

**The Port Marine Safety Code: Development of the
Safety Management System (SMS)**
Report by Head of Safety Management

Summary: This report outlines the further development of the Port Marine Safety Code, Safety Management System Issue 3.

Recommendations:

- (i) That the Authority as duty holder formally reviews the arrangements relating to the Designated Person to confirm that the level of independent assurance is appropriate to comply with the PMSC.
- (ii) That the Authority adopts the Safety Management System and continues to support the ongoing development of detailed supporting operational procedures subject to the current arrangements relating to the designated person being agreed.

1 Introduction

- 1.1 The Port Marine Safety Code (PMSC) was published in March 2000 by DETR Ports Division. It aims to establish an agreed national standard for port marine safety and a measure by which authorities can be held accountable for their legal powers and duties to run their harbours safely.
- 1.2 The Broads Authority as duty holder for the Broads has developed a Safety Management System (SMS) as a clear commitment to the standard of safety required within the Broads to comply with the PMSC.
- 1.3 The Safety Management System Document has been developed with significant input from persons working on and around the Broads as well as users of the Broads and is supported by a series of risk assessments.

2 Designated Person

- 2.1 The PMSC states that each harbour authority must appoint an individual as the Designated Person (DP) to provide independent assurance directly to the duty holder (the Authority). The main responsibility is to determine, through assessment and audit, the effectiveness of the SMS in ensuring compliance with the Code
- 2.2 The Authority has appointed the Head of Safety Management to act as the “Designated Person” as defined by the Port Marine Safety Code. The reporting structure is set out Appendix 1.

- 2.3 The PMSC and its guide to implementation “A Guide to Good Practice on Port Marine Operations” have recently been updated. The section relating to the designated person in the guide has been rewritten and expanded to include additional guidance and recommendations to duty holders regarding the independence of the designated person role. (Appendix 2)
- 2.4 Previously the Duty Holders (the Authority) were content with the arrangements to assure the independence of this role by having the following in place:
- a) A House of Lords select committee in 2009 recommended that the Designated Person should have direct access to the Duty Holders. This has been implemented via standing item on the Broads Authority agenda which gives a direct reporting opportunity
 - b) The Designated Person has direct access to the lead member for safety who is chairman of the Boating Safety Management Group (BSMG). The BSMG agenda is agreed in advance between the DP and the chairman and there is no interference with this process.
 - c) The SMS is externally audited every 3 years and the findings of which are brought to the duty holders for consideration.
 - d) The findings of the recent external audit did not raise any concerns regarding the independence of the DP.
- 2.5 However it is recommended that the Duty Holder reviews this arrangement to confirm that they deliver the assurance that the duty holders require under the code.

3 Safety Management System update

- 3.1 The Safety Management System has been updated and subject to the above arrangements being confirmed is ready for formal issue.
- 3.2 The key areas of update include the following:
- Progress made against Broads Plan Objectives
 - Update following the re-organisation of the Broads Authority
 - Amendments following the Broads Authority Act 2009
 - Amendments following the transfer of Breydon Water
 - Amendments incorporating changes to the PMSC 2009 and 2012
 - Reference to changes in The Guide to Good Practice on Port Marine Operations 2009 and 2013
 - Complete replacement of the section relating to Hazards following the recent Hazard Review
 - Updated recommendations from the external audit

- 3.3 An update which requires particular attention is the changes to the reporting structure following the recent reorganisation.
- 3.4 Members will receive a full update to their existing manual electronically via compact disc.
- 3.5 The Safety Management System will be subject to annual updates following the Hazard review, it is envisaged that these updates will be issued in the spring of each year.

Background papers: Broads Authority, Port Marine Safety Code, Safety Management System, Version 2.0 dated 2009

