



Marine  
Management  
Organisation

# Statement in Support of Harbour Revision Order (HRO) Application

Table 1: Application details

1. Date application made to MMO	15 September 2022
2. Name of primary contact	Lara Moore
3. Contact details of primary contact	Lara Moore, Ashfords LLP l.moore@ashfords.co.uk
4. Address of primary contact	Ashfords LLP, Ashfords House, Grenadier Road, Exeter, EX1 3LH
5. Name of statutory harbour authority	East Suffolk Council (“the Council”)
6. Is this a Works Order?	No
a. Brief description of proposed works	N/A
b. Date when notification of intention was submitted to MMO	N/A
c. Date when EIA screening opinion was issued by MMO	N/A

<p><b>d. If screened in, date when scoping opinion was issued by MMO</b></p>	<p>N/A</p>
<p><b>e. If screened in and if an optional ES review was undertaken, date when review was completed by MMO</b></p>	<p>N/A</p>
<p><b>7. Non-technical summary – please explain what you are seeking to achieve in this application in no more than 200 words.</b></p>	<p>This application is for a harbour revision order to be made under the powers conferred on the Secretary of State for Transport by section 14 of the Harbours Act 1964 which are delegated to the MMO by the Harbours Act 1964 (Delegation of Functions) Order 2010 (S.I. 2010/674).</p> <p>The HRO would consolidate and modernise existing local statutory harbour legislation in respect of the Harbour and confer further modernised powers on the Council considered conducive to the efficient and economical operation, maintenance, management and improvement of the Harbour. The HRO confers modern powers on the Council to give general directions to vessels using the Harbour, and persons and vehicles using the Harbour, together with powers exercisable by the harbour master appointed by the Council to give special directions. These powers are required to support the effective management of those using the Harbour, as recommended by the Port Marine Safety Code and, in relation to vehicles and harbour operations ashore, are consistent with the powers in section 14(3) relating to penal provisions and the environmental duties placed on harbour authorities by virtue of section 48A of the 1964 Act and paragraph 16A of Schedule 2 to that Act, which enables a harbour revision order to confer powers for environmental conservation within the harbour.</p>
<p><b>8. Location (coordinates must be provided in WGS84 format if this is a works order)</b></p>	<p>Southwold Harbour (“<b>the Harbour</b>”)</p>
<p><b>9. State the title of all relevant charts/maps/plans included with</b></p>	<p>Harbour Limits Plan  Harbour Premises Plan  Upstream Bank Area Plan</p>

<b>application (if appropriate)</b>	
<b>10. State the legislation relevant to the Harbour Council and included with this application (if appropriate)</b>	The Southwold Harbour Order 1933 ( <b>‘the 1933 Order’</b> ) and plan.
<b>1. If you have received any pre-application guidance from the MMO in relation to this application please briefly describe this here.</b>	N/A
<b>2. Have you included the required fee for your application?</b>	£4,000 sent by BACS.

**Table 3: statutory harbour authority background**

<p><b>The statutory harbour authority:</b></p> <p>East Suffolk Council is the statutory harbour authority (<b>‘SHA’</b>) for the Harbour. As the SHA, it is governed by its own local legislation. The only currently in-force piece of local legislation applying to the Harbour is the 1933 Order. For ease of reference, East Suffolk Council, in the exercise of its SHA functions at the Harbour, is referred to as “the Council” throughout this Statement in Support.</p> <p>The Council is responsible for the administration, maintenance and improvement of the Harbour, which is further described below.</p> <p>The Council is also the local lighthouse authority for the Harbour and surrounding areas.</p> <p>In managing the Harbour, the Council strives to observe industry standards set out in Government guidelines. The Council is committed to complying with the principles of the various codes and reports applying to the harbour and harbour industry, except where not relevant to the Council’s constitution.</p>
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### **Southwold Harbour:**

The Harbour is situated in an area that is designated as an area of outstanding beauty and adjacent to the Southwold Denes Beach. Southwold has a historic town centre, which is within easy walking distance and is the home of the famous Adnams brewery. The Harbour provides permanent and short stay moorings for the local community and visitors to the district.

The approaches to Southwold are dogged by a series of sand and shingle banks which are constantly on the move especially in the winter months.

The principal activities are the provision and maintenance of anchorage, moorings, pontoons and associated harbour facilities as well as the management of leases for harbour land and buildings. There is also a caravan site within the harbour premises.

### **Table 3a: Need and justification for order**

#### **Port Marine Safety Code:**

As SHA for the Harbour, the Port Marine Safety Code (November 2016) published by the Department for Transport ("**the Code**") applies to the Council as well as to all statutory harbour authorities and other marine facilities, berths and terminals in the UK. The Executive Summary to the Code explains that:

*"The Code has been developed to improve safety in the harbour marine environment and to enable organisations to manage their marine operations to nationally agreed standards. It provides a measure by which organisations can be accountable for discharging their statutory powers and duties to run harbour or facilities safely and effectively. It also provides a standard against which the policies, procedures and performance of organisations can be measured. The Code describes the role of board members, officers and key personnel in relation to safety of navigation and summarises the main statutory duties and powers of harbour authorities. The Code is designed to reduce the risk of incidents occurring within the harbour marine environment and to clarify the responsibilities of organisations within its scope."*

The Code identifies a number of tasks which harbour authorities should undertake in order to comply with the Code including reviewing and being aware of existing powers based on local and national legislation and advises that harbour authorities should seek additional powers if the existing powers are insufficient to meet their obligations to provide safe navigation. In particular, paragraph 2.5 of the Code states "... *harbour authorities would be well advised to secure powers of general direction or harbour direction to support the effective management of vessels in their harbour waters if they do not have them already*".

As the Council does not currently have a power of General Direction or Harbour Direction, the Council is seeking to obtain further modern powers of General Direction in addition to this power to enable it to have a set of general directions covering the Harbour instead of having separate byelaws and directions. Designation with powers of General Direction is an important tool which will assist the Council with compliance with the Code, and

the environmental duties placed on harbour authorities by virtue of section 48A of the 1964 Act and paragraph 16A of Schedule 2 to that Act, which enables a harbour revision order to confer powers for environmental conservation within the harbour.

#### **Harbours Act 1964:**

Section 14 of the Harbours Act 1964 (**“the 1964 Act”**) confers powers which have been devolved to the MMO to make an order under that section (known as a harbour revision order) in relation to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties for achieving all or any of the objects specified in Schedule 2 of the 1964 Act.

Section 14(2)(a) of the 1964 Act requires that written application be made to the MMO by the authority engaged in improving, maintaining or managing the harbour in question and section 14(2)(b) provides that the MMO must be:

*“satisfied that the making of the order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner or facilitating the efficient and economic transport of goods or passengers by sea or in the interests of the recreational use of sea-going ships”.*

The matters set out in Schedule 2 to the 1964 Act include, in particular, at paragraph 4:

*“Imposing or conferring on the authority, for the purpose aforesaid, duties or powers (including powers to make byelaws), either in addition to, or in substitution for, duties or powers imposed or conferred as mentioned in paragraph 3 above”.*

And, at paragraph 6:

*“Settling (either for all purposes or limited purposes) the limits within which the authority are to have jurisdiction or altering (either for all purposes or for limited purposes) such limits as previously settled”.*

Because this is not an application for a harbour revision order which, directly or indirectly, authorises a project (within the meaning of paragraph 1 of Schedule 3 to the 1964 Act), prior notification to the MMO under paragraph 3(a) of Schedule 3 to the 1964 Act is not required.

This application for the HRO under section 14 of the 1964 Act meets the conditions set out in that section. In particular, the application meets the requirements of:

(A) Section 14(1) of the 1964 Act because it is made in relation to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of its statutory powers and duties for the purpose of achieving objects falling within Schedule 2 to the Act.

(B) Section 14(2) of the 1964 Act because:

- (i) The application is made upon the written application of a harbour authority engaged in improving, maintaining or managing a harbour; and
- (ii) The making of the HRO is desirable in the interests of securing the improvement, maintenance or management of the Harbour in an efficient and economical manner.

**General:**

In July 2021, after extensive public consultation, the Council established both a Harbour Management Committee and shortly afterwards a formal Stakeholder Advisory Group (as per the recommendations of the Ports Good Governance Guidance). As part of the process, the Council publicly committed to seeking an HRO to modernise the current local legislation in the following respects:

1. Placing the HMC on a statutory footing;
2. Placing the Advisory Body on a statutory footing;
3. Modernising but retaining ring fencing of harbour funds;
4. Modernising provisions related to capital monies;
5. Short fall in Harbour Revenue;
6. Ensuring the 'rating' and 'harbour' limits are the same;
7. Modernising the definition of 'vessel';
8. Obtaining Powers of General Direction;
9. Making the landside harbour premises limits flexible.

