



Department
for Transport

Pilotage Function Removal Order Consultation

The North Devon District Council
Harbour Authority (Removal of
Pilotage Functions) Order –
Ilfracombe Harbour

Moving Britain Ahead

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1. Summary

The Department for Transport has received an application from North Devon District Council to be removed from the list of Competent Harbour Authorities (CHAs) maintained by the Secretary of State. This would remove its functions in relation to the provision of maritime pilotage services for Ilfracombe Harbour as the only harbour which it manages in its capacity as a CHA.

Removal requires the Secretary of State to make a Pilotage Function Removal Order (PFRO) under Section 1 of the 1987 Pilotage Act (as amended by the Marine Navigation Act 2013).

This consultation paper seeks your views on that proposal.

Duration of Consultation

The consultation will last 6 weeks beginning on 7 January 2019 and closing on 17 February 2019.

In deciding on the length of time for which to consult we have considered the Consultation principles guidance at **Annex A**. We have concluded that stakeholders, which are mainly maritime operators at Ilfracombe Harbour, are already aware of the relevant issues following the local consultation completed by the Council in advance of submitting its application to the Secretary of State and that 6 weeks should be a sufficient period in which to consider the proposal.

How to respond

Please ensure that your response reaches us before 17 February 2019.

Your response will be most useful if it is framed in direct response to the questions posed at **Annex A**, though further comments and evidence are also welcome.

A list of those consulted can be found at **Annex B**.

If you have any question about the consultation, please e-mail us at maritimesafety@dft.gov.uk or contact us at:

Maritime Safety Team
Department for Transport
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Great Minster House
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London SW1P 4DR

Confidentiality and data protection

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure under the Freedom of Information Act 2000, the Data Protection Act 2018 or the Environmental Information Regulations 2004.

If you want all, or part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it confidential will be taken into account but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department for Transport.

The Department for Transport will process your personal data (name and address and any other identifying material), in accordance with the Data Protection Act 2018 and your personal information will only be used for the purposes of this consultation. Your information will not be shared with third parties unless the law allows it.

You can read more about what the Department for Transport does when we ask for, and hold, your personal information in our personal information charter which is available from:

<https://www.gov.uk/government/organisations/department-for-transport/about/personal-information-charter>

What will happen next?

We will consider responses to this consultation and a summary noting our final conclusions will be published within 12 weeks of the closing date at:

www.gov.uk/government/organisations/department-for-transport

2. Introduction



This chapter explains the background to marine pilotage, the powers and obligations of Competent Harbour Authorities (CHAs) and the process for removing these from a particular port or harbour.

What is Marine Pilotage?

Pilotage is the use of marine pilots to conduct the navigation of ships through dangerous or congested waters using their local knowledge and skills to ensure safe passage.

Under the Pilotage Act 1987 (the 1987 Act), full responsibility for the management of pilotage was given to Competent Harbour Authorities (CHAs). The 1987 Act recognised that they have the local expertise required to undertake this responsibility effectively.

Depending on the size, geography, tides and many other variables affecting a port or harbour, the responsible CHA may require certain ships to employ one or more pilots.

What is a Competent Harbour Authority?

A CHA is a harbour authority which has statutory powers in relation to the regulation of shipping movements and the safety of navigation within its harbour which also falls wholly or partly within an active former pilotage district. CHA's are responsible for all pilotage matters at its facilities including the authorisation of pilots, the arrangements under which pilots are to provide their services and, if they are employed, the terms

of their employment. They are also responsible for the assessment and granting of Pilotage Exemption Certificates¹.

A CHA is defined in the Pilotage Act 1987 (the 1987 Act) which also provides the Secretary of State for Transport with the power to create new CHAs, extend their area of competency and withdraw CHA status.

The CHA for Ilfracombe Harbour is North Devon District Council (the Council). Ilfracombe Harbour is the only Harbour covered by the Council in its capacity as a CHA.

Why and how would a Competent Harbour Authority be relieved of its obligations on pilotage?

A CHA is obliged to keep pilotage services for its geographic area under review and to consider what pilotage services are needed and whether any should be mandatory. A CHA must arrange for such pilotage as they consider necessary and may be held responsible for failure to maintain an adequate service.

The discharge of such functions by a CHA, even if it concludes that no pilotage is needed in its area, involves a level of responsibility on the part of the CHA with related costs in terms of money and time. Consequently, a CHA for an area where no pilotage is needed may wish to be relieved of the functions.

The removal of pilotage functions from harbour authorities would relieve them of their powers and duties relating to pilotage under the 1987 Act. A harbour authority from which such functions were removed would cease to be a CHA but would continue to be an SHA.

At the request of the industry, provisions enabling that removal were included in section 1 of the Marine Navigation Act 2013 (the 2013 Act).

