

Public Agenda Pack



Notice of Meeting of

HARBOUR MANAGEMENT ADVISORY COMMITTEE

Monday, 18 March 2024 at 11.30 am

**John Meikle Room, The Deane House, Belvedere
Road, Taunton TA1 1HE**

To: The members of the Harbour Management Advisory Committee

Chair:

Vice-chair:

For further information about the meeting, including how to join the meeting virtually, please contact .

All members of the public are welcome to attend our meetings and ask questions or make a statement **by giving advance notice** in writing or by e-mail to the Monitoring Officer at email: democraticserviceteam@somerset.gov.uk by **5pm on Tuesday, 12 March 2024**.

This meeting will be open to the public and press, subject to the passing of any resolution under the Local Government Act 1972, Schedule 12A: Access to Information.

The meeting will be webcast and an audio recording made.

Issued by (the Proper Officer) on Friday, 8 March 2024

AGENDA

Harbour Management Advisory Committee - 11.30 am Monday, 18 March 2024

Public Guidance Notes contained in Agenda Annexe 5 - 6

Click here to join the online meeting 7 - 8

1 Appointment of Chair

To appoint a Chair from the elected members of the committee.

2 Appointment of Vice Chair

To appoint a Vice-Chair from the elected members of the committee.

3 Apologies for Absence

To receive any apologies for absence.

4 Declarations of Interest

To receive and note any declarations of interests in respect of any matters included on the agenda for consideration at this meeting.

(The other registrable interests of Councillors of Somerset Council, arising from membership of City, Town or Parish Councils and other Local Authorities will automatically be recorded in the minutes: [City, Town & Parish Twin Hatters - Somerset Councillors 2023](#))

5 Public Question Time

The Chair to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public who have submitted any questions or statements, please note, a three minute time limit applies to each speaker and you will be asked to speak before Councillors debate the issue.

We are now live webcasting most of our committee meetings and you are welcome to view and listen to the discussion. The link to each webcast will be available on the meeting webpage, please see details under 'click here to join online meeting'.

6 Terms of Reference/Draft Memorandum of Understanding and update on Co-opted Member recruitment (Pages 9 - 34)

To note the Terms of Reference/draft Memorandum of Understanding and receive a verbal update regarding Co-Opted Member recruitment.

7 Stakeholder Forum Engagement update

To receive a verbal update from the Deputy Harbour Master.

8 Port Feasibility Study

To receive a verbal update from Deputy Harbour Master.

9 Business Strategy update

To receive a verbal update from Deputy Harbour Master.

10 Work Programme

To discuss items to be added to the work programme.

This page is intentionally left blank

Guidance notes for the meeting

Council Public Meetings

The legislation that governs Council meetings requires that committee meetings are held face-to-face. The requirement is for members of the committee and key supporting officers (report authors and statutory officers) to attend in person, along with some provision for any public speakers. Provision will be made wherever possible for those who do not need to attend in person including the public and press who wish to view the meeting to be able to do so virtually.

Inspection of Papers

Any person wishing to inspect minutes, reports, or the background papers for any item on the agenda should contact Democratic Services at democraticserviceteam@somerset.gov.uk or telephone 01823 357628.

They can also be accessed via the council's website on [Committee structure - Modern Council \(somerset.gov.uk\)](#)

Members' Code of Conduct requirements

When considering the declaration of interests and their actions as a councillor, Members are reminded of the requirements of the Members' Code of Conduct and the underpinning Principles of Public Life: Honesty; Integrity; Selflessness; Objectivity; Accountability; Openness; Leadership. The Code of Conduct can be viewed at: [Code of Conduct](#)

Minutes of the Meeting

Details of the issues discussed, and recommendations made at the meeting will be set out in the minutes, which the Committee will be asked to approve as a correct record at its next meeting.

Public Question Time

If you wish to speak or ask a question about any matter on the Committee's agenda please contact Democratic Services by 5pm providing 3 clear working days before the meeting. (for example, for a meeting being held on a Wednesday, the deadline will be 5pm on the Thursday prior to the meeting) Email democraticserviceteam@somerset.gov.uk or telephone 01823 357628.

Members of public wishing to speak or ask a question will need to attend in person or if unable can submit their question or statement in writing for an officer to read out, or alternatively can attend the meeting online.

A 20-minute time slot for Public Question Time is set aside near the beginning of the meeting, after the minutes of the previous meeting have been agreed. Each speaker will have 3 minutes to address the committee.

You must direct your questions and comments through the Chair. You may not take a direct part in the debate. The Chair will decide when public participation is to finish. If an item on the agenda is contentious, with many people wishing to attend the meeting, a representative should be nominated to present the views of a group.

Meeting Etiquette for participants

Only speak when invited to do so by the Chair.

Mute your microphone when you are not talking.

Switch off video if you are not speaking.

Speak clearly (if you are not using video then please state your name)

If you're referring to a specific page, mention the page number.

There is a facility in Microsoft Teams under the ellipsis button called turn on live captions which provides subtitles on the screen.

Exclusion of Press & Public

If when considering an item on the agenda, the Committee may consider it appropriate to pass a resolution under Section 100A (4) Schedule 12A of the Local Government Act 1972 that the press and public be excluded from the meeting on the basis that if they were present during the business to be transacted there would be a likelihood of disclosure of exempt information, as defined under the terms of the Act.

