



SHETLAND

ISLANDS COUNCIL

Marine Safety Policy

2023 - 2025

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Shetland Islands Council

Marine Safety Policy

The 'Shetland Islands Council Marine Safety Policy' provides the assurance that Shetland Islands Council (SIC) as the Harbour Authority consistently and appropriately address the requirements laid out in the Department for Transport (DfT) 'Port Marine Safety Code'. The Marine aspects of this Policy have been prepared using the latest version of the Port Marine Safety Code (the Code) and the Guide to Good Practice (the Guide).

The Marine Safety Policy describes how the Harbour Authority's overarching responsibilities in respect of the Port Marine Safety Code are designed and implemented across all SIC ports and Harbours.

This Policy document is delivered at Port and Harbour level through the 'Shetland Islands Council Marine Safety Management System', which provides the foundation for ensuring individual SIC Ports and Harbours address the requirements of the Code. The 'Shetland Islands Council Marine Safety Management System' is supplemented with local Marine Safety Management Systems (MSMS) for Sullom Voe, Scalloway Harbour and SIC small Ports and Harbours. These separate MSMS documents incorporate port specific operational manuals and plans.

Signature of Approval and Authority:

The following signatories agree and approve the Shetland Islands Council Marine Safety Policy:

Approved by **Deputy Harbour Master:**



Date: 16/12/22

Approved by Executive Manager - **Harbour Master** : ..



Date: 16/12/22

Approved by **Director Infrastructure**

John R Smith

Date: 20/12/22

Approved by **Designated Person:**



Date: 19/12/22

Approved by **Chair of Harbour Board**
(as **Duty Holder** representative)



Date: 23/3/23

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Glossary

ABPmer	ABP Marine Environmental Research Ltd
ALARP	As Low As Responsibly Practicable
AtoN	Aids to Navigation
BS	British Standard
CHA	Competent Harbour Authority
“the Code”	Port Marine Safety Code
DfT	Department for Transport
EN	European Standard
FSA	Formal Safety Assessment
GLA	General Lighthouse Authority
“the Guide”	Guide to Good Practice on Port Marine Operations
HSE	Health and Safety Executive
Health Check	An intelligence led investigation to test a port’s compliance with the PMSC
Incident	Refers to accident or near miss
KPI	Key Performance Indicators
LLA	Local Lighthouse Authority
LPS	Local Port Services
MAIB	Marine Accident Investigation Branch
MCA	Maritime and Coastguard Agency
MGN	Marine Guidance Note
MSMS	Marine Safety Management System
NLB	Northern Lighthouse Board
Organisation	CHA, Municipal Port or Harbour Authority, Trust Port or Harbour Authority, Private Ports or Harbour Authorities, and Marine Berths, Terminals or Jetties.
PEC	Pilotage Exemption Certificate
PMSC	Port Marine Safety Code
SHA	Statutory Harbour Authority
SIC	Shetland Islands Council
SMS	Safety Management System
SOSREP	Secretary of States Representative
TOS	Traffic Organisation Service
UK	United Kingdom
UKHO	United Kingdom Hydrographic Office
VTS	Vessel Traffic Services
ZCC	Zetland County Council

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Background

On 3 November 2016, the Department for Transport and the Maritime and Coastguard Agency released an updated version of the Port Marine Safety Code. It provides additional advice for non-statutory harbour authorities and the introduction of 10 principles designed to assist organisations in focusing on the issues they should be considering to ensure compliance.

It applies to all statutory harbour authorities. In addition, the Government is now placing a greater emphasis on proportionate compliance with the Code by other marine facilities, berths and terminals in the UK. The Code now strongly advises such organisations adopt a formal risk assessment process and implement a marine safety management system (MSMS) which complies with the Code or any alternative similar standard applicable to their sector.

The Code is not mandatory and does not create any new legal duties. However, although failure to comply is not an offence in itself, the Code represents good practice as recognised by a wide range of industry stakeholders and a failure to adhere to good practice may be indicative of a harbour authority being in breach of certain legal duties.