Through implementing the above (and the additional provisions contained in the proposed HRO) it modernises and extends the powers of the Council considered conducive to the efficient and economical operation, improvement, maintenance or management of the Harbour.

It is considered that it is desirable in the interests of securing the improvement, maintenance or management of the Harbour in an efficient and economical manner that the Council is provided with a set of modern flexible statutory powers contained within the proposed HRO and that the current local statutory harbour legislation for Southwold Harbour is amended due to the fact that some of the relevant provisions are no longer not fit for purpose, or are not required as a result of the provisions in the proposed HRO.

The modernised and additional powers include powers reflective of those contained in modern HROs. Other HROs which contain some similar provisions include the Weymouth Harbour Revision Order 2021, the Poole Harbour Revision Order 2012, the Cowes Harbour Revision Order 2012 and the Dover Harbour Revision Order 2014, the Portland Harbour Revision Order 1997 and the Cornwall Harbours Harbour Revision Order 2023. They include standard statutory harbour powers, such as the power to borrow, application of revenue, reserve fund powers, powers to dispose of and develop land, powers associated with charges (including deposits and liens associated with charges) and miscellaneous powers including a power of general direction, a power to dredge, powers related to the removal of wrecks and other obstructions and various powers related to commercial activities.

An explanation of, and the need for, each substantive article in the HRO is set out below. Some examples of how the powers may be exercised are described below. These examples are not intended to be exhaustive of the ways in which the powers may lawfully be exercised.

Article 1 is not dealt with below since it is ancillary to the substantive provisions of the HRO.

**Table 2b: Justification for inclusion of provisions**

Article in HRO	Summary of Provision	Requirement for provision
<p align="center"><b>2</b></p> <p><b>Interpretation</b></p>	<p>This article contains definitions which apply throughout the HRO and a number of other provisions assisting with the interpretation of and clarification of scope of the HRO.</p>	<p>The definitions are found within paragraph (1) of the article.</p> <p>Paragraph (2) provides that all points, distances etc. in the HRO should be construed as if the words “or thereabouts” had been inserted after them.</p> <p>Paragraph (3) sets out that all references to points in the HRO are references to World Geodetic System 1984.</p> <p>Article 2 is required to enable the HRO and its effect to be properly interpreted.</p>
<p align="center"><b>3</b></p> <p><b>Incorporation of the Harbours, Docks and Piers Clauses Act 1847</b></p>	<p>This article incorporates the said Act except in relation to the sections listed as being excepted. Those sections included predominantly relate to:</p> <ul style="list-style-type: none"> <li>(A) Power to construct warehouses and other works (section 21);</li> <li>(B) Rates (sections 27 and 33);</li> <li>(C) Collection of rates (sections 34 – 40,43 – 46 and 48);</li> <li>(D) Harbour, dock and pier master (sections 51 - 65);</li> <li>(E) 68, 69, 72 – 76 (relating to the discharge of cargoes, removal of goods and the protection of the harbour, dock and pier);</li> <li>(F) Harbour and dock police (sections 79 – 80);</li> <li>(G) Meters and weighers (sections 81 – 82);</li> <li>(H) Byelaws (section 83);</li> <li>(I) Recovery of damages and penalties</li> </ul>	<p>This is an incorporation of clauses of the Harbours, Docks and Piers Clauses Act 1847 (“<b>the 1847 Act</b>”) into the proposed HRO and the 1933 Order.</p>

	<p>(sections 92, 94); (J) 99, 100, 102 and 103 (relating to the saving of rights for the Crown, Trinity House and general Acts).</p>	
<p><b>4</b> <b>Jurisdiction and Limits</b></p>	<p>This article provides that the Council shall exercise jurisdiction as a harbour authority, and the powers of the harbour master shall be exercisable within the Harbour (which includes the harbour premises, the limits of which are described fully in article 4(1)).</p> <p>The clarified harbour limits are important to secure the management of the Harbour in an efficient and economic manner.</p>	<p>The article incorporates the harbour premises. This is necessary to ensure that all the land the Council owns or is used or intended to be used in connection with the undertaking falls within the limits. The extent of 'harbour premises' has been a matter of local concern and discussion for a number of years. The Council has publicly committed to ensuring all 'dry' land within the area shaded red on the plan to the 1933 Order is included on the harbour premises plan being deposited with the HRO. The plan to the 1933 Order has been provided to the MMO as part of the pack of application documents.</p> <p>It should be noted that the effect of the proposed HRO is that the areas shown shaded yellow on the harbour premises plan will not form part of the harbour. These areas are covered by water but are non-navigable and, as such, it is appropriate that they do not form part of the harbour undertaking. Neither area is accessible by vessels from the 'wet' harbour area as the entrances are blocked by sluices.</p> <p>It is conducive to the efficient and economic management of the Harbour to express the harbour limits clearly in the HRO and to deposit plans clearly delineating the harbour limits. In relation to the 'wet' harbour area, the 1933 Order provides that this area is bounded on its seaward side by a line following a radius of 1,000 yards. The proposed HRO slightly alters and modernises this boundary by referring to the line of a 1,000 metre radius centred at Point 1 with coordinates (shown for illustrative purposes on the harbour limits plan).</p> <p>In respect of the harbour premises, in the event of any future alteration to the extent of the harbour premises (because the Council buys, sells etc. land), the HRO requires the Council to publish an updated plan on the harbour website and to display one in the Harbour office within 30 days of the alteration. The Council's byelaw and general direction enforcement powers can be exercised over the entire area of</p>



		<p>jurisdiction.</p> <p>The definition of harbour premises (defined in article 2(1) of the HRO) is flexible, meaning that if further land was purchased in the future for the harbour undertaking, it would automatically become part of the undertaking (or if land no longer required for the purposes of the harbour undertaking was sold, it would cease to be a part of the harbour undertaking). All monies from the sale of any land is required to be treated as capital belonging to the harbour undertaking (see article 12 of the proposed HRO and the amendments to article 3 of the 1933 Order).</p> <p>This article is authorised by paragraph 6 of Schedule 2 to the 1964 Act, as follows:</p> <p><i>“Settling (either for all purposes or for limited purposes) the limits within which the authority are to have jurisdiction or altering (either for all purposes or for limited purposes) such limits as previously settled.”</i></p>
<p><b>5</b></p> <p><b>General Functions</b></p>	<p>This article provides that Council may take such steps as it may consider necessary or desirable from time to time for the operation, maintenance, management and improvement of the Harbour, its approaches and facilities, and to carry out or provide funding towards works in part of the river Blyth that is situated between the line of ‘the landward limits’ (as described in article 4) in the river Blyth and a straight line between a point 52°19’47.80”N 001°38’19.27”E on the southern bank of the river Blyth, and a point 52°19’49.38”N 001°38’20.84”E on the northern bank of the river Blyth, shown for illustrative purposes on the upstream bank area plan.</p>	<p>For those purposes, this article authorises the Council to improve, maintain, regulate, manage, mark and light the Harbour and provide harbour facilities; carry out various activities related to works, structures and equipment at the Harbour (including the harbour premises) and do all other things which in its opinion are expedient to facilitate the proper operation, improvement or development of the Harbour including acquiring land. The definition of harbour facilities highlights the importance of the fishing, leisure, recreational and tourism industries to the future viability of the Harbour.</p> <p>Additionally, this article permits the Council to carry out works or provide funding towards the carrying out of works situated between the line of ‘the landward limits’ (as described in article 4) in the river Blyth and a straight line between a point 52°19’47.80”N 001°38’19.27”E on the southern bank of the river Blyth, and a point 52°19’49.38”N 001°38’20.84”E on the northern bank of the river Blyth, shown for illustrative purposes on the upstream bank area plan. This</p>

