



# Shetland Islands Council

## Scalloway Harbour Marine Safety Management System (2019)



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## Shetland Islands Council

### Scalloway Harbour - Marine Safety Management System

The Shetland Islands Council (SIC) 'Scalloway Harbour Marine Safety Management System' (MSMS) provides the system by which Scalloway Harbour complies with the requirements of The Port Marine Safety Code, referred to as 'the Code' within this document. The Code has been released by the Department of Transport (DfT) and is supplemented by the Code's Guide to Good Practice. This document has been prepared using the latest version of the Code published in November 2016, and the accompanying Guide to Good Practice, published in February 2018

The Scalloway Harbour Marine Safety Management System (MSMS) document is supported by a 'SIC Marine SMS', which describes how SIC's marine policies are designed and implemented across all SIC Ports and Harbours. SIC also publish an SIC Marine Safety Policy which provides a public statement of the Harbour Authority's policies and confirmation of the Code's adoption

Issue	Date	Prepared By	Checked By	Checked By	Revision Approved By Duty Holder
1.0	August 2013	ABPmer: Monty Smedley Project Manager	ABPmer: Claire Brown Project Director	Designated Person: Capt. Trevor Auld	Review copy
1.1	September 2013	P M Morgan Deputy Harbour Master	S Skinner – Port Safety Officer	C Reeves Harbour Master	11 October 2013
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## Contents

1.	Scalloway Harbour - Mission Statement .....	1
2.	Introduction to Scalloway Harbour .....	2
2.1.	Components of the Scalloway Harbour MSMS .....	2
2.2.	Scalloway Harbour Description .....	2
2.3.	Scalloway Harbour Act and Amendments .....	5
	The Scalloway, Shetland, Pilotage Order 1987 .....	5
3.	Scalloway Harbour Marine Safety Management System Detail (1.1-1.10).....	6
3.1	General Management Policy (3.3-3.4) .....	6
3.1.1	Designated Person (1.11 – 1.12) .....	6
3.2	Statutory Duties (3.0-3.2, 4.0-4.1).....	8
3.3.1	Scalloway Harbour Bye-Laws 2002 (4.3-4.5).....	8
3.3.2	Direction (Special Directions) (4.3-4.5) .....	10
3.3.3	Direction (General Directions) (4.8-4.9) .....	10
3.3.4	Conservancy Duties (3.6-3.7) .....	10
3.3.5	Environmental Duties (3.8).....	10
3.3.6	Civil Contingencies, Dangerous Vessels and Substances (3.9, 4.10).....	11
3.4	Formal Risk Assessment (2.7-2.11).....	11
3.5	Incident Investigation (2.19-2.23).....	11
3.6	Pilotage (4.11-4.12) .....	12
3.6.1	Pilotage Directions (4.11-4.12).....	12
3.6.2	Passage Plan.....	12
3.7.	Towage .....	12
3.8.	Collection of Dues (4.17-4.20) .....	13
3.9	Fishing and Recreational Navigation .....	13
3.10	Consensus (2.29).....	14
	References .....	15

Appendix A.	Scalloway Harbour - Marine Safety Management System Document Reference List....	1
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## Tables

Table 1.	Scalloway Harbour Berths, Depths and Quay Length.....	3
Table 2.	Scalloway Harbour Related Harbour Acts.....	5

## Figures

Figure 1.	Scalloway Harbour SHA and CHA4.....	<b>Error! Bookmark not defined.</b>
Figure 2.	SIC Duty Holder and Designated Person Structure .....	7
Figure 3.	Scalloway Harbour MSMS - Committee, Meetings and Liaison Groups .....	14



