);
- Dangerous Vessels Act 1985;
- Pilotage Act 1987; and
- Merchant Shipping Act 1995.

3.4 A summary of the main duties and powers organisations may have, or obtain, can be found in [Chapter 4](#).

3.5 Other national legislation may also be applicable including, for example, the Health and Safety at Work etc. Act 1974 and the Corporate Manslaughter and Corporate Homicide Act 2007.

3.6 The specific application of national legislation is dependent upon where the port or facility is geographically located and the activities being undertaken.

Local Acts & Orders

3.7 Many organisations' powers, and some duties, are contained in local Acts and Orders. Although they are likely to be similar in many cases, with most being taken from the model provisions in the Harbours, Docks and Piers Clauses Act 1847, the precise detail is likely to vary from organisation to organisation.

3.8 Organisations must identify and understand any applicable local provisions.

¹⁶ www.britishports.org.uk/regulation



These might include harbour acts, harbour orders, harbour directions and byelaws as well as any related procedures and systems that are in place to support implementation.

- 3.9 Organisations should seek additional powers if a risk assessment concludes this would be the best means of meeting their marine safety obligations.
- 3.10 Where relevant, organisations should secure powers of general direction or harbour direction to support the effective management of vessels if they do not already have these.
- 3.11 Conversely, there may be circumstances where a risk assessment concludes that an organisation should relinquish its powers, for example its status as a CHA, if they are no longer required.
- 3.12 More information about byelaws, general and harbour directions can be found in [Chapter 4](#).

Review

- 3.13 All organisations should keep their duties under review to avoid any possibility of failing to discharge them effectively. This process should include consideration of the organisation's legal powers and the extent of its jurisdiction to determine whether these are sufficient to enable it to manage marine safety effectively.
- 3.14 The legislative landscape is changing all the time, and it is important that organisations identify the implications of any new legislation being developed on their operations. Where that legislation creates any new duties or responsibilities on organisations, these should be incorporated into their MSMS.

Revising statutory powers

- 3.15 Several routes are available to organisations whose risk assessments indicate that additional legal powers are desirable to assist them in managing marine safety or that existing powers are no longer needed.
- 3.16 These include:
 - [harbour empowerment orders](#) can be used to create a new harbour and secure the statutory powers of a harbour authority;
 - [harbour revision orders](#) can be used to amend statutory powers in a harbour authority's local legislation and to achieve a variety of other outcomes¹⁷ including, for example, the power to make General Directions or restructure a port's governance. They can also be used to change

¹⁷ Schedule 2 of the Harbours Act 1964



harbour limits or extend compulsory pilotage beyond the harbour¹⁸; and

- **harbour closure orders** can be sought when an organisation wishes to relinquish its statutory powers in cases where a harbour is no longer commercially viable or necessary¹⁹.

- 3.17 Guidance²⁰ on applying for the different types of harbour order and the process for decision making is available from the relevant national administration including the Marine Management Organisation (MMO), Transport Scotland, the Welsh Government's Ports Policy Team and the Northern Ireland Assembly's Department for Infrastructure.
- 3.18 The introduction of any new legislation is a lengthy process, and a significant amount of time will be required to implement the desired change. The process is likely to involve development, consultation and approval stages as well as, in some cases, a public inquiry. If an organisation is considering an application, early engagement with the relevant decision-making authority is advised, including via any pre-application process.

¹⁸ Section 7(5) of the Pilotage Act 1987

¹⁹ Sections 17A to 17F of the Harbours Act 1964

²⁰ www.gov.uk/guidance/harbour-orders



4. Duties and Powers

- 4.1 Each organisation will have a different range of statutory and non-statutory duties, powers and responsibilities depending on their status and the type of facility for which they are responsible. For example:
- **harbour authorities** have a range of statutory and non-statutory duties and powers relating to marine operations;
 - **other organisations** may not have access to the same range of statutory powers but will still have duties under general legislation and non-statutory provisions; and
 - **marine berth, marina, terminal, pier or jetty operators** may not have any statutory powers or duties but will need to consider the appropriate interpretation and applicability of, for example, the conservancy duty, environmental duty and their common law duty of care to all harbour users, etc.
- 4.2 All organisations are therefore encouraged to consider this section to determine what guidance may be relevant to them.

Safe and efficient marine operations

- 4.3 Duties to ensure marine safety should be matched with general and specific powers to enable an organisation to discharge those duties.
- 4.4 Under local and national legislation, most harbour authorities have powers and duties to manage vessel traffic within their limits. In the context of vessel traffic management there is a requirement to assess if Vessel Traffic Services (VTS) should be established in the interests of marine safety, and if not, what level of Local Port Service (LPS) is required. This must be completed with reference to MGN 401²¹.
- 4.5 Assessment of vessel traffic management is determined by means of a Formal Risk Assessment (FRA) into the safety of navigation. Harbour authorities must demonstrate that they:
- ensure the safe and efficient use of the harbour by those who have a right to use it and navigate in its waters;
 - conserve and promote the safe use of the harbour/facility and prevent loss or injury through the organisation's negligence;
 - have regard to efficiency, economy and safety of operation as

²¹ www.gov.uk/government/publications/mgn-401-mf-amendment-3-navigation-vessel-traffic-services-vts-and-local-port-services-lps-in-the-uk
<https://www.gov.uk/government/publications/mgn-401-mf-amendment-3-navigation-vessel-traffic-services-vts-and-local-port-services-lps-in-the-uk>



respects the services and facilities provided; and

- take such action that is necessary or desirable for the maintenance, operation, improvement or conservancy of the facility.

