

Salcombe Harbour Board – 13 June 2006**FUTURE GOVERNANCE ARRANGEMENTS****Report of Head of Property Services**

Statutory Powers: The Pier and Harbour Order (Salcombe) Confirmation Act 1954

Financial Implications: None.

Purpose

To update the Board on the developments which have taken place since the previous report on Board governance and to set out revised proposals. 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 note the contents of the report.

Background

1. At its meeting of 29 November 2005 the Board agreed to support a set of guiding principles for reviewing Harbour Board governance arrangements for 2006/2007 in line with Department for Transport's (DfT) Guide to Good Governance.
2. Subsequently, at its meeting on 21 March 2006, the Harbour Board supported proposals for the re-constitution of the Board which included those matters as set out below:
 - a. To be made up of nominees of the Council with no automatic reservation of seats for elected District Councillors;
 - b. Having a requirement that election of the Board would be on the basis that the nominee was "fit for purpose" in line with an appointment process and draft job descriptions; and
 - c. That the arrangement included a draft Constitution and Memorandum of Understanding between the Council and the Board.
3. These arrangements were proposed, taking into account the government's Trust Ports Review and draft Municipal Ports Review. In effect, the government has encouraged councils to restructure their Boards in line with Trust Port arrangements.
4. Subsequently, it has become clear that the advice of the government does not extend to a review of the current legal limitations and governance arrangements under which councils are obliged to operate. In that sense the guidance in final draft form is somewhat misleading.

Impact of Changes

5. As a result of this emerging issue, it has become clear that a wholly nominated Harbour Board, without reservation of seats for elected District Councillors, is not possible. The reason for this is that, despite the way in which the Government's "Guide to Good Governance" was interpreted, under the 1972 Local Government Act the Council can only discharge the Harbour function through a committee (i.e. the Harbour Board) that has sufficient councillors to constitute a quorum to which co-opted members can then be added.
6. When parliament passed the 2000 Local Government Act creating Executive arrangements, various provisions in the previous enactments were left in, including that set out above. In due course, parliament may legislate to change this and a codification of the enactments is well overdue. In the meantime, though, we will have to ensure that proposals for re-constitution of the Board reflect the requirements of the legislation. The proposed revisions are summarised below and set out in detail in the draft constitution at **Appendix 1**.

Revised Proposals

7. **Composition of Board** – reporting to the District Council's full Council, the new Harbour Board will comprise of up to ten appointed persons, of which four shall be District Council Members and the remainder shall be co-opted members. One of the District Councillors shall be nominated by Council as Chairman.
8. **Board Membership** - By means of an agreed appointments process, the non Councillor members of the Board will be co-opted. Their appointment will be determined through assessment of each applicant's skills, knowledge, experience and commitment. With regard to the District Council Members on the Board, it also proposed that their nomination shall be based upon a similar assessment of skills, knowledge, experience and commitment. In both cases, the aim is to demonstrate that the Board is fit for purpose, following the DfT's most recent guidance on Harbours.
9. As we are seeking to meet the fit for purpose requirements, it is proposed that the Council be requested to disapply the political balance rules in respect of the four Council nominees. This will require the approval of Council without any votes against but would give more flexibility in terms of the appointment of the nominees.
10. Members of the public co-opted on to the Board will be required to sign up to the Council's Code of Conduct for members. It is foreseeable that persons with an interest in becoming members of the Board may have personal and prejudicial interests which may from time to time affect their ability to remain in a meeting and discuss certain items on the agenda. However, in the way the Board is being established, it may be possible for members with a prejudicial interest to participate, provided either that the interest is comparatively minor, or that the Standards Committee has granted a personal dispensation which covers the case. At this stage, while being mindful of the implications of co-opting Board members, it is not thought that the requirements of the Code will unduly hamper the primary role of the Board in giving advice to the Council and its officers, and monitoring the operation of the Harbour.