## Glossary

ABPmer	ABP Marine Environmental Research Ltd
AIS	Automatic Identification System
ALARP	As Low As Responsibly Practicable
CCTV	Closed Circuit Television
CEO	Chief Executive Officer
CHA	Competent Harbour Authority
Code	Port Marine Safety Code
CPD	Continuous Professional Development
DfT	Department for Transport
FSA	Formal Safety Assessment
GLA	General Lighthouse Authority
HRO	Harbour Revision Order
IHO	International Hydrographic Office
IMO	International Maritime Organization
ISO	International Standards Organization
ISPS	International Ship and Port Facility Security
KPI	Key Performance Indicators
LLA	Local Lighthouse Authority
LOA	Length Overall
LoLo	Lift-on, Lift-off
MAIB	Marine Accident Investigation Branch
MarNIS	Maritime Navigation and Information Services
MCA	Maritime and Coastguard Agency
MGN	Marine Guidance Note
MSMS	Marine Safety Management System
NLB	Northern Lighthouse Board
NtM	Notice to Mariners
PANAR	Ports Aids to Navigation Availability Reporting
PEC	Pilot(age) Exemption Certificate
PMSC	Port Marine Safety Code
POLREP	Pollution Report
QMS	ISO 9001 – Quality Management System
RCO	Risk Control Option
RNLI	Royal National Lifeboat Institution
RoRo	Roll-on, Roll-off
RT	Radio Telephony
SHA	Statutory Harbour Authority
SIC	Shetland Islands Council
SOSREP	Secretary of State's Representative for Maritime Salvage and Intervention
SOTEAG	Shetland Oil Terminal Environmental Advisory Group
SPO	Small Ports Officer
SVA	Scalloway Harbour Association
TWG	Technical Working Group
UK	United Kingdom
UKHO	United Kingdom Hydrographic Office
VHF	Very High Frequency
VTS	Vessel Traffic Services



VTSO  
ZCC

Vessel Traffic Services Officer  
Zetland County Council



## Cross Reference Table

PMSC - Section Name	PMSC – Subject Heading	PMSC Paragraph Reference	SIC Document Reference
Background	Harbour Authority		SIC MSMS & QMS
	Harbour authorities subject to the Code		SIC MSMS & QMS
	Functions to which the Code Applies		SIC MSMS & QMS
1 Accountability for Marine Safety	Accountability	1.0	SIC Marine SMS
	The Duty Holder	1.1 – 1.10	SIC Marine SMS
	The Designated Person	1.11-1.12	SIC Marine SMS & Page 6
	Chief Executive	1.13	SIC Marine SMS
	Harbour Master	1.14 – 1.15	SIC Marine SMS
	The Authorities Officers	1.16 – 1.17	SIC Marine SMS
2 Key Measures Needed for Compliance	Key Measures	2.0 -2.2	SIC Marine SMS & Page 6
	Review existing powers	2.3 - 2.6	SIC Marine SMS & Page 8
	Use formal risk assessment	2.7 – 2.11	SIC Marine SMS & Page 11
	Implement a marine safety management system	2.12 -2.17	SIC Marine SMS
	Competence standards	2.18	SIC Marine SMS
	Incident investigation	2.19 – 2.23	SIC Marine SMS & Page 11
	Monitoring performance and auditing	2.24	SIC Marine SMS
	Enforcement	2.25	SIC Marine SMS
	Publication of plans and reports	2.26 – 2.28	SIC Marine SMS
	Consensus	2.29	SIC Marine SMS & Page 14
	Monitoring compliance	2.30 – 2.32	SIC Marine SMS
3 General Duties and Powers	General duties and powers	3.0 – 3.2	Page 6
	Safe & Efficient Port Marine Operations	3.3 – 3.4	
	Open port duty	3.5	Page 8
	Conservancy duty	3.6 – 3.7	Page 10
	Environmental duty	3.8	Page 10
	Civil contingencies duty	3.9	Page 11
	Harbour authority powers	3.10 – 3.11	SIC Marine SMS
	Revising duties and powers	3.12 – 3.14	SIC Marine SMS
4 Specific Duties and Powers	Specific Duties and Powers	4.0, 4.1	Page 8
	Appointment of harbour master	4.2	SIC Marine SMS
	Bye-laws	4.3 – 4.5	Page 8
	Direction (special)	4.6 -4.7	Page 10
	Directions (general)	4.8 – 4.9	Page 10
	Directions and passage plans		Page 12
	Incidents threatening pollution and safety		Page 10
	Dangerous vessels	4.10	Page 11
	Dangerous substances		Page 11
	Prevention of pollution		Page 10
	Vessel traffic monitoring reporting requirements		Page 10
	Drink and drugs		SIC Marine SMS
	Vessel traffic services		Page <b>Error! Bookmark not defined.</b>
	Pilotage	4.11, 4.12	Page 12
	Pilotage directions	4.11, 4.12	Page 12
	Pilotage exemption certificates	4.15, 4.16	Page 12
Authorisation of pilots	4.11, 4.12	SIC Marine SMS	
Ship towage	4.17 – 4.20	Page 12	