In order to comply with the PMSC, the Code states that, statutory harbour authorities must consider the following 10 measures. Other organisations are advised to identify which of the items may be applicable to their port marine activities. It is recommended that, at the very minimum, items 4, 5 and 6 below should be considered by all organisations.

1. **Duty holder:** Formally identify and designate the duty holder, whose members are individually and collectively accountable for compliance with the Code, and their performance in ensuring safe marine operations in the harbour and its approaches.
2. **Designated Person:** A 'designated person' must be appointed to provide independent assurance about the operation of the marine safety management system. The designated person must have direct access to the duty holder.
3. **Legislation:** The duty holder must review and be aware of their existing powers based on local and national legislation, seeking additional powers if required in order to promote safe navigation.
4. **Duties and Powers:** Comply with the duties and powers under existing legislation, as appropriate.
5. **Risk Assessment:** Ensure that marine 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:** Operate an effective MSMS which has been developed after consultation, is based on formal risk assessment and refers to an appropriate approach to incident investigation.
7. **Review and Audit:** Monitor, review and audit the risk assessment and MSMS on a regular basis – the independent designated person has a key role in providing assurance for the duty holder.
8. **Competence:** Use competent people (who are trained, qualified and experienced) in positions of responsibility for managing marine and navigation safety.
9. **Plan:** Publish a 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. **Aids to Navigation:** Comply with directions from the General Lighthouse Authorities and supply information & returns as required.

This Marine Safety Policy has been published by SIC to demonstrate its commitment to undertake and regulate marine operations and the functions of the Harbour Authority in a way that safeguards all of its ports and harbours, their users and the environment in an auditable manner.

The main functions of the Harbour Authority may generally be classified as follows:

- The provision and maintenance of harbour facilities, i.e., quays, wharves, piers, etc.
- Navigational safety functions, including lighting and buoying the harbour, the removal of wrecks and other obstructions and maintenance dredging of navigational channels.
- Regulating the activities of other persons at the harbour including, in particular, the movement and berthing of ships in the harbour, by means of directions and byelaws, and licensing dredging and the construction of works in the harbour by other persons.
- Carrying out harbour operations including cargo-handling activities.
- The provision of a pilotage service - the general duties for the provision of pilotage services are contained in section 2 of the Pilotage Act 1987.
- Nature conservation and the prevention of pollution.

This document details the policies adopted to achieve the PMSC requirements. These policies and plans are based upon a full assessment of the required standards of the PMSC, and the hazards that have to be managed to provide for the safety of SIC's Ports, Harbours and their users.

Throughout the Marine Safety Policy document the subject headings are identified with bracketed numbers to indicate the PMSC addressed by the subsequent text, this provides an auditable cross-reference to the PMSC. For example, "Accountability for Marine Safety (1.1-1.2)" indicates that the text following the subject heading relates to the requirements detailed within section 1.1 to 1.2 of the PMSC.

1. **Accountability for Marine Safety (1.1 – 1.2)**

1.1. **Duties and Powers (1.3 – 1.5)**

The Shetland Islands Council (SIC), as Harbour Authority, is accountable for the discharge of its duties and powers to the standard laid down in the Port Marine Safety Code, herewith referred to as the Code.

Specifically,

- Statutory and non-statutory duties as conferred by local Acts, Empowerment Orders and general legislation;
- Duties and obligations to conserve and facilitate the safe use of their harbours, and a duty of care against loss caused by the authority's negligence; and
- Duties to ensure the safety of marine operations are matched with general and specific powers to enable the authority to discharge these duties.

