

Salcombe Harbour Board - 4 October 2005**FINDINGS FROM WHITSTABLE HARBOUR STUDY TOUR****Report of Strategic Director (Operations)**

Statutory Powers: The Pier and Harbour Order (Salcombe) Confirmation Act 1954 and Local Government Act 2000.

Financial Implications: None.

Purpose

To outline the findings of the study tour of Whitstable Harbour that took place on 3rd and 4th August 2005. The content of this report links to the **Council's Aim** which is 'to improve the well-being of the people of the South Hams'.

Recommendations**The Board resolves to:-**

- (a) **Note the findings of the Whitstable Study Tour and support the contents of this report; and**
- (b) **Consider the issues raised by the Study Tour with a view to a discussion at a workshop to be held on 8 November 2005 to explore a way forward in context for Salcombe.**

Background

1. The Harbour Board agreed to send a delegation on behalf of Salcombe Harbour Board over to Canterbury City Council in Kent to examine and learn about Whitstable's business planning and management arrangements together with the Whitstable Model of board governance which is held-up as best practice by the Department for Transport (DfT) (18 April 2005 Min. SH.44/04).
2. Associated with this visit, Members are aware of the Municipal Ports Review which has been underway for some time led by the DfT. This review is now coming to an end and it is becoming clear that the DfT's 'Guide to Good Governance' is likely to set the future framework of standards for the future management of Municipal Ports as well as the current Trust Port sector. The full outcome of the Review should be known in the next few months.
3. Consequently a small Harbour Board delegation [consisting of Cllr Pam Cook, Cllr David Thorning, Mr Tim Bass and the Strategic Director (Operations) Paula Brooks] visited Whitstable Harbour and met with representatives of their Board on 3rd and 4th August 2005. This report contains the findings of that Study Tour.

History of Whitstable Harbour

4. Until two years ago, Whitstable Harbour was managed as an asset within the property portfolio of Property Services at Canterbury City Council. Then a Best Value Review was undertaken which highlighted that the asset was steadily losing money each year. With the support from a marine consultancy and the Head of the Ports Division at the DfT, a number of options for the future structures and governance of Whitstable Harbour were developed.
5. In 2003 the agreed way forward was the formation of a 'stand alone' Harbour Board with ring-fenced accounts. Whitstable's Harbour Team was also restructured and now reports to the Board and a Corporate Director as opposed to the Head of Property Services although Property still clearly support the Harbour Team and Board.

Whitstable Harbour Board Governance and Stakeholder Forums

6. The new 'stand alone' Harbour Board consists of 11 members; 6 District Councillors and 5 independent co-opted members although the ideal is thought to be a Board of 9 (5 Councillors and 4 co-opted members).
7. The co-opted members were recruited via advertisement and a 'fit for purpose' criteria and job description was drawn-up in line with the DfT's 'Guide to Good Governance' (An extract of which is included in Appendix 1).
8. The appointed co-opted members had to have maritime or port related experience and demonstrable business acumen. They expressly do not represent the views of stakeholder organisations and indeed, have to declare an interest if there is ever a conflict of interest at each and every Board Meeting.
9. In Whitstable there were 25 applicants for 4 posts which turned into 5 posts eventually as the calibre of application was so high (hence the 6:5 ratio above). The co-opted positions receive a small honorarium payment per annum plus travel expenses.
10. Supporting this model of governance the DfT has written the role of the independents and councillors in these terms into its Municipal Ports Review Report.
11. To engage, communicate, involve and consult stakeholders and local interested parties, a series of 'Forums' have been established linked directly to Whitstable's Board. To date two forums have been established; a 'Fisherman's Forum' and a 'Public Stakeholder Forum' and these meeting quarterly. The Harbour Master and three of Whitstable Board Members sit on each 'Forum'. Topics of these forums can differ depending on the time of the year but usually involve discussions on harbour board business, harbour projects both current and planned, the needs and requests of harbour users, and discussion on fees and charges. The Board Members on each forum then convey the views of the forum back to the Harbour Board at the next meeting for consideration and action as appropriate.