If there are members of the public and press listening to the open part of the meeting, then the Democratic Services Officer will, at the appropriate time, ask participants to leave the meeting when any exempt or confidential information is about to be discussed.

Recording of meetings

The Council supports the principles of openness and transparency. It allows filming, recording, and taking photographs at its meetings that are open to the public - providing this is done in a non-disruptive manner. Members of the public may use Facebook and Twitter or other forms of social media to report on proceedings. No filming or recording may take place when the press and public are excluded for that part of the meeting.

Microsoft Teams [Need help?](#)

[Join the meeting now](#)

Meeting ID: 392 558 189 753

Passcode: mZbH3X

Dial-in by phone

[+44 1823 772277,,15338160#](#) United Kingdom, Taunton

[Find a local number](#)

Phone conference ID: 153 381 60#

For organizers: [Meeting options](#) | [Reset dial-in PIN](#)



This page is intentionally left blank

Membership and meeting arrangements

1. The Harbours Management Advisory Committee shall be primarily responsible for advising the Executive in exercising the Council's functions as a harbour authority as defined in the Harbours Act 1964 and any other functions arising under any local Act and/or byelaw in respect of the operational issues in relation to harbour land of any harbours within the area of the Council not dealt with through any other mechanism.
2. The Harbours Management Advisory Committee shall have the power to advise the Executive in determining income and expenditure matters relating to the harbours for which it is responsible.
3. The Committee will be made up of 6 members drawn from the Council and four non-elected members will be co-opted onto the Committee following an appointment process to assess the skills and expertise they can bring to the Committee.
4. The co-opted members will be recommended to Council for appointment and their appointment is subject to ratification by Council. Co-opted members will serve the Committee in accordance with the following arrangements:
Co-opted Membership for the first term of the Committee shall be as follows:
 - 1 Co-opted Member will sit for only 1 year
 - 2 Co-opted Members will sit for only 2 years
 - 1 Co-opted Member will sit for a full term of 3 years
5. Co-opted Members who sit for only one or two years in the first term may be appointed for one or two subsequent three-year terms without further competition being required.
6. A Co-opted Member may be appointed to a second three-year term without recourse to open competition, subject to the agreement of both the Chair and the Co-opted Member, and the Committee's assessment that the Member has performed satisfactorily during the first term (all Membership of the Committee is subject to ratification by the Council).
7. The quorum will be 5 members save that at no time shall there be less than 4 Council Members present at the meeting.

8. The Chair and Vice Chair will be Council Members.

9. The Committee shall meet at least 4 times a year and be governed by the Council Procedure Rules.

10. All members of the Committee shall abide by the Council's Code of Conduct.

11. The Committee will report annually to the Executive.

Functions

1. Any function of the Council as Harbour or Port Authority is an Executive Responsibility

2. The Committee shall be primarily responsible for advising the Executive in exercising the functions of the Council as Harbour or Port Authority in accordance with the provisions of the Harbours Act 1964 and the Harbour Docks and Piers Clauses Act 1847 (as incorporated), as amended from time to time (the 'Harbour Legislation').

3. The Committee shall not incur any expenditure, enter into any obligations or take any other action except:

(i) within the budget determined by the Council in accordance with the following provisions; and

(ii) as set out in the harbour business plan approved by the Executive in accordance with the following provisions (the 'Harbour Business Plan')

4. The Committee is an advisory committee and makes recommendations to the Executive where there are any decisions required regarding the management, acquisition and disposal of assets in accordance with the Council's acquisitions and disposals policies, financial procedure rules and contracts procedures rules.

5. When making recommendations to the Executive, the Committee shall ensure its recommendations:

(i) accord with the provisions of the Harbour Legislation and Council's plans, policies and strategies and in particular the Harbour Business Plan; and

(ii) Have been developed following 21 days' prior notice given to the Council's Chief Finance Officer.

6. The Committee will review and then recommend an annual budget, (including rental charges and central re-charges to the Council) and an annual schedule of charges and dues for the Harbours and these will be determined by the Executive.

7. The Committee will monitor performance against approved budgets and take appropriate action where this is required.

8. The Committee will make an annual report to the Executive reporting on performance against budget.

9. The Committee will publish a Harbour Business Plan and any other plan required from time-to-time following approval from the Executive.

10. The Harbour Business Plan and other plans should promote the Harbours to be financially self-sustainable in the long term, reducing the risk of the need to call upon the Council's General Fund.