- 4.6 In addition, the **Duty Holder** must ensure that sufficient resources are available to discharge its marine safety obligations and set the level of dues accordingly²².
- 4.7 In some cases, actions may require a marine licence or a marine licence exemption notification. Advice should be sought from the relevant marine licence regulator for England, Wales, Scotland or Northern Ireland, with reference to the relevant legislation for each devolved administration.
- 4.8 Where an aid to navigation requires establishment, removal or alteration, this requires consent from the relevant General Lighthouse Authority (GLA).

Open port duty

- 4.9 Most harbour authority's statutory powers are subject to the open port duty. This means that the harbour, dock, or pier must be open to anyone for the shipping and unshipping of goods and the embarking and landing of passengers, on payment of the rates and other conditions set in accordance with local legislation²³.



Appointment of a Harbour Master

- 4.10 A harbour authority is likely to have powers in its local legislation to appoint a Harbour Master²⁴, to make byelaws relating to their powers and duties and the duties of harbour users²⁵. The Harbour Master is accountable to the organisation and should familiarise themselves with the extent of their legal powers, including those set out in general and local legislation, byelaws and any applicable general directions²⁶.
- 4.11 Organisations without statutory powers to appoint a Harbour Master should consider the appointment of an individual with an equivalent role, such as a

²² Section 26 of the Harbours Act 1964

²³ Section 33 of the Harbours, Docks and Piers Clauses Act 1847

²⁴ Local legislation may set out the power or incorporate, with or without amendment, section 51 of the Harbours, Docks and Piers Clauses Act 1847

²⁵ Local legislation may set out the power to incorporate, with or without amendment, section 83 of the Harbours, Docks and Piers Clauses Act 1847

²⁶ Sections 40A to 40D of the Harbours Act 1964



marine manager or superintendent.

Byelaws

- 4.12 Byelaws can be made by any organisation that has the powers to do so, as laid down in its local Acts and Orders²⁷. The procedure for making and confirming most byelaws is modelled on the procedure for local authority byelaws¹⁸.
- 4.13 Byelaws must be within the scope of the organisation's byelaw-making powers. They are used to regulate activities in the harbour, reflecting local circumstances and enabling the operation of the harbour to be conducted efficiently and safely. Their purpose is generally to regulate rather than prohibit but they can be used to create criminal offences punishable on conviction in the courts through fines²⁸.
- 4.14 Harbour authorities need to consult users before making byelaws which must be confirmed by the relevant Minister before they are brought into force²⁹.
- 4.15 A SHA may find it more straightforward and efficient to utilise one of the directions detailed below but it should establish that there are no overriding local regulatory conflicts before doing so.

Special Directions

- 4.16 A Harbour Master generally has powers of direction to regulate the time and manner of vessels' entry to, departure from and movement within harbour waters, and for related purposes³⁰. These powers are provided not for setting general rules but to enable specific directions to be given to specific vessels for specific movements, although the powers may be expressed to allow directions to be given to a class of vessels, or all vessels, in an emergency.
- 4.17 Harbour Masters' directions are generally referred to as 'special directions' to distinguish them from 'general directions' which are given by the organisation itself.
- 4.18 If permitted under the legislation, powers of direction may also be exercisable by a Harbour Masters' assistant, VTS operator, or any other person designated for the purpose. Legislation may provide that it is an offence not to comply with directions³¹ but may add a qualification that the master – or pilot – of a vessel is not obliged to obey directions if they believed compliance

²⁷ This is often achieved by incorporating with or without amendments section 83 of the Harbours, Docks and Piers Clauses Act 1847

²⁸ Currently a maximum of £2,500 (Level 4 on the standard scale) although not all offences under byelaws are sufficiently serious for Level 4 fines

²⁹ The Secretary of State for Transport, Scottish, Welsh or Northern Irish Ministers (as appropriate)

³⁰ Local legislation may set out the power or incorporate, with or without amendments, section 52 of the Harbours, Docks and Piers Clauses Act 1847

³¹ Local legislation may set out the power or incorporate, with or without amendment, section 53 of the Harbours, Docks and Piers Clauses Act 1847



would endanger the vessel. It is the duty of a Harbour Master, in exercising these powers, to consider the interests of all vessels in the facility.

