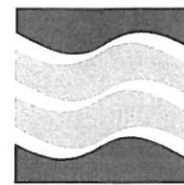


# Annex C-14: Application of Sutton Harbour Company (Plymouth)



SUTTON  
HARBOUR  
HOLDINGS PLC

## POWERS OF HARBOUR DIRECTION: APPLICATION FOR DESIGNATION

### SUTTON HARBOUR COMPANY

Sutton Harbour Company ('SHC') is the Statutory Harbour Authority for Sutton Harbour, Plymouth. In order to assist it in managing and running a safe and efficient harbour and in particular discharging its responsibilities relating to the safety of vessels and people within the harbour (including navigational safety) and the protection of the port environment, SHC wishes to apply to be designated as a designated harbour authority with the power to make harbour directions.

### RATIONALE

As required by the Port Marine Safety Code, SHC have carried out a review of its existing statutory powers (including local legislation and byelaws) with the assistance of its legal advisors. This review has confirmed that SHC does not have powers of general directions. SHC does have the power to issue byelaws and the Harbour Master may issue special directions under s52 Harbour Docks and Piers Clauses Act 1847. SHC is not a Competent Harbour Authority for Pilotage purposes.

The lack of powers for SHC or its harbour master to issue general directions in relation to all ships in the harbour area either in response to a particular occurrence or as a standing instruction to all ships or specified classes of ship, is considered by SHC to hinder it in the fulfilment of its statutory duties. The Port Marine Safety Code advises at paragraph 3.4 that '*Harbour authorities would be well advised to secure powers of general direction to support the effective management of vessels in their harbour waters, if they do not already have them.*'

In order to obtain powers of general direction, SHC would need to make a Harbour Revision Order application, which is a costly and time consuming process. Designation with powers of harbour direction would be an effective substitute for powers of general direction. Therefore SHC seeks to be designated as a designated harbour authority with powers of harbour direction in response to the review of its statutory powers recommended by the PMSC.

In addition, the number of fishing, charter and leisure vessels using Sutton Lock has grown in recent years to a level where the safety controls which are in place need to be reinforced to ensure the safe navigation of all vessels entering and leaving the harbour through the lock. The use of harbour directions with respect to 'ships' (as defined in Harbours Act 1964) would assist in this area.

Plymouth fish market is currently one of the busiest in England and operates with limited quay space. Powers of harbour direction will improve both the safety and efficiency of the commercial harbour operations.

Sutton Harbour is a leading tourist destination and as such hosts the start and finishes of several major yacht races, additional powers of harbour direction in respect of 'ships' would aid both the smooth running of such events and better integration between working commercial users and the visitors and existing berth holders.





**SUTTON  
HARBOUR**  
HOLDINGS PLC

## **DETAILS OF ANY PROPOSAL AMENDING OR REPEALING ANY STATUTORY PROVISION OF LOCAL APPLICATION**

SHC's current byelaws date from 1926. These have been reviewed as part of the statutory harbour power review carried out by SHC with the assistance of its legal advisors. As recommended by paragraph 4.4 of the Code of Conduct it is SHC's intention to update these byelaws (including revocation / amendment of any existing byelaws which might otherwise conflict with harbour directions) at the same time as making harbour directions (once SHC knows whether its application to become a designated harbour authority has been successful). Coherence with any harbour directions SHC may wish to introduce can then be ensured.

Therefore, at this time, SHC is not requesting that any local enactment be amended or repealed in the Designation Order.

## **CONSULTATION**

SHC carried out a consultation for 28 days from 23 May 2014 which sought the views of harbour users and other interested parties on SHC's intention to apply to be designated with powers of harbour direction. The consultation document at Annex B and the NDP Code of Conduct was placed SHC's website during the consultation period. As the consultation document makes clear, views were sought on both the suitability of the harbour authority to be designated with the power to make harbour directions and an indication given of what harbour directions can cover.