This page is intentionally left blank

PAPER D

Appendix 2

DATED: _____

MEMORANDUM OF UNDERSTANDING

DRAFT

between
Somerset Council (Executive)

and the

Harbour Management Advisory Committee

in respect of the statutory harbour undertakings at
the Port of Bridgwater, Bridgwater Docks, Minehead Harbour and Watchet Harbour

CONTENTS

1. DEFINITIONS AND ABBREVIATIONS	4
2. PURPOSES OF THE MOU	6
3. THE PORTS GOOD GOVERNANCE GUIDANCE	6
4. GENERAL COMMITMENTS OF THE EXECUTIVE AND HMAC	7
5. AGREEMENTS OF THE EXECUTIVE AND HMAC	7
6. AGREEMENT OF THE EXECUTIVE	8
7. AGREEMENT OF THE HMAC	9
8. GENERAL	10
9. TERM OF MOU	10
10. DATA PROTECTION AND INFORMATION	11
APPENDIX A: PORTS GOOD GOVERNANCE GUIDANCE	12
APPENDIX B: ACTION PLAN	13
APPENDIX C: ASSET REGISTER	14
APPENDIX D: HMAC GUIDANCE NOTES	15
APPENDIX E: ORGANISATIONAL STRUCTURE	20
APPENDIX F: LOCAL HARBOUR LEGISLATION	21

DRAFT

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made on the [] day of [] 2023 between:

- (1) **The Executive** of Somerset Council whose principal place of business is [insert], hereinafter referred to as '**the Executive**',

and

- (2) **The Harbour Management Advisory Committee**, as an advisory committee of Somerset Council, whose principal place of business is [insert], hereinafter referred to as the '**HMAC**',

who are jointly referred to in this Memorandum of Understanding as '**the Parties**' and each a '**Party**'.

WHEREAS:

- (1) On 01 April 2023, the Somerset (Structural Changes) Order 2022 (S.I. 2022/329):

- (a) wound up and dissolved the local government areas of Somerset, including the Sedgemoor District Council and the Somerset West and Taunton Council areas; and
- (b) transferred the statutory harbour undertakings of Sedgemoor District Council and Somerset West and Taunton Council to the Somerset Council (**'the Council'**) as the unitary and principal authority for Somerset,

and thereafter the Council became the statutory harbour authority for the Port of Bridgwater, Bridgwater Docks, Minehead Harbour and Watchet Harbour.

AND WHEREAS:

- (2) The Council operates a Leader and Executive model of governance arrangements and has agreed that the Executive should exercise the Council's Harbour Functions as statutory harbour authority insofar as such functions were not already Executive Functions within the meaning of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- (3) The HMAC is a committee of the Council and is advisory in nature; the HMAC has been established to assist with improvement of the governance of the harbour undertakings having regard to the recommendations for governance changes made in the PGGG.

AND WHEREAS:

- (4) The Parties wish to set out their commitment to implementing the recommendations of the PGGG relevant to the establishment of the HMAC, including form and composition.

1. DEFINITIONS AND ABBREVIATIONS

For the purposes of this MOU, the following definitions and abbreviations shall apply:

“**the 1964 Act**” means the Harbours Act 1964;

“**the Assets**” means the property, equipment and all other matters set out in the Asset Register in **Appendix C** to this MOU;

“**Co-opted Member**” means an HMAc member co-opted by Council-elected Members for the purposes of Clause X of this MOU;

“**the Constitution**” means the constitution of the Council as amended from time to time;

“**the Council**” means Somerset Council;

“**Council-elected Member**” means an HMAc Member elected by members of the Council;

“**Council Member**” means a member of the Council;

“**DfT**” means the Department for Transport;

“**Directions and Byelaws**” means the special directions, general directions, and byelaws which the Council is authorised to make or has made (from time to time in force) under the local harbour legislation;

“**the Executive**” means the Executive of the Council;

“**Harbours Business Plan**” means the Harbours Business Plan for the relevant period in relation to the harbour undertakings as approved by the Executive;

“**harbour charges and dues**” means the charges, dues, rates, tolls and other moneys and receipts which may be taken and received by way of income from or in respect of the harbour undertakings under the authority of local harbour legislation, the 1964 Act, or the Harbours, Docks and Piers Clauses Act 1847;

“**Harbour Function**” means the functions described in Part A of **Appendix D** to this MOU;

“**harbour revenue**” shall include the charges, dues, rates, tolls and other moneys and receipts which may be taken and received by way of income from or in respect of the harbour undertakings under the authority of local harbour legislation, the 1964 Act, or the Harbours, Docks and Piers Clauses Act 1847;

“**harbour undertakings**” means the statutory harbour undertakings of the Council authorised by the local harbour legislation, each of which may be referred to in this MOU as a ‘**harbour undertaking**’;

“**the HMAc**” means the harbour management committee established by the Council in relation to the harbour undertakings;

“**HMAc Member**” means any member of the HMAc, including both Council-elected Members and Co-opted Members;

“local harbour legislation” means the Port of Bridgwater Acts and Orders, the Bridgwater Docks Acts and Orders, the Minehead Harbour Acts and Orders, and the Watchet Harbour Acts and Orders described in **Appendix F** of this MOU;

“MOU” means Memorandum of Understanding;

“the Parties” shall mean the Executive and the HMA, each of which may be referred to in this MOU as a **‘Party’**;

“the PGGG” means the Department for Transport’s Ports Good Governance Guidance, March 2018, and any variations of that document as may from time to time be published; and

“PMSC” means the Port Marine Safety Code.