		<p>article imposes no duty on the Council and instead provides only that that Council “may” exercise it, and only insofar as it is considered to be necessary or desirable for the maintenance, operation, management and improvement of the harbour and the harbour facilities, and this limitation therefore brings the article in line with section 14(1) and 14(2)(b) of the 1964 Act. It is therefore considered that this power is sufficiently safeguarded under the provisions of the article.</p> <p>This article is authorised by paragraph 3 of Schedule 2:</p> <p><i>"Varying or abolishing duties or powers imposed or conferred on the authority by a statutory provision of local application affecting the harbour, being duties or powers imposed or conferred for the purpose of- (a) improving, maintaining or managing the harbour; (b) marking or lighting the harbour, raising wrecks therein or otherwise making safe the navigation thereof; or (c) regulating the carrying on by others of activities relating to the harbour or of activities on harbour land".</i></p> <p>This article is also authorised by paragraph 17 of Schedule 2 to the 1964 Act where <i>“any object which, though not falling within any of the foregoing paragraphs, appears to the appropriate Minister to be one the achievement of which will conduce to the efficient functioning of the harbour”</i>.</p>
<p><b>6</b></p> <p><b>Establishment and Role of the Board</b></p> <p><b>7</b></p> <p><b>Composition of the Board</b></p>	<p>Articles 6 to 9 place the Southwold Harbour Board (currently known as the Southwold Harbour Management Committee) on a statutory footing.</p> <p>Article 6 establishes the Board and provides that its functions will be as set out in the Memorandum of Understanding which exists between the Board and the Council from time to time.</p> <p>Article 7 sets out how the Board will be constituted and article 8 provides that up to two additional non-voting</p>	<p>In July 2021 following extensive local consultation, skills audit and public advertisement, the Council established the Southwold Harbour Management Committee to assist it with its management of the harbour, in line with the recommendations in the Ports Good Governance Guidance. Prior to that, the Harbour was managed by a Joint Committee of East Suffolk Council and Southwold Town Council.</p> <p>The Committee is currently constituted as set out in article 7 of the HRO and during its first year of operation has provided valuable advice to the Council, with the co-opted members providing particular industry expertise, thereby improving the Council’s management of</p>

<p style="text-align: center;"><b>8</b></p> <p><b>Non-voting co-opted members</b></p> <p style="text-align: center;"><b>9</b></p> <p><b>Disqualification of Board members</b></p>	<p>co-opted members may be appointed for periods of up to 12 months if the need should arise.</p> <p>Article 9 sets out the circumstances in which a Board member may be removed from the Board and provides that the Council may appoint a new person in their place once removed.</p>	<p>the Harbour. The Committee has been operating under a Memorandum of Understanding (<b>'MoU'</b>) and a copy of the current MoU has been provided to the MMO with the application document pack. As such, article 6 reflects the current arrangements in place.</p> <p>Article 8 provides the flexibility to co-opt up to two additional (non-voting) persons for periods of up to 12 months. This provides useful flexibility if, for example, additional expertise is required for a specific project.</p> <p>Article 9 sets out the circumstances in which a member can be removed from the Board.</p> <p>Because the harbour is a municipal port, the Board is partly governed by the constitutional arrangements of the Council and has been operating successfully with no local statutory underpinning. As such it does not require extensive provisions within the HRO setting out how it should conduct meetings etc. This would be unnecessarily restrictive and would not allow future changes to be made without a further HRO. As such the MoU, which can be updated from time to time, is a more appropriate document to include such arrangements in.</p>
<p style="text-align: center;"><b>10</b></p> <p><b>Application of Finances</b></p>	<p>This article provides that the Council shall apply the harbour revenue in the manner following and not otherwise:</p> <ul style="list-style-type: none"> <li>(A) first in payment of the working and establishment expenses and costs of maintenance of the Harbour;</li> <li>(B) secondly in payment of the interest on any moneys borrowed by the Council for the Harbour under any statutory borrowing power;</li> <li>(C) thirdly in payment of all other expenses properly chargeable to harbour revenue; and</li> </ul>	<p>Article 39 of the 1933 Order relates to 'application of finances'. This section is being repealed as part of the proposed HRO, but the Council has made a public commitment to retain ring fenced funds in respect of monies received as harbour revenue. Article 10 of the proposed HRO reflects this commitment.</p> <p>The equivalent of paragraph (7) of article 39 of the 1933 Order is replicated in article 11(3)(e) of the proposed HRO.</p> <p>This article is authorised by paragraph 13 of Schedule 2 of the 1964 Act:</p> <p style="text-align: center;"><i>“Regulating the application of moneys in the nature of revenue received by the authority and securing that the financial affairs of the authority are properly managed.”</i></p>

	(D) fourthly to an account established as a reserve fund for the Harbour.	This article is required to fully ringfence the use of harbour revenue. Some of the benefits of surplus funds being ring fenced for the benefit of the harbour undertaking are highlighted in paragraph 4.19 of the Ports Good Governance Guidance (March 2018).
<b>11</b> <b>Reserve Fund</b>	This article provides that the Council shall establish and maintain a reserve fund covering the Harbour and carry to such a fund any part of its harbour revenue as is available for the purpose and any capital monies of the harbour undertaking.	<p>This article is authorised by paragraph 13 of Schedule 2:</p> <p><i>“Regulating the application of moneys in the nature of revenue received by the authority and securing that the financial affairs of the authority are properly managed.”</i></p> <p>It is an essential part of prudent financial management that the Council should have the power to maintain a reserve fund to enable the Council to plan for future expenditure across the Harbour in an economic and efficient manner.</p> <p>This provision ensures both harbour revenue and capital are placed into a reserve fund.</p>
<b>12</b> <b>Borrowing</b>  <b>13</b> <b>Temporary borrowing</b>	These articles provide that the Council may borrow such sums of money as it considers necessary for the purposes of the harbour undertaking and that it may secure such borrowing against the assets and revenues of the harbour undertaking. The Council may also borrow temporarily for the purposes of the harbour undertaking.	<p>The article reflects modern statutory harbour borrowing powers as can be seen in the powers conferred by article 9 of the Dover Harbour Revision Order 2014.</p> <p>There is no need to place a limit on the amount of money which can be borrowed by the Council because, in reality, borrowings will be limited by the amount a lender is prepared to loan. In addition, the unlimited borrowing power will avoid the requirement for an HRO at a future date to extend the borrowing powers as the value of money decreases as a result of inflation.</p> <p>These articles are authorised under paragraph 10 of Schedule 2 of the 1964 Act, as follows:</p> <p><i>“Empowering the authority to borrow money, with or without limitation with respect to the amount that may be borrowed or the time or manner in which the power may be exercised.”</i></p>

<p><b>Charges (generally)</b></p>	<p>The articles contained within this Part of the HRO (Charges) set out the Council's powers with respect to charges it may levy. They are reflective of modern statutory harbour powers relating to charges and are conducive to the improvement, maintenance and management of the Harbour in an efficient and economical manner. A similar suite of powers can be found in the Weymouth Harbour Revision Order 2021, the Poole Harbour Revision Order 2012 and the Cornwall Harbours Harbour Revision Order 2023.</p>	<p>See below for further justification of particular provisions. The majority of the existing provisions in the 1933 Order are being repealed and these new articles ensure that the Council can levy charges in the 'harbour' as defined. There will no longer be any separate 'ratings' limits (as per the Council's public commitment).</p>
<p><b>14</b> <b>Charges other than ship, passenger and goods dues</b></p>	<p>This article provides that in addition to ship, passenger and goods dues under section 26 of the 1964 Act, the Council may demand, take and recover reasonable charges in respect of all vessels. It also expressly states that charges may be made in respect of a variety of other floating platforms etc. so that no dispute will arise as to whether such structures fall within the definition of 'vessel' contained within the HRO.</p>	<p>It is important to the Harbour's future viability that all users of the Harbour contribute to the cost of the management and maintenance of the Harbour.</p> <p>It would be detrimental to the improvement, maintenance or management of the Harbour in an efficient and economical manner if charging powers did not to exist in respect of one type of vessel or floating structure using the harbour (unless exempt under the HRO). This provision is particularly important because the HRO provides for the existing charging provisions in current local statutory harbour legislation to be repealed.</p> <p>This article is authorised by paragraph 11 of Schedule 2 to the 1964 Act:</p> <p><i>"empowering the authority to levy at the harbour charges other than ship, passenger and goods dues or varying or abolishing charges (other than aforesaid) levied by them at the harbour".</i></p>
<p><b>15</b> <b>Charges for services or facilities</b></p>	<p>This article provides that in addition to ship, passenger and goods dues under section 26 of the Harbours Act 1964, the Council may demand, take and recover reasonable charges for services and facilities provided by it.</p>	<p>This provision is common as it is required for the Harbour to be managed economically and efficiently.</p> <p>This article is authorised by paragraph 11 of Schedule 2 to the 1964 Act:</p>

