

Salcombe Harbour Board – 2 November 2009**MOORINGS POLICY - CLARIFICATION OF QUALIFICATION CRITERIA****Report by Salcombe Harbour Master****Statutory Powers: Pier and Harbour Order (Salcombe) Confirmation Act 1954****Financial Implications:** None.**Purpose**

To clarify the Moorings Policy with respect to the annual qualification for allocation of harbour mooring facilities.

This report supports South Hams objectives of good jobs (CP2), retention of the district's character (CP3) and value for money (CP6).

Recommendations**That the Harbour Board RESOLVES to:-**

- a. Continue with the policy of allocating harbour facilities only to local residents, residency being determined by the payment of Council Tax to South Hams District Council; and to**
- b. Amend the Moorings Policy to allow a period of two years grace before a harbour facility is not renewed for customers who no longer pay Council Tax to South Hams District Council.**

Background

1. The Moorings Policy was updated in 2007 following an extensive public consultation.
2. The Harbour Board has always taken the view that local people, as indicated by the payment of Council Tax within South Hams, should be given priority in the allocation of harbour facilities.
3. The Harbour Authority has a lease from the Duchy of Cornwall for the estuary fundus, on which all the harbour facilities and moorings sit. One of the terms of the lease is that mooring licences and contracts cannot be issued for a period of more than one year. Therefore all mooring facilities are issued or re-issued annually.
4. The qualification criteria for mooring facilities, and the prohibition on sub-letting or re-assignment, are covered in paragraph 6.0 of the Moorings Policy:
 - 6.0.1 All Salcombe Harbour Authority mooring contracts and licences are issued annually to a named individual or company and are not transferable, except between spouses or civil partners.

6.2.1 Council Tax payers and persons recorded on the South Hams Council Tax Register are given priority over others in the allocation of harbour facilities.

5. To enforce the Harbour Moorings Policy fairly and properly, advance warning was given to facility holders with their 2009/10 invoices, distributed in March 2009, that a copy of the customer's Council Tax would be required to be produced prior to the 2010/11 mooring allocation. This requirement raised a number of questions from some current berth and mooring holders, who had never been or were no longer resident within the South Hams, about the requirement to be a South Hams Council Tax payer in order to qualify for a mooring.

Legality of Moorings Policy

6. The Council's Monitoring Officer has advised that it is lawful for a Local Authority to give priority to local residents. The Harbour Board takes the view that the fairest way to determine this is through the payment of Council Tax. This enables the Moorings Policy to be open, fair, transparent and reasonable.

Clarification of the Moorings Policy

7. It follows that, as moorings are re-allocated annually, proof of continued residence within the South Hams is a requirement for retention of a harbour mooring.
8. Moorings holders who move away from the South Hams, and cease to pay Council Tax to South Hams District Council, will no longer qualify for a harbour mooring. However, to minimise inconvenience and enable an alternative facility to be found, a period of two years' grace will be allowed before a facility is not renewed.

Allocation of new moorings

9. Priority in the allocation of new moorings will continue to be made according to two lists:
 - The "A" list for private individuals who pay 100% Council Tax in the South Hams and
 - The "B" list is for private individuals who pay 90% Council Tax in the District.

Risk Assessment

Risk / Opportunity	Issues / Obstacles	Mitigation
There are no human rights issues within this report.	The Council could be challenged over the legality of the Moorings Policy.	Monitoring Officer has confirmed that it is not unlawful to allocate a scarce resource using the criteria of local residency.
There are insufficient Local Residents requiring moorings at some stage in the future.	There is currently a healthy waiting list of local people who pay 100% Council tax. This may change in the future.	If the "A" list is satisfied, then moorings can be allocated to people waiting on the "B" list (90% Council Tax payers).

Conclusion

10. With moorings within Salcombe Harbour being a finite resource and in such great demand, the Harbour Board have confirmed their policy that moorings should be allocated to local people, defined as Council Tax payers to South Hams District Council.
12. In order to allow a reasonable period to find an alternative mooring on moving away from the South Hams, a period of two years' grace will be allowed.

Ian Gibson
Harbour Master

Salcombe Harbour Board
2 November 2009

Background Documents:

Moorings Policy issued 25 September 2007.