DRAFT

2. PURPOSES OF THE MOU

- (1) Subject to the requirement of the Constitution, the purpose of this MOU is to:
 - (a) provide a clear framework for the decision making, accountability, and financial management of the harbour undertakings to enable the HMAc (in exercising its advisory role to the Executive) to assist the Executive in addressing the needs of the harbour undertakings as businesses and as environmental and community assets, taking full account of the commercial realities of municipal port / harbour operations; and
 - (b) assist in clarifying the role of the HMAc to carry out its functions as an advisory body to the Executive in respect of the harbour undertakings under its Terms of Reference
- (2) The statutory role and functions of the Parties are not affected by the requirements of this MOU.
- (3) This MOU is a statement of understanding between the Parties; it is not, and is not intended to be, legally binding on either Party. The detailed working arrangements may change overtime by the agreement of the Executive.
- (4) This MOU provides that the harbour undertakings will be governed in accordance with the best practice guidance provided by the PGGG.

3. THE PORTS GOOD GOVERNANCE GUIDANCE

- (1) The PGGG was published by the DfT in March 2018 following extensive consultation with the port and harbour industry. It sets out a number of recommendations for the accountability, governance, and finance of statutory harbour authorities and Part C of the PGGG relates specifically to ports and harbours within the Municipal Sector.
- (2) The PGGG is based on a number of other documents, particularly the UK Corporate Governance Code (UKCGC). It replaces that in previous documents such as Modernising Trust Ports (MTP) published by the then DETR in 2000, its second edition Modernising Trust Ports (MTP2) published by DfT in 2009, and Opportunities for Ports in Local Authority Ownership published by DfT in 2006. The PGGG also reflects the recommendations of the DfT's Trust Port Study published in May 2016.
- (3) The PGGG does not have force of law and is not legally binding. It does not replace any legal duties or obligations that statutory harbour authorities might have in their own legislation or general acts of Parliament, such as the Harbours Act 1964 or the Companies Act 2006. Where such legal duties conflict with the PGGG, the legal duties take precedence.
- (4) Whilst the guidance is advisory, the DfT expects all statutory harbour authorities to carefully consider it and to implement its principles if these are not already in place (where practical and appropriate to the circumstances of the statutory harbour authority).

- (5) It has been agreed by the Executive that this MOU is drawn up to address the recommendations contained in the PGGG. An extract from the PGGG related to the establishment of harbour management committees is set out at **Appendix A** to this MOU.
- (6) This MOU is prepared on the basis of the findings of the PGGG. However, it is recognised by the Parties that the PGGG deals with short, medium and long-term issues. It is fully appreciated that circumstances may change and for this reason a review and monitoring mechanism is essential to underpin this process.
- (7) On this basis, it is intended that a report will be put to the HMAC annually to allow the HMAC to review and monitor this MOU and recommend to the Executive any changes to it as are required by amendments to the PGGG or developments in respect of the PGGG.

4. GENERAL COMMITMENTS OF THE EXECUTIVE AND HMAC

- (1) This MOU records that the Executive and HMAC have considered the guidance of the PGGG and records the commitment of the Executive and the HMAC to implement the recommendations contained therein.
- (2) This MOU further records that Executive and HMAC shall take all reasonable steps to work together constructively to mutually facilitate the implementation of the recommendations contained in the PGGG.

5. AGREEMENTS OF THE EXECUTIVE AND HMAC

The Executive and HMAC agree that:

Reporting lines and decision making

- (1) The reporting lines relevant to an advisory committee of the Council advising the Executive pursuant to the provisions of section 102(4) of the Local Government Act 1972 and having regard to the recommendations of the PGGG will be maintained to assist the HMAC to carry out its role under its Terms of Reference.
- (2) The HMAC will be required to exercise an advisory role to the Executive in respect of the harbour undertakings.
- (3) The Executive will exercise the functions of the Council and make decisions in respect of the harbour undertakings under and in accordance with the 1964 Act, the Harbour Docks Piers and Clauses Act 1847 (as incorporated), and the local harbour legislation.
- (4) **Appendix E** to this MOU sets out the organisational structure that is to be put into place defining the reporting lines between the Parties.

Accounts

- (5) It is the intention of the Parties that the Council will keep separate accounts for the harbour undertakings with capital distinguished from revenue in accordance

[insert local provisions as to accounts] and for the Harbour Revenue to be applied in accordance with [insert local provisions as to application].

- (6) The Accounts are to include any monies in any reserve fund established under article [insert reserve fund provisions].
- (7) Companies Act accounts are to be established and maintained for ease of understanding for the HMAc, and to fulfil statutory obligations under the Harbours Act 1964.

6. AGREEMENT OF THE EXECUTIVE

The Executive agrees that:

- (1) The Assets (including land, buildings, infrastructure, plant and machinery) of the Council that are utilised for the running of the harbour undertakings as listed in **Appendix C** to this MOU form part of the harbour undertakings and that the HMAc may advise the Executive in relation to them in accordance with its Terms of Reference, the Harbour Business Plan, the Council's plans and policies and the provisions of this MOU.
- (2) An annual budget including all port or harbour rental charges and central re-charges will be recommended by the HMAc and will then be reviewed and determined by the Executive annually.
- (3) The annual harbour charges and dues for the harbour undertakings will be recommended by the HMAc at the same time as the annual budget and will be reviewed and determined by the Executive annually.
- (4) The HMAc shall not be permitted to obtain specialist services from external sources but can recommend to the Executive that they should take such action.
- (5) The Executive will ensure that its aims and objectives regarding the advice and recommendations it seeks to receive in relation to its management of the harbour undertakings are agreed and clearly set out between the Parties in policies and plans.
- (6) The Council's policies and plans for the harbour undertakings are stated by the Executive to be:
 - (c) [the Environmental Policy]; and
 - (d) [the Harbours Business Plan].
- (7) It is the intention of the Parties that these policies and plans will support the harbour undertakings as a financially self-sustainable bodies without the need to call upon the Council's general fund.
- (8) The Executive will consider for approval updated policies and plans proposed by the HMAc from time to time, and utilise the skills and experience of the HMAc to its best advantage.