General Directions

- 4.19 Many harbour authorities have powers, through their local enabling legislation, to give 'general directions' to regulate the movement and berthing of ships. These are in addition to the powers of a Harbour Master to give 'special directions' although some authorities have a combined power to give special and general directions. The power is exercisable by the authority itself, although they are for the Harbour Master to enforce. General directions may only be made after users have been consulted. This is not a requirement for the Harbour Master's 'special directions', which are more appropriate for emergencies or temporary use.
- 4.20 Those SHAs which do not have powers to set general directions are recommended to consider acquiring them, typically through a harbour revision order (see Chapter 3).

Harbour Directions

- 4.21 Harbour authorities may obtain powers to issue harbour directions. These are similar to general directions, although not typically as wide ranging, in that they can be used to regulate the movement, mooring, equipment and manning of vessels within the harbour³². Consultation with users must be undertaken before harbour directions are introduced.
- 4.22 To obtain this power, harbour authorities must be designated in an order made by the relevant Minister³³. A non-statutory Code of Conduct³⁴ on the use of this power has been agreed between representatives of the ports, commercial shipping and recreational sailing sectors. Any SHA interested in applying for this power should contact their relevant port administration.

Dangerous Vessel Directions

- 4.23 A Harbour Master may give a dangerous vessel direction prohibiting the entry into, or requiring the removal from, the harbour of any vessel. These may be used if, in their opinion, the condition of that vessel, or the nature or condition of anything it contains, is such that its presence might involve a grave and imminent danger to the safety of persons or property or risk that the vessel may, by sinking or foundering, prevent or seriously prejudice use of the harbour by other vessels³⁵. The Harbour Master must have regard to all the circumstances and to the safety of any person or vessel which may include to

³² Sections 40A to 40D of the Harbours Act 1964

³³ The Secretary of State for Transport, Scottish or Welsh Ministers

³⁴ www.gov.uk/government/consultations/harbour-directions-power-2nd-round-applications-for-designation-of-english-and-non-fishery-welsh-harbour-authorities#full-publication-update-history

³⁵ Section 1 of the Dangerous Vessels Act 1985



avoid or reduce risks from pollution.

- 4.24 Such directions may be over-ridden by the Secretary of State's Representative (SOSRep) for Maritime Salvage and Intervention who may issue contrary directions to the Harbour Master in the interests of safety.

Pilotage

- 4.25 Under the Pilotage Act 1987, a Competent Harbour Authority (CHA) has a duty to assess what, if any, pilotage services are required to secure the safety of ships, and to provide such services as it has deemed necessary³⁶.
- 4.26 CHAs must issue pilotage directions if they decide, based on their assessment of the risks, that pilotage should be compulsory. The pilotage directions must specify to which ships, area and circumstances they are applicable³⁷.
- 4.27 A CHA may authorise suitably qualified pilots in its area³⁸. Authorisations may relate to ships of a particular description and to particular parts of the harbour. The CHA is responsible for determining the qualifications, medical fitness standards, local knowledge, skill, and other attributes that a pilot must have. The CHA may also – after giving notice and allowing a reasonable opportunity to make representations – suspend or revoke a pilot's authorisation³⁹.
- 4.28 CHAs are encouraged to implement the recommendations on training, certification and operational procedures for pilots contained within International Maritime Organization (IMO) Resolution A.960(23)⁴⁰.
- 4.29 CHAs must grant a Pilotage Exemption Certificate (PEC) to a vessel's deck officer if they demonstrate they have sufficient skill, experience and local knowledge to pilot a vessel within the compulsory pilotage area. The requirements for granting a PEC must not exceed, or be more onerous than, those for an authorised pilot⁴¹.
- 4.30 A CHA may suspend or revoke a PEC if it ceases to be satisfied that the holder possesses the required skill, experience and local knowledge, where the authority thinks there has been professional misconduct or the provision of false information⁴².



³⁶ Section 2 of the Pilotage Act 1987

³⁷ Section 7 of the Pilotage Act 1987

³⁸

³⁹ Section 3 of the Pilotage Act 1987

⁴⁰ www.imorules.com/IMORES_A960.23.html

⁴¹ Sections 8 of the Pilotage Act 1987

⁴² Section 8A of the Pilotage Act 1987



Towage

- 4.31 Procedures for towage need to be developed, managed and regularly reviewed by organisations, tug operators, pilots and vessel owners, to ensure a safe and efficient service and should include emergency response.
- 4.32 Organisations must risk assess routine towage operations and, in consultation with stakeholders, should develop specific towage guidelines.
- 4.33 Where towage is non-routine, this must be subject to a specific risk assessment and approval processes.

Regulation of marine craft

- 4.34 Local legislation may empower organisations to register, inspect and license commercially operated craft. Where this is not the case, the organisation's risk assessments should show some form of agreement with commercial operators about the maintenance and proper use of these vessels. It may be appropriate for the organisation to consider seeking these powers following a risk assessment.



