

Dated

20[]

(1) Cornwall Council

(2) The Harbours Board

**MEMORANDUM OF UNDERSTANDING
IN RESPECT OF THE PORTS OF
NEWQUAY, TRURO, PENZANCE, FALMOUTH (PRINCE OF WALES PIER), PENRYN
BUDE AND ST IVES, PORTWRINKLE, PORTSCATHO AND PORTREATH**

CONTENTS

Clause

1. **Definitions and Abbreviations**
2. **Purpose of Memorandum of Understanding**
3. **Ports Good Governance Guidance**
4. **General commitments of Cornwall Council and the Harbours Board**
5. **Agreements of Cornwall Council and The Harbours Board**
6. **Agreement of Cornwall Council**
7. **Agreement of The Harbours Board**
8. **General**
9. **Term**
10. **Confidentiality**

Appendices

- (1) **Extract from the Ports Good Governance Guidance**
- (2) **Asset Register**
- (3) **The Harbours Board Guidance Notes**
- (4) **Organisational Structure**

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made on the day of 20[]

Between

Cornwall Council whose principal place of business is at New County Hall, Treyew Road, Truro TR1 3AY (hereinafter referred to as 'CC')

and

The Harbours Board (a Committee of CC) whose principal place of business is at New County Hall, Treyew Road, Truro TR1 3AY (hereinafter referred to as 'HB')

Who are jointly referred to in this Memorandum of Understanding as 'the Parties'

WHEREAS:

1. CC is the Owner, Port Authority and where relevant the Competent Harbour Authority for the Ports of Truro, Penryn, Penzance, Falmouth (Prince of Wales Pier), Bude, St Ives, and Newquay, Portwrinkle, Portreath and Portscatho ('the Ports');
2. The Carrick Harbours Board ("CHB") was a Committee of the Council set up on 25 July 2007 pursuant to the provisions of the Local Government and Housing Act 1989 and having regard to the recommendations for governance made in the Municipal Ports Review published by the Department for Transport in May 2006.
3. The CHB was established to exercise the Carrick District Council's functions in respect of the Ports of Truro and Penryn.
4. Cornwall Council took over responsibility for the Carrick District Council's functions as a result of the abolition of the County and District Council's and creation of a new Unitary Authority, Cornwall Council, in April 2009.
5. Cornwall Council at its full Council meeting on 27 July 2010 resolved that Newquay Harbour be incorporated into the remit of the existing Harbours Board, the Board for the Ports of Truro and Penryn be renamed 'The Harbours Board', and the HB manage the assets of Newquay Harbour in accordance with a new Memorandum of Understanding between the Board and the Council.
6. The resultant effect was that the Harbours Board was then made up of the Ports of Truro, Penryn and Newquay.
7. The Harbours Board was established as a Committee of Cornwall Council pursuant to the provisions of the Local Government and Housing Act 1989 and having regard to the recommendations for governance changes made in the Municipal Ports Review; and
8. The MOU was a requirement pursuant to the recommendations made in the Review of the Municipal Ports in England and Wales ('MPR') published by the Department for Transport and the Department for Communities and Local Government in May 2006; and
9. The Parties wished to set out their commitment to implementing the recommendations contained in the MPR relevant to the establishment of the HB.

10. Following a further review of Ports and Harbours throughout Cornwall, Cornwall Council when meeting on 6 September 2011 resolved;
 - a. St Ives Harbour be incorporated into the remit of the existing Harbours Board;
 - b. the Harbours Board, together with the appropriate offices, identify and include St Ives Harbour assets and make changes to the existing Memorandum of Understanding between the Board and the Council;
 - c. St Ives Harbour and its assets be managed by the Harbours Board and the Council; and
 - d. if appropriate, in accordance with Article 19.1 of the Constitution, the Constitutional Review Panel reviews the text of the Constitution to take account of any changes agreed by the Council.
11. In 2013 Cornwall Council resolved that Penzance Harbour be incorporated into the remit of the existing Harbours Board.
12. In 2015 Cornwall Council resolved that the remaining statutory harbours of Bude and Falmouth (Prince of Wales Pier) and the three non-statutory harbours of Portwrinkle, Portreath and Portscatho be incorporated into the remit of the existing Harbours Board.
13. In September 2019, Cornwall Council submitted an application for a Harbour Revision Order to modernise and consolidate the existing local statutory harbour legislation applying to the statutory harbours of the Ports of Truro, Penryn, Penzance, Falmouth (Prince of Wales Pier), Bude, St Ives, and Newquay.
14. [In September 2019, Cornwall Council also submitted an application for a Harbour Empowerment Order to turn the harbours of Portwrinkle, Portreath and Portscatho into statutory harbours, governed by the provisions of the Harbour Revision Order submitted in September 2019].
15. This Memorandum of Understanding was prepared in support of the applications.
16. The existing CHB Memorandum of Understanding shall cease to have effect upon the completion of this Memorandum of Understanding.