		<p><i>“empowering the authority to levy at the harbour charges other than ship, passenger and goods dues or varying or abolishing charges (other than aforesaid) levied by them at the harbour”.</i></p> <p>This is pursuant to securing the improvement, maintenance and management of the Harbour in an efficient and economical manner.</p>
<p><b>16</b></p> <p><b>Payment of Charges</b></p>	<p>This article provides that charges are payable before the vessel or goods against which they are payable are removed from the Harbour or harbour premises. It also sets out who charges are payable by and who they can be recovered from and when.</p>	<p>This article is included to ensure that the payment of charges authorised to be levied are consistent with section 14(2)(b) of the 1964 Act for the HRO to be desirable for the improvement, maintenance and management of the Harbour in an efficient and economical manner. For these purposes, it is essential that the HRO is clear as to when charges must be paid and from whom charges must be taken. It would be counter-productive to exclude such a provision from the HRO as this would negatively impact the Council’s ability to efficiently and economically manage the Harbour.</p> <p>Furthermore, this article is authorised by paragraph 12 of Schedule 2 of the 1964 Act in that it secures the efficient collections of charges levied by the Council, specifying the times at which and the persons by whom charges are to be paid:</p> <p><i>“Securing the efficient collection of charges levied by the authority at the harbour and specifying the times at which and the persons by whom such charges are to be paid.”</i></p>
<p><b>17</b></p> <p><b>Compounding arrangements and rebates</b></p>	<p>This article provides the Council with a power to confer exemptions from dues, allow rebates or make compositions with any person with respect to charges. In addition, it provides that the Council does not have to include on its list of ship, passenger and goods dues kept at the harbour office, charges which have been reduced by a rebate or a compounding arrangement in respect of a due included on the list.</p>	<p>This article is important to enable the Council to act in a commercial manner when entering into arrangements with customers, thereby managing the harbour in an efficient and economical manner. This would be extremely difficult if the Harbour was required to publish commercially sensitive information.</p> <p>The great majority of ports operate on a commercial basis, in competition with each other (domestically and abroad) and in some cases with other modes of transport. This is recognised by the Ports Good Governance guidance at paragraph 1.15. The commercial relationship formed with harbour stakeholders in particular is also</p>

		<p>recognised at paragraph 2.10 and 2.11, and paragraph 2.28 specifically states:</p> <p><i>“All SHAs are encouraged to consider meeting the reasonable requests for information from stakeholders, where practical. This does not mean that SHAs should be expected to make available information that is commercially or otherwise sensitive...”</i></p> <p>On this basis, it is considered this article is consistent with the Ports Good Governance Guidance and is therefore justified.</p> <p>A similar article can be found in, for example, the recent Weymouth Harbour Revision Order 2021.</p>
<p><b>18</b></p> <p><b>Deposits for charges</b></p>	<p>This article provides that the Council may require from a person who incurs or is about to incur a charge with it, a reasonable deposit or guarantee. It also provides the Council with the power to detain a relevant vessel or goods until the deposit has been paid or the required guarantee made.</p>	<p>It is essential for the economic management of the Harbour to be able to secure the reasonable charges due to the Council by virtue of its charging powers under the local legislation applying to the Harbour, the 1964 Act or otherwise. Should it become apparent that such a guarantee is not going to be provided by the person from whom it is due, then until such guarantee is received the SHA need to be able to secure the interests of the harbours by removing the relevant vessel or goods from the Harbour or refuse entry.</p> <p>This article is consistent with section 14(2)(b) of the 1964 Act for the HRO to be <i>“desirable for the improvement, maintenance and management of the harbour in an efficient and economical manner”</i>. Furthermore, this article is authorised by paragraph 12 of Schedule 2 of the 1964 Act in that it secures the efficient collections of charges levied by the Council:</p> <p><i>“Securing the efficient collection of charges levied by the authority at the harbour and specifying the times at which and the persons by whom such charges are to be paid.”</i></p>
<p><b>19</b></p>	<p>This article provides for a right of lien over goods in the possession or custody respectively of a person</p>	<p>This is a standard provision included to secure the financial interests of those who by agreement with the Council collects charges on its behalf,</p>

<p><b>Liens for charges</b></p>	<p>collecting charges on behalf of the Council or, a wharfinger or carrier, who has paid or given security for charges on those goods.</p>	<p>by securing said interest against goods in their possession. As that person will not themselves be liable for the payment of charges, this provision is required to secure debts owed.</p>
<p><b>20</b> <b>Refusal to pay charges for landing places</b></p>	<p>This article provides that a vessel may be prevented from using a landing place supplied by the Council, if the master of the vessel refuses to pay the related charges.</p>	<p>It is essential for the economic management of the Harbour for the Council to be able to secure the reasonable charges due to it by virtue of its charging powers under the local legislation applying to the Harbour, the 1964 Act or otherwise. Therefore, the Council must be able to prevent vessels from sailing or using facilities at the Harbour (such as a landing place or mooring) in the event that the master of a vessel refuses to pay the reasonable charge required, as authorised under the HRO.</p> <p>This article is consistent with section 14(2)(b) of the 1964 Act for the HRO to be desirable for the improvement, maintenance and management of the harbour in an efficient and economical manner. Furthermore, this article is authorised by paragraph 12 of Schedule 2 of the 1964 Act in that it promotes securing the efficient collections of charges levied by the Council:</p> <p><i>“Securing the efficient collection of charges levied by the authority at the harbour and specifying the times at which and the persons by whom such charges are to be paid.”</i></p>
<p><b>21</b> <b>Exemption from Harbour Dues</b></p>	<p>This article is similar to other modern provisions providing for an exemption for harbour dues for certain vessels, persons and government departments (or their current equivalent) whilst in the exercise of their core duties.</p>	<p>This article is authorised by paragraph 14 of Schedule 2 to the 1964 Act, as follows:</p> <p><i>“Varying or extinguishing any exemption from charges levied by the authority at the harbour or any other right or privilege enjoyed thereat.”</i></p>
<p><b>22</b> <b>Recovery of charges</b></p>	<p>This article provides that in addition to any other powers of recovery available to it, the Council may recover any charges payable to it as a debt in Court.</p>	<p>It is essential for the economic management of the Harbour to be able to secure the reasonable charges due to the Council by virtue of charging powers under the local legislation applying to the Harbour, the 1847 Act incorporated with the HRO or otherwise. Therefore, the Council must be able to rely on the resources of the Court to assist in</p>



		<p>securing any debts owed to them should the existing powers of recovery be insufficient to secure the debt.</p> <p>Article 22 is consistent with section 14(2)(b) of the 1964 Act for the HRO to be desirable for the improvement, maintenance and management of the Harbour in an efficient and economical manner.</p>
<p><b>23</b></p> <p><b>Harbour master may prevent sailing of vessels</b></p>	<p>This article provides that the harbour master may prevent the removal or sailing from the Harbour of any vessel until evidence is produced that any charges payable in respect of the vessel, its passengers or goods have been paid.</p>	<p>It is essential for the economic management of the Harbour for the Council to be able to secure the reasonable charges due to it in relation to:</p> <ul style="list-style-type: none"> <li>- the vessel;</li> <li>- passengers on the vessel; and</li> <li>- goods imported, exported or carried on the vessel,</li> </ul> <p>by virtue of its powers under the local legislation applying to the Harbour or otherwise. Therefore, the harbour master is required to have an express power to prevent the sailing and / or removal of a vessel from the Harbour until such a time as the charges payable have been paid.</p> <p>Should such a vessel be able to leave the Harbour without having paid the charges due, it would become difficult for the Council to recover said charges and therefore be detrimental to its ability to manage the Harbour in an economically efficient manner.</p> <p>This article is consistent with section 14(2)(b) of the 1964 Act for the HRO to be desirable for the improvement, maintenance and management of the Harbour in an efficient and economical manner.</p>
<p><b>24</b></p> <p><b>Power to make General Directions</b></p>	<p>The Council does not currently have powers of either General Direction or Harbour Direction. These articles introduce the new and extended power of General Direction to cover vehicles and directions given for the ease, convenience or safety of harbour operations ashore as defined under the HRO (including speed limits for and parking of vehicles) and powers of Special</p>	<p>The Code advises at paragraph 2.5 of Chapter 2 that:</p> <p><i>“In particular, harbour authorities would be well advised to secure powers of general direction or harbour direction to support the effective management of vessels in their harbour waters if they do not have them already.”</i></p>