In addition:

1. A public notice appeared in the Plymouth Herald on 23 and 30 May 2014 (see Annex C).
2. Copies of the consultation document and NDP Code of Conduct were available at Plymouth Central Library, Drake Circus, Plymouth, Devon PL4 8AL during the consultation period.
3. SHC's application to be designated with the powers of harbour direction was discussed at the Port of Plymouth Marine Liaison Committee's meeting on 12 June 2014. In addition emails with the consultation document and NDP Code of Conduct annexed to them were sent individually to all the member bodies / representative associations.
  - A list of member bodies / representative organisations represented in the Port of Plymouth Liaison Committee and invited to meetings is included in Annex D.
4. The Plymouth Federation of Sea Anglers was also notified by email and a letter sent to the Sutton Harbour Boatman's Association.
5. Copies of the consultation document and NDP Code of Conduct were hand delivered to the Plymouth Trawlers Association and were also displayed on the fisheries and marina notice boards during the consultation period.
6. The British Ports Association ('BPA') on 18 and 19 June 2014 and the NFFO on 23 June 2014 were informed via email of SHC's intention to apply to be designated with the powers of harbour direction and provided with its consultation document (Annex B).



## Consultation Responses

In summary the following consultation responses were received:

1. **Royal Yachting Association representative** - suggested that SHC's Port User Group should be a sub-committee of the Port of Plymouth Liaison Committee, comprising those members of that committee who represent the users of Sutton Harbour.
2. **Cattewater Harbour Commissioners** - supportive (aid working between the two ports).
3. **Plymouth Trawler Agents** – confirmed with SHC's Harbour Master during a meeting that there would be a further consultation process in relation to any actual harbour directions SHC may wish to introduce in due course. SHC's Harbour Master confirmed that this was correct.
4. **Sutton Harbour Boatman's Association** – same query and answer as Plymouth Trawler Agents above.
5. **Natural England** - responded to say it had no comments.

## CODE OF CONDUCT STATEMENT

See signed Statement of Assurance at Annex A.

The Port of Plymouth Liaison Committee is SHC's adopted Port User Group. A specific sub-committee is being set up in line with the RYA's consultation recommendation. The sub-committee will meet all the requirements for a Port User Group set out in the Code of Conduct.



JASON W H SCHOFIELD  
Chief Executive



ANNEX A

Signed Statement of Assurance

I confirm that the following resolutions of the Sutton Harbour Company were duly passed [at a meeting] of the Sutton Harbour Company on [10 June 2014].

The harbour authority has had regard to the content of and agrees to comply with the code of conduct on harbour directions, in particular:


- a) To maintain a Port User Group and to apply a dispute resolution procedure such as is set out in the code of conduct when required; and
- b) To have regard to supplementary guidance issued from time to time by the National Directions Panel on the subject of harbour directions.

The [Chief Executive] is authorised to apply to the Secretary of State for Transport for Sutton Harbour Company to be designated as a designated harbour authority for the purposes of section 40A of the Harbours Act 1964.

Name

J. W. H. SCHOFIELD

Signed



Date

27<sup>TH</sup> JUNE 2014

## ANNEX B

### Harbours Act 1964 – Harbour Directions Consultation: Sutton Harbour Company, Sutton Harbour, Plymouth

Sutton Harbour Company, as a Statutory Harbour Authority, wishes to modernise by seeking to be designated with powers of Harbour Direction. Current byelaws, whilst relevant, are inadequate for the traffic using the port.

#### **Harbour Directions**

##### What are they?

The Harbours Act 1964, as amended by the Marine Navigation Act 2013, provides a mechanism by which the Secretary of State may by Order designate harbour authorities with a power to make harbour directions to better regulate shipping and improve safety within their harbour area. Such harbour authorities are called “designated harbour authorities”.

##### What are they used for?

Harbour directions may be used by a designated harbour authority to regulate ships within their harbour, or entering or leaving their harbour. They may relate to the movement, mooring and unmooring, equipment and manning of ships. For example directions could be used:

- a. to regulate the use of any main navigation channel or fairway;
- b. to prescribe where and how vessels are to moor and move within the harbour;
- c. to ensure ships above a certain size have working radios to allow communication between harbour master and ship;
- d. to specify requirements for no deficiency in machinery; and,
- e. to ensure sufficient people with relevant experience crew specific types of ship.