1) Definitions and Abbreviations

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

- a) "MoU" shall mean Memorandum of Understanding.
- b) "PGGG" shall mean the Ports Good Governance Guidance published by the Department for Transport in March 2018
- c) The "DfT" shall mean the Department for Transport.
- d) The "Parties" shall mean CC and the HB.
- e) The "Ports" shall mean the Ports and Harbours of Newquay, Penzance, Bude, Falmouth (Prince of Wales Pier), St Ives, Truro and Penryn, Portscatho, Portwrinkle and Portreath.
- f) The "Assets" shall mean the Property, Equipment and all other matters set out in the Asset Register at **Appendix 2** annexed hereto.

2) Purpose of MoU

- a) Subject to the requirements of the Cornwall Council Constitution the purpose of this MoU is to:
- a. provide a clear framework for the decision making, accountability, and financial management of the Ports to enable the HB to address the balanced needs of the Ports as a business and an environmental and community asset, which takes full account of the commercial realities of municipal port operations; and
 - b. assist in clarifying the role of the HB to carry out its functions under its terms of reference which is 'to exercise the Council's functions in respect of the Ports of Truro, Penryn, St. Ives, Penzance, Bude, Prince of Wales Pier (Falmouth) and Newquay and Portwrinkle, Portscatho and Portreath under section 57 (1) of the Harbours Act 1964 and its functions as Harbour Authority under local legislation as follows:

(1) Port of Truro

- (i) Pier and Harbour Orders Confirmation (No.6) Act, 1903 article 10(1) only
- (ii) Cornwall Harbours Harbour Revision Order 20[]

(2) Port of Penryn

- (i) Cornwall Harbours Harbour Revision Order 20[]

(3) Newquay Harbour

- (i) Cornwall Harbours Harbour Revision Order 20[]

(4) St Ives Harbour

- (i) St Ives Harbour Order 1886, article 21 and 22 only
- (ii) St Ives Harbour Revision Order 1993, articles 7 and 8 only.
- (iii) Cornwall Harbours Harbour Revision Order 20[]

(5) Bude Harbour

- (i) An Act for improving the Harbour of Bude, in the County of Cornwall; and for making and maintaining a Navigable Canal from the said Harbour of Bude to or near the Village of Thornbury, in the County of Devon, and divers Branches therefrom, all in the said Counties of Cornwall and Devon, 1819, sections 26 and 27 only.
- (ii) Cornwall Harbours Harbour Revision Order 20[]

(6) Falmouth (Prince of Wales Pier)

- (i) Falmouth Piers Order 1952, articles 8 and 9 only
- (ii) Cornwall Harbours Harbour Revision Order 20[]

(7)Penzance Harbour

- (i) Penzance Albert Pier Extension Act 1990, articles 3, 5 and 6 only
- (ii) Penzance South Pier Extension Act 1990, articles 3, 5 and 6 only
- (iii) The Penzance Harbour Revision Order 2009, article 3,5, 6, 25 and 26 only
- (iv) Cornwall Harbours Harbour Revision Order 20[]

(8)Portwrinkle Harbour

- (i) Portwrinkle, Portreath and Portscatho Harbour Empowerment Order 20[]
- (ii) Cornwall Harbours Harbour Revision Order 20[]

(9) Portreath Harbour

- (i) Portwrinkle, Portreath and Portscatho Harbour Empowerment Order 20[]
- (ii) Cornwall Harbours Harbour Revision Order 20[]

(10) Portscatho Harbour

- (i) Portwrinkle, Portreath and Portscatho Harbour Empowerment Order 20[]
- (ii) Cornwall Harbours Harbour Revision Order 20[]

- b) The statutory role and functions of the Parties are not affected by the requirements of the MoU.
- c) This MoU is a statement of the understanding between CC and the HB. The MoU is not, and is not intended to be, legally binding to either party. The detailed working arrangements may change over time by the agreement of CC.
- d) The MoU provides that the Ports will be governed according to best practices as set out in the PGGG.

