

Salcombe Harbour Board – 2 June 2008**HARBOUR BYE-LAWS****Report of Head of Service Salcombe Harbour****Statutory Powers: Pier and Harbour Order (Salcombe) Confirmation Act 1954**

Financial Implications: There will be some minor costs for advertising and printing and distribution of documents and amendments to signage estimated at no more than £1,000.

Purpose

To appraise Members on the feedback from the Modification Bye-law consultation and to propose that the Harbour Board recommends the amendment of the harbour byelaws to Full Council.

The Harbour bye-laws provide the means by which to regulate the Harbour and as such, support the South Hams objectives for good jobs (CP2), retention of the district's character (CP3), an accessible council (CP5) and value for money (CP6).

Recommendations

That the Harbour Board Recommends that Full Council amends the Salcombe Harbour Byelaws 19, 42, 43 and 45 as set out in paragraph 5 of this report.

Background

1. In November 2007 the Harbour Board agreed to work towards revising the speed limit within the harbour to 6 knots and that a working group should review and if necessary propose revisions of the Harbour Bye-laws (SH 40/07).
2. The Harbour Board working group concluded that the following aspects of the Harbour Bye-Laws should be revised:

Bye-Law 19 Registration of Vessels

- To require vessels to have £3,000,000 public liability insurance
- To require registration stickers to be displayed

Bye-Law 42 Vessels not to be made fast to certain places

- To prohibit vessels from berthing on the front of Whitestrand Pontoon

Bye-Law 43 Vessels to Navigate with Care

- This Bye-Law was re-drafted to follow modern drafting practice, which makes it easier to read and understand

Bye-Law 45 Speed

- To reduce the speed limit from eight to six knots in the busiest part of the harbour, from the Marine Hotel to Halwell Point, including South Pool Creek, and within Kingsbridge basin in order to improve safety
3. A Modification Bye-Law was drafted by South Hams District Council's Legal Department and submitted to the DfT for comment. Several drafting amendments were made to accommodate the DfT's comments and a Modification Bye-law consultation document was published and distributed on 18 April 2008, Enclosure 1. Consultation closed on 16 May, in total seven responses were received which are at Enclosure 2.

Results of Consultation

4. The consultation process raised the following proposed changes to the Modification Bye-Law:
- a. Bye-Law 19 - Registration of Vessels
 - There were no comments received referring to this Bye-Law modification
 - b. Bye-Law 42 Vessels not to be made fast to certain places
 - There were no comments received referring to this Bye-Law modification
 - c. Bye Law 43 – Vessels to Navigate with Care
 - A proposal was made to amend the wording of 43.(e) to read “to not deliberately or recklessly disturb, damage or destroy the wildlife or habitats of the harbour”.
 - There was also a proposal to amend the final sentence to include diving and read as follows: “and shall cause the vessel to proceed slowly when passing a vessel engaged in dredging, diving or other underwater work, or activity or work at a buoy or mooring, or in rescue work”
 - d. Bye-Law 45 - Speed
 - There was a proposal to re-write the Modification Bye-Law to make the 8 knot area and the 6 knot speed limit area clearer.
 - There were several proposals to amend the limit of the 6 knot speed limit area:
 - To extend the northern limit from Halwell Point to Wareham Point. This would incorporate Frogmore Creek to the 6 knot limit zone.

- To extend the southern limit of the Kingsbridge basin 6 knot zone by 2 cables to 50°16'.3. This would incorporate the moorings at New Bridge to the 6 knot limit zone.

Proposals

5. Having taken the feedback from the consultation into account the following proposals are made:

a. Bye-Law 19 - Registration of Vessels

- That Bye-law 19 of the 1994 Bye-laws be revoked and replaced with the following provision:

Registration of vessels

19. *The owner of a vessel who intends that that vessel will normally be kept within the harbour shall –*

- (a) *insure the vessel and keep it insured with a reputable insurer against public liability to the value of not less than three million pounds (£3,000,000);*
- (b) *register the vessel with the Harbour Master forthwith;*
- (c) *display the registration sticker prominently on the vessel;*
- (d) *thereafter register the vessel at intervals of not more than once a year; and*
- (e) *inform the Harbour Master of the place where the vessel is kept.*

b. Bye-Law 42 - Vessels not to be made fast to certain places

- That Bye-law 42 of the 1994 Bye-laws be revoked and replaced with the following provision:

Vessels not to be made fast to certain places

42. (1) *No person shall make a vessel fast to any navigational buoy, light, beacon or mark within the harbour nor to the seaward (Eastern) side of the Whitestrاند pontoon.*

(2) *The master of any vessel running into, fouling or damaging any of the navigational aids referred to in paragraph (1) shall as soon as reasonably practicable report the same to the Harbour Master.*

c. Bye Law 43 – Vessels to Navigate with Care

- The AONB proposals are adopted and that Bye-law 43 of the 1994 Bye-laws is revoked and replaced with the following provision:

