

Salcombe Harbour Board - 29 November 2005**FUTURE GOVERNANCE ARRANGEMENTS****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 agree a way forward for the future governance and management of Salcombe Harbour in light of the Department for Transport's impending Report on the way forward for local authority owned ports and harbours. 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) **comment accordingly and support the guiding principles for reviewing Board governance as contained in paragraph 12;**
- (b) **instruct the Strategic Director (Operations) to formally review Salcombe Harbour's Board governance and management arrangements in line with the DfT's Guide to Good Governance Report; and**
- (c) **RECOMMEND to Council the implementation the new agreed Board governance arrangements for 2006/07.**

Background

1. At its meeting of 4 October 2005 the Board received a report summarising the findings of a recent study tour to the Canterbury City Council owned Whitstable Harbour and resolved to support the contents of the report by considering the issues it raised to do with management and governance arrangements (minute SH.06/05). Consequently a workshop was held on 8 November when Members explored a way forward in the context of Salcombe Harbour.
2. As a result of that discussion this report sets out a way forward for Salcombe Harbour to enable improved governance arrangements to be put in place in line with best practice and the aspirations of the forthcoming report on Municipal Ports.

3. To compliment this work the Board has also agreed to develop a long term Strategic Business Plan for Salcombe Harbour (minute SH.43/04 and SH.07/05). As part of this Strategic Business Plan the following updated vision and five new core business objectives were agreed for the future management and operation of the Harbour:-

Vision: *To provide the highest standard of management and customer service for users and to benefit the local community to ensure that Salcombe Harbour remains financially viable and is one of the premier recreational harbours in the country.*

Business Objectives

- 1. MAINTAIN SAFETY** – to promote and maintain a safe haven for all vessels and users through safe management systems which comply with Port Marine Safety Code. Facilitation of good working practices for all through a multi-agency approach to deliver a high profile presence in and around the Harbour and Estuary.
- 2. CUSTOMER EXPERIENCE** – to improve the customer experience for Harbour users by ensuring their needs are known and met through improved on-shore and water-based facilities, well trained staff and clear communication of information to all.
- 3. ENVIRONMENTAL STEWARDSHIP** – to protect and conserve the environment through good environmental stewardship and active involvement in the Salcombe-Kingsbridge Estuary Environmental Management Plan.
- 4. COMMUNITY AND USER ENGAGEMENT** – to work closely with users of the Harbour and Estuary as well as the wider community, local businesses and other interested parties to promote the Harbour and ensure it is best equipped to respond to customer need and protection of the environment.
- 5. LOCAL PROSPERITY** – to encourage local prosperity by supporting sustainable tourism and as far as is practicable and other niche markets such as traditional marine and fishing industries to improve the prospects for all year round employment.

Current Governance

4. As part of the district council Salcombe Harbour is governed by a Board of 18 Members made up of 10 district councillors and 8 co-opted members representing user and community groups:-

District Council Representatives

Riparian Wards	at least 5
Inland areas	maximum of 5
(of which one district councillor is appointed as Chairman)	

Co-opted Representatives

Salcombe Town Council	2
Kingsbridge Town Council	1
East Portlemouth Parish Council	1
Salcombe and Kingsbridge Estuary Association	1
Royal Yachting Association	1
South Devon & Channel Shell-fishermen's Association	1
English Nature	1

5. The Board meets seven times a year including an annual inspection of the Harbour itself. Salcombe Harbour Board reports directly to Council and is able to make recommendations to Council to enable decision making to take place.
6. The current stated functions of the Board are *"to improve, maintain and manage the whole of the Salcombe-Kingsbridge Estuary for the benefit of users who include commercial fishermen, local residents and many visitors"* and *"to balance the commercial outlook by conserving and protecting the estuarial environment"*. Whilst these overarching aims are still valid, the newly agreed Vision and Business Objectives set out in paragraph 3 should now enable the Board to deliver these functions more effectively.
7. As a self-financing ring-fenced trading budget within the district council Salcombe Harbour has an annual turnover of approximately £700,000. The Board ensures it sets its fees and charges at a level that not only remains affordable for users but also covers Harbour expenditure. In doing so and with prudent management Salcombe Harbour has been able to generate a small surplus which contributes to a reserve fund for capital replacement of assets (totalling £275,000 as at 31st March 2005) and maintains a healthy trading position.

Why Change

8. Members are aware of the Department for Transport's (DfT) Municipal Ports Review has been underway for some time. This review is now coming to an end and it is becoming clear that the DfT's document *'Modernising Trust Ports: a Guide to Good Governance'* is likely to set the future framework of standards for the future management and board governance 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.
9. In essence although there is no suggestion that municipally operated ports and harbours will be removed from local authority control there is a strong indication that local authority operated harbours will be required to demonstrate effective decision-making, accountability, transparency, expertise, and stakeholder involvement. These and other elements of good open governance can be delivered through a sound long term Business Plan with clear objectives and measurable performance targets and improved board governance arrangements that accord with DfT guidance.
10. In addition to the Government's agenda for modernising local authority municipal board governance, the management and operation of the Harbour now require greater direct, open and transparent governance arrangements to assist the Harbour Master and his team shape future business need and respond to ever higher customer expectation. The present board constitution has been in place since 1998 and therefore, a review of board governance would now be beneficial for all these reasons.