3) Ports Good Governance Guidance

- a) In March 2018, the DfT's Ports Good Governance Guidance replaced the previous key government guidance applying to municipal ports ("Opportunities for Ports in Local Authority Ownership: A Review of Municipal Ports in England and Wales").
- b) Like the withdrawn guidance, the PGGG sets out a number of recommendations for the accountability, governance, and finance of Ports within the Municipal Sector.

- c) It has been agreed by CC that this MoU be drawn up to address the recommendations contained in the PGGG. Extracts from the PGGG relating to Harbour Management Committees are set out at **Appendix 1**.
- d) This MoU is prepared on the basis of the recommendations 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.
- e) On this basis it is intended that a Report will be put to the HB annually to allow the HB to review and monitor this MoU and recommend to full Council any changes to it as are required by amendments to the PGGG or developments in respect of the PGGG.

4) General Commitments of CC and HB

- a) This MoU records that CC and HB have considered the findings of the PGGG and records the commitment of CC and the HB to implement the recommendations contained therein; and
- b) This MoU further records that CC and HB shall take all reasonable steps to work together constructively to mutually facilitate the implementation of the recommendations contained in the PGGG.

5) Agreements of CC and HB

CC and HB agree that:

- a) The reporting lines relevant to all Committees of CC and pursuant to the provisions of the Local Government and Housing Act 1989 and having regard to the recommendations of the PGGG (March 2018) will be maintained to assist the HB to carry out its functions under its terms of reference.
- b) The HB will be required to exercise the Council's functions in respect of the Ports of Truro, Penryn, Penzance, Bude, St Ives, Falmouth (Prince of Wales Pier), and Newquay and Portwrinkle, Portscatho and Portreath under and in accordance with the Harbours Act 1964 and the Orders for the Ports listed within this MoU.
- c) **Appendix 3** sets out Guidance Notes for the operation of the HB.
- d) **Appendix 4** sets out the organisational structure that defines the reporting lines between the Parties; and
- e) establishment of **assured accounts**. In accordance with articles 15 to 18 (inclusive) of the Cornwall Harbours Harbour Revision Order all monies going to the Ports are assured to allow for the maintenance and upkeep of the Ports and for the future business plans of the Ports.
- f) The assured accounts are to include both the HB reserve and operating funds.
- g) The Companies Act 2006 compliant accounts are to be established and maintained for ease of understanding for board members, and to fulfil statutory obligations under the Harbours Act 1964.

6) Agreement of CC

CC agrees that:

- a) the Assets (including land, buildings, infrastructure, plant and machinery) of CC that are utilised for the running of the Ports and Harbours as listed in **Appendix 2** shall be managed by the HB in accordance with its terms of reference, CC's plans and policies and the provisions of this MoU; and
- b) annual budgets will be reviewed and determined by CC annually; and
- c) the HB shall be permitted to obtain specialist services from sources other than CC by agreement with the Chief Executive of CC where specific expertise is not available from within CC; and
- d) CC will ensure that its aims and objectives for governing and managing the Ports on its behalf are agreed and clearly set out between the Parties in policies and plans; and
- e) CC policies and plans for the Ports are stated by CC in the form of the Cornwall Maritime Strategy, the Sustainable Strategy for Ports and Harbours in Cornwall, Review of Local Ports and Harbours in Cornwall, the Ports and Harbours Business Plan and the Port Masterplans (**"the Plans"**); and
- f) it is the intention of the Parties that these Plans will support the Ports as financially self-sustainable bodies, without the need to call upon the CC's General Fund; and
- g) CC will consider for approval updates to the Plans proposed by the HB from time to time, and utilise the skills and experience of the HB to its best advantage; and
- h) borrowing facilities may at CC's discretion be made available to the HB to fund revenue generating projects in the Ports where the HB can demonstrate that such borrowing facilities are consistent with the Plans; and
- i) CC will make payments to all HB members in accordance with CC's scheme for the remuneration of Members.