- (9) Borrowing facilities may be recommended to the Executive by the HMAc to fund revenue generating projects in the harbour undertakings if the HMAc can demonstrate that such borrowing facilities are consistent with the Council's policies and plans and the local harbour legislation.
- (10) The Executive will make payments to HMAc Members in accordance with the Council's [Members' Allowances Scheme] set out in [Chapter X of the Constitution].

7. AGREEMENT OF THE HMAc

The HMAc agrees that:

- (1) The HMAc is a committee of the Council constituted by virtue of section 102(4) of the Local Government Act 1972 and is therefore an advisory body and can only make recommendations to the Executive in respect of the management of the harbour undertakings.
- (2) In accordance with the PMSC, the Executive as duty holder cannot delegate its accountability for compliance with the PMSC to the HMAc.
- (3) In advising and making recommendations to the Executive, the HMAc will ensure to address the needs of the harbour undertakings as businesses and as environmental and community assets, which takes full account of the commercial realities of port and harbour operations.
- (4) The HMAc shall make recommendations to the Executive regarding the management, acquisition and disposal of Assets.
- (5) Recommendations made to the Executive in respect of the management, acquisition and disposal of assets must be made in accordance with the Council's acquisitions and disposals policy, financial procedure rules and contracts procedures rules.
- (6) The HMAc shall not make recommendations to the Executive on the disposal or acquisition of property assets unless the recommendation(s) accords with the provisions of the local harbour legislation and the Council's plans, policies and strategies and, in particular, the Harbours Business Plan.
- (7) The HMAc will review and then recommend an annual budget, (including rental charges and central re-charges) to the Executive, annual harbour charges and dues for the harbour undertakings, and these will be determined by the Executive.
- (8) The HMAc will monitor performance against approved budgets and recommend appropriate action to the Executive where this is required.
- (9) The HMAc will make a six monthly and annual report to the Executive reporting on performance against budget.

- (10) The HMAc will produce a Harbours Business Plan and any other plan required from time to time and recommend its contents to the Executive for publishing. The Harbours Business Plan will relate to all of the harbour undertakings, although each may be considered individually within the Harbours Business Plan.
- (11) The Harbours Business Plan and other plans should promote the harbour undertakings to be a financially self-sustainable bodies in the long term.
- (12) The HMAc will discharge its role in accordance with its Terms of Reference, the HMAc Guidance Notes contained in **Appendix D** to this MOU, this MOU and with consideration of other relevant policies and plans such as the PMSC, the PGGG, Health and Safety at Work legislation, Directions and Byelaws, and any other appropriate policies, plans and legislation.
- (13) The HMAc will provide an annual report to the Executive on how it is advising and making recommendations in relation to the harbour undertakings in a manner that is consistent with relevant policies plans and legislation.
- (14) Borrowing facilities may be recommended by the HMAc and considered by the Executive to fund revenue generating projects in the harbour undertakings where the HMAc can demonstrate that such borrowing facilities are consistent with the terms of the local harbour legislation and the Council's policies and plans including the sustainability of the Council's budget.
- (15) The HMAc will take all reasonable steps to engage appropriately with the stakeholder community. It will maintain formal links with stakeholder forum(s) as appropriate.

8. GENERAL

- (1) This MOU neither expands nor is in derogation of those powers and authorities vested in the participating Parties by applicable law.
- (2) The HMAc is neither the Designated Person nor the Duty Holder for the purposes of the PMSC.
- (3) The Duty Holder for the purposes of the PMSC is the Executive.

9. TERM OF MOU

- (1) This MOU in this form or such amended form as agreed between the Parties shall remain effective for as long as the present governance arrangements are in place.
- (2) The Parties shall review this MOU at periods of 12 months, or such earlier period as appropriate should the need arise. The Executive may agree to amend this MOU if circumstances dictate.
- (3) The MOU may be terminated by resolution of the Executive.

10. DATA PROTECTION AND INFORMATION

The Parties agree to comply with the Data Protection Act 2018, the General Data Protection Regulations, the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and other statutory information regimes.

Signed for and on behalf of the Executive of Somerset Council Signed on behalf of the HMAC

.....
Cllr [Signee name]
Leader of the Council

.....
[Signee name]
Chair of the HMAC

DRAFT

APPENDIX A: PORTS GOOD GOVERNANCE GUIDANCE

Extract from the PGGG relating to Harbour Management Committees:

Harbour Management Committees

4.6 Some LAs have established Harbour Management Committees (HMACs) as a means of governing their harbours. These have some of the features of a trust port board or board of a private SHA and are a good example of how corporate governance best practice principles can be applied in the context of local authority harbours.