<p style="text-align: center;"><b>25</b></p> <p style="text-align: center;"><b>Procedure for giving, amending or revoking General Directions</b></p>	<p>Direction. They also set out the consequences of failing to comply with a general direction or special direction.</p>	<p>As set out above, the Council does not have existing powers of General Direction and seeks to obtain it in accordance with the recommendation of the Code and the necessity to secure the effective management of vessels in the Harbour. The process for keeping general directions up to date is far more time and cost efficient than the byelaw making process, and due to the inclusion of the Harbour Advisory Group to be set up under the HRO as ‘designated consultees’ it contains a strong local consultation requirement.</p>
<p style="text-align: center;"><b>26</b></p> <p style="text-align: center;"><b>Publication of General Directions</b></p>		<p>Therefore, in line with the Code, the Council is applying for a modernised power of General Direction that will enable the Council to have in place a single set of general directions. In line with best practice, article 25 provides a statutory right for ‘designated consultees’ to be consulted about proposed General Directions (see article 25(1)(a) and (b)).</p>
<p style="text-align: center;"><b>27</b></p> <p style="text-align: center;"><b>Special Directions</b></p>		<p>A Harbour Advisory Group will be a ‘designated consultee’ within article 25(1)(a) alongside the Chamber of Shipping and the Royal Yachting Association.</p>
<p style="text-align: center;"><b>28</b></p> <p style="text-align: center;"><b>Failure to comply with directions</b></p>		<p>General directions can be made over the entirety of the Harbour (which includes the harbour premises). Any future exercise of this power will be exercised in accordance with article 25. This means that representations received from the designated consultees will be considered by the Council and if they object to proposed general directions and those concerns are unable to be resolved, there is a statutory adjudication process contained in article 25. The process contained in article 25 is likely to be acceptable to the Royal Yachting Association as a similar adjudication process is contained within the Shoreham Harbour Council Revision Order 2021, Fowey Harbour Revision Order 2021, the Dart Harbour and Navigation Order 2021 and the Cornwall Harbours Harbour Revision Order 2023.</p>
<p style="text-align: center;"><b>29</b></p> <p style="text-align: center;"><b>Enforcement of directions</b></p>		
<p style="text-align: center;"><b>30</b></p> <p style="text-align: center;"><b>Master’s responsibility in relation to directions</b></p>		<p>In terms of the precise scope of general directions, it will be seen that article 24(1) would allow the Council to give or amend directions for:</p> <p style="text-align: center;"><i>“the ease, convenience or safety of navigation;</i></p>

<p style="text-align: center;"><b>31</b></p> <p><b>Boarding of vessels and vehicles</b></p>		<p><i>the safety of persons;</i>  <i>the protection of property, flora and fauna;</i>  <i>the ease, convenience and safety of harbour operations ashore”.</i></p> <p>In relation to vehicles and harbour operations ashore, such a scope is consistent with the powers in section 14(3) relating to penal provisions and the environmental duties placed on harbour authorities by virtue of section 48A of the 1964 Act and paragraph 16A of Schedule 2 to that Act, which enables a harbour revision order to confer powers for environmental conservation within the harbour.</p> <p>Article 28 sets out the maximum fine level (level four on the standard scale) for failure to comply with a general direction once made. The Council already has byelaw making powers (for example, under article 49 of the 1933 Order) and it is already entitled to impose fines of up to level 4 on the standard scale (section 57 of the Criminal Justice Act 1988), so the level four fine is considered justified.</p> <p>Article 31 provides that a duly authorised officer of the Council may, on producing if so required his authority, enter and inspect a vessel or vehicle in the harbour for the purposes of any enactment relating to the harbour (including any enactment so relating contained in subordinate legislation) or of any byelaw or general direction of the Council relating to the Harbour, including the enforcement of any such enactment, byelaw or general direction.</p>
<p style="text-align: center;"><b>32</b></p> <p><b>Power to make byelaws</b></p>	<p>This article provides the Council with the power to make byelaws in a range of circumstances in addition to the purposes in section 83 of the 1847 Act (as incorporated under article 3 of the HRO) and is in line with the modern practice of setting out a wide range of matters upon which the Council will have the power to make byelaws.</p>	<p>This article incorporates the purposes in section 83 of the 1847 Act and is in line with the modern practice of setting out a wide range of matters (contained in Schedule 1) upon which the Council will have the power to make byelaws.</p> <p>The alternative practice is to set out a more general range of byelaw making powers and rely on the width of the wording of the provision. However, setting out the detail in this way reduces the scope for challenging any prosecution on the basis that the byelaw in question is outside the range of matters for which the Council has the power to make byelaws. This leads to increased costs and delays in</p>

		<p>prosecutions and therefore the more modern approach is to set out expressly a wider range of byelaw making powers.</p> <p>A similar approach can be found in the Weymouth Harbour Revision Order 2021 and the Portland Harbour Revision Order 1997.</p> <p>The Council’s existing byelaw powers in article 49 of the 1933 Order are being repealed as part of the modernisation process.</p> <p>Historically, there has been little need to initiate any prosecutions at the Harbour for breach of byelaws as harbour users have complied with the instructions of the harbour masters. Nevertheless, to comply with the Code and to meet its other duties (including navigational safety), it is important that the Council has modern and comprehensive byelaw making powers. It is anticipated that the current byelaws in place at Southwold Harbour will be reviewed and it is likely that they will be repealed and replaced with general directions following grant of the HRO. However, it is important that the Council retains wide byelaw making powers in case it needs to introduce new byelaws in the future in respect of a risk not covered by the modernised power of General Direction sought above.</p> <p>The power to make byelaws is authorised by paragraph 4 of Schedule 2 of the 1964 Act:</p> <p><i>“Imposing or conferring on the authority, for the purpose aforesaid, duties or powers (including powers to make byelaws), either in addition to, or in substitution for, duties or powers imposed or conferred as mentioned in paragraph 3 above.”</i></p>
<p><b>33</b> <b>Confirmation of Byelaws</b></p>	<p>This article sets out the procedure by which byelaws made under the HRO shall be confirmed under the Local Government Act 1972.</p>	<p>A similar provision can be found in article 25 of the Folkestone Harbour Revision Order 2017.</p> <p>This provision is incidental to the power to make byelaws as described above and is consistent with section 14(2)(b) of the 1964 Act for the</p>

		HRO to be desirable for the improvement, maintenance and management of the Harbour in an efficient and economical manner
<b>34</b> <b>Saving for existing directions, byelaws etc.</b>	Due to the proposed repeal in part of the existing local legislation currently in force in respect of the Harbour, it is necessary to include a saving provision for existing byelaws etc. They will then remain in force until replaced in the future.	<p>It is important that any existing byelaws, regulations, licences, leases etc. remain in force following the coming into force of this HRO.</p> <p>This provision is incidental to the power to make byelaws and general directions that are being introduced under the provisions of the HRO, and is therefore consistent with section 14(2)(b) of the 1964 Act for the HRO to be desirable for the improvement, maintenance and management of the Harbour in an efficient and economical manner.</p>
<b>35</b> <b>Advisory bodies</b>	This article covers the establishment of an external advisory body with an independent chair.	<p>This article puts on a statutory basis the establishment and continuance of an advisory group or groups for the Harbour and their administration. It also requires the Council to consult the advisory group or groups.</p> <p>A suitable group was established during 2021 and the Council has been very grateful for its valuable input since its establishment. The inclusion of this article aligns with the Council's public commitment to place the existing stakeholder group on a statutory footing.</p>
<b>36</b> <b>Development of land</b>	This article provides that the Council may use or develop for any purpose, and deal with, any land within or in the vicinity of the Harbour; or form invest in and promote, or join with another person in forming, investing in and promoting a company for using or developing for any purpose, and dealing with, any land within or in the vicinity of the Harbour.	<p>Paragraph (2) provides that a company established under paragraph (1)(b) may have powers to do anything necessary for the purposes of the objects for which it has been established notwithstanding that the Council would not itself have the power to do that thing.</p> <p>This article, as far as applying to land not required for the harbour, is authorised by paragraph 9A of Schedule 2 of the 1964 Act:</p> <p><i>"Empowering the authority (alone or with others) to develop land not required for the purposes of the harbour with a view to disposing of the land or of interests in it, and to acquire land by agreement for the purpose of developing it together with such land".</i></p> <p>So far as relating to harbour land, it is considered that this article is authorised by paragraph 17 of Schedule 2 which enables a provision</p>

		<p>to be included in a harbour revision order if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning of the harbour. The case for this is set out below as an integral justification for this article.</p> <p>The purpose of this article is to give the Council the flexibility, subject to obtaining the necessary rights in or over land, to exploit opportunities to develop land (including harbour land) to maximise the efficient utilisation, expansion and regeneration of the harbour. The profits and revenues derived by the harbour undertaking from the development of any land under this article would be used to improve and develop the harbour and provide increased financial security.</p> <p>It should be noted that the powers in this article can only be exercised if <i>"it is conducive to the improvement, maintenance or management of the harbour in an efficient and economical manner"</i>. This limitation brings this article within the powers of section 14(2)(b) of the 1964 Act.</p> <p>Similar powers to those in this article were conferred in the Weymouth Harbour Revision Order 2021, the Poole Harbour Revision Order 2012 the Dover Harbour Revision Order 2014.</p>
<p><b>37</b></p> <p><b>Power to grant tenancies and to dispose of land</b></p>	<p>Paragraph (1) gives power to the Council, for the purposes of or in connection with the carrying on of the undertaking, to grant leases and other rights or interests over its land or other property forming part of the harbour.</p> <p>Paragraph (2) provides that the Council may also dispose of, or grant the use or occupation for any purpose of, land or property if they consider that the property is surplus to harbour requirements; or it would conduce to the improvement, maintenance or management of the harbour in an efficient and economical manner for the property to be held by a person other than the Council.</p>	<p>Paragraph (1), which is needed to manage the Harbour, is authorised by paragraph 3(a) of Schedule 2 which relates to powers conferred for the purposes of <i>"improving maintaining or managing the harbour"</i>.</p> <p>Paragraph (3)(a) is authorised by paragraph 9 of Schedule 2:</p> <p><i>"Empowering the authority to dispose of property vested in them and held for the purposes of the harbour which is no longer required for those purposes."</i></p> <p>It is considered that paragraph (3)(b) is authorised by paragraph 17 of Schedule 2 which enables a provision to be included in a harbour revision order if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning of the harbour. The case for this is set out as an integral part of the</p>