7) Agreement of the HB

The HB agrees that:

- a) the HB will manage the Ports under its delegation from CC on its behalf to address the balanced needs of the Ports as a business and an environmental and community asset, which takes full account of the commercial realities of port operations; and
- b) any matters beyond the delegated authority of the HB that comes before the HB for decision will be recommended to CC for determination; and
- c) the HB shall, subject to clauses 7(d), (e) and (f) below only make decisions regarding the management, acquisition and disposal of assets in accordance with CC's acquisitions and disposals policy, financial procedure rules and contracts procedures rules; and
- d) the HB shall not make decisions on the disposal or acquisition of property assets unless:

- a. it accords with the Plans; and
- b. It involves a transaction value of £50,000 or less; and
- e) the HB shall not make disposals or acquisitions of assets with a value in excess of £50,000 but shall make recommendations to CC in respect of such transactions; and
- f) disposals of any of the assets listed in **Appendix 2** (including to the Council to hold in its general capacity) shall only be made in accordance with the provisions of the Cornwall Harbours Harbour Revision Order and in particular, where the disposal involves a land asset, article 54 of that Order and in exchange for fair payment (or other equivalent benefit).
- g) The HB will recommend annual budgets, and these will be determined by CC; and
- h) the HB will monitor performance against budgets and take appropriate action where this is required; and
- g) the HB will make an annual report to CC reporting on performance against budget and the minutes of each HB meeting will include a Budget Monitoring Statement; and
- h) the HB will monitor and review the Plans and if it is considered necessary produce and publish such new or revised policies and plans from time to time as considered necessary following approval from CC; and
- i) plans should promote the Ports to be financially self-sustainable bodies in the long term, reducing the risk of the need to call upon the CC's General Fund; and
- j) the HB will discharge its role with consideration of other relevant policies and plans such as the Port Marine Safety Code, Health and Safety at Work legislation, the SAC Management Plan, Local Harbour Legislation (including the Cornwall Harbours Harbour Revision Order 20[], Harbour Byelaws, General, Harbour and Special Directions and any other appropriate policies, and legislation; and
- k) the HB will provide an annual report to CC on how it is governing the Ports in a manner that is consistent with relevant policies plans and legislation; and
- l) borrowing facilities may be requested by the HB and considered by CC to fund revenue generating projects in the Ports where the HB can demonstrate that such borrowing facilities are consistent with the Plans including the sustainability of CC's budget; and
- m) the HB will take all reasonable steps to engage appropriately with the stakeholder community. It will maintain formal links with Recognised Stakeholder Fora as appropriate including complying with article 13 of the Cornwall Harbours Harbour Revision Order 20[].

8) General

- a) This MoU neither expands nor is in derogation of those powers and authorities vested in the participating Parties by applicable law.
- b) For the avoidance of doubt, the HB is neither the Designated Person nor the Duty Holder according to the definitions given to these terms under the Port

Marine Safety Code. The Full Council of CC is the Duty Holder. The current Designated Person is the Maritime Manager for Cornwall Council, but this role may also be served from time to time by a suitably experienced independent person from a third party organisation.

9) Term

- a) This MoU in this form or such amended form as agreed between the Parties shall remain effective unless amended in accordance with paragraph 10 of Schedule 2 of the Cornwall Harbours Harbour Revision Order 20[].
- b) The Parties shall review this MoU at periods of 12 months from the day on which it is dated, or such earlier period as appropriate should the need arise. CC may agree to amend this MoU if circumstances dictate.
- c) The MoU may be terminated by resolution of CC.

10) Confidentiality

- a) Each Party undertakes with the others that (save as required by law) it will not at any time divulge to any person any confidential information concerning the business, accounts, finance or contractual arrangements of the other Parties or any other dealings, transactions or affairs, or use any such information for its own purposes (except as contemplated in this MoU), and each Party shall use its reasonable endeavours to prevent the publication or disclosure of any such confidential information.
- b) The provisions of Clause (a) shall not apply to any confidential information used, divulged or communicated;
 - i) on the unanimous instructions of the Parties; or
 - ii) to officers, employees and advisors of the Parties to this MoU;
- c) the Parties agree to comply with the General Data Protection Regulation 2018, the Data Protection Act 2018, the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and other applicable statutory information regimes.

Signed for and on behalf of

Cornwall Council

.....