The SIC is the Statutory Harbour Authority (SHA) for fourteen (14) Ports and Harbours as identified in the Zetland County Council (ZCC) Act 1974 (as amended), namely:

- Sullom Voe;
- Blacksness (referred to as Scalloway);
- West Burra (Hamnavoe);
- West Burrafirth;
- Housa Voe, Papa Stour;
- Mid Yell, Yell;
- Cullivoe, Yell;
- Baltasound; Unst;
- Uyeasound, Unst;
- Hamars Ness, Fetlar;
- Symbister, Whalsay,
- Out Skerries (two separate areas: West Voe and the South and North-East); and
- North Haven, Fair Isle.
- Vaila Sound and Gruting Voe, known as Walls; and

In addition, SIC also owns and operates pier facilities in the following areas but is not identified as the Statutory Harbour Authority under the ZCC Act:

- Toogs (West Burra);
- Easterdale (West Burra);
- Billister;

SIC is also the Competent Harbour Authority (CHA) for Sullom Voe and Scalloway Harbour.

Harbour Authority powers, and some of their duties are contained in local Acts and Orders, and although they have much in common, the detail varies from port to port. Most duties and powers are established by the incorporation or transposition into local Acts and Orders of provisions in the Harbours, Docks and Piers Clauses Act 1847. Other duties and powers are in general legislation, for example the Harbours Act 1964, the Dangerous Vessels Act 1985, the Pilotage Act 1987 and the Merchant Shipping Act 1995

(DfT, 2012).

The SIC also owns, operates and maintains 16 Ferry Terminals & Piers which maybe inside or outside the Statutory Harbour Authority areas of jurisdiction:

- | | |
|-------------------------------|----------------|
| 1. Belmont (Ro/Ro) - | Unst |
| 2. Harmars Ness (Ro/Ro) - | Fetlar |
| 3. Gutcher (Ro/Ro) - | Yell |
| 4. Ulsta (Ro/Ro) - | Yell |
| 5. Toft (Ro/Ro) - | North Mainland |
| 6. Vidlin (Ro/Ro) - | North Mainland |
| 7. Out Skerries (Ro/Ro) - | Out Skerries |
| 8. Symbister (Ro/Ro) - | Whalsay |
| 9. Laxo (Ro/Ro) - | North Mainland |
| 10. Lerwick (Ro/Ro) - | East Mainland |
| 11. Bressay (Ro/Ro) - | Bressay |
| 12. Grutness - | South Mainland |
| 13. Foula - | Foula |
| 14. Walls - | West Mainland |
| 15. Housa Voe (Ro/Ro) - | Papa Stour |
| 16. West Burrafirth (Ro/Ro) - | West Mainland |

Ferry Terminals are operated by the SIC Ferry Services who carry out the marine operations at these facilities. For the purposes of this document Marine operations have been taken to mean the moving, berthing and un-berthing of ships and other marine craft at these terminals. Marine operations within the Ferry Service use a formal risk assessment approach and Safety Management System. For the purposes of compliance with the code this is considered as an alternative similar standard applicable to their sector.

The Code identifies who is accountable for maritime safety in harbour waters and their approaches, based on the following general principles:

- The Duty Holder is accountable for safe and efficient marine operations;
- Organisations should make a clear published commitment to comply with the standards laid down in the Code;
- The Code represents the National standard against which the policies, procedures and performance of organisations may be measured;
- Executive and operational responsibilities for marine safety must be clearly assigned, and those entrusted with these responsibilities must be appropriately trained, experienced and qualified to undertake their duties and be answerable for their performance; and
- A 'Designated Person' must be appointed to provide independent assurance about the operation of the organisations MSMS. The Designated Person must have direct access to the Duty Holder.

SIC recognises that the key to effective discharge of the functions described in the Code is the development and operation of a MSMS for marine operations. That in turn, depends upon a clear assignment of relevant and operational responsibilities to the organisation's staff.

SIC has provided a tiered approach to developing a MSMS which includes:

- SIC Marine Safety Policy (this document);
- SIC Marine Safety Plan
- SIC Marine SMS; and
- Three local port Marine SMS Documents:
 - Sullom Voe Marine SMS;
 - Scalloway Marine SMS; and
 - SIC Small Ports Marine SMS.