11. **Timetable** – In terms of timescale for appointments, it is proposed that the process will be as follows:

13 th June 2006	Harbour Board presented with revised proposals
20 th July 2006	Council decision on new constitution
End July 2006	Adverts placed for Board members
Early September 2006	Applications close
Mid September 2006	Interviews plus proposals for Council nominees
28 September 2006	Council approval of new Board
Early October	First meeting of new Board

A Harbour Board meeting is currently programmed for 24th of October, but it is suggested this be brought forward in order to have an early meeting of the new Board in early October – as set out above.

12. **Harbour Community Fora** – As Members will be aware, a stakeholder event was held during April 2006 and a number of organisations with a link to either the Harbour or wider Estuary activities attended. The aim of the event was to explain the development of the new Harbour governance arrangements and how user/community groups can be involved in influencing Harbour services when new governance arrangements are established.

13. The intention was to formally establish at least one ‘Harbour Community Forum’ linked to the Harbour Board itself within the Board’s Constitution where harbour related issues, proposed projects and other aspects being considered by the independent Harbour Board can be discussed in a relatively informal setting. Board Members will be required to ensure the views at these quarterly Forum meetings are fed back to the next appropriate Harbour Board. Notwithstanding this Board Member responsibility for Harbour Community Forum liaison, community and/or public representation will also be possible outside of this Forum by way of the public question time at each Board meeting.

14. Following the event, there are three not-for-profit community groups that have registered their interest to work with the Council in relation to its future Harbour activities and it is proposed that these are formally recognised as ‘Harbour Community Forums’ and form part of a formal consultation mechanism for the Harbour Board. They are:

- The Salcombe Kingsbridge Estuary Association;
- The Salcombe Kingsbridge Estuary Conservation Forum;
- The Kingsbridge Estuary Boat Club

15. It is anticipated that there will be opportunities for further community groups to be added and recognised as time progresses.

16. **Work of the Harbour Board** – this has not changed and remains, to support and review work within the Strategic Business Plan of the Harbour. The Board should ensure that all works and projects support one of the five core business objectives agreed; the maintenance of safety; improving the customer experience; environmental stewardship; encouraging community and user engagement; and support for local prosperity. Within this context some of the key elements of work that the Board will need to own include:-

- a. Consideration of views from stakeholders and users from the established 'Community Forums'.
 - b. Harbour Service Planning.
 - c. Performance and financial monitoring.
 - d. Review, update and recommending Harbour policies.
 - e. Reviewing and recommending fees and charges.
13. With regard to the arrangements for the Harbour Board meetings it is proposed that:
- a. The Board shall meet at least 6 times a year.
 - b. The quorum for meetings of the Board shall be 4 including the Chairman or Vice Chairman or any 4 Board Members in circumstances considered to be exceptional by any 2 officers.
 - c. Members of the public may attend all meetings subject only to the exceptions in these rules whereby confidential or exempt information is to be disclosed;
 - d. Meetings will commence late afternoon to allow for public involvement.
 - e. Meetings are to be structured to enable a 15 minute public question time at the commencement of the meeting.
14. **Governance** – the previously presented Constitution has been reviewed to reflect the legislative requirements set out earlier in this report. The revised draft is set out at **Appendix 1**. In addition, there have been some revisions to the draft Memorandum of Understanding and this is set out at **Appendix 2**.

Next Steps

15. Subject to Board Members' comments on the content of this report, it is proposed to take the revised constitution and Memorandum of Understanding to Full Council on 20 July 2006 for ratification. Thereafter, a recruitment process will be followed culminating in recommendations to Full Council on 28 September 2006 for the new Board.

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 for municipal harbours.
The Council adopts a structure which is not compliant with the requirements of legislation	Legal advice confirms that the current proposals meet the requirements of legislation
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

16. A newly constituted Harbour Board as set out in this Report will ensure the Harbour's future Strategic Business Plan Objectives are deliverable and that Salcombe remains an exemplar municipal harbour following the DfT's latest governance guidance.
17. The work of the Harbour will also directly contribute to the overall Corporate Priorities of South Hams District Council and continue to meet the local needs of residents and users in and around the estuary.

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Head of Property Services

Salcombe Harbour Board
13 June 2006

Background Documents:

Trust Port Review
Draft Municipal Port Review