Section 1 of the 2013 Act amended the 1987 Act to provide the appropriate national authority with powers to specify, by Order, that a harbour authority in England, Wales or Scotland is not a CHA. In relation to Ilfracombe Harbour, the appropriate authority is the Secretary of State for Transport.

Read more information about [Pilotage Function Removal Orders](#) and guidance on the application process.

¹ If pilotage is compulsory the CHA must, on application by certain crew on a vessel, grant them a certificate enabling them to pilot that vessel (and any other ships specified in the certificate) in the area without a pilot provided they are satisfied by examination or reference to such other requirements as it may reasonably impose that their skill, experience and local knowledge are sufficient for that purpose and, if it appears necessary in the interests of safety, that they have sufficient knowledge of English. These certificates are known as Pilotage Exemption Certificates or PECs.

3. The Proposal

The request for a Pilotage Function Removal Order

In February 2017, the Department for Transport received a letter from the Chief Executive of the Council requesting the removal of the Council's status as a CHA.

The assessment of the Council is that pilotage is not required to ensure the safe navigation of the types of ship that now use the harbour, nor is there any prospect of that situation changing.

The Council has not employed pilots since it became a CHA in 1987 and there have been no acts of pilotage offered or requested for far longer and probably as far back as the early 1970s.

Consequently, the Council wishes to be relieved of the duties and powers it has as a CHA relating to pilotage under the 1987 Act.

Consideration

The Department for Transport has considered the application by the Chief Executive of the Council and the need for pilotage within its CHA area.

Ilfracombe Harbour has traditionally had a large Pilotage District which stretches from Capstone Point in the East, some 30 nautical miles to the East of Ilfracombe. The Department considers it is likely that this is the reason that it became a CHA following the commencement of the 1987 Act because it lay within a previously large Pilotage District stretching from Capstone Point in the West to Blue Anchor Point in the East (a stretch of some 30 miles of coast). The size of the Pilotage District reflected the fact that Ilfracombe Harbour was the point at which the majority of vessels embarked their pilots before proceeding further into the Bristol Channel.

However, the advent of larger ships, the increase in engine power and a reduction in local commercial cargo operations quickly reduced the Harbour's requirement for pilots. Cargo operations no longer take place and the last act of pilotage was in the early 1970s. Since that time no pilots have been requested or required. Ilfracombe Harbour is now used predominantly by fishing vessels, excursion steamers (seasonal), the local RNLI lifeboat and the Lundy Supply ship, with around 200 arrivals and departures a year of vessels 24 metres in length and above. There have been no reported serious vessel collisions reported in recent history.

The Department can uncover no evidence that the lack of pilotage provision within Ilfracombe Harbour for over forty years has had any adverse impact on navigation safety.

The Department has also considered what provisions the Council has in place to ensure the navigation safety of its waters. The competence and qualifications of vessel Masters is already monitored and controlled under Ilfracombe Harbour Byelaw 54². This states that all Masters must hold an Ilfracombe Harbour Passenger Licence and that, in order to obtain one, there is a tripping requirement and an examination. This is commensurate with the procedures in place in harbours of a similar size, volume and types of traffic which are not CHAs to ensure navigation safety in their waters and these requirements will be perpetuated should the Council's CHA status be withdrawn.

As no pilotage services are currently provided, no detriment to any Harbour user or the environment is envisaged or considered likely to arise as a result of the removal of the Council's CHA status.

Equally, because the Council does not incur any costs in providing pilotage services, nor shipping interests in paying for pilotage, there are no quantifiable monetary benefits for the CHA or users of the Harbour were CHA status to be withdrawn from the Council.

However, there would be a small, non-quantifiable, benefit for the Council given that it would be relieved of the obligation to keep the decision not to provide pilotage services under review. Making the Order (at **Annex C**) would thus be consistent with the Department's commitment to deregulation.

Consequently, the Department is minded to remove the Council's CHA status by making the Order under section 1(4A) of the 1987 Act.

The Department is, therefore, undertaking this consultation in accordance with section 1(8A) of the 1987 Act and would welcome your views on the questions at **Annex A** to assist in providing evidence to the Secretary of State in making a decision on whether or not to make the Order.

Draft Order

A draft of the proposed North Devon District Council Harbour Authority (Removal of Pilotage Functions) Order can be found at **Annex C**.

[As well as removing the Council's CHA status, the Order](#) also amends the Ilfracombe Harbour Revision Order 1996³ to insert a definition of the limits of the harbour in substitution for a cross-reference which currently does not operate correctly.

Impact Assessment

There is no necessity for an impact assessment to be produced for this legislation as there are no quantifiable costs or benefits associated with the proposal to remove the Council's CHA status.

² Available from www.northdevon.gov.uk/council/strategies-plans-and-policies/ilfracombe-harbour-procedures-plans-and-policies.