Environmental duty

- 4.35 Harbour authorities have specific environmental duties under section 48A of the Harbours Act 1964, as well as under other environmental legislation⁴³. They may also have an obligation where, for example, Marine Conservation Zones, Marine Protected Areas, Highly Protected Marine Areas, Special Protection Areas for Birds or a Special Area of Conservation have been designated, to have regard to the requirements of any laws which implemented the Habitats Directive so far as they may be affected by the exercise of those functions⁴⁴.
- 4.36 Harbour authorities must, in exercising their functions, have regard to the purpose of conserving biodiversity⁴⁵. This requirement is supplemented by the Environment Act 2021 which sets out four priority areas of air quality,

⁴³ Section 48A of the Harbours Act 1964

⁴⁴ Conservation of Habitats and Species Regulations 2017

⁴⁵ Natural Environment and Rural Communities Act 2006, Section 40; Nature Conservation (Scotland) Act 2004; Wildlife and Natural Environment Act (Northern Ireland) 2011; and Environment Wales Act 2016



biodiversity, water and waste.

Emergency preparedness and response

- 4.37 The Dangerous Goods in Harbour Areas Regulations 2016 include provisions for the marking and navigation of vessels and the handling of dangerous goods including bulk liquids and explosives. They also set a requirement for the creation of emergency plans by harbour authorities. Guidance is available in an Approved Code of Practice⁴⁶ and Harbour Masters have the power to prohibit the entry of dangerous goods to the harbour area.
- 4.38 Organisations may also have a duty under the Merchant Shipping (Oil Pollution Preparedness Response and Co-operation Convention) Regulations 1998, to prepare a plan to respond to oil spills in their waters for approval by the MCA. Guidance on plan preparation is available from the MCA⁴⁷.

Civil contingencies duty

- 4.39 The Civil Contingencies Act 2004 provides a framework for civil protection in the event of an emergency that threatens serious damage to human welfare, the environment or security.



- 4.40 Harbour authorities are classified as Category 2 responders. They will be involved in planning work and in incidents that affect their sector. They must cooperate and share relevant information with Category 1 (emergency services and local authorities) and other Category 2 responders⁴⁸.
- 4.41 It is recommended that all organisations maintain regular contact with their local Category 1 responders which are formed into multi-agency partnerships known as Local Resilience Forums. Each Forum covers a defined geographic area and contact details are available on gov.uk⁴⁹. Organisations should also make themselves aware of the Joint Emergency Services Interoperability Principles (JESIP)⁵⁰.

Collecting dues

- 4.42 Harbour authorities and CHAs have powers to collect harbour dues and

⁴⁶ www.hse.gov.uk/pubns/priced/l155.pdf

⁴⁷ www.gov.uk/government/publications/contingency-planning-for-marine-pollution-preparedness-and-response-guidelines-for-ports

⁴⁸ Additional guidance at www.cabinetoffice.gov.uk/resource-library/emergency-preparedness

⁴⁹ www.gov.uk/guidance/local-resilience-forums-contact-details

⁵⁰ www.jesip.org.uk



pilotage charges from users. These should raise sufficient revenue to enable them to pay for the discharge of any statutory functions⁵¹. The level of dues and charges should be properly accounted for and brought to the notice of those persons likely to be interested⁵².

- 4.43 Members of the harbour board and/or the Duty Holder are responsible for ensuring that adequate resources are provided to its officers to enable them to operate their policies, procedures and systems effectively and safely. This includes adequate resource for training. There should be no presumption that dues levied on a specific group or type of user should be exclusively reinvested in improving the services and facilities on offer to those users.
- 4.44 A CHA may make reasonable charges in respect of any pilotage services it provides. Such charges may be applied to vessels with an authorised pilot aboard and to vessels where the deck officer holds a PEC in respect of the area and vessel in question⁵³.
- 4.45 The harbour authority's power to levy dues and pilotage charges⁵⁴ is subject to a statutory right of objection to the relevant Minister⁵⁵.
- 4.46 Organisations can charge fees for the use of services and facilities they provide and make access subject to such terms and conditions as they believe appropriate⁵⁶ (noting that some fees may be subject to statutory control).

⁵¹ Section 26 of the Harbours Act 1964 and section 10 of the Pilotage Act 1987

⁵² Section 26(2) of the Harbours Act 1964

⁵³ Section 10 of the Pilotage Act 1987

⁵⁴ Section 26(2) of the Harbours Act 1964 and section 10 of the Pilotage Act 1987

⁵⁵ Section 10(6) of the Pilotage Act 1987 applying section 31 of the Harbours Act 1964