Vessels to navigate with care

43. *The master of every vessel (including a vessel under way on the occasion of any boat or other race, regatta, procession or launch) shall navigate that vessel with such care and caution and at such speeds and in such manner as -*

- (a) not to endanger the life of, or cause injury or discomfort to, any person ;*
- (b) not to damage any other vessel, houseboat or other property;*
- (c) not to interfere with the navigation, manoeuvring, loading or discharging of any vessel or houseboat;*
- (d) not to interfere with any mooring or other property, any buoy, any land, building, works plant, landing steps, landing stage, pier, jetty or railings, or the banks of the harbour;*
- (e) not to deliberately or recklessly disturb, damage or destroy the wildlife habitats of the harbour;*

and shall cause the vessel to proceed slowly when passing a vessel engaged in dredging, diving or other underwater work, or activity or work at a buoy or mooring, or in rescue work.

d. Bye-Law 45 - Speed

- Prior to the formal consultation on the Modification Bye-law the views of stakeholders was canvassed on the proposed reduction of the speed limit to 6 knots throughout the estuary. The overwhelming response was that a blanket speed limit of 6 knots would seriously affect the estuary users from the north of the estuary by increasing transit times. There was considerable support for a reduced speed limit through the main harbour to reduce wash and improve the safety of small craft. As a result of this informal feedback the proposal was changed to introduce a 6 knot zone from the Marine Hotel to Halwell Point. It is considered that the benefits of extending the six knot zone to include Frogmore Creek and Balcombe Creek would be outweighed by the disadvantage of increased transit time from berth holders at Kingsbridge and Frogmore and therefore it is recommended that these proposals are discounted.
- The way the Modification Bye-law has been drafted following DfT guidelines. This states that the speed limit within the Estuary is 8 knots with a zone where the speed limit is reduced to 6 knots. This is the normal convention for writing Bye-laws and therefore it is recommended that the wording in the Consultation document remains.
- It is therefore proposed that Bye-law 43 of the 1994 Bye-law be revoked and replaced with the following provision:

Speed

45.(1) *Except with the prior written permission of the Harbour Master, and Subject to paragraph (2), Bye-law 43 and the Collision Regulations the master of a power-driven vessel shall not permit or cause that vessel to be navigated or driven -*

- (a) *any where in the harbour at a speed exceeding eight knots through the water;*
- (b) *at a speed exceeding six knots through the water:*
 - (i) *within the area lying north of a line drawn between Salcombe and Smalls Cove (50°14'N) and south of a line drawn between Heath Point and Halwell Point (50°15'.1N) including all of the waters of Batson and Southpool Creeks; or*
 - (ii) *within Kingsbridge Basin north of 50°16'.5N*

(2) *This Bye-law does not apply to any vessel which is-*

- (a) *by prior written agreement with the Harbour Authority designated as a rescue vessel, is clearly marked with the word "Rescue" and is acting for the purpose of rescue; or*
- (b) *being used for the purpose of an emergency; or*
- (c) *being operated for the purposes of the Royal National Lifeboat Institution.*

Process

6. The outline process for the Bye-law Modification is:

- Harbour Board Recommend amending Bye-laws to Council
- Council resolution
- Legal make and seal Bye-laws
- Advertise in local press the fact that Bye-laws are made and that an application for confirmation will be made to the Secretary of State
- Deposit Bye-laws for inspection during period of advertisement
- Submit Bye-laws for confirmation
- Bye-laws printed and placed on deposit for inspection

Value for Money

7. Delivering Value for Money is one of the Harbour Board's Core Principles. Effective bye-laws are essential to the safe and efficient operation of the Harbour, which is directly linked to providing value for money to harbour users.

Risk Assessment

Risk	Mitigation
Excessive speed results in an accident and damage to equipment and injury to personnel	Reduce risk of and impact of any collision by reducing and enforcing the speed limit.
Excessive speed and wash impacts on the attractiveness of Salcombe as a destination and reduces the visitor numbers.	Reduce speed limit. A reduction of the speed limit from 8 to 6 knots will not adversely affect any user group's use of the estuary but has the potential to drastically increase the customer experience for the majority.

Conclusion

8. The proposed amendments to the Harbour bye-laws at Enclosure 1, modified as detailed in paragraph 5 will improve safety and the customer experience of estuary users without adversely affecting and individual user groups' ability to navigate the Estuary.

Ian Gibson
Head of Service Salcombe Harbour

Salcombe Harbour Board
2 June 2008

Enclosures:

1. Modification Bye-Law Consultation Document
2. Modification Bye-Law Consultation Feedback

Background Documents:

Bye-laws relating to all parts of the Salcombe Harbour dated 17 March 1994.