Harbour Board Business

12. Whitstable Harbour Board itself meets every 6 weeks on a Friday at 3pm. The meetings can take between 2.5 to 4 hours in total and are usually well attended by the press and public. The Board of 11 Members is supported at every meeting by the Harbour Master, a minute-taker and other relevant council officers.

13. The structure of the each Board's Agenda consists of a short public question/statement time at the start of the meeting, then a full public Agenda with prepared officer reports. The Board then goes into an exempt session for an 'informal session' when Board Members can ask questions, have a discussion or suggest future agenda or development items. This usually lasts about 20-30 minutes and is minuted but does not appear in the public record of the meeting.
14. Whitstable Harbour Board has its own Constitution and reports to Full Council. It also has a 'Memorandum of Understanding' between it and the Executive of Canterbury City Council. The Board has some delegated powers up to certain limits of capital expenditure.

Business Planning

15. Whitstable Harbour Board, like Salcombe, has had a series of training workshops to identify some specific 'strategic aims' for the Harbour's business and these are referred to in every Agenda Item. The Harbour now only pursues projects if they directly contribute to these strategic aims. Whitstable's aims include; financial stability, local employment, public access to the Harbour, and the needs of amenity groups and clubs. A full Business Plan is still in development for Whitstable Harbour as they are still working out the costs of their ideas for the future.

Lessons for Salcombe

16. Clearly many of the elements which exist and are supported by the DfT in Whitstable are already present in the way Salcombe Harbour is managed. For example Salcombe Harbour has an effective 'stand alone' trading position and the Salcombe Board already links directly into South Hams District Council's Full Council for decision-making. However, in terms of board governance and business planning, Whitstable appears to be at least two if not three years ahead of Salcombe in its planning and implementation of a model which the DfT is strongly suggesting all municipal ports and harbours adopt.
17. The findings of the Study Tour and the imminent outcome from Municipal Ports Review therefore both point to the need to consider changing the way Salcombe Harbour is managed and governed.
18. The role of the Board must continue to oversee the business of the Harbour and Salcombe-Kingsbridge Estuary on behalf of the District Council and users of the amenity. This of course includes ensuring the Harbour is operationally sound, and both economically and environmentally sustainable. However, the current Board by its very composition represents the views of user groups which may be better represented through the establishment of formal stakeholder forums.
19. With guidance from the DfT and knowledge about how Whitstable's Board functions, if change were supported then future Membership of Salcombe's Harbour Board would be limited to those individuals who demonstrated the required level of 'technical competence'.

20. Delivery of the five business plan objectives agreed by the Board earlier in the year (Safety, Environmental Stewardship, Support for Prosperity, Community Engagement, and the Customer Experience, Min. SH.43/04) will require effective implementation of the Harbour's long term Business Plan. This is in line with the good governance and management arrangements for municipal ports and harbours being promoted by the DfT.
21. Salcombe's business plan objectives enable the Harbour to directly contribute to the overall corporate priorities of the District Council and the local needs of residents and users in and around the estuary.

Risk Assessment

Risk	Mitigation
The council fails to modernise in line with Government guidance in respect to governance and management of Salcombe Harbour.	Review Harbour governance arrangements in line with Government guidance and known best practice municipal harbours.
The work of the Harbour Board does not align with community and user's views.	Consultation and liaison takes place with local users groups, residents and community stakeholders on Salcombe Harbour Board's draft Business Plan at the earliest opportunity.
Governance arrangements are not transparent.	Board arrangements are reviewed and brought into line with the DfT's 'Guide to Good Governance'.
Non-compliance with the Human Rights Act	The rights of individuals will be protected in any future policy development.

Conclusion

22. Protecting and maintaining Salcombe Harbour and the estuary itself for the benefit of residents, users, and local communities is of utmost importance to the Council and local people. The Harbour Board is requested to give due consideration to the information covered in this report and in order to discuss the issue of future governance fully at a workshop on 8 November. In doing so the Board will be able to prepare for and safeguard the future of harbour business in line with Government advice.