⁵⁶ Section 40 of the Harbours Act 1964



5. Risk Assessment

- 5.1 All organisations must identify the hazards they manage, complete risk assessments and incorporate these within their MSMS.
- 5.2 The risks associated with marine operations need to be assessed and a means of controlling them deployed.
- 5.3 The tolerability threshold for marine operational risk should be determined and set by all organisations. This will define and set the level for all marine-related risk assessments falling under the organisation's duties and responsibilities.
- 5.4 There are two types of risk assessment:
- **formal risk assessment** (often called Operational Risk Assessments) which are written down and provide the framework to describe how hazards are assessed and managed. This could also include risk assessments for specific operations (often called Specific or Task Risk Assessments); and
 - **dynamic risk assessment** which helps individuals to assess a situation which is constantly changing.
- 5.5 Organisations must provide a framework for the delivery of both types of assessment. The fundamental principles of risk assessment in the marine environment are similar for all organisations.
- 5.6 Risks and the impact of identified outcomes are typically assessed against four outcome-criteria; with consequence to:
- life;
 - the environment;
 - port and port user operations (business, reputation etc); and
 - port and shipping infrastructure (damage).
40. Risks may be identified which are intolerable. Measures must be taken to reduce these using As Low As Reasonably Practicable (ALARP), or in line with the organisation's tolerability policy, and ensure they become tolerable by the end of the process. The greater the risk, the more likely that it will be reasonable to go to the expense, trouble and invention to reduce it. There is a hierarchy of risk control principles:
- eliminate risks – by avoiding a hazardous procedure or substituting a less dangerous one;
 - combat risks – by taking protective measures to prevent risk; and



- minimise risks – reduce by suitable systems of working.
- 5.7 Risk assessments should be undertaken by competent people especially when deciding which techniques to use and interpreting the results.

Formal Safety Assessment

5.8 Formal Safety Assessments are undertaken when risk assessments result in risk controls that may be subject to cost benefit assessment. This process will typically follow the International Maritime Organization's Formal Safety Assessment process⁵⁷ of which the five stages are:

1. Identification of hazards;
2. Assessment of risks;
3. Risk control options;
4. Cost benefit assessment; and
5. Recommendations for decision-making.

5.9 This process has been developed to enable a balance to be drawn between the various technical and operational issues, including the human element, and between safety and costs.

Reviewing Risk Assessments

5.10 The process of assessment is continuous so that both new hazards and changed risks are properly identified and addressed. Where appropriate, organisations should exchange details of their risk assessments, especially where more than one organisation is operating in the same area, for example where a terminal or other facility operates in, or adjacent to, a SHA.

5.11 Risk assessments should be reviewed on a planned periodic basis. The MSMS must state the review frequency as well as any related procedures or processes. The MSMS should also refer to a procedure which ensures that risk assessments are reviewed appropriately in the following circumstances:

- following a substantive change to operations;
- post-incident/accident; and
- post-review of relevant marine accident or Health Check report.

5.12 Risk assessment reviews are best conducted with the assistance of user groups or representatives who use the harbour or facility regularly. This helps ensure that practical and relevant experience is captured, and demonstrates a

⁵⁷ www.imo.org/en/OurWork/Safety/Pages/FormalSafetyAssessment.aspx



commitment to user engagement.

Dynamic Risk Assessment

- 5.13 Dynamic risk assessment (DRA) involves observation, assessment and analysis of an active work environment while work is ongoing, to identify and manage risk. DRA builds on the work of existing risk assessments, and are usually conducted during the task, often by the worker. Organisations must provide a form of DRA, suited to their size, operations and complementary to their formal risk assessment processes.



6. Marine Safety Management System

- 6.1 All organisations must have a MSMS which is key to the effective discharge of the functions described in the Code. The type and content of that MSMS will be proportionate to an organisation's size and operations.
- 6.2 An effective MSMS is formed from clear policies, approved by the Duty Holder, and implemented by the organisation's officers. It will enact policy requirements through a range of methods including, but not limited to, standard operating procedures, processes, plans, forms, permits/permissions and systems. Clear assignment of relevant executive and operational responsibilities to staff is vital.
- 6.3 To inform the evolution of their MSMS, organisations should regularly reflect on their own operational practices and review documents which might be relevant to failures in the management of risk to drive continuous improvement. The latter might include:
- the GTGP;
 - MAIB reports and Safety Digests;
 - sector/industry alerts and best practice guidance; and
 - MCA Health Check Reports.

Implementation

- 6.4 An MSMS – which manages the hazards and risks along with any preparations for emergencies – must be developed, implemented, maintained and reviewed periodically. The MSMS should also capture any customs and/or practices which have become the standard approach to marine operations. By formalising and documenting these practises, organisations can place themselves and their staff in a more accountable position as well as ensuring that there is continuity following the recruitment of new staff.
- 6.5 An MSMS should incorporate safety policies and procedures to:
- ensure there is proper control of vessel movements by regulating the safe arrival, departure and movement within the harbour of all vessels;
 - protect the general public from dangers arising from marine activities within the harbour;
 - allow functions to be carried out with special regard to the possible environmental impact; and
 - prevent acts or omissions that may cause injury to employees or others.



- 6.6 An MSMS should also:
- confirm roles and responsibilities of key personnel;
 - recognise the requirement for a Designated Person to be appointed who is responsible for auditing and reporting on compliance to the Duty Holder;
 - outline procedures for marine safety within the facility and its approaches;
 - measure performance against targets (the organisation must have a database or system to record incidents, including near misses);
 - include a bridging document, where adjoining or interfacing with another organisation, setting out key communication lines and interactions, deconflicting application of policies and procedures within both MSMS and emergency response;
 - refer to emergency plans that would need to be exercised; and
 - be audited by the Designated Person on an annual basis or following reviews of the sources noted at [paragraph 6.3](#).
- 6.7 A statement about the standard of the organisation's performance against its MSMS should be included in the Duty Holder's annual report.