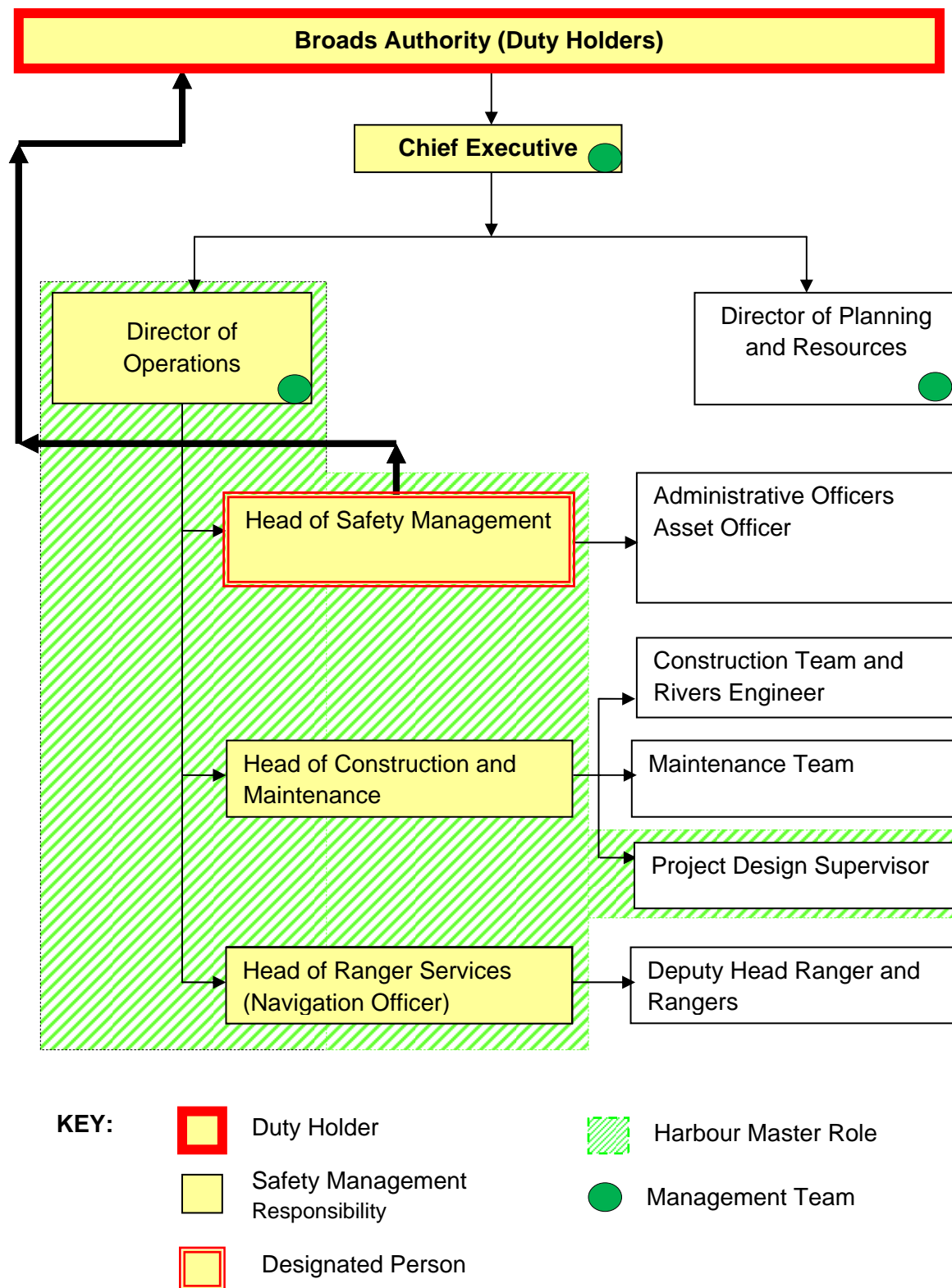
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Appendices: APPENDIX 1 -Extract from Safety Management System Section 2 figure 2.4 "Management team structure and Operations Directorate"

APPENDIX 2 - Extract from "A Guide to Good Practice on Port Marine Operations" section 2.2.25 to 2.2.46

Broads Plan Ref: NA4

Figure 2-4: Management Team Structure and Operations Directorate



The Designated Person

2.2.25. Each harbour authority must appoint an individual as the **Designated Person** to provide independent assurance directly to the Duty Holder. Their main responsibility is to determine, through assessment and audit, the effectiveness of the SMS in ensuring compliance with the Code.

2.2.26. The PMSC states there is a requirement for a Designated Person (DP), as follows:

- Each harbour authority must appoint an individual as the designated person to provide independent assurance directly to the Duty Holder that the marine safety management system, for which the Duty Holder is responsible, is working effectively. Their main responsibility is to determine, through assessment and audit, the effectiveness of the marine safety management system in ensuring compliance with the Code.
- In order to fulfil this function the Designated Person must have a thorough knowledge and understanding of the requirements of this Code (and supporting Guide to Good Practice) and associated port and marine legislation. Their role does not obscure the accountability of the authority and its board members.

2.2.27. Ultimately it is the Duty Holder who is responsible for deciding who should be appointed as the DP in order to provide the level of assurance that they believe is necessary to comply with the Code. In considering such an appointment the following should be considered:

2.2.28. Each harbour authority must appoint an individual as the DP to provide independent assurance directly to the duty holder that the marine safety management system (SMS), for which the duty holder is responsible, is working effectively.

2.2.29. The DP must be able to demonstrate independence of the operation of the marine SMS; in many cases the Duty Holder may determine that this means it may be inappropriate for the Harbour Master, or anyone who reports directly through him, to be appointed as the DP. Where the Duty Holder decides that a person involved in the SMS shall also be the DP, the Duty Holder should ensure independence of the DP function by taking the action recommended in paragraph 4 and by undertaking periodic external audits of the DP function.