	Collecting dues	4.21 – 4.24	Page 13
	The General Lighthouse Authorities	4.21 – 4.24	SIC Marine SMS
	Local Lighthouse Authorities	4.21 – 4.24	SIC Marine SMS
	Wrecks	4.25 – 4,32	SIC Marine SMS



## **1. Scalloway Harbour - Mission Statement**

Scalloway Harbour and SIC as Harbour Authority is committed to operating to the standard required in the Port Marine Safety Code and in accordance with the guidance provided in the Guide to Good Practice for Port Marine Operations. The Port provides outstanding port facilities and services, making use of the Port's physical advantages and key location in relation to the Fishing and Aquaculture Industries, North Sea Oil and Gas industry and the wet renewable industry developing around the Scottish Outer Isles.

In exercising its functions as Harbour Authority, the need for nature conservation and regard for other environmental considerations, including Habitats Directives requirements, will be recognised at all times.

Scalloway Harbour and SIC as Harbour Authority fully meet its obligation to prevent damage to the marine environment through the activities of the Port. The Harbour Authority facilitates the safe use of the Harbour by legitimate stakeholders and recognises its duty of care against loss caused by the Authority's negligence.

Furthermore, the Harbour Authority strives to meet its responsibility for ensuring that sufficient resources are provided to enable the effective operation of policies, procedures and systems; recognising that proper discharge of the Authority's duties will otherwise be compromised.



## 2. Introduction to Scalloway Harbour

The Port's Marine Safety Management System (MSMS) endeavours to reduce the risks arising from the day-to-day operations in the harbour and pilotage areas to a level 'as low as reasonably practicable' (ALARP). In accordance with the requirements of the Code, the Port has undertaken, in consultation with its stakeholders, a Formal Risk Assessment of the hazards in the port, assessed the associated risks, and introduced or verified control measures, to minimise those risks.

To ensure the control measures remain valid, it is essential that all the Port's stakeholders (including Marine staff, Pilots, Tug Masters, agents, fishing community etc) advise the Harbour Authority of 'potential marine hazards' that, in their opinion, could indicate a weakness in a particular control measure or risk assessment. This is an interactive process, and will only be effective if all stakeholders participate. The goal is to achieve an incident free harbour and pilotage area.

SIC, as Harbour Authority, has published a Marine Safety Policy confirming commitment to the Code. In addition, SIC provides a MSMS document setting out how policies are implemented across all SIC Ports and Harbours. Scalloway Harbour acknowledges the contents of these documents in preparing this local MSMS and should be read in conjunction with the SIC MSMS.

This document sets out the local detail of how the policies are implemented in Scalloway Harbour. The Scalloway Harbour MSMS is closely linked with, and is dependent upon, a number of other policies, plans, procedures and documents. Wherever relevant, referenced documents have been cited.

### 2.1. Components of the Scalloway Harbour MSMS

In addition to this local MSMS document, a range of SIC policies, directives, manuals and legislation form part of the Port's complete MSMS, and are available to SIC Marine Staff, and where relevant, externally to stakeholders. A description of each document is provided in the following sections and these are tabulated in Appendix A.

To aid comparison of the MSMS with the requirements of the PMSC, subject headings are identified with bracketed numbers to indicate the PMSC section(s) addressed by the subsequent text. For example, "Sullom Voe Safety Management System Detail (3.1 – 3.2)" indicates that the text following the subject heading relates to the requirements detailed within section 3.1 to 3.2 of the PMSC.

### 2.2. Scalloway Harbour Description

Scalloway Harbour provides a sheltered natural harbour protected by hills on either side, there is minimal tidal movement within the harbour. The minimum depth of water in the approach channel is 8.7 metres above Chart Datum. The harbour is the base for the local fishing fleet, and provides facilities for visiting fishing vessels using the fishing grounds West of Scotland. The net mending area is the largest in Scotland, with other services such as a Fish Market, ice, water, bunkering and stores.

Scalloway Harbour also has a Commercial Quay providing berthing for a range of commercial craft. Typically, offshore supply, survey and construction vessels use the berth for bunkering, crew transfer, stores and ship maintenance periods. There are several berths available, which are detailed in Table 1.