1.2. The Duty Holder (1.6 – 1.10)

The Duty Holder for SIC is the Harbour Board for all SIC Ports and Harbours listed in Section 2.1 as defined by the Code. The Board Members are collectively accountable for marine safety under the Code. The Harbour Board is composed of eight elected Councillors and is chaired by Councillor Robert Thomson.

The duty holder is responsible for ensuring that the organisation complies with the Code. In order to effectively undertake this role they will:

- be aware of the organisation's powers and duties related 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 the management of marine safety continuously improves by publishing a marine safety plan and reporting performance against the objectives and targets set; and
- report compliance with the Code to the MCA every 3 years.

Harbour authorities have powers to appoint a harbour master and may properly entrust the operation of the harbour to such professional people; but the duty holder cannot assign or delegate its accountability for compliance with the Code.

All duty holders should take time to gain an appropriate insight and understanding of their organisation's port marine activities, MSMS and supporting policies and procedures. This will be accommodated through briefings and operational visits. The duty holder should also ensure that appropriate resources are made available for discharging their marine safety obligations.

The Chair of the Harbour Board or other nominated member of the Harbour Board if appropriate will act as the initial point of contact as Duty Holder for the Designated Person.

SIC as the Harbour Authority accepts responsibility for ensuring that its duties and powers are discharged to the standard set out in the Code, which includes the appointment of the Authority's officers detailed further in Section 1.3 to 1.6.

1.3. The Designated Person (1.11 – 1.12)

Each Organisation must appoint an individual as the Designated Person to provide independent assurance directly to the duty holder that the MSMS, for which the duty holder is responsible, is working effectively. Their role does not obscure the accountability of the organisation's duty holder.

SIC has selected and appointed an independent marine professional as the Designated Person to provide assurances that SIC's MSMS is working effectively. The Designated Person is responsible for determining, through monitoring and audit of agreed Key Performance Indicators (KPIs), the effectiveness of the MSMS and for ensuring compliance with the Code. The Designated Person reports directly to the Harbour Board, as Duty Holder, at regular Board meetings and has direct access to the Board's Chairman should this be required.

1.4. Executive Manager – Harbour Master (1.13 – 1.15)

The Executive Manager – Harbour Master is accountable for the operational and financial control of the organisation. The Executive Manager – Harbour Master will:

- oversee the implementation of SIC policies and decisions;
- have overall executive responsibility for the safety of operations and staff; and
- will oversee the recruitment and training for staff.

The SIC has exercised its enabled powers to appoint a Harbour Master for its Ports and Harbours as required. Harbour Master is defined in Section 2 of the Harbour Docks and Piers Clause Act 1847.

The Harbour Authority is responsible for ensuring the post holder is competent to hold the position and is a suitably qualified person, with sufficient experience for the role. The Harbour Master must also be competent to undertake other relevant duties, in relation to Health & Safety at Work and Merchant Shipping legislation. The Executive Manager - Harbour Master has day-to-day responsibility for the safe operation of navigation and other marine activities in SIC's Harbours and their approaches and:

- Has powers of direction to regulate the time and manner of any vessel's entry to, departure from and movement within the harbour waters, and related marine safety purposes;
- Has overall responsibility for the provision and maintenance of Aids to Navigation in relation to the Authority's conservancy duties.
- Has the responsibility for developing and implementing emergency plans and procedures, for regulating dangerous goods in transit on ships and for counter-pollution and waste disposal plans.

The Executive Manager - Harbour Master acts as the principal officer, holding delegated responsibility for safety of navigation and should therefore attend all duty holder meetings.

1.5. The Authority's Officers (1.16 – 1.17)

The appointment of officers is a matter for the Harbour Authority, with delegations being clear, formal and will not obscure the accountability of the organisation and its duty holder.

The Harbour Authority ensures that:

- executive and operational responsibilities are appropriately assigned to properly trained people;
- if some functions are combined, a proper separation of safety and commercial activities is maintained; and
- all employees will have training that is appropriate for their level of responsibility.

Delegations are no substitute for the duty holder being directly involved in safety management.