4.7 The establishment of a HMAC (which would be constituted as a committee within the current LA system) can bring openness and additional accountability to port decisions, along with more expertise and experience (as a skills audit will be carried out prior to board members being decided upon).

4.8 LAs may wish to consider formally establishing HMACs by legislative routes. The BPA has produced guidance for LAs that have or are planning to put in place HMACs. Key points are set out in the box below.

Key points are set out in the box below.

Harbour Management Committees

The formation and membership of the committee is critical. It should be strategic and aware of the commercial and legal framework within which ports operate. Based on particular experiences the Committee should ideally comprise:

- approximately 50% LA elected members of a constituent authority. These do not all have to be LA councillors, but can be co-opted representatives who are appointed by the LA or provide specific skills in support of port management;
- the port chief executive/harbour master should have access to the HMC in an advisory role, but as an officer of the Council they cannot serve on the committee or have voting rights;
- external appointees who are stakeholder representatives or individuals with valuable skills and experiences;
- a Chair appointed on merit, skills and suitability;
- external members should be appointed by public advertisement using the guidance applicable to public appointments, in line with the advice given above.

The HMC Chair should ideally be an elected representative of the LA as this will automatically maintain reporting lines and accountability to the Council. Should the LA favour the appointment of an independent Chair, it is important that reporting lines and voting arrangements are clear and in line with LA corporate governance practice.

Before recruiting, local authorities should undertake a skills audit to assess the balance of skills required to effectively govern the port and deliver against the business plan. These skills should be considered for all committee members.

In order for the HMC to operate effectively a formal memorandum of understanding could be established between the harbour committee and the local authority. The memorandum of understanding could set out the recommended ground rules for a framework between the port and its authority.

APPENDIX B: ACTION PLAN

This will set out any key tasks that will need to be completed as part of the more structured governance arrangements. To be completed by the Executive and then reviewed by the HMAC before the MOU is signed by both parties.

DRAFT

APPENDIX C: ASSET REGISTER

(1) Port of Bridgwater Asset Register

At the date of this MOU, the Port of Bridgwater including:

- (a) Fundus and foreshore (including all leases within)
- (b) Port Office
- (c) Buoys, Beacons, Navigational Lights, Moorings and Signage
- (d) [insert]

(2) Bridgwater Docks Asset Register

At the date of this MOU, Bridgwater Docks including:

- (a) Fundus and foreshore (including all leases within)
- (b) Port Office
- (c) Buoys, Beacons, Navigational Lights, Moorings and Signage
- (d) [insert]

(3) Minehead Harbour Asset Register

At the date of this MOU, Minehead Harbour including:

- (a) Fundus and foreshore (including all leases within)
- (b) Harbour Office
- (c) Buoys, Beacons, Navigational Lights, Moorings and Signage
- (d) [insert]

(4) Watchet Harbour Asset Register

At the date of this MOU, Watchet Harbour including:

- (a) Fundus and foreshore (including all leases within)
- (b) Harbour Office
- (c) Buoys, Beacons, Navigational Lights, Moorings and Signage
- (d) [insert]

APPENDIX D: HMAC GUIDANCE NOTES

A Establishment of the HMAC

- (1) The functions of the Executive conferred under the Constitution include the functions within the definition of a “harbour authority” in section 57(1) of the Harbours Act 1964, the local harbour legislation, and the Harbours, Docks and Piers Clauses Act 1847 (as incorporated into the local harbour legislation), and any functions arising out of any Directions and Byelaws made under the legislation listed in this paragraph.
- (2) The HMAC will provide advice to the Executive in relation to the discharge of these functions within any policy and budget approved by the Council as set out in the Terms of Reference and MOU between the Executive and the HMAC.
- (3) All Meetings of the HMAC shall be conducted in accordance with the Council’s **[Procedure Rules]** as set out in the Council’s Constitution.

B Membership of the HMAC

- (1) The HMAC shall consist of **[12 HMAC Members made up of 6 Council-elected Members and 6 Co-opted Members]**. Each Co-opted Member, as far as it is achievable, will be appointed on a ‘fit-for-purpose basis’ through assessment of each nominee’s skills, knowledge, experience and commitment on matters identified from time to time by a skills audit as being the main skills requirements for the HMAC.
- (2) All HMAC Members, including any Co-opted Members, will be bound by the **[Somerset Council Code of Conduct]** as set out in the Constitution and will be required to sign the declaration of acceptance of office (contained in the **Schedule to this Appendix**) as required by law in any event within 14 days of their appointment. A Co-opted Member is under the same obligations as the Council-elected Members that appoint them, and that Co-Opted Member must observe the Constitution and most importantly comply with the statutory rules relating to conduct and the disclosure of interests.
- (3) No Co-opted Member shall act as an HMAC Member until that person has made the declaration of acceptance of office (contained in the **Schedule to this Appendix**); a Co-opted Member shall cease to be an HMAC Member if that person fails to make that declaration within three months of their appointment.
- (4) The Chair and Vice Chair of the HMAC shall be elected in accordance with the Constitution. Only Council-elected Members shall be the Chair of the HMAC.
- (5) As the Harbour Function rests with the Executive, the HMAC is constituted as a committee of the Council by virtue of section 102(4) of the Local Government Act 1972. The formation of the HMAC under this provision permits the appointment of co-opted members to an advisory committee. Council-elected Members must accord with the political representation requirements in section 15 of the Local Government and Housing Act 1989 (unless in this requirement is disapplied by the Council in accordance with section 17(1) Local Government and Housing Act 1989) and all decisions in respect of the harbour undertakings must be taken by the Executive or in accordance with the other arrangements permitted in section 9E of the Local Government Act 2000.