Corporate Director for Resources

Signed for and on behalf of

Harbours Board

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Chairperson of Harbours Board

APPENDIX 1

Extract from DfT's PGGG relating to Harbour Management Committees

Harbour Management Committees

4.6 Some LAs have established Harbour Management Committees (HMCs) 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 HMC (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 HMCs by legislative routes. The BPA has produced guidance for LAs that have or are planning to put in place HMCs. 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 2

Asset Register

Truro

Port of Truro including:

- Fundus and Foreshore (including all leases within)
- Worth's Quay
- Town Quay including Car Park
- Lighterage Quay with all Buildings and Compounds
- Roundabout Site at Newham
- Harbour Office, Offices, Stores and Compound
- Weighbridge Office, Town Quay
- Workshop and Compound, Newham
- Office Block, Newham
- Malpas Marine and House
- Floating Plant and Pontoons
- Pontoon and Landing Stage at Trelissick
- Pontoon and Landing Stage at Boscawen Park
- Slipways at Boscawen Park, Sunny Corner and Malpas
- Lay-up Moorings, River Fal
- Buoys, Beacons, Navigation Lights, Moorings and Signage

Penryn

Port of Penryn including:

- Fundus and Foreshore (including all leases within)
- Exchequer Quay including Pontoons and Landing Stage
- Exchequer Quay Car Park
- Public Conveniences
- Harbour Office, Compound and Workshop
- Ex-Dockers Hut
- Church Beach Slipway
- Church Beach Dinghy Park
- Ponsharden Pontoons
- Public Pontoon
- Buoys, Beacons, Navigation Lights, Moorings and Signage

Newquay

Newquay Harbour including:

- North Quay
- South Quay
- Central Island (The Jetty)
- Harbour Office and Workshop
- Freezer Room and Bait Store
- Treffry Building
- Slipway
- Booking Kiosks
- Harbour Car Park
- Active Cellars, Stores and car park

- Fly Cellars and Shelter
- Newquay Rowing Club
- Newquay Sailing Club and Storage areas
- RNLI Building
- Fly Cellars including Shelter and Promenade
- Public Conveniences
- The Tunnel
- Mooring Chains
- Cranes
- Buoys, Beacons, Navigation Lights, Moorings and Signage

St Ives

St Ives Harbour including:

- Smeaton's Pier including two Lighthouses
- Harbour Office
- Car Park
- Fisheries Building including Stores, Fuel Store, Ice making and Storage Room
- Harbour Masters Store (Porthgidden)
- West Pier
- New Pier and Groyne
- Sloop Slipway
- Wharf Steps
- Small slipway adjacent to RNLI slipway
- Beach and Foreshore
- The Wharf including slipway
- Cranes
- Buoys, Beacons, Navigation Lights, Moorings and Signage

Penzance

Penzance Harbour including:

- South Pier including Colonnade Building, Former Gas House and Ticket Office
- Lighthouse Pier with Lighthouse
- Wet Dock and Gate
- West Pier with Meadery, Sheds 1 (Boston Shed), 2, 3 & 4, Ballast Plots
- Former Harbour Masters Office
- North Arm with Rank Building
- Harbour Office, Toilets and Showers
- Buccaneer Shell Shop
- Dockers Rest Café
- Old Smithy
- Shell Shop Slipway
- Abbey Slip and Basin
- Part Wharfside Car Park and Sailing Club Pen
- Zennor Gig Club
- Albert Pier with Penzance Sailing Club and Pens, Sheds 3, 4 and 5, Penwith College/Canoe Club,
- Penwith College Building, The Old Mortuary, Former Engine Shed A and B and the Old Ammunition Store.
- Albert Pier pontoons
- Albert Pier Slipway
- Buoys, Beacons, Navigation Lights, Moorings and Signage

Bude

Bude Harbour including:

- Breakwater
- Budehaven Moorings Area
- Old Lifeboat House
- Slipway
- Navigation marks and light
- Inner Harbour
- Wharfside Car Park
- Sea Lock and Gates
- Boat Hire Building and Parking spaces
- The Wharf

Portreath

Portreath Harbour including:

- Inner and Outer Harbour
- Turning Area
- Finger Pier Eastern Breakwater
- Huts (2)
- Wave Breaker
- HMCG Building
- Portreath Harbour Association Building & Ice Room
- Open area adjacent to Finger Pier
- Mooring Chains

Portwrinkle

Portwrinkle Harbour including:

- Landing Stage
- The Quay
- Dinghy Racks and Storage Areas
- Slipway
- Kayak Rack