2. Key Measures Needed for Compliance (2.1 – 2.2)

The Code requires that organisations develop and maintain an effective MSMS, where plans and reports demonstrating a transparent and accountable discharge of duties and responsibilities are provided to reassure users of port facilities. In order to comply with the Code, SIC follows the steps laid out in sections 2.1 to 2.10.

2.1. Review of Existing Powers (2.3 – 2.6)

SIC keeps its powers and extent of its jurisdiction under review to ensure that they are appropriate for maintaining the overall safety of its Ports and Harbours. Additional powers will be sought if a risk assessment concludes that this would be the best means of meeting the safety obligation and will promote changes where necessary through a range of means including Harbour Revision Orders, Bye-laws and General Powers of Direction.

2.2. Use of Formal Risk Assessment (2.7 – 2.11)

SIC has undertaken a formal and documented marine risk assessment of each of its Ports and Harbours, and has established systems designed to review the findings of the assessments. SIC acknowledges that the process of port marine safety assessment is continuous and hazards to navigation and marine operations need to be properly identified and addressed.

The SIC MSMS embodies a formal safety assessment (FSA) approach which is designed to identify new hazards and changing risks as a consequence of changing trade types and shipping volumes. Risk assessments are undertaken by people who are qualified and appropriately skilled to do so. SIC endeavours to manage marine risks to ensure that they are kept as low as reasonably practicable (ALARP) and will, so far as is practical, take measures to eliminate any risks identified through the assessment and review process.

Risk Assessments for Personnel use the SIC approach for identifying hazards and applying controls to the standard required by the Health and Safety at Work Act 1974 (as amended).

2.3. Implement a Marine Safety Management System (2.12 – 2.17)

SIC has provided a tiered approach to developing the MSMS. This includes this SIC Marine Safety Policy which demonstrates the Harbour Authority's commitment to the safe and responsible operation of SIC Ports by detailing areas of primary concern (based on the requirements of the Code). Local Port MSMS documents identify the manner in which plans and policy are implemented. These local documents are supported by a SIC MSMS which sets out the common approach on powers and procedures.

2.4. Competence Standards (2.18)

SIC assesses the competence of all persons appointed to positions with operational responsibility, using the most appropriate means available. Wherever possible, SIC will encourage all persons involved in the management and execution of marine services to undertake appropriate training in order to develop a shared understanding of the marine safety management system in use.

2.5. Incident Investigation (2.19 – 2.23)

SIC recognises that however effective the safety regime is, incidents and 'near misses' will occur. A clear process of incident recording, investigation, follow up and closure has been established, and all stages of this process are recorded. The process will recognise the often conflicting essential purposes of an investigation:

- To determine the cause of the incident, with a view to preventing a recurrence; and
- To determining if an offence has been committed and whether enforcement action is appropriate.

The Harbour Authority considers that the principle requirement of a marine incident investigation should be to determine the probable causes and contributing factors, so that precautions can be put in place to ensure known risks are managed to ALARP. By identifying the 'what' and 'why' of an incident SIC is better equipped to prevent a recurrence. In meeting this objective an investigation to determine if an offence has been committed (a criminal investigation) may be compromised and in such cases SIC will seek assistance through an agency of another authority such as the Police or the MCA.

The Harbour Authority will report any accident which meets the criteria established by the MAIB, to the Chief Inspector and any other appropriate authorities, by the quickest means available.

2.6. Monitoring Performance and Auditing (2.24)

In order to monitor the effectiveness of the SIC MSMS, regular and systematic reviews of performance are carried out against a number of predetermined indicators. The results of such audits are recorded and, where appropriate, information is made available to Port users and other interested parties.

2.7. Enforcement (2.25)

SIC monitors and, where appropriate, actively enforces compliance with its Bye-laws and directions. It is to be noted that any apparent contravention of such Bye-laws or directions may result in the prosecution of the offender.