		<p>need for this article. Paragraphs (1) and (3)(a) are needed to enable the Council to manage the harbour undertaking effectively.</p> <p>These powers are similar to the powers conferred in the Weymouth Harbour Revision Order 2021, the Poole Harbour Revision Order 2012 and the Dover Harbour Revision Order 2014.</p> <p>Paragraph (3)(b) would enable the Council to grant leases or transfer land or property to a subsidiary or other body. This power is needed to enable the Council to have sufficient flexibility in how to structure the harbour undertaking in the future. The power in paragraph (3)(b) is only exercisable if <i>“it would conduce to the improvement, maintenance, operation or management of the harbour in an efficient and economical manner”</i>. This limitation brings paragraph (3)(b) within the powers of section 14(2)(b) of the 1964 Act.</p> <p>In relation to the disposal of land, the provisions of the proposed HRO provide that freehold disposal can only take place in the following circumstances:</p> <ul style="list-style-type: none"><li>(a) if the land is no longer required for harbour purposes; or</li><li>(b) it would conduce to the improvement, maintenance, operation or management of the harbour in an efficient and economical manner for the property to be held by a person other than the Council.</li></ul> <p>In relation to disposal powers, the Council already has freehold disposal powers under article 10 of the 1933 Order which is being repealed under the proposed HRO. The disposal powers included under the proposed HRO will benefit from additional safeguarding by virtue of article 11(2) (reserve fund) which provides that all capital monies received in respect of the harbour undertaking (which includes land disposed of) must be carried into the reserve fund and therefore be applied in the manner described in article 11(3)(a) – (f) where (a) – (f) all include a requirement for monies to be applied in relation to the harbour undertaking and not otherwise. It is therefore considered that the power to dispose of freehold harbour land is sufficiently safeguarded for the benefit of the harbour.</p>
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<p style="text-align: center;"><b>38</b></p> <p style="text-align: center;"><b>Power to appropriate lands and works for particular uses etc.</b></p>	<p>This article provides that the Council may from time to time for the purpose of or in connection with the management of the Harbour set apart and appropriate any part of the Harbour for the exclusive, partial or preferential use and accommodation of any particular trade, person, vessel or class of vessels, or goods, subject to the payment of such charges and subject to such terms, conditions and regulations as the Council may think fit.</p>	<p>Section 33 of the 1847 Act is incorporated into the HRO (the Open Port Duty) and as such the Council remains under a duty to keep the Harbour open for the shipping and unshipping of goods, and the embarkment and landing of passengers on payment of rates. Therefore, the power of this article will only ever operate insofar as it does not otherwise conflict with the duty under section 33 of the 1847 Act.</p> <p>In addition, the power under this article must only be exercised for the <i>“purpose of or in connection with the carrying on of the harbour undertaking”</i> and not for wider purposes. This article is therefore within the scope of section 14(2)(b) in that it will assist the Council in the management of the Harbour in an efficient manner and facilitate the efficient and economic transport of goods and passengers by sea, again for Harbour purposes only.</p>
<p style="text-align: center;"><b>39</b></p> <p style="text-align: center;"><b>Other commercial activities</b></p>	<p>Paragraph (1)(a) provides that the Council may carry on at any place a trade or business of any kind including a trade or business carried on in conjunction with another person. Paragraph (1)(b) enables the Council to form, invest in and promote, or join with another person in forming, investing in and promoting, a company for carrying on any part of the undertaking or carrying on at any place a trade or business of any kind. Paragraph (2) provides that a company established under paragraph (1)(b) may have powers to do anything necessary or expedient for the purposes of the objects for which it has been established notwithstanding that the Council would not itself (as harbour authority) have the power to do that thing.</p>	<p>Paragraph (1)(a) would assist the Council to maximise the potential of the harbour undertaking by enabling it to carry on any business which could conveniently be carried on with the harbour undertaking. For example, the Council could utilise and develop the skill and experience of its staff by providing services to other harbour undertakings or to carry out business activities which are incidental to running a harbour.</p> <p>Paragraph (1)(b) would enable the Council to carry on such a business as part of a joint venture with another person or persons, for example enabling the Council to contribute land and/or harbour related expertise to the venture while the other party contributes complementary specialist business expertise.</p> <p>The profits and revenues derived from the business ventures under this article would be used to improve and develop the harbour and ensure increased financial security.</p> <p>It should be noted that the powers in this article can only be exercised if:</p>



		<p><i>“it is conducive to the improvement, maintenance, operation or management of the harbour in an efficient and economical manner”.</i></p> <p>This limitation brings this article within the powers of section 14(2)(b) of the 1964 Act.</p> <p>Similar powers were conferred in the Weymouth Harbour Revision Order 2021 and the Dover Harbour Revision Order 2014.</p> <p>It is considered that this article is authorised by paragraph 17 of Schedule 2 which enables a provision to be included in a harbour revision order if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning of the harbour.</p> <p>The case for this is set out as an integral part of the justification for article.</p>
<p><b>40</b></p> <p><b>Power to delegate functions</b></p>	<p>This article provides that the Council may delegate the performance of any of its functions to be carried out by any such company as referred to in paragraph (1)(b).</p>	<p>This article is authorised by paragraph 9B of Schedule 2:</p> <p><i>"Empowering the authority to delegate the performance of any functions of the authority except-</i></p> <ul style="list-style-type: none"> <li><i>(a) a duty imposed on the authority by or under any enactment;</i></li> <li><i>(b) the making of byelaws;</i></li> <li><i>(c) the levying of ships, passenger and goods dues;</i></li> <li><i>(d) the appointment of harbour, dock and pier masters;</i></li> <li><i>(e) the nomination of persons to act as constables;</i></li> <li><i>(f) functions relating to the laying down of buoys, the erection of lighthouses and the exhibition of lights, beacons and</i></li> </ul>

		<p><i>seamarks, so far as those functions are exercisable for the purposes of the safety of navigation."</i></p> <p>The power to delegate functions is needed to enable the Council to carry out day to day activities through a subsidiary or joint venture company. The power does not apply to the key functions which cannot be delegated under paragraph 9B of Schedule 2 to the 1964 Act.</p>
<p><b>41</b> <b>Power to lay Moorings</b></p> <p><b>42</b> <b>Licensing of moorings</b></p> <p><b>43</b> <b>Offences as to moorings</b></p>	<p>These articles provide the Council with powers related to the provision, maintenance and licensing of moorings within the Harbour. It is considered that modernised express provisions are conducive to the efficient and economical management and maintenance of the Harbour.</p>	<p>Similar provisions are found within articles 14 to 17 of the Yarmouth (Isle of Wight) Harbour Revision Order 2011, articles 9 to 11 of the Poole Harbour Revision Order 2012, article 18 of the Watchet Harbour Revision Order 2000 and article 21 of the Burry Harbour Revision Order 2000.</p> <p>These articles provide for a level 4 fine for failure to comply with the requirements. This level of fine is required firstly to ensure that there is a sufficient level of deterrent (moorings in the Harbour are sought after and can be used to generate income, and the level of fine needs to be in excess of likely income generation) and secondly, a mooring obstructing safe navigation in the Harbour will constitute a navigational hazard and can interfere with the operation of the Open Port Duty. As such, it is considered that a level 4 fine is justified.</p>
<p><b>44</b> <b>Bunkering</b></p>	<p>This article provides the Council with powers in relation to licensing those persons carrying out commercial refuelling activities related to vessels in the Harbour.</p>	<p>To comply with the environmental duties contained in section 48A of the 1964 Act, the Council considers that it is important that it has express powers to licence such activities so that proper risk assessments can be carried out and persons carrying out such activities can be required to comply with terms and conditions, designed to mitigate against risks associated with such activities (including environmental). Due to the fact that such operations are being carried out commercially and the potential environmental implications, it is considered that a level 4 fine is justified.</p>
<p><b>45</b> <b>Aids to navigation</b></p>	<p>This article provides that the Council may, with the approval of Trinity House, erect, place, alter, discontinue or remove any aids to navigation in any place adjacent to the harbour (subject to obtaining the necessary interest in or over land).</p>	<p>This power is important for enabling the Council to meet its navigational safety duties and is therefore consistent with section 14(2)(b) of the 1964 Act to secure the management of the harbour in an efficient manner or of facilitating the efficient and economic transport of goods or passengers by sea.</p>