Portscatho

Portscatho Harbour including:

- Breakwater and Landing Stage
- The Porth and Shelter
- The Lugger Slipway
- Fishermen's Shelter and Winch House
- Telephone Box
- Slipway (Harbour Court)
- Shelter
- Navigation Mark and Signage
- Mooring Chains

Prince of Wales Pier

Prince of Wales Pier including:

- The Pier including Solid and Suspended Sections
- Landing Steps
- Prince of Wales Pier Approach (Market Strand)
- Café
- Gift Shop
- Visitor Information Centre
- Booking Kiosks
- Pier Masters Kiosk
- Navigation Lights
- Flagpoles and Signage

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APPENDIX 3

Harbours Board Guidance Notes

A Establishment of the Board

1. The functions of the Council conferred under the Constitution:- Functions within the definition of a Harbour Authority in Section 57(1) of the Harbours Act 1964 Function as Harbour Authority for the Port of Penryn, Port of Truro, Penzance Harbour, Bude Harbour, Falmouth (Prince of Wales Pier), Newquay Harbour [and] St Ives Harbour, [Portwrinkle Harbour, Portreath Harbour and Portscatho Harbour] in accordance with the Harbours Act 1964 and the

(1) Port of Truro

- (i) Pier and Harbour Orders Confirmation (No.6) Act, 1903 article 10(1) only
- (ii) Cornwall Harbours Harbour Revision Order 20[]

(2) Port of Penryn

- (i) Cornwall Harbours Harbour Revision Order 20[]

(3) Newquay Harbour

- (i) []
- (ii) Cornwall Harbours Harbour Revision Order 20[]

(4) St Ives Harbour

- (iii) St Ives Harbour Order 1886, article 21 and 22 only
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(5)Bude Harbour

- (i) An Act for improving the Harbour of Bude, in the County of Cornwall; and for making and maintaining a Navigable Canal from the said Harbour of Bude to or near the Village of Thornbury, in the County of Devon, and divers Branches therefrom, all in the said Counties of Cornwall and Devon, 1819, section 27 only
- (ii) Cornwall Harbours Harbour Revision Order 20[]

(6)Falmouth (Prince of Wales Pier)

- (iii) Falmouth Piers Order 1952, articles 8 and 9 only
- (iv) Cornwall Harbours Harbour Revision Order 20[]

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- (v) Penzance Albert Pier Extension Act 1990, articles 3, 5 and 6 only
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- (vii) The Penzance Harbour Revision Order 2009, articles 3, 5 and 6 only
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- (iii) Portwrinkle, Portreath and Portscatho Harbour Empowerment Order 20[]
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- (iii) Portwrinkle, Portreath and Portscatho Harbour Empowerment Order 20[]
- (iv) Cornwall Harbours Harbour Revision Order 20[]

2. Functions arising out of any of the above legislation, including any Byelaws, General, Harbour or Special Directions made by the Council and the determination of any fees and charges. (In relation to the determination of fees and charges such are to be recommended to Council).
3. That the discharge of these functions within any policy and budget approved by Council be delegated as set out in the Memorandum of Understanding between the Harbours Board and the Council.
4. The Board may establish single issue panels to undertake in depth reviews in accordance with the Code of Practice relating to Single Issue Panels set out at Part 24 of the Council's Constitution.
5. Sub Committees of the Board may be established with the express approval of the Council to discharge functions of the Council which the Committee may discharge in accordance with the Council's Rules of Procedure as set out in the Council's Constitution.
6. All Meetings of the Board and subcommittees shall be conducted in accordance with the Council's Rules of Procedure as set out pages 97 - 112 of the Council's Constitution and the provisions of the Cornwall Harbours Harbour Revision Order 20[] (**'the 20[] HRO'**)

B Membership of the Board

1. In accordance with article 7 of the 20[] HRO, the Board shall consist of 10 or 12 members, 5 or six Members of Cornwall Council and 5 or six independent co-opted members with voting rights. 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 Board.
2. All Members of the Board, including Co-opted Members, will be bound by the Code of Conduct for Members as set out in the Council's Constitution and will be required to sign

the declaration of acceptance of office as required by law in any event. A Co-opted Member is under the same obligations as Members of the Council that appoints the Member and must observe the Council's Constitution and most importantly comply with the statutory rules relating to the disclosure of interests.