2.8. Publication of Plans and Reports (2.26 – 2.28)

The Code specifically requires a 'safety plan for marine operations' published at least once every three years. The 'SIC Marine Safety Policy' provides confirmation of SIC's commitment to maritime safety. This document is reviewed and reissued by the Duty Holder, and confirms how commercial pressures are managed without affecting the safe provision of services and the efficient discharge of its duties.

The Executive Manager - Harbour Master reports to the Harbour Board quarterly (there may be exceptions to the schedule based on Elections), with public minutes of these reports available online.

SIC publish their financial reports annually with these audited accounts available online Pilotage accounts for Sullom Voe and Scalloway are also published online.

SIC's policies and procedures commit the authority to undertake and regulate marine operations in a way that safeguards all of its Ports and Harbours, their users and the environment.

2.9. Consensus (2.29)

The SIC seeks to consult with Harbour users and relevant interested parties when considering safe navigation and applicable matters. The Local Port MSMS documents identify the main consultation groups established at individual SIC Ports and Harbours.

2.10. Monitoring Compliance (2.30 – 2.32)

The Duty Holder will ensure that a prompt response is made to the Maritime and Coastguard Agency's (MCA) compliance programme, for which a request is anticipated every three years. Should the MCA wish to carry out a 'health check' verification visit, SIC will assist in any way possible, and welcomes the opportunity to demonstrate compliance with the Code. Should internal audits reveal potential compliance issues which cannot be resolved internally, SIC will seek the advice of the MCA to assist in gaining confirmation of compliance.

3. General Duties and Powers (3.1 – 3.3)

3.1. Safe and Efficient Port Marine Operations (3.4)

SIC recognises its responsibilities to:

- Take reasonable care, so long as a Harbour is open for the public use, that all who may choose to navigate in it may do so without danger to their lives or property;
- Conserve and promote the safe use of each of its Harbours, and prevent loss or injury caused by the Authority's negligence;
- Have regard to efficiency, economy and safety of operation as respects the services and facilities provided; and
- Take such action that is necessary or desirable for the maintenance, operation, improvement or conservancy of each of its Harbours.

SIC undertakes to ensure that enough resources are available to discharge its marine safety obligations and set the level of Port dues accordingly.

3.2. Open Port Duty (3.5)

SIC recognises its responsibility to maintain 'open port duty' as defined in Section 33 of the 'Harbours, Docks and Piers Clauses Act 1847', incorporated into the enabling 'ZCC Act 1974'.

3.3. Conservancy Duty (3.6 – 3.7)

SIC endeavours to conserve each of its Harbours so that they are fit for use as a port, taking reasonable care to ensure that each is in a fit condition for a vessel to utilise it safely. This includes all appropriate means to find, mark and monitor the best navigable channel or channels in its Harbours. It will promulgate, as appropriate, relevant hydrographic information associated with its Ports and Harbours, including information relating to navigational hazards.

3.4. Environmental Duty (3.8)

SIC acknowledges its duty to exercise its functions with due regard to nature conservation and related environmental best practice. SIC also has obligations where International, European and National designated areas exist directly within, or adjacent to port boundaries and jurisdictions. SIC will seek advice from relevant Government Agencies, if necessary, regarding environmental duties in respect of marine operations and the operations of third party Ports within its jurisdiction.

3.5. Civil Contingencies Duty (3.9)

SIC ensures that appropriately detailed emergency plans are prepared in conjunction with other relevant authorities, and that such plans are published and periodically exercised.

3.6. Harbour Authority Powers (3.10 – 3.11)

SIC keeps its powers and the extent of its jurisdiction under review to ensure that they are appropriate for maintaining the overall safety of its Ports and Harbours, promoting changes where necessary.

3.7. Revising Duties and Powers (3.12 – 3.14)

In reviewing duties and powers, SIC will consider the need for Harbour Revision Orders or Harbour Closure Orders to amend or relinquish Statutory Powers.

4. Specific Duties and Powers (4.1)

4.1. Appointment of Harbour Master (4.2)

SIC exercises its powers to appoint a Harbour Master for its Ports and Harbours.