- (6) In the event that a HMAC Member other than a Council-elected Member does not attend any meetings of the HMAC for a period of six months from the date of their last attendance, that HMAC Member shall cease to be an HMAC Member, unless within the period of absence the Council gives approval for this absence. This shall not apply to Council-elected Members whose attendance is regulated by statute.
- (7) All HMAC Members will attend relevant training to be determined by the Chair on the basis of appropriate advice, which shall be founded on best practice.
- (8) All HMAC Members will be required to attend Code of Conduct Training.

C Appointments Process

- (1) As an advisory committee, HMAC Members shall be appointed in accordance with section 104(2) of the Local Government Act 1972.
- (2) The HMAC shall consist of [12] HMAC Members made up of [6] Council-elected Members and [6] Co-opted Members. Each Co-opted Member, as far as it is achievable, will be appointed on a 'fit-for-purpose basis' through assessment of each nominee's skills, knowledge, experience and commitment on matters but not limited to the following:
 - (a) management of harbours;
 - (b) shipping and other forms of transport;
 - (c) local industrial, commercial, financial or legal matters;
 - (d) management of marine leisure activities;
 - (e) safety or personnel management;
 - (f) community issues;
 - (g) environmental matters;
 - (h) knowledge of port / maritime or other nautical experience; and
 - (i) any other skills and abilities considered from time to time by the Appointments Panel to be relevant to the discharge by the HMAC of its functions as an advisory body.
- (3) Council-elected Members shall be appointed to the HMAC by the Council.
- (4) A Council-elected Member's term shall expire on the fourth day after the date of the next regular election or from the date of their resignation. Council-elected Members' appointments will be governed by the Constitution.
- (5) The Council shall secure, so far as reasonably practicable, that the Council-elected Members appointed by it will, between them, have special knowledge, experience and ability in a broad and complementary range of matters relevant to the efficient, effective and economic discharge by the HMAC of its function as an advisory body.
- (6) A Co-opted Member's term of appointment shall be three years from the date of appointment unless the Member shall die, resign or be disqualified.
- (7) Co-opted Members shall be appointed by the Council for up to 2 full terms, and exceptionally 3 full terms.

- (8) A Co-opted Member may be appointed to a second three-year term without recourse to open competition, subject to the agreement of both the Chair and the Member, and the HMAc's assessment that the Member has performed satisfactorily during the first term (all membership of the HMAc is subject to ratification by the Council);
- (9) Re-appointment of a Co-opted Member for a third term shall involve competition with other candidates.
- (10) Appointments will usually be made by an appointments panel (**'the Appointments Panel'**) consisting of the Chair of the HMAc, a Co-opted Member, [and an independent external technical advisor with a thorough understanding of harbour / port governance issues].
- (11) The Appointments Panel shall secure, so far as reasonably practicable, that the Co-opted Members appointed by it will, between them, have special knowledge, experience and ability in a broad and complementary range of matters relevant to the efficient, effective and economic discharge by the HMAc of its functions. The decisions of the Appointments Panel are subject to ratification by the Council.

D Resignation of Members

An HMAc Member, including the Chair, may resign their office at any time by Notice in writing given to the Council's Monitoring Officer.

E Meetings

- (1) The HMAc shall meet at least [6] times a year and be governed by the [Procedure Rules] as set out in the Constitution.
- (2) The quorum for meetings of the HMAc shall be [6] save that at no time shall there be less than [2] Council-elected Members present at the meeting.
- (3) The HMAc shall consider the following business:
 - (a) approval of the Minutes of the previous meeting;
 - (b) declarations of Interest, if any;
 - (c) report and feedback from Stakeholder Forums; and
 - (d) the business otherwise set out on the Agenda for the meeting.
- (4) **Agendas:** A copy of the agenda including the item, or a copy of the item, shall be open to inspection by members of the public at least [5] clear working days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened; unless by reason of special circumstance, which shall be specified in the meeting minutes, the Chair of the meeting is of the opinion that the item should be considered as a matter of urgency.
- (5) An Annual Meeting of the HMAc will take place during the year. This will be an informal meeting and include invitation to all members of Stakeholder Forums.

F Declaration of Interests

- (1) A Co-opted Member shall be under the same obligations as the Council-elected Members that appoint that person and that person must observe the Council's

Standing Orders and comply with the statutory rules relating to the disclosure of interests.

- (2) All HMAc Members will be governed by the [[Somerset Council Code of Conduct](#)] which details interests which need to be declared.
- (3) The Council maintains and regularly updates a register of interests declared by Members, and shall make the register available for inspection by members of the public at all times during usual office hours.