Scalloway Harbour handles a range of general cargo vessels, aggregate and small tankers. Vessels in excess of 90 metres LOA may be accepted at the discretion of the Harbour Master. All vessels in excess



of 70 metres or 2,000 tonnes loaded displacement must be fitted with at least one fully operational bow-thruster in addition to fully operational main engines and steering control. There are also marina facilities at East Voe and Scalloway, which are both within the Harbour boundary and provide berthing for locally based recreational craft and visiting yachts and powerboats.

**Table 1. Scalloway Harbour Berths, Depths and Quay Length**

Berth	Minimum Depth	Berth Length
West Face, Commercial Quay	7.0m	120m
South Face, Commercial Quay	6.5m	120m
South East Face, Commercial Quay	6.5m	133m
East Jetty, North	4.6m	100m
East Jetty, South	4.9m	130m
Fishmarket	4.8m	120m
West Pier, inside	5.4m	60m
West Pier, outside	6.7m	67m
West Quay (Low level quay)	3.5m	85m

The Port Administration Building, from which all marine operations are monitored and controlled, is located at the Commercial Quay. The Scalloway Harbour is manned on a shift basis by Small Ports Officers, covering on week-days 0700 to 1830 hrs, and morning cover over weekends. Outside these hours the port can be monitored on CCTV and on VHF by the VTS at Sullom Voe. Scalloway Harbour has a dedicated Pilot Launch which is used for a range of harbour tasks, but is primarily for the boarding and landing of Pilots.

Sella Ness is the main operational centre for SIC's Ports & Harbours Operations and the location at which pilotage provision, harbour towage, workboats and additional pilot boats are deployed. All of these craft are owned and operated by SIC as Harbour Authority.

The Zetland County Council (ZCC) 1974 Act (as amended) identifies the Statutory Harbour Area (SHA) boundary in Schedule 1 (area inserted by Shetland Islands Council Order Confirmation Act 1979, April 4, 1979) for Blacksness Pier area to be:

*'The area adjacent to Blacksness Pier bounded on the north and east by the line of low water of Mainland, on the south partly by the bridge over Cliff Sound between Trondra and Mainland and partly by the line of low water on Trondra, and on the west by an imaginary straight line between the northern extremity of Trondra Ness and the southern extremity of Maa Ness.'*

The Shetland Pilotage Order 1987 come into force on 21st December 1987, and established a Competent Harbour Authority (CHA) area which states that:

*"There shall be a pilotage district to be known as the Scalloway (Shetland) Pilotage District, the limits of which shall be:*

- (a) bounded in the north by the parallel of latitude 60°09'.34 N between the Mainland of Shetland and the south west extremity of Sanda Stour (latitude 60°09'.34 N longitude 001°22'.68 W);*
- (b) bounded on the west by a line drawn from the south west extremity of Sanda Stour as described via the rock in latitude 60°07'.75 N longitude 001°22'.78 W and thence to the north west extremity of Steggies (latitude 60°06'.49 N longitude 001°22'.39 W); and*
- (c) bounded in the south and east by a line drawn from the southern extremity of Steggies (latitude 60°06'.44 N longitude 001°22'.36 W) to the south western extremity of Pundsar (latitude*



60°06'.06 N longitude 001°20'.60 W) and thence commencing in a northerly direction following the coastline of West Burra to the Burra/Trondra bridge (latitude 60°06'.35 N longitude 001°18'.51 W), thence along the northern side of the bridge to the island of Trondra, thence in a generally northerly and north easterly direction along the coast of Trondra to the Trondra/Mainland bridge (latitude 60°07'.78 N longitude 001°16'.30 W), thence along the northern side of the bridge to the Mainland of Shetland, and thence north along the coastline of Mainland to the point of origin.'

The boundaries for the Scalloway Harbour SHA and CHA are shown on Figure 1.