##### Who will they apply to?

Harbour directions will only apply to ships as defined in the Harbours Act 1964. This Act defines a ship as including every description of vessel used in navigation, seaplanes and hovercraft. The Court of Appeal has held that to be used in navigation, a vessel must be used to make ordered progression from one place to another.

The grant of powers depends on Sutton Harbour Company giving assurance that it will maintain:

- a) A Port User Group and to apply a dispute resolution procedure such as is set out in [the code of conduct](#) when required; and,
- b) To have regard to supplementary guidance issued from time to time by the National Directions Panel on the subject of harbour directions.

The Port of Plymouth Liaison Committee will be the adopted Port User Group and the Sutton Harbour Company will resolve to offer the required assurance at a board meeting.

This consultation is open for 28 days from Friday 23 May 2014 and seeks views, comments and/or observations on the matter, which should be forwarded to Pete Bromley (Harbour Master), Tin Quay House, North Quay, Sutton Harbour, Plymouth, PL4 0RA or [P.Bromley@sutton-harbour.co.uk](mailto:P.Bromley@sutton-harbour.co.uk) by Friday 20 June 2014.

A copy of this consultation document and the Code of Conduct referred to within it are also available to view at Plymouth Central Library, Drake Circus, Plymouth, Devon PL4 8AL for the duration of the 28 day period.

This consultation is only relevant to the taking of powers. The actual Directions will be the subject of a further consultation once the Powers are granted.

## Annex C

Public notice which appeared in the Plymouth Herald on the 23 and 30 May 2014

**Public Notice**



**Sutton Harbour Company**

Harbours Act 1964 - Harbour Directions Consultation: Sutton Harbour Company, Sutton Harbour, Plymouth

Sutton Harbour Company, as a Statutory Harbour Authority, wishes to modernise by seeking to be designated with powers of Harbour Direction.

**Harbour Directions**

The Harbours Act 1964, as amended by the Marine Navigation Act 2013, provides a mechanism by which the Secretary of State may by Order designate harbour authorities with a power to make harbour directions to better regulate shipping and improve safety within their harbour area. Such harbour authorities are called "designated harbour authorities".

Harbour directions may be used to regulate ships within a designated harbour authority's harbour, or entering or leaving their harbour. They may relate to the movement, mooring and unmooring, equipment and manning of ships.

Harbour directions will only apply to ships as defined in the Harbours Act 1964. This Act defines a ship as including every description of vessel used in navigation, seaplanes and hovercraft.

This consultation seeks views, comments and/or observations on the matter and is open for 28 days from 23 May 2013. Representations should be forwarded to Pete Bromley (Harbour Master), Tin Quay House, North Quay, Sutton Harbour, Plymouth, PL4 0RA or [PBromley@sutton-harbour.co.uk](mailto:PBromley@sutton-harbour.co.uk) by Friday 20 June 2014.

A copy of the full consultation document and the Code of Conduct referred to within it are available on Sutton Harbour's website at [www.suttonharbourholdings.co.uk](http://www.suttonharbourholdings.co.uk) and also available to view at Plymouth Central Library, Drake Circus, Plymouth, Devon PL4 8AL for the duration of the 28 day period.

This consultation is only relevant to the taking of powers. The actual Directions will be the subject of a further consultation once the Powers are granted.

SHW

## Annex D

### Members bodies / representative organisations represented in the Port of Plymouth Marine Liaison Committee

1. Queen's Harbour Master
2. Deputy Queen's Harbour Master
3. Green Infrastructure Officer
4. RM Tamar
5. Cornwall Wildlife Trust
6. Cattewater Harbour Master
7. National Trust
8. Plymouth City Boatmaster
9. Calstock Parish Council
10. Plymouth City Council
11. MOD Police Marine Unit
12. RNLI
13. Bere Ferrers Parish Council
14. Milbrook Lake Mooring Association
15. Blagdon's Boat Yard
16. Plymouth City Council
17. Natural England
18. Marine Institute
19. Ships Project
20. Maker with Rame Parish Council
21. RYA
22. Tamar Protection Society
23. Mayflower Marina