Future Governance of Salcombe Harbour

11. Whatever arrangements are agreed for the future governance of Salcombe Harbour, the DfT's benchmark for excellence in the running of municipal ports and harbours is likely to mirror those of the trust port sector. Regardless of size of harbour, turnover or type the core principles of openness, accountability and fitness for purpose will need to form a common thread in the future direction and management of Salcombe Harbour Board and the Harbour Team.
12. Consequently a proposed set of guiding principles for reviewing the governance and management arrangements of Salcombe Harbour are set out below. These accord with the DfT's Guide to Good Governance.
 - 12.1 The Board should be an independent board with ring fenced assured accounts with direct accountability to the Council and its stakeholders.
 - 12.2 The harbour board should be independent and fit for purpose rather than representative of particular interests. Whether gained through professional or life experience board members should possess the relevant skills to provide the harbour with effective strategic direction.
 - 12.3 The basic principles of accountability and openness should be clearly set out to provide a framework for dealing with all sectors of the harbour community. The harbour should continue to be run for the benefit of all stakeholders and hence, any surpluses should continue to be ploughed back into operation of the harbour.
 - 12.4 Stakeholder fora should be established and formally written into the constitution of the new harbour board. Stakeholders may form two distinct types:-

Beneficiary Stakeholders – those entitled to benefit from the use of the harbour's facilities. These would include users of the harbour who pay a commercial rate (e.g. harbour dues and mooring charges) and others who derive direct benefit from the harbour (e.g. employees and those with a direct commercial interest in the harbour's operation).

Non Beneficiary Stakeholders – with a range of indirect interests in the harbour, its accountability and effective operation (e.g. Parish and Town Councils, the community at large, other key partners, sponsors and specific interest groups covering environmental, conservation and transport matters amongst others).
 - 12.5 It should be the duty of the board, at all times, to strike a balance that fully respects the interests of all stakeholders, not just one group, in the pursuit of the harbour's business objectives. The board should be responsible for what constitutes the "common good" for all stakeholders (current and future) as well as the harbour itself. It will be essential that the needs and views of the non beneficiary stakeholders are not overlooked or discounted.
 - 12.6 The harbour board should contain an appropriate balance of skills, competencies and experience to control the harbour effectively and provide it with leadership, motivation and strategic direction. The board could consist of a mix of professional and personal entrepreneurial skilled individuals who have an understanding of public service commitment.

- 12.7 Experience and independence are of equal importance on the board. However common requirements are likely to include; personal skills/competencies, professional skills, drive, vision, independence, confidence. Relevant and current commercial expertise &/or current maritime expertise may also be beneficial as well as individuals with a challenging and proactive approach to board business. Job descriptions and person specifications should be drawn-up for each board position which define technical competence and experiential requirements in line with the DfT's 'Guide to Good Governance' (An extract of which is included in Appendix 1).
- 12.8 In line with best commercial practice the harbour board should comprise no more than 8 - 12 board members ideally. Independent board membership removes the need for a large board structure. The harbour board could seek instead to achieve an effective balance of skills to meet the operational and strategic needs of the harbour which will need to be defined as part of this review.
- 12.9 Senior officers of the harbour and support staff are also critical to the effective performance of the harbour and it is therefore essential that they too are fit for purpose in the same manner as the board. The Board and Harbour team should be structured in order to deliver a number of functions:
- Support and guidance to Council and the Executive
 - Setting and monitoring of deliverables
 - Setting and monitoring of budgets
 - Transparency and accountability
 - Consultation and channelling of input.
- 12.10 Above all, stakeholder interaction will be vital and therefore the formal establishment of forums for public debate for users and other stakeholders is crucial.
- 12.11 The future core purpose of Salcombe Harbour Board could therefore be:
- To provide strategic direction expressed through a rolling strategic Business Plan.
 - To provide oversight and monitoring of the efficient delivery of the plan in the form of running the harbour day to day.
 - Ensure safe and environmentally sound operation of the harbour.

Next Steps

13. Subject to members' comments and support for new governance arrangements, it is hoped to progress work to review the constitution of the Harbour Board, including the Board structure, technical/business skill requirements and appointments process as soon as practicably possible. At the same time the management structure of the Harbour team will also be reviewed to ensure it too is fit for purpose and is able to deliver effectively the new Business Plan.
14. It is hoped that this work can be completed, agreed and implemented as part of the Council's appointments process at the start of the next council year 2006/07.

15. With a newly constituted Board at its helm, Salcombe Harbour's Business Plan objectives will enable the Harbour to directly contribute to the overall corporate priorities of the district council and continue to meet 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

16. Protecting and maintaining Salcombe Harbour and the Estuary itself for the benefit of users, residents, local businesses and the community is of utmost importance to the Council and local people. The Harbour Board is requested to give due consideration to the information contained in this report and support the development of future governance arrangements for implementation in 2006/07.

Paula Brooks
Strategic Director (Operations)

Salcombe Harbour Board
 29 November 2005

Background Documents:

Trust Ports: 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.