G Payments to Members

- (1) The Chair of the HMAc shall receive a Special Responsibility Allowance in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended).
- (2) The HMAc may pay to Co-opted Members such expenses for travelling allowances on the same basis as Council-elected Members.

H Stakeholder Forums

- (1) To ensure that the HMAc has strong and direct links with harbour users, local communities and other external organisations with an interest in the HMAc areas, a formal consultation mechanism will be established by the Executive. This will enable Stakeholder Forums to formally make representations to the HMAc.
- (2) No Member of the HMAc will have a position on the Stakeholder Forums. The Harbour Master (or authorised deputy) and an HMAc Member may attend as observers.
- (3) The HMAc may recommend to the Executive to appoint other Stakeholder Forums.

Schedule: Declaration of Acceptance of Office | Co-opted Members of the HMAc

I.....being a Co-opted Member of the Somerset Council (**‘the Council’**) Harbour Management Committee (**‘the HMAc’**) declare that I will duly and faithfully fulfil the requirements of this role according to the best of my judgement and ability.

I undertake to observe the [**Somerset Council Code of Conduct**] as to the conduct which is expected of Members and Co-opted Members of a Committee of the Council.

If I have an interest, direct or indirect:

- (a) in any contract or proposed contract to which the Council as statutory harbour authority is or would be a party or I am a director of a company or body with which the contract or proposed contract is made or proposed to be made; or
- (b) in any other matter with which the Council as statutory harbour authority or the HMAc is concerned,

I will declare that interest.

I have disclosed details of every financial and other interest as is mentioned in (a) and (b) above, and I will in future notify as soon as reasonably practicable any alteration to those interests, or any new interest such as is mentioned in (a) and (b) above, which I may acquire.

Signed

.....
[Signee name]

Signed

.....
[Signee name]
[Monitoring / Deputy Monitoring Officer]

APPENDIX E: ORGANISATIONAL STRUCTURE

This will contain a clear organisational structure that shows the reporting lines between the HMAc and Council (including the Duty Holder) and the Designated Person. This is important to ensure the proper functioning of the HMAc and the harbours, and also for compliance with the PMSC.

DRAFT

APPENDIX F: LOCAL HARBOUR LEGISLATION

Port of Bridgwater Acts and Orders

- (1) Bridgwater Navigation and Quays Act 1845.
- (2) Pier and Harbour Orders Confirmation (No. 1) Act 1908 (only section 2).
- (3) Bridgwater Port and Navigation Order 1908.
- (4) Bridgwater Port and Navigation Order 1923.
- (5) Any other enactment of local application from time to time in force which applies to the Port of Bridgwater undertaking of the Council (as statutory harbour authority) as described in the Acts and Orders listed above.

Bridgwater Docks Acts and Orders

- (1) An Act for making a navigable canal from the River Avon, at or near Morgan's Pill, in the Parish of Easton-in-Gordano, otherwise Saint George's, in the County of Somerset, to or near the River Tone, in the Parish of Saint James in Taunton, in the said county, and a certain navigable cut therein described 1811.
- (2) An Act to abridge, vary, extend, and improve the Bristol and Taunton Canal Navigation, and to alter the powers of an Act of the fifty-first year of His late Majesty, for making the said Canal 1824.
- (3) An Act to explain and amend two Acts, of the fifty-first year of His late Majesty King George the Third and the fifth year of His late Majesty King George the Fourth, relative to the Bridgewater and Taunton Canal Navigation 1832.
- (4) An Act to enable the Company of Proprietors of the Bridgewater and Taunton Canal Navigation to continue the line of the canal below the Town of Bridgewater, and for varying the Powers of the several Acts relative to the said Canal 1837.
- (5) Bridgwater and Taunton Canal, and Stolford Railway and Harbour Act 1846.
- (6) Bridgwater and Taunton Canal Act 1866.
- (7) Great Western Railway Company and Bristol and Exeter Railway Amalgamation Act 1876.
- (8) Any other enactment of local application from time to time in force which applies to the Bridgwater Docks undertaking of the Council (as statutory harbour authority) as described in the Acts and Orders listed above.

Minehead Harbour Acts and Orders

- (1) An Act for more effectually improving and keeping in repair the pier and harbour of Minehead in the County of Somerset 1823 (sections 1, 3 4 and 34 only).
- (2) Minehead Pier and Harbour Order 1895 (article 19 only).
- (3) Minehead Harbour Order 1952.
- (4) Any other enactment of local application from time to time in force which applies to the Minehead Harbour undertaking of the Council (as statutory harbour authority) as described in the Acts and Orders listed above.

Watchet Harbour Acts and Orders

- (1) Watchet Harbour Act 1860.
- (2) Watchet Pier and Harbour Order 1902.
- (3) Watchet Urban District Council Act 1934.
- (4) Watchet Harbour Revision Order 1970.
- (5) Watchet Harbour Revision Order 2000.

- (6) Any other enactment of local application from time to time in force which applies to the Watchet Harbour undertaking of the Council (as statutory harbour authority) as described in the Acts and Orders listed above.

DRAFT