<p><b>46</b></p> <p><b>Power to dredge</b></p>	<p>This article provides the Council with a power to dredge.</p>	<p>The power to dredge is a standard statutory harbour power and, under its existing local legislation (for example, article 14 of the 1933 Order), the Council already has the power to dredge with respect of the Harbour.</p> <p>It is important that the Council is provided with the power so that it is able to dredge if and when required, and is desirable in the interests of securing the improvement, maintenance or management of the Harbour in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea as required by section 14(2)(b) of the 1964 Act.</p> <p>If dredging is carried out at the Harbour under the provision in the future, then in line with section 75 of the Marine and Coastal Access Act 2009, the Council will not need to obtain a marine licence for the dredging activities at the harbour. However, if disposal to sea is required in the future, then a marine licence will continue to be required for this disposal.</p>
<p><b>47</b></p> <p><b>Repair of landing places etc.</b></p>	<p>This article provides that the Council may by notice require the owner or occupier of any landing place, jetty, embankment or structure or other work in the harbour or on land immediately joining the waters of the harbour to repair it, within a reasonable time, to their reasonable satisfaction, if it is a danger to persons or vessels using the Harbour or a hindrance to navigation of the Harbour. The provision provides for a level 3 fine for non-compliance (on summary conviction) and a power for the Council to carry out the works and recover the cost from the person on whom the notice was served. There is right of appeal to the Secretary of State.</p>	<p>This power is important in assisting the Council in meeting its duties with regard to navigational safety and the safety of harbour users. Due to the potential safety implications of failure to comply, a level 3 fine is justified. Similar provisions can be found in article 11 of the Portland Harbour Revision Order 1997.</p> <p>This article relates to navigational safety in that it applies to features which are:</p> <p style="text-align: center;"><i>“dangerous to persons or vessels using the harbour; a hindrance to the navigation of the harbour”</i></p> <p>and is therefore desirable in the interests of securing the improvement, maintenance or management of the Harbour in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea as required by section 14(2)(b) of the 1964 Act.</p>
<p><b>48</b></p>	<p>These articles include the following:</p>	<p>The provisions ensure that the Council will be aware of all works and</p>

<p><b>Restriction of works and dredging</b></p> <p><b>49</b></p> <p><b>Control of certain operations and works</b></p> <p><b>50</b></p> <p><b>Licensing of works</b></p> <p><b>51</b></p> <p><b>Licence to dredge</b></p> <p><b>52</b></p> <p><b>Appeals</b></p> <p><b>53</b></p> <p><b>Obstruction of works</b></p>	<p>(A) Restriction of works and dredging;</p> <p>(B) Control of certain operations of works of statutory undertakers;</p> <p>(C) Licensing of works;</p> <p>(D) Licence to dredge;</p> <p>(E) Appeals in respect of works or dredging licences; and</p> <p>(F) Obstruction of works.</p> <p>These articles provide the Council with modern powers regarding works and dredging carried out by third parties within the harbour limits. The provisions include requirements to obtain a licence from the Council prior to the undertaking of any works or dredging within the Harbour. The provisions are important to enable the Council to comply with its duties related to navigational safety, the Open Port Duty and in respect of the environment (in particular section 48A of the 1964 Act).</p>	<p>dredging taking place in the Harbour and that it can require suitable safeguards to be put in place when they are being conducted. As such, the level 4 fine in article 48(4) and the level 3 fines in articles 49(5) and 53 for breach are considered appropriate and proportionate.</p> <p>In addition, where works are carried out without or in breach of the terms of a licence, the Council may require the works to be removed and the site restored to its former condition. If they/it are/is not, the power to do so itself and recover the cost from the person liable.</p> <p>The provisions are important to enable the Council to comply with its duties related to navigational safety and in respect of the environment (in particular section 48A 1964 Act) by requiring third parties to seek authorisation from the Council by way of a licence (unless specifically authorised in accordance with article 48(3)).</p> <p>Article 52 provides an appeal procedure in respect of any refusal to grant a licence, the terms of any licence granted or any modifications requested by the Council. Aggrieved applicants are able to appeal to the Secretary of State.</p> <p>And, as such, it is considered that this article is justified.</p> <p>Applications are made in writing and the Council may charge a reasonable charge in respect of its administrative expenses for dealing with the application.</p> <p>Similar provisions can be found in articles 8 to 10 of the Watchet Harbour Revision Order 2000.</p> <p>With regard to these provisions generally, paragraph 17 of Schedule 2 provides that a Harbour Revision Order may include provision for:</p> <p><i>“Any object which, though not falling within any of the foregoing paragraphs, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.”</i></p>
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<p style="text-align: center;"><b>54</b></p> <p><b>Parking places and related facilities</b></p>	<p>This article provides that the Council may provide parking spaces and connected works within the Harbour.</p>	<p>This power has been expressly included because the Harbour includes car parks which form part of the undertaking. Similar provisions can be found in article 20 Penzance Harbour Revision Order 2009.</p> <p>The charging for such facilities is authorised by paragraph 11 of the 1964 Act:</p> <p style="text-align: center;"><i>“Empowering the authority to levy at the harbour charges other than ship, passenger and goods dues or varying or abolishing charges (other than as aforesaid) levied by them at the harbour.”</i></p> <p>With regard to the provision of parking and related facilities generally, paragraph 17 of Schedule 2 provides that a Harbour Revision Order may include provision for:</p> <p style="text-align: center;"><i>“Any object which, though not falling within any of the foregoing paragraphs, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.”</i></p> <p>And, as such, it is considered that this article is justified.</p>
<p style="text-align: center;"><b>55</b></p> <p><b>Removal of vehicles and vessels</b></p>	<p>This article authorises the Council to remove vehicles and vessels from the harbour that have been left in a place where they will or are likely to interfere with the use of the harbour or in any part of the Harbour where parking is prohibited.</p>	<p>This power is important in assisting the Council in managing efficiently traffic within the Harbour and ensuring compliance with the Open Port Duty (in relation to vessels). Similar provisions can be found in article 22 Folkestone Harbour Revision Order 2017 and article 21 Penzance Harbour Revision Order 2009.</p> <p>This article is also desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea as required by section 14(2)(b) of the 1964 Act as the Council must be able to remove vehicles and vessels that contradict a prohibition notice (which must be conspicuously placed where appropriate) or that otherwise cause an</p>

		<p>obstruction or interfere with the use of the harbour. It would not be consistent with section 14(2)(b) of the 1964 Act if the Council were not afforded this express power.</p> <p>The article also provides the Council with the “lawful authority” required under section 52(1) of Part 4 Chapter 2 of the Protection of Freedom Act 2012, to remove vehicles, as the Council ought not commit an offence if it removes vehicles in such circumstances, for the reasons set out above.</p> <p>Finally, it is considered that the interests of people who aren’t the Council and otherwise entitled to remove said vehicles are sufficiently safeguarded by the provisions of 55(2) – (7).</p>
<p><b>56</b></p> <p><b>Power with respect of disposal of wrecks</b></p>	<p>This article extends the powers of the Council under section 252 of the Merchant Shipping Act 1995. In particular, it extends the circumstances in which the Council may recover expenses reasonably incurred by it in exercising said power from the owner of any such vessel. The provision includes notice requirements to the owner of the vessel and a period in which the vessel owner may dispose of the vessel itself.</p>	<p>This extension of the power in section 252 of the Merchant Shipping Act 1995 is common and important if the harbour is to be run in an efficient and economic manner. Similar provisions can be found in article 24 of the Portland Harbour Revision Order 1997.</p>
<p><b>57</b></p> <p><b>Power to deal with unseviceable vessels</b></p>	<p>This article provides that the Council may sell, break up or otherwise dispose of any vessel which is unseviceable and had been laid by or neglected in the Harbour or immediately adjoining the Harbour.</p>	<p>This article applies in addition to the power under section 57 of the 1847 Act (unseviceable vessels to be altogether removed from harbour) and allows the Council to recover its costs for the exercise of removing unseviceable vehicles laid or neglected with the Harbour.</p> <p>This article is desirable in the interests of securing the improvement, maintenance or management of the Harbour in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea as required by section 14(2)(b) of the 1964 Act.</p>
<p><b>58</b></p> <p><b>Removal of obstructions</b></p>	<p>This article provides that the Council may remove anything other than a vessel which is causing or likely to become an obstruction to, or cause interference with navigation in any part of the Harbour or its approaches.</p>	<p>This power is important in assisting the Council in meeting its duties with regard to navigational safety and the safety of harbour users, and important if the Harbour is to be run in an efficient and economic manner. Similar provisions can be found in article 8 of the Portland</p>