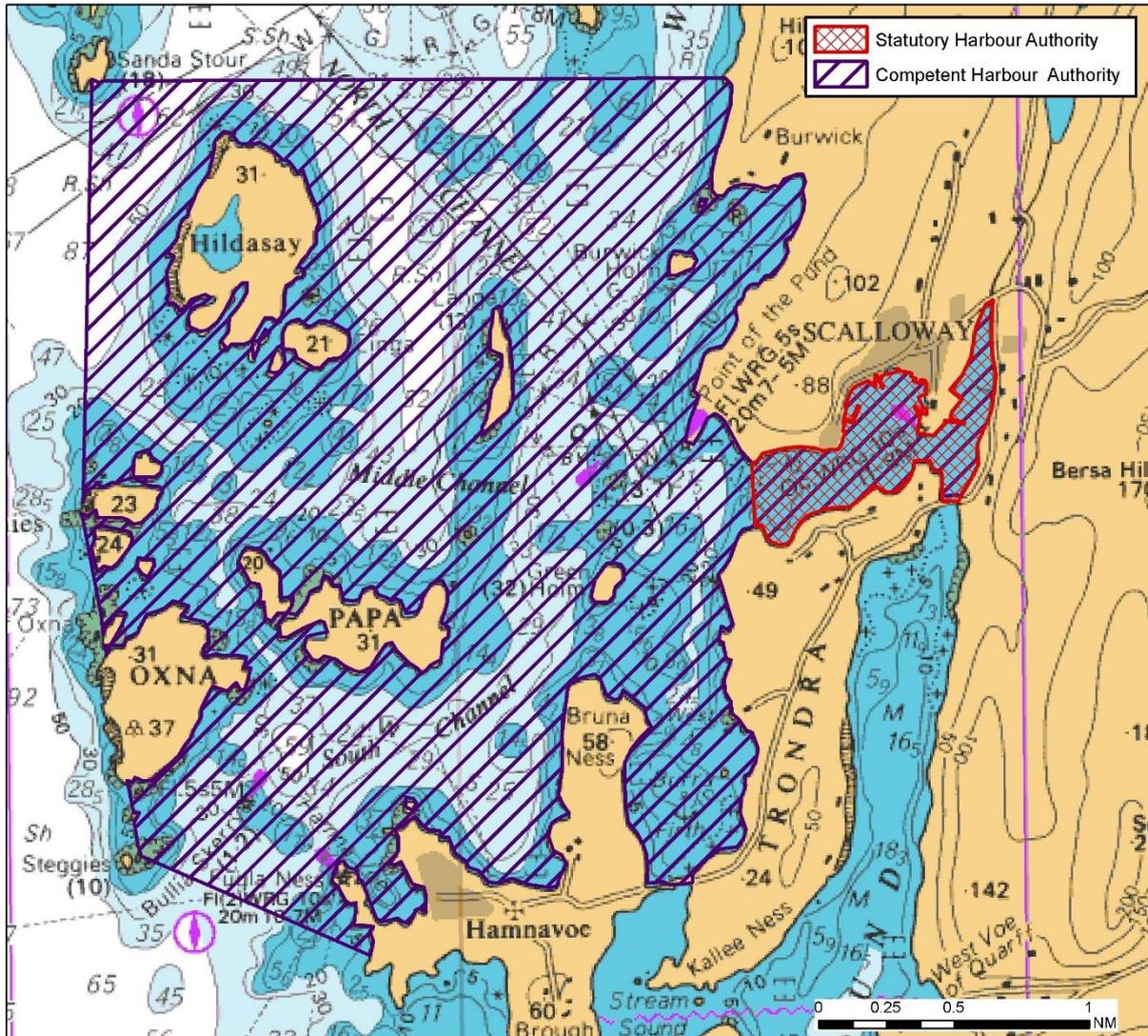


Figure 1. Scalloway Harbour SHA and CHA



## 2.3. Scalloway Harbour Act and Amendments

SIC is the Harbour Authority for the Scalloway Harbour as identified through the ZCC Act 1974 (as amended) and subsequent Acts, Orders and Statutory Instruments which have amended the original Act. The ZCC Act references other established Acts of Parliament which provide overarching legislation, including the 'Harbours Docks and Piers (Clauses) Act 1847' and the 'Harbours Act 1964'. Subsequently, the 'Pilotage Act 1987', and the 'Docks Regulations 1988' also provide key duties and powers to Harbour Authorities. The Acts shown in Table 2 are of key importance in relation to the SIC's duties and powers as Harbour Authority in respect of Scalloway Harbour.