³ S.I. 1996/2103.

Next Steps

We will publish a summary of the responses to the consultation and our final conclusions within 12 weeks of the consultation closing date.

This will be available from:

www.gov.uk/government/organisations/department-for-transport

4 .Consultation Questions

We would welcome comments on any aspect of this consultation but, in particular, your comments on the following questions would be appreciated: (please give reasons for your answers where appropriate):

About you

- What is your name?
- What is your e-mail address?
- If you are responding on behalf of an organisation please tell us who your organisation is and how the views in your response were determined (e.g. through consultation)?

Consultation Questions

Question 1

Do you agree that there is no need for:

- (a) pilotage services to be provided at Ilfracombe Harbour; and
- (b) a designated body should be charged with keeping pilotage provision under review?

Question 2

Do you have a view on whether the proposal to remove the North Devon District Council's CHA status will have any impact (positive or negative) on the users of Ilfracombe Harbour or the local environment whether directly or indirectly?

Question 3

Are you aware of any quantifiable costs of benefits that could be attributed to the removal of North Devon District Council's CHA status?

Annex A: Consultation principles

This consultation is being conducted in line with the Government's key consultation principles which can be found at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

Consultation Co-ordinator
Department for Transport
Zone1/14
Great Minster House
London SW1P 4DR

E-mail consultation@dft.gsi.gov.uk

Annex B: List of those consulted

British Marine Federation
British Ports Association
Commercial Fishermen's Association
Ilfracombe Harbour Board
Ilfracombe Town Council
Ilfracombe Yacht Club
North Devon District Council
Royal Yachting Association
The Landmark Trust
UK Chamber of Shipping
UK Major Ports Group
UK Maritime Pilots Association

Annex C: Draft Order

STATUTORY INSTRUMENTS

2018 No. 000

PILOTAGE

The North Devon District Council Harbour Authority (Removal of Pilotage Functions) Order 2018

<i>Made</i>	- - - -	***
<i>1.Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

North Devon District Council are currently the competent harbour authority, within the meaning of the Pilotage Act 1987(4), for Ilfracombe harbour.

The Secretary of State, in exercise of the powers conferred by section 14 of the Harbours Act 1964(5) and by section 1(4A) of the Pilotage Act 1987, and having consulted North Devon District Council and other persons whom the Secretary of State thought appropriate in accordance with section 1(8A) of that Act, makes the following Order:

Citation and commencement

—a) This Order may be cited as the North Devon District Council Harbour Authority (Removal of Pilotage Functions) Order 2017.

This Order comes into force on [DATE]

Removal of pilotage functions

North Devon District Council are no longer a competent harbour authority for the purposes of the Pilotage Act 1987.

Amendment of Order

—b) The Ilfracombe Harbour Revision Order 1996(6) is amended as follows.

(4) 1987, c.21. Section 1 was amended by section 1 of the Marine Navigation Act 2013 (c. 23). There are other amendments which are not relevant to this Order.

(5) 1964 c. 40. Section 14 was amended by section 18 and Schedule 6 paragraphs 2, 3, 4(1) and 14 of the Transport Act 1981 (c. 56) and by Schedule 3 paragraph 1 of the Transport and Works Act 1992 (c. 42).

(6) S.I. 1996/2103.

In article 2 for “the limits described in article 6 of the Ilfracombe Harbour Order 1990” substitute “an area defined by an imaginary straight line commencing at the centre of the northern wall of the Britannia Hotel and extending thence to and terminating at a point distant three hundred and thirty yards northward from the said wall and by a second straight line extending due east from the point of termination of the first-mentioned straight line until such second straight line joins the high water line on the western side of Beacon Point and from that point by the high water line in a south-west and westerly direction to a point on the said high water line due south of the southernmost end of the old inner harbour pier and from the last-mentioned point by an imaginary straight line extending sixty yards or thereabouts south-west to and intersecting the Quayfield Road and thence by the centre of the Quayfield Road the Cove Road Broad Street and the Quay to the point of commencement of the first mentioned straight line at the centre of the northern wall of the Britannia Hotel”.

Signed by authority of the Secretary of State for Transport

Date

Department for Transport

- 1.
- 2.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides that North Devon District Council is not a competent harbour authority for the purposes of the Pilotage Act 1987, and accordingly no longer has pilotage functions in respect of Ilfracombe harbour.

This Order also updates the Ilfracombe Harbour Revision Order 1996 to include a definition of the limits of Ilfracombe harbour.

An impact assessment has not been prepared for this Order, as its effects are unlikely to have an impact on businesses, civil society or regulatory matters. There is no impact on staff, no cost imposed on the public sector and no saving for the public sector.

An Explanatory Memorandum is published alongside this instrument on www.legislation.gov.uk.