The Harbour Master is accountable to the Harbour Authority for the safety of marine operations in its port and harbours.

4.2. Byelaws (4.3 – 4.5)

SIC seeks to make best use of powers conferred within local enabling (or subsequent) Acts to make Byelaws where appropriate. SIC has the power to create Byelaws as identified in section 44 of the ZCC Act 1974.

4.3. Directions (Special Directions) (4.6 – 4.7)

The duly appointed Harbour Master has statutory powers to regulate the time and manner of ships' entry to, departures from, movement within and for related purposes in the Harbour Area and is responsible for enforcing local Byelaws and General Directions, and can issue Direction to the Master of any ship within his jurisdiction for the purposes of Navigational Safety or Traffic Regulation. The powers of the Harbour Master are also delegated to specifically authorised Deputies and Assistants, and those authorised to discharge the Harbour Master's duties through the Sullom Voe VTS within Sullom Voe VTS area.

SIC ensures that appropriate use is made of the power to give Special Directions, and that these powers are fully understood by those identified in posts where Special Directions may be issued.

4.4. General Directions (4.8 – 4.9)

SIC ensures that powers of General Direction are used appropriately to manage the safety of SIC's Ports and Harbours. SIC are able to issue General Directions under Section 38 of the ZCC Act 1974. General Directions are only made after harbour users have been consulted.

4.5. Health and Safety

SIC ensures that it will conduct its Port and Harbour operations in full compliance with the Health and Safety at Work Act 1974 (as amended). SIC acknowledges the provisions of the most current Memorandum of Understanding between the Health and Safety Executive, the MCA and the MAIB for health and safety enforcement activities etc at the water margin and offshore.

4.6. Dangerous Vessels Directions (4.10)

The Harbour Master may give directions prohibiting the entry into, or requiring the removal from, the harbour of any vessel if, the condition of that vessel, or the nature or condition of anything it contains, is such that its presence in the harbour might involve grave and imminent danger to the safety of persons or property or risk that the vessel may, by sinking or foundering in the harbour, prevent or seriously prejudice the use of the harbour by other vessels.

The SIC recognises that the Secretary of State's Representative for maritime salvage and intervention (SOSREP) may override such directions and issue contrary directions to the Harbour Master in the interests of safety.

4.7. Vessel Traffic Services

SIC has considered and evaluated the need for Vessel Traffic Services (VTS). SIC operate a VTS Service within the Yell Sound and Sullom Voe Harbour area. For other SIC Ports and Harbours, the need for VTS has been considered following published guidance issued by the MCA in Marine Guidance Note (MGN 401) 'Navigation: Vessel Traffic Services (VTS) and Local Port Services (LPS) in the United Kingdom'. SIC will periodically review its level of harbour information, monitoring and control to ensure the service provided meets the needs of its Ports and Harbours.

4.8. Pilotage and Pilotage Directions (4.11 – 4.12)

SIC is the Competent Harbour Authority (CHA) for Sullom Voe and Scalloway. SIC keeps under consideration, through risk assessment, the need for pilotage services within its other Ports and Harbours and, where there is a clearly identifiable need, SIC will apply for Competent Harbour Authority status. Where a need for pilotage has been identified, and CHA status granted, SIC will evaluate the need for compulsory pilotage for the safety of ships navigating in any part of its Ports or Harbours, including their approaches. SIC stipulates which ships this should apply to and in what circumstances. Pilotage will be reviewed if there is a change of use of any SIC Port or Harbour to ensure that the services provided continue to meet requirements.

Where, after risk assessment and due consultation with ship owners and other interested parties, SIC considers that pilotage should be compulsory in the interests of safety it will issue Pilotage Directions detailing how and to which vessels they apply. SIC recognises that a vessel's Master who is not subject to Pilotage Directions has a right to request a pilot.