3. No Co-opted Member shall act as a Member until that person has made the declaration set out in Schedule 1 hereto (or a declaration to that effect); and a Co-opted Member shall cease to be a Member of the Board if that person fails to make that declaration within three months of his / her appointment.
4. The Chairman and Vice Chairman of the Board shall be elected by the Board in accordance with the Council's Constitution. The Chairman and Vice Chairman of the Board shall only be Council Members.
5. Voting rights – by virtue of the Local Government (Committees and Political Groups) Regulations 1990¹ (as amended) Regulation 4, a Co-opted Member is entitled to vote on a committee established exclusively for the discharge of the Council's functions as a Harbour Authority. All Co-opted Members shall have full voting rights on all matters before the Board. The power to co-opt rests with the Council and not with committees although the selection of persons to serve as co-opted is usually left to the committee.
6. Voting at any Meeting of the Board or Sub Committee of the Board shall be in accordance with Paragraph 17 of Part 7 of the Council's Rules of Procedure;
7. In accordance with article 11 of the 20[] HRO, in the event that a Board Member other than Council Member does not attend any meetings of the Board for a period of six months from the date of his or her last attendance or is absent for more than three meetings in any 12 month period, that Member ceases to be a Board Member, unless within the period of absence the Council gives approval for this absence. This shall not apply to Council Members whose attendance is regulated by Statute.
8. All Board Members will attend relevant training to be determined by the Chairman on the basis of the Maritime Manager's advice, which shall be founded on best practice.
 - a. All Board Members will be required to attend Code of Conduct Training.
9. In accordance with article 8 of the 20[] HRO, the Board may at any time co-opt no more than five persons to attend Board meetings as additional (non- voting) attendees for a fixed term of up to 12 months.

C Appointments Process

The Board shall consist between 10 and 12 members, 5 or 6 Members of Cornwall Council, appointed on a proportionate basis and 5 or 6 Co-opted members. In accordance with article 7 of the 20[] HRO, 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. maritime industry and activities;
- b. commerce;
- c. health and safety;
- d. management;
- e. public relations and community issues;
- f. industrial relations;
- g. shipping, fishing or cargo handling;
- h. accountancy or financial management;
- i. boating and other water related leisure activities;
- j. environmental matters affecting harbours; and

¹ 1990 No.1553

- k. any other skills and abilities considered from time to time by the Council to be relevant to the discharge by the Board of its functions.
2. Council Members shall be appointed to the Board by the Council as required at its Annual Meeting, subsequent changes to be ratified by the Council and a Council Member's term shall expire on the fourth day after the date of the next regular election. Council Members appointments will be governed by the Council's Constitution. In respect of Council appointees, guidance will be given to the Council's Political Group Leaders to assist in putting forward Members to the Board.
3. In accordance with article 7 of the 20[] HRO, the Council shall secure, so far as reasonably practicable, that the Council Members appointed by them 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 Board of its functions.
4. 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 or otherwise cease to be a member in accordance with article 11 of the 20[] HRO;
5. Co-opted Board Members shall be appointed by the Council for up to 2 full terms, and exceptionally 3 full terms.
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 Chairman and the Member, and the Board's assessment that the member has performed satisfactorily during the first term (all Membership of the Board is subject to ratification by the Council);
7. Re-appointment of a Co-opted member for a third term shall involve advertisement of the role and open competition with other candidates;
8. Appointments will be made by an Appointments Panel consisting of the Chairman of the Harbours Board, a stakeholder representative selected through the Harbours Forum (maintained in accordance with article 12 of the 20[] HRO, and an independent external technical advisor with a thorough understanding of harbour/port governance issues.
9. In accordance with article 7 of the 20[] HRO, the Appointments Panel shall secure, so far as reasonably practicable, that the Co-opted Members appointed by them 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 Board of its functions.

D Resignation of Members

1. In accordance with Schedule 3 Paragraph 3 of the 20[] HRO, a Board member, including the Chairman, may resign his or her office at any time by Notice in writing given to the Council's Monitoring Officer.

E Meetings

1. The Board shall meet at least 6 times a year and be governed by the Procedure Rules as set out at Part 7 of the Council's Constitution;
2. In accordance with paragraph 6 of Schedule 2 of the 20[] HRO, the quorum for meetings of the Board shall be 5 save that at no time shall there be less than 3 Council Members present at the Meeting.
3. The Board 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 Recognised Stakeholder Forums;
- d. The business otherwise set out on the Agenda for the meeting;

4. Agendas

- a. 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; or
- b. by reason of special circumstance, which shall be specified in the Minutes, the Chairman of the meeting is of the opinion that the item should be considered as a matter of urgency.