Accountability for marine safety

- 6.8 Where appropriate, an MSMS should assign responsibility for associated matters – such as the safety of berths; maintaining channels; marking dangers; hydrographic surveys; environmental monitoring; and the provision of appropriate engineering and environmental advice. Key roles should also be defined in the MSMS.
- 6.9 The [Chief Executive](#) (or equivalent) is accountable for the operational and financial control of the organisation. They will advise on all matters related to the organisation's duties and powers, with appropriate advice from the Harbour Master and other officers. In particular, the Chief Executive will:
- oversee the implementation of its policies and decisions;
 - have executive responsibility for the safety of operations and staff; and
 - will oversee the recruitment and training of staff.
41. The [Harbour Master](#) is a statutory role – although some harbour orders can be drafted in other terms for a harbour authority to use its powers relating to the direction of vessels, typically a Harbour Master must be appointed. The Harbour Master, or occasionally an appropriate person or organisation, has day-to-day responsibility for managing the safe operation of navigation and other marine activities as well as undertaking other relevant duties particularly in relation to the Health & Safety at Work etc. Act 1974 and Merchant Shipping legislation.
- 6.10 Whilst the specific role of the Harbour Master will vary dependant on the size



and type of the harbour, the following are examples of some of the roles they are likely to undertake:

- regulation of the time and manner of vessel movements;
 - responsibility for developing and implementing emergency plans and procedures, for regulating dangerous goods⁵⁸ in transit on ships and for counter-pollution and waste disposal plans; and
 - responsibility for the management of any aids to navigation.
- 6.11 Organisations without statutory powers to appoint a Harbour Master should ensure that responsibility for this function is delegated to an officer with an equivalent role, such as a marine manager.
- 6.12 The appointment of any **officers** is a matter for the organisation. Delegations must be clear, formal and must not obscure the accountability of the organisation and its Duty Holder. It is vital that:
- executive and operational responsibilities are appropriately assigned to properly trained people;
 - if some of the functions are combined, a proper separation of safety and commercial activities needs to be maintained; and
 - all employees have appropriate training for their level of responsibility.
- 6.13 Delegations are no substitute for the Duty Holder being directly involved in safety management. At least one principal officer, holding delegated responsibilities for safety, should therefore attend Duty Holder meetings.

Stakeholder engagement and consultation

- 6.14 Organisations should consult, as appropriate, those likely to be involved in, or affected by, their MSMS. However, within that process there must be recognition that ultimate responsibility for safety will always rest with the Duty Holder.
- 6.15 Notwithstanding stakeholder engagement requirements as part of the risk assessment and review process, organisations should also attempt to reach consensus on matters of marine safety in its facilities and approaches with users and service providers. Where this is not possible, an organisation should provide stakeholders with the reasoning behind their decision. Regular stakeholder engagement should be undertaken in the form of user groups and forums.
- 6.16 Where other marine facilities are situated within the jurisdiction of a SHA, organisations should engage with one another to ascertain the scope and extent of the SHA's MSMS and whether, or how, it incorporates or interacts with other facilities operating within that area. This engagement can be led by,

⁵⁸ www.hse.gov.uk/pubns/books/l155.htm



but it is not the sole responsibility of, the SHA and will assist consideration of whether it is necessary for other marine facilities to develop their own MSMS.

- 6.17 If an additional MSMS is required, engagement should focus on ensuring that the two systems are complementary and avoid any duplication of effort. The Duty Holder should confirm their own compliance as required under the Code unless it is agreed with the SHA that the marine facility will be reflected within the SHA's compliance statement.
- 6.18 Where a facility is located outside the jurisdiction of a SHA, the Duty Holder should assess whether its operations require additional controls through a risk-based decision process. Engagement with the MCA, as the competent authority for marine safety in this situation, is advised.

Incident reporting and investigation

- 6.19 However effective the MSMS regime is, marine incidents and accidents may still occur. These may involve deaths, serious injuries, near misses, pollution and other undesirable outcomes and may have resulted from breaches of national or local laws.
- 6.20 It is essential that the MSMS addresses the potential for incidents and accidents to occur and provides instruction and guidance on the process for reporting and recording and any investigations and enforcement action that may be required as a result.
- 6.21 Investigations of marine incidents have two essential purposes:
- to determine the cause with a view to preventing recurrence; and
 - to determine if an offence has been committed: if so, there may be the need, on the part of the organisation, to initiate enforcement action that may lead to prosecution in their own right or through an agency of another authority such as the Police or the MCA.
- 6.22 The Duty Holder may require a robust, rigorous, independent investigation to be carried out in cases where it is desirable to obtain external assurance that an organisations' obligations for compliance have been addressed. It may also be appropriate to consider the contents of the Police and Criminal Evidence Act 1984.
- 6.23 Organisations should report any accident which meets the criteria established by MAIB to the Chief Inspector of Marine Accidents and any other appropriate authorities, by the quickest means available⁵⁹. The Health & Safety Executive should be contacted to report any shore-side safety issues under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations

⁵⁹ MGN 564 Marine Casualty & Incident Reporting at www.gov.uk/government/publications/mgn-564-marine-casualty-and-marine-incident-reporting.