<p><b>other than vessels</b></p>	<p>The provision deals with the recovery of costs by the Council of reasonable expenses incurred by it in relation to the exercise of the power and sale of the item(s) recovered.</p>	<p>Harbour Revision Order 1997.</p>
<p><b>59</b> <b>Provision against danger to navigation</b></p>	<p>This article provides that in the case of injury to, or the destruction or decay of, a tidal work (defined in article 2), the Council must notify Trinity House (the general lighthouse authority) as soon as practicable.</p>	<p>This article is important in ensuring the Council meets its duties with regards to navigational safety. This article puts on a statutory basis a requirement for the Council to notify Trinity House of an incident relating to tidal works. Under the Merchant Shipping Act 1995, Trinity House then has powers to direct the Council as appropriate in response to the injury, destruction or decay of a tidal work.</p> <p>This article is conducive to the efficient management of the Harbour as required under section 14(2)(b) of the 1964 Act.</p>
<p><b>60</b> <b>Notices</b></p>	<p>This article sets out the process for serving any notices required under the Harbour Revision Order.</p>	<p>This article is conducive to the efficient management of the Harbour as required under section 14(2)(b) of the 1964 Act, clearly setting out the procedural requirements for Notices required under the HRO.</p>
<p><b>61</b> <b>Saving for Trinity House</b></p>	<p>This article provides the standard saving provision for the rights of Trinity House.</p>	<p>No further justification required.</p>
<p><b>62</b> <b>Crown Rights</b></p>	<p>This article provides the standard saving provision for Crown Rights.</p>	<p>No further justification required.</p>
<p><b>63</b> <b>Amendments</b></p>	<p>This article provides for the amendment of the 1993 Order which will remain partially in force along with the proposed HRO.</p> <p>The amendments assist in completing to process of modernising the local legislation applying to the harbour by, for example, inserting definitions of “reserve fund” and “Order of 202[ ]”, omitting the definition of “authorised rates” and replacing the definitions of “harbour”, “harbour revenue” and “harbour undertaking” to bring them up to date in line with the proposed Order.</p>	<p>The amendments are necessary to complete the process of modernisation of the local legislation applying to the statutory harbour authority in conjunction with the provisions of the HRO and the repeals / revocations contained in article 64 and Schedule 2 of the HRO.</p>

	<p>Additionally, small amendments have been made to articles 3, 8, 30, 36 and 47, which include the omission of wording no longer considered desirable in conjunction with the proposed Order. The words “Order of 202[ ]” are inserted after the words “this Order” in article 36 of the 1933 Order to ensure the article applies to both Orders which will remain in force.</p>	
<p><b>64</b> <b>Revocation/ Repeal</b></p>	<p>This article provides for the repeal and revocation (as appropriate) of the local legislation listed in the Schedule referred to from the date of the HRO. These Acts and Orders (in so far as they are revoked) either are or will become obsolete once the HRO is fully in force.</p>	<p>This HRO is being promoted in accordance with the recommendation for harbour authorities to review and be aware of existing powers based in local and national legislation, seeking additional powers where necessary. The repeals set out in article 64 and the accompanying Schedule are required in conjunction with this HRO to complete the process of modernising the local legislation applying to the Council, granting the suite of modern powers and duties set out above which are consistent with section 14(2)(b) of the 1964 Act and which will assist the Council in meeting the recommendations of the Code.</p>



**Table 4: Relevant policies, guidance and plans**

Plan, policy or guidance	<i>Demonstration that application is compliant with relevant plan, policy or guidance.</i>
<p><b>Relevant Marine Plan (or Marine Policy Statement if no plan or draft plan available)</b></p>	<p>The Harbour is situated within the East Inshore Marine Plan Area. Once published, Marine Plans become a material consideration and as such, it is considered in this Statement in Support in addition to the UK Marine Policy Statement. The relevant marine plan applying therefore is the ‘East Inshore and East Offshore Marine Plan’, April 2014 (“the East Marine Plan”).</p> <p>The proposed HRO is a non-works HRO (i.e. it does not authorise a plan or project). Its provisions are focused on modernising the Council’s existing statutory powers to support the efficient and economical operation, maintenance, management and improvement of the Harbour. The HRO modernises the Council’s enforcement powers. The modernisation amends the process by which such enforcement provisions can be made, amended and repealed (general directions).</p> <p>The proposed HRO also clarifies the existing harbour limits to expressly include the harbour premises removing uncertainty over the exercise of the Council’s enforcement powers above high water. The other provisions of the proposed HRO are predominantly administrative (such as constitutional arrangements, financial, borrowing and charging powers; powers of development and disposal of land; and powers in relation to establishing advisory bodies, moorings, bunkering, dredging, and powers to deal with wrecks and vessels etc.). As such, it is expected that the effects of the proposed HRO on the East Marine Plan area will be very limited and that any effects will be positive as the proposed HRO supports the economic and efficient management of the Harbour (including with respect to environmental considerations). A brief summary of compliance is nevertheless set out below.</p> <p><b>Compliance with UK Marine Policy Statement</b></p> <p>The UK Marine Policy Statement (‘MPS’) sets out (in section 2.1) that the UK vision for the marine environment is for <i>‘clean, healthy, safe, productive and biologically diverse oceans and seas.’</i> The core purpose of the proposed HRO is to modernise the Council’s enforcement powers enabling it to keep its enforcement provisions under review and to update, amend and repeal them in a more timely and efficient manner than through byelaws. This will support the Council in ensuring it meets both its environmental duties under s48A of the Harbours Act 1964 and compliance with the Port Marine Safety Code. Both of which will support the vision of ensuring that the marine environment is kept <i>‘clean, healthy, safe, productive and biologically diverse.’</i> The provisions of the proposed HRO also support the following high-level objectives contained in the MPS:</p>

	<p>(A) <b>Achieving a sustainable marine economy:</b> Marine businesses are acting in a way which respects environmental limits and is socially responsible.</p> <p>(B) <b>Ensuring a strong, healthy and just society:</b> The coast, seas, oceans and their resources are safe to use.</p> <p>(C) <b>Living within environmental limits:</b> Biodiversity is protected, conserved and where appropriate recovered and loss has been halted.</p> <p>(D) <b>Promoting Good Governance:</b> Marine businesses are subject to clear, timely, proportionate and, where appropriate, plan-led regulation.</p> <p><b>Compliance with the East Marine Plan</b></p> <p>The East Marine Plan was published in April 2014. Through its modernisation of the Council’s statutory powers enabling the efficient and economic management of the harbour and the activities that take place there, the proposed HRO will support the following objectives contained in the East Marine Plan:</p> <p>(A) <b>Objective 1:</b> To promote the sustainable development of economically productive activities, taking account of spatial requirements of other activities of importance to the East marine plan areas.</p> <p>(B) <b>Objective 4:</b> To reduce deprivation and support vibrant, sustainable communities through improving health and social wellbeing.</p> <p>(C) <b>Objective 6:</b> To have a healthy, resilient and adaptable marine ecosystem in the East marine plan areas.</p> <p>In addition, the proposed HRO is supported by policy S-PS-1, which expressly supports competitive and efficient harbour and shipping operations, recognising that <i>‘ports and harbours are essential to realise economic and social benefits for the south marine plan areas and the UK. S-PS-1 makes sure proposals do not restrict current harbour and harbour activity or future growth, enabling long-term strategic decisions, and supporting competitive and efficient harbour and shipping operations.’</i></p>
<p><b>Insert other relevant plans/policy/guidance in this section</b></p>	<p><b>Port Marine Safety Code</b></p> <p>Please see our comments earlier in this Statement of Support relating to the Port Marine Safety Code (Table 3a).</p>

**Table 5: Any other relevant information**

No formal pre-application consultation.

In addition to the specific provisions of Schedule 2 to the 1964 Act, paragraph 17 of Schedule 2 provides that a Harbour Revision Order may include provision for:

*“Any object which, though not falling within any of the foregoing paragraphs, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.”*

For the reasons mentioned above, it is considered that to the extent that any provision contained in the HRO does not fall specifically within any other paragraph of Schedule 2, the provisions of the HRO would be conducive to the efficient functioning of the harbours and it is therefore within the scope of the 1964 Act for them to be included in the HRO.