F Declaration of Interests

1. A Co-opted Member shall be under the same obligations as Members of the Council that appoint him and he must observe the Council's Standing Orders and comply with the statutory rules relating to the disclose of interests.
2. All Board members will be governed by Cornwall Council's Code of Conduct for Members 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 Chairman of the Board shall receive a Special Responsibility Allowance in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003 (As amended).
2. The Board may pay to Co-opted Members such expenses for travelling and subsistence allowances on the same basis as Councillors but not an attendance allowance, although a financial loss allowance is payable in lieu.

H Recognised Stakeholder Forums

1. To ensure that the Harbours Board has strong and direct links with both harbour users, local communities and other external organisations with an interest in the HB area, a formal consultation mechanism will be maintained in accordance with article 13 of the 20[] HRO. This will enable Recognised Stakeholder Forums to formally make representations to the Board;
2. The Harbours Forums are Recognised Stakeholder Fora and will be informal meetings. No Member of the Harbours Board will have a position on the Groups. The Harbour Master and a Board Member will attend as observers.
3. The Board may choose to appoint other Recognised Stakeholder Forums at its discretion.

Schedule 1 : Declaration of Acceptance of Office – Co-opted Members Cornwall Council

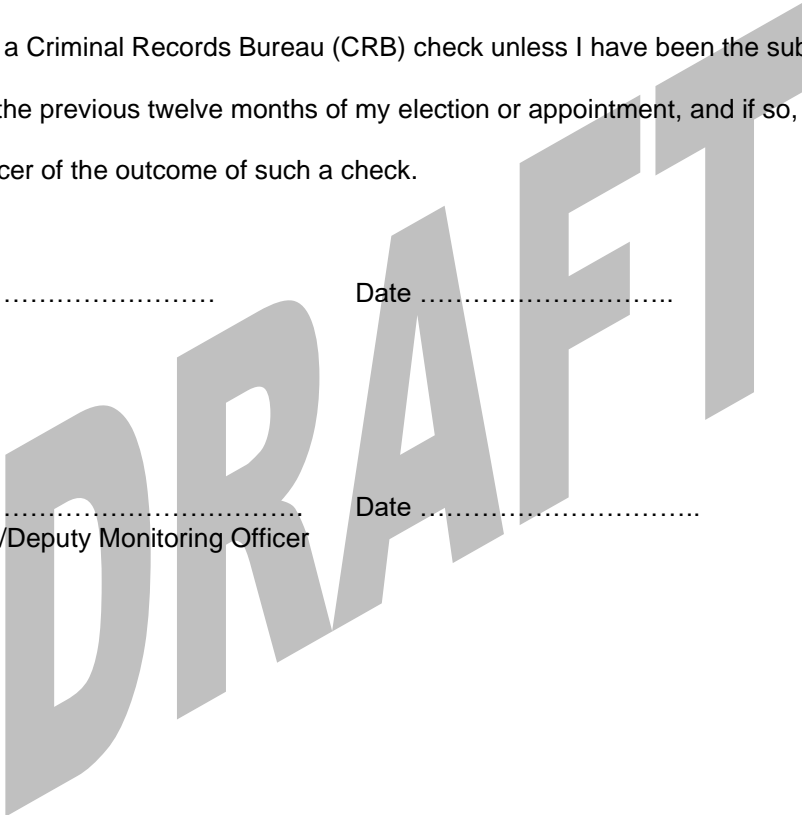
I.....being a co-opted Member of Cornwall Council,
declare that I will duly and faithfully fulfil the requirements of this role according to the best of my
judgement and ability.

I undertake to observe Cornwall Council’s Code of Conduct as to the conduct which is expected of
Members and Co-opted Members of Cornwall Council.

I agree to undergo a Criminal Records Bureau (CRB) check unless I have been the subject of a
CRB check within the previous twelve months of my election or appointment, and if so, I shall notify
the Monitoring Officer of the outcome of such a check.

Signed Date

Signed Date
Monitoring/Deputy Monitoring Officer



APPENDIX 4

Organisational Structure

DRAFT