2013⁶⁰.

Enforcement

- 6.24 Organisations must ensure that all policies and procedures are properly and effectively enforced and that adequate resources are available for this purpose.
- 6.25 Byelaws and directions adopted to manage identified marine safety risks must be backed by an appropriate policy on enforcement. Organisations should have a clear policy on prosecution, which is consistent with the risk assessment on which its local legislation is based.

⁶⁰ www.hse.gov.uk/riddor/index.htm



7. Review and Audit

- 7.1 Organisations should have a regular and systematic process to review and audit all their requirements for marine safety. These will improve understanding of current levels of compliance, highlight areas for improvement, enhance credibility through independent verification, and deliver wider benefits through better planning and budgeting.
- 7.2 The Duty Holder and Designated Person both have a vital role in this process which will be proportionate to the organisation's size and scale.
- 7.3 Organisations should ensure they review and audit their plans, MSMS, documents and reports to ensure they remain current and fit for purpose. The trigger for a review might be, for example, in response to the regular review cycle, an incident or accident, a MAIB report, a Code self-compliance statement, a change in procedures or any other amendment.

Marine Safety Management System

- 7.4 The MSMS must incorporate a regular and systematic review of its performance. This should be based on information from monitoring the system itself including testing, exercises and independent external audits of the system.
- 7.5 Performance of the MSMS should be assessed against internal key performance indicators and, where appropriate, by benchmarking against other similar organisations that have adopted good practice.
- 7.6 The Designated Person should present any findings from audits to the Duty Holder as part of the auditing and review process.

Plan, Do, Check, Act

- 7.7 Organisations should utilise a variety of methods to ensure their review and audit cycles are effective. Plan, Do, Check, Act is one approach that has proved simple and effective.

Plan	recognise an opportunity or challenge and plan change
Do	test the change
Check	review the test, analyse the results and identify learning
Act	take appropriate action

- 7.8 Duty Holders and Designated Persons should ensure they are clear how the organisation's plans, procedures and other documents are reviewed and audited.



8. Competence

- 8.1 Under the Code, all persons involved in the management and execution of marine services should be competent, qualified and trained to the appropriate national standard⁶¹.
- 8.2 To ensure that organisations employ competent personnel, they must:
- use published national occupational standards (or an equivalent set of standards) as a basis for recruiting and developing staff and as part of their training strategy;
 - apply an agreed assessment methodology to enable those standards to be applied;
 - review whether existing staff meet those standards;
 - ensure personnel have the necessary professional qualifications, certificate of competency (or are working towards them); and
 - ensure personnel have enough relevant experience to be effective in their posts.
- 8.3 Organisations must assess the fitness and competence of all persons appointed to positions with responsibility for marine and navigation safety on a regular basis.
- 8.4 A policy on revalidation or maintenance of qualifications and continuing professional development should also be considered.

⁶¹ Available from www.portskillsandsafety.co.uk/skills-uk-ports



9. Plan

Publication

- 9.1 To demonstrate commitment to marine safety and to ensure the involvement of harbour users, all organisations should produce a marine safety plan.
- 9.2 The marine safety plan should illustrate how policies and procedures will be developed to satisfy the requirements of the Code. It should:
- commit the organisation to undertake and regulate marine operations in a way that safeguards the harbour/facility, its users, the public and the environment;
 - refer to commercial activities, the efficient provision of specified services and the effective regulation of vessels including near miss reporting; and
 - explain how commercial pressures will be managed without undermining the safe provision of services and the efficient discharge of its duties.

Format

- 9.3 The form of each organisation's plan and report is for it to determine so long as it covers all if the relevant requirements of the Code.

Review

- 9.4 The Duty Holder must publish an assessment of the organisation's performance against its plan.
- 9.5 Information gathered from the monitoring and auditing of the MSMS should be used to support the analysis and conclusions of that assessment.

Timing

- 9.6 At minimum, plans and assessments should be reviewed and published every three years.
- 9.7 If organisations wish, this review period can be aligned to ensure they inform the Code compliance self-certification exercise.



10. Conservancy Duty

10.1 All organisations which have responsibility for the operation and maintenance of marine facilities should ensure that these are in good repair and are fit for purpose. This is vital to ensure that any vessels using them can do so safely but also makes good business sense since regular maintenance supports continued effective and efficient operations, reduces costs in the long term and assets in better condition retain greater intrinsic value.