4.9. Authorisation of Pilots (4.13 – 4.14)

SIC determines the requirements for the authorisation of its pilots in respect of qualifications, time of service, physical fitness, local knowledge, skill, character and otherwise. SIC reviews pilot competence and medical fitness standards and makes these details available to applicants applying to become pilots. SIC will suspend or revoke a pilot's authorisation if it considers that a pilot is incompetent, their qualifications have lapsed or misconduct has affected their capability to conduct their role.

4.10. Pilotage Exemption Certificates (4.15 – 4.16)

The SIC recognises that, CHAs must grant a 'Pilotage Exemption Certificate' ("PEC") to a ship's deck officer (including the Master) who applies for one if they demonstrate they have sufficient skill, experience and local knowledge to pilot the ship within the compulsory pilotage area. The requirements for granting a PEC must not exceed or be more onerous than those needed for an authorised pilot.

The granting of PECs does not apply to Sullom Voe Harbour area because it is exempt from the need to issue a PEC (reviewed on a three year basis) under Section 8.3 of the Pilotage Act 1987 and by direction of Scottish Ministers.

Applicants for Scalloway PECs will be expected to complete training as per the SIC pilots assessment for Scalloway and would require 12 trips per annum to maintain competence.

4.11. Collecting Dues (4.17 – 4.20)

SIC levies dues within its Ports and Harbours to raise sufficient resources to enable them to pay for the discharge of their Statutory Duties. The Duty Holder is responsible for ensuring that adequate resources are provided to its officers to enable them to operate policies, procedures and systems effectively. Where SIC is the Pilotage Authority, it may make reasonable charges in respect of vessels subject to its Pilotage Directions. These pilotage charges apply to vessels with an embarked pilot, or those being piloted by the holder of a Pilotage Exemption Certificate (PEC) in Ports where PECs are granted.

4.12. Aids to Navigation (4.21 – 4.24)

The Northern Lighthouse Board's (NLB) are the General Lighthouse Authority (GLA) for Scotland and the Isle of Man. SIC, in its role as a Local Lighthouse Authority (LLA), will maintain applicable Aids to Navigation (AtoN) in accordance with the availability criteria laid down by the NLB. SIC as LLA will not, without the GLA's consent, erect, remove, or vary the character of any lighthouse, light, buoy or beacon.

SIC will make arrangements for NLB inspections and comply with any directions from the NLB concerning the provision and positioning of AtoN.

4.13. Wrecks and Abandoned Vessels (4.25 – 4.32)

Harbour Authorities have a duty of care under common law to those who reasonably and foreseeably are within the harbour area. The SIC MSMS requires a risk assessment to be undertaken where there is a wreck in or near the approaches to a SIC Port or Harbour which may cause a danger to navigation. Where SIC considers a wreck is, or likely to become an obstruction or danger to navigation, they will exercise their wreck-marking and removal powers through a range of measures including lighting, buoyage or the possession, removal or destruction of the wreck. In dealing with wrecks, SIC recognises their duty to have regard to the environment in exercising their powers.

5. References

Department for Transport. (DfT), 2016. 'Port Marine Safety Code', November 2016.

Department for Transport. (DfT), 2017. 'A Guide to Good Practice on Port Marine Operation - Prepared in Conjunction with the Port Marine Safety Code', April 2018.

Her Majesty's Government, 'Zetland County Council Act' (ZCC) Act 1974 (as amended)
http://www.legislation.gov.uk/ukla/1974/8/pdfs/ukla_19740008_en.pdf

Her Majesty's Government 'The Merchant Shipping (Accident Reporting and Investigation) Regulations 2012'. http://www.legislation.gov.uk/uksi/2012/1743/pdfs/uksi_20121743_en.pdf

Maritime and Coastguard Agency (MCA), 2022. 'Navigation: Vessel Traffic Services (VTS) and Local Port Services (LPS) in the United Kingdom'. Marine Guidance Note - MGN 401 (M+F) Amendment 3. March 2022

Her Majesty's Government 'Pilotage Act' 1987 <https://www.legislation.gov.uk/ukpga/1987/21/contents>