2.2.30. Specific terms of reference for the DP should be issued that are separate and distinct from any other role the post holder may fill and clearly identify the accountability of the DP direct to the Duty Holder.

2.2.31 The main responsibility of the DP is to determine, through assessment and audit, the effectiveness of the marine SMS in ensuring compliance with the Code.

2.2.32 In order to fulfil this function the DP must have a thorough knowledge and understanding of the requirements of the Code (and supporting Guide to Good Practice) and associated port and marine legislation.

2.2.33 In using this knowledge and understanding the DP will take appropriate measures to determine whether the individual elements of the marine SMS meet the specific requirements of the Code.

2.2.34. These measures will include:

- Monitoring the thoroughness of the risk assessment process and the validity of the assessment conclusions.
- Monitoring the thoroughness of the incident investigation process and the validity of the investigation conclusions.
- Monitoring the application of lessons learnt from individual and industry experience and incident investigation.
- Assessing the validity and effectiveness of indicators used to measure performance against the requirements and standards in the Code.
- Assessing the validity and effectiveness of consultation processes used to involve and secure the commitment of all appropriate stakeholders.

2.2.35. The role of the Designated Person does not absolve the duty holder and its board members of their individual and collective responsibility for compliance with the Code.

The need to appoint an appropriately qualified individual as designated person was one of the recommendations made in MAIB's reports on the Flying Phantom.

2.2.36. It is important that the DP has independent access to the duty holder; therefore the Duty Holder may wish to consider the nomination of a specific director as a direct point of contact for the DP.

2.2.37. Currently there is no bespoke qualification for the role of the DP therefore, in appointing an individual to the role, the Duty Holder should consider the functions applicable to the role and ensure that the individual is suited to undertake such functions, or is able to attend training courses which will provide the necessary skills.

2.2.38. Additionally, best practice supports the view that a DP should have:

- Relevant first-hand experience of the marine environment and how ports operate.
- Appropriate knowledge of shipping, shipboard operations, and port operations.

- Understanding of the design, implementation, monitoring, auditing and reporting of Safety Management Systems.
- Understanding of assessment techniques for examining, questioning, evaluating and reporting.

2.2.39 It is acknowledged that there are numerous approaches to fulfilling the requirement to appoint a DP and it is for the Duty Holder to be demonstrably satisfied that they have adopted the best approach for their circumstances, as it is they who must demonstrate compliance with the Code. Examples of suitable approaches include, but are not limited to:

- A DP with the aforementioned qualities who works for the same port/group but is not directly linked to the operation of the marine SMS.
- A DP with the aforementioned qualities who is an external consultant.
- A DP with the aforementioned qualities appointed under a reciprocal arrangement with another port/operator.
- A DP with some of the aforementioned qualities who sits as part of a 'select committee' where additional relevant knowledge is available to supplement their direct capabilities.
- A DP with some of the aforementioned qualities who supplements their capabilities with the assistance of external consultants.

2.2.40. In order to fulfil this function, the Designated Person must have a thorough knowledge and understanding of the requirements of the Code (and supporting Guide to Good Practice) and associated port and marine legislation. In using this knowledge and understanding the designated person will take appropriate measures to determine whether the individual elements of the harbour authority SMS meet the specific requirements under the Code.

2.2.41. These measures will include:

- Monitoring the thoroughness of the risk assessment process and the validity of the assessment conclusions.
- Monitoring the thoroughness of the incident investigation process and the validity of the investigation conclusions.
- Monitoring the application of lessons learnt from individual and industry experience and incident investigation.
- Assessing the validity and effectiveness of indicators used to measure performance against the requirements and standards in the Code.
- Assessing the validity and effectiveness of consultation processes used to involve and secure the commitment of all appropriate stakeholders.

2.2.42. The role of the designated person does not obscure the accountability of the duty holder and its board members.

Appointing a Designated Person

2.2.43. Ultimately, it is the Duty Holder who is responsible for deciding who should be appointed as the Designated Person and provide the level of assurance that is necessary to comply with the Code. However, in addition to the attributes listed above for the Designated Person, the Duty Holder should consider appointing someone who:

- ☐ has first-hand experience of the marine environment and how ports operate;
- ☐ is a harbour master / deputy at another port, perhaps under a reciprocal arrangement with the other harbour authority;
- ☐ is already a member of the harbour board, if they meet above criteria and were not directly involved in setting up and maintaining the safety management system.

2.2.44. In most harbour authorities, the harbour master and the deputies are directly involved in assessing and controlling the risks to navigation, as well as overseeing the operation of the marine safety management system. They are not usually therefore, in a good position to provide independent assurance to the Duty Holder; and, as a consequence, it is **not** recommended that the harbour master or anyone who reports through him is appointed as the designated person.

2.2.45. Notwithstanding the above advice, if the harbour master is appointed as the designated person, then it is even more important that an external audit of the Safety Management System is undertaken on a regular basis.