Paula Brooks
Strategic Director (Operations)

Salcombe Harbour Board
 4 October 2005

Background Documents:

A Guide to Good Governance, Department for Transport, November 2000

EXTRACT FROM THE DFT ‘ GUIDE TO GOOD GOVERNANCE’

The Eight Guiding Principles of [Trust] Board Membership

(Adapted from the Cabinet Office code of practice for board members of advisory non Departmental Public Bodies)

All board members should adhere to the following principles in the conduct of business. **Board members must fully understand their duties and responsibilities.** Individual boards might consider adapting these to publish their own code of practice, possibly in the context of the annual report and/or their published strategy document.

Independence

A trust port is an independent statutory body. **All board members are appointed to act independently in the best interests of the trust** and all of its stakeholders both present and future.

Accountability

Board members are accountable for their decisions and actions to all stakeholders of the trust and should submit themselves to whatever scrutiny is appropriate to their office.

Openness

Board members should be as open as possible with all stakeholders about the decisions and actions they take. They should publicise the reasons for their decisions and restrict information only to the extent that matters of commercial or personal (*personnel*) confidentiality are involved.

Selflessness

Board members should take decisions solely in terms of the interest of stakeholders of the trust. They should not do so in order to gain financial or other material benefits for themselves, their family and friends or any group or organisation with whom they are associated.

Integrity

Board members should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out trust business, including making appointments, awarding contracts, or recommending individuals for rewards and benefits, board members should make choices on merit.

Honesty

Board members have a duty to declare any private interests which might influence their trust duties and to take steps to resolve any conflict arising in a way that protects the interests of stakeholders of the trust.

Leadership

Board members should promote and support these principles (*and ensure that they are adopted by fellow board members*) by leadership and example.

Board Appointments

These should be based on existing good practice in both public and private sector. **The objective is to obtain a board that is independent and fit for purpose rather than representative of particular interests. The intention is to open up the process to allow trusts to range wider to locate the expertise (*whether gained through professional or life experience*) that they need to function effectively.** This will ensure that people appointed to [trust] ports are more independent, selected in a more open and accountable manner, and are fit for the purpose of providing the port or conservancy with effective strategic direction.

The Role of a Board Member

There is little difference between the duties of a [trust] board member and the member of a private board. Private port boards are accountable to their shareholders, the trusts to their stakeholders. Both have a clear and unambiguous duty to these groups and are accountable to the general public for the way in which they exercise the statutory powers and duties devolved onto them by Parliament. The basic principles of truth, integrity, honesty, loyalty and acting within their powers hold good.

A board member should	A board member should not
act independently and in good faith in the best interests of the trust and all its stakeholders (<i>Commissioners Clauses Act 1847</i>).	represent specific interests when acting as a board member.
have a duty of care to the trust and its current and future stakeholders.	enter into contracts or other arrangements for personal gain with the port (<i>Commissioners Clauses Act 1847</i>)
be honest in their dealings with no hidden agenda and respect the confidentiality of information obtained as a board member and board discussions.	use information obtained as a board member for personal gain, the gain of any third party or misuse it in any other way.
acquire a proper understanding of the business including - delegated authorities, the strategic plan, budget, structure and relationships, financial controls and systems, customers, competition and markets (<i>e.g. rights and responsibilities</i>).	allow membership of any other organisation, club, or society to influence their decisions or actions as a board member.
ensure that all their actions and the operation of the port are undertaken within the statutory framework. They must not knowingly allow the port to breach or fail to discharge legal or fiduciary obligations.	allow the executive to exercise undue control over the port and board, become complacent or stagnate.
read the board papers and ensure that all their decisions are properly informed.	be a passenger.
attend all board meetings unless, exceptionally, excused by the chairman.	cast a vote or attempt to influence or persuade the board on any item in which they have an interest.
be prepared to submit a paper to the board on their views.	attempt to influence the decisions or direct the activities of trust servants without recourse to the board.
send a letter explaining their views on major issues if they cannot attend.	ignore or unreasonably oppose the views of the majority.