Harbour Authorities

10.2 Harbour authorities have a legal duty to conserve their harbours to ensure that they are fit for use and a duty of reasonable care to see that the harbour is in a fit condition for a vessel to utilise it safely. This duty covers several specific requirements to:

- survey, using appropriate specifications based on international standards, as regularly as necessary in accordance with good practice guidance;
- find and mark the best navigable channels;
- place and maintain navigation marks in the optimum positions which are suitable for all conditions;
- have a risk based approach and keep a vigilant watch for any changes in the sea- or river-bed affecting the channel or channels and move or renew navigation marks as appropriate;
- keep proper hydrographic and hydrological records;
- ensure hydrographic information is published in a timely manner; and
- provide regular returns and other information about the authority's local aids to navigation as the relevant GLA may require⁶².

10.3 Where a harbour authority establishes that there is a certain depth of water at a part of the harbour over which vessels may be obliged to pass, it must use reasonable care to provide that the approaches to that part are sufficient, under normal conditions, or give warning that the advertised depth has not been maintained.

10.4 Harbour authorities should supply the UK Hydrographic Office (UKHO) with information in accordance with good practice that may be needed for updating and ensuring safe official Admiralty charts and publications.

10.5 Users should also be provided with adequate information about conditions in the harbour including timely notification of any changes.

⁶² Section 198 of the Merchant Shipping Act 1995



Aids to Navigation

- 10.6 Each harbour authority is a local lighthouse authority for their area. They have the power to carry out and maintain the marking or lighting of any part of the harbour, or other facility or off-shore structure, within the authority's area.
- 10.7 The GLAs are responsible for the superintendence and management of all lighthouses, buoys or beacons within their respective areas. They have a duty to inspect all lighthouses, buoys, beacons and other navigational aids belonging to, or under the management of, a local lighthouse authority. They have the power to give directions to local lighthouse authorities concerning the provision and positioning of aids to navigation.
- 10.8 A local lighthouse authority shall not, without the relevant GLA's consent, erect, remove or vary the character of any lighthouse, buoy or beacon.
- 10.9 All aids to navigation maintained by harbour authorities and any other existing local lighthouse authorities must be maintained in accordance with the availability criteria laid down by the GLAs and must be subject to periodic review. The characteristics of these aids to navigation must comply with the International Association of Lighthouse Authorities Guidelines and Recommendations⁶³. Information and periodic returns must be supplied, when required, to the appropriate GLA.



Wrecks and Abandoned Vessels

- 10.10 Where there is a wreck in, or near, the approaches to a harbour which is or is likely to become a danger to navigation the harbour authority may take possession of, remove or destroy it. They may mark the location of the wreck until it is raised, removed or destroyed⁶⁴.
- 10.11 Harbour authorities must exercise their wreck-marking and removal powers where, in their opinion, a wreck is – or is likely to become – an obstruction or danger to navigation. They have a duty to have regard to the environment in the exercise of this and all other duties and powers.
- 10.12 Harbour Masters may also have powers, under the Harbour, Docks and Piers Clauses Act 1847 (as incorporated into local harbour legislation) in particular under sections 52, 56 and 57, to remove any unserviceable vessel located within the harbour and should do so wherever these present a risk to safety.

⁶³ www.iala-aism.org/guidance-publications

⁶⁴ Section 252 of the Merchant Shipping Act 1995



The expense of removing such vessels may be charged to the owner.

- 10.13 A Harbour Master may give a direction⁶⁵ to remove a vessel from a harbour if, in their opinion, its condition is such that it poses a grave and imminent danger to the safety of any person or property.
- 10.14 Where discretionary powers are granted by legislation, Harbour Masters and harbour authorities have a duty to exercise them in the public interest and they may impose a duty to take action where there is a threat to life.
- 10.15 Harbour authorities and their employees (including the Harbour Master) owe a duty of care under common law to those who reasonably and foreseeably are within the harbour area.
- 10.16 The Secretary of State (through SOSRep) also has powers to intervene and give directions⁶⁶. If it is considered that it may be more appropriate for SOSRep to act in the circumstances, they should be contacted directly or via the MCA.
- 10.17 Where harbour authorities, or Harbour Masters, are uncertain of their powers, appropriate legal advice should be sought to confirm their scope and extent.

⁶⁵ Section 1 of the Dangerous Vessels Act 1985

⁶⁶ Section 108A and Schedule 3A of the Merchant Shipping Act 1995

Glossary

ALARP	As Low As Reasonably Practicable
CHA	Competent Harbour Authority
Code	Port & Marine Facilities Safety Code
DfT	Department for Transport
DRA	Dynamic Risk Assessment
FRA	Formal Risk Assessment
GLA	General Lighthouse Authority
GTGP	Guide to Good Practice
IMO	International Maritime Organization
JESIP	Joint Emergency Service Interoperability Principles
LPS	Local Port Service
MAIB	Marine Accident Investigation Branch
MCA	Maritime & Coastguard Agency
MGN	Marine Guidance Note
MMO	Marine Management Organisation
MSMS	Marine Safety Management System
OPRC	Convention on Oil Pollution Preparedness & Co-operation
PEC	Pilotage Exemption Certificate
PMSC	Port & Marine Facilities Safety Code
SHA	Statutory Harbour Authority
SOSRep	Secretary of State's Representative
UK	United Kingdom
UKHO	UK Hydrographic Office
VTS	Vessel Traffic Services