**Table 2. Scalloway Harbour Related Harbour Acts**

Act Year	Act Name	Description of Powers
Date unknown	Act name unknown	Blackness Pier Area 'special Act' establishing the port boundary, duties and responsibilities. Note: this Act may not exist; the first mention of Blackness Pier is within the 1979 Shetland Islands Council Confirmation Order of 1979 where the Harbour Area is defined and incorporated into the ZCC 1974 Act.
1974	Zetland County Council Act (ZCC)	Established the Sullom Voe and Baltasound Harbour Areas, and provision regarding Harbour Authority duties and powers. This is the establishing (Special) Act creating the Statutory Harbour Authority area.
1979	Shetland Islands Council Order Confirmation Act 1979	Blackness Pier Area inserted into the Zetland County Council Act (ZCC) by Shetland Islands Council Order Confirmation Act 1979 c. v Sch.1 para.1 (April 4, 1979)
1987	The Scalloway, Shetland, Pilotage Order 1987	This order came into force on 21st December 1987 and established the Scalloway Pilotage District.
1994	The Shetland Islands Council Harbour Revision Order (HRO)	Repeal (removal) of Clause 68 from the ZCC Act which stipulated the formation of a 'Harbour Advisory Committee'.

### **The Scalloway, Shetland, Pilotage Order 1987**

Under powers granted according to the Pilotage Act 1983, a pilotage district was established by 'The Scalloway, Shetland, Pilotage Order 1987'. During 1987 the Pilotage Act 1983 was repealed in full. It does not automatically follow that Orders made pursuant to an Act are also repealed. However, the effect of the Pilotage Act 1987 (which repealed the Pilotage Act 1983) was to replace the 'former pilotage districts' (pilotage districts within the meaning of the Pilotage Act 1983) with a new mechanism for determining the areas for which pilotage services should be provided.

Through Section 1(1) of the Pilotage Act 1987, SIC fulfils the requirements of sub-sections (a) and (b) to be considered a CHA within its SHA. Section 2 of the Pilotage Act 1987 imposes general duties on the CHA to consider whether any and, if so, what pilotage services need to be provided to secure the safety of ships navigating 'in or near the approaches to its harbour', whether any services should be compulsory, and to provide such pilotage services as it considers need to be provided. The CHA can therefore impose pilotage services over the area of the harbour and the former pilotage district in the approaches to the harbour.



### **3. Scalloway Harbour Marine Safety Management System Detail (1.1-1.10)**

SIC is the Statutory Harbour Authority for the Scalloway Harbour and its approaches as identified through the ZCC 1974 Acts (as amended). SIC is also the Local Lighthouse Authority within the meaning of the Merchant Shipping Act 1995, and by virtue of the Pilotage Act 1987, is the CHA responsible for the provision of pilotage services. In all three capacities it is governed by Acts of Parliament, and answerable to Parliament should it exceed its powers or fail in its duty. It is subject (as a Statutory Authority), to the full range of review procedures. The Harbour Authority has developed policies and plans in accordance with the standards set out in the Code. The policies and plans are based upon a full assessment of the hazards that have to be managed to ensure the safety of the port. Scalloway Harbour has adopted all the policies published by SIC in the Marine Safety Policy Document (which should be read in conjunction with this document).

This section describes the Marine Safety Management System (MSMS) for Scalloway Harbour, and considers the marine safety policies, plans and arrangements specific to the Port and its approaches. Throughout this MSMS document the subject headings are identified with bracketed numbers to indicate the Code section addressed by the subsequent text, this provides an auditable cross-reference to the Code. For example, 'General Management Policy (3.3-3.4)' indicates that the text following the subject heading relates to the requirements detailed within Section 3.3-3.4 of the Code.

#### **3.1 General Management Policy (3.3-3.4)**

The Harbour Authority will support the commercial activities of Scalloway Harbour through the safe and efficient provision of pilotage and conservancy services and the regulation of shipping within harbour limits. The policy of the Harbour Board (the Duty Holder) and the SIC, as the Harbour Authority, in adherence to the Code is to:

- Take reasonable care, so long as the harbour is open for the public use, that all who may choose to navigate in it may do so without danger to their lives or property;
- Conserve and promote the safe use of the harbour, and prevent loss or injury caused by the authority's negligence;
- Have regard to efficiently, economy and safety of operation as respects the services and facilities provided; and
- Take such action that is necessary or desirable for the maintenance, operation, improvement or conservancy of the harbour.

SIC undertake to ensure that enough resources are available to discharge their marine safety obligations and set the level of [port] dues accordingly.

##### **3.1.1 Designated Person (1.11 – 1.12)**

SIC has appointed a 'Designated Person' to provide independent assurance directly to the Duty Holder that the MSMS, for which the Duty Holder is responsible, is working effectively. The Designated Person has direct access to the Harbour Board, and is responsible for determining, through assessment and audit, the effectiveness of the MSMS system and compliance with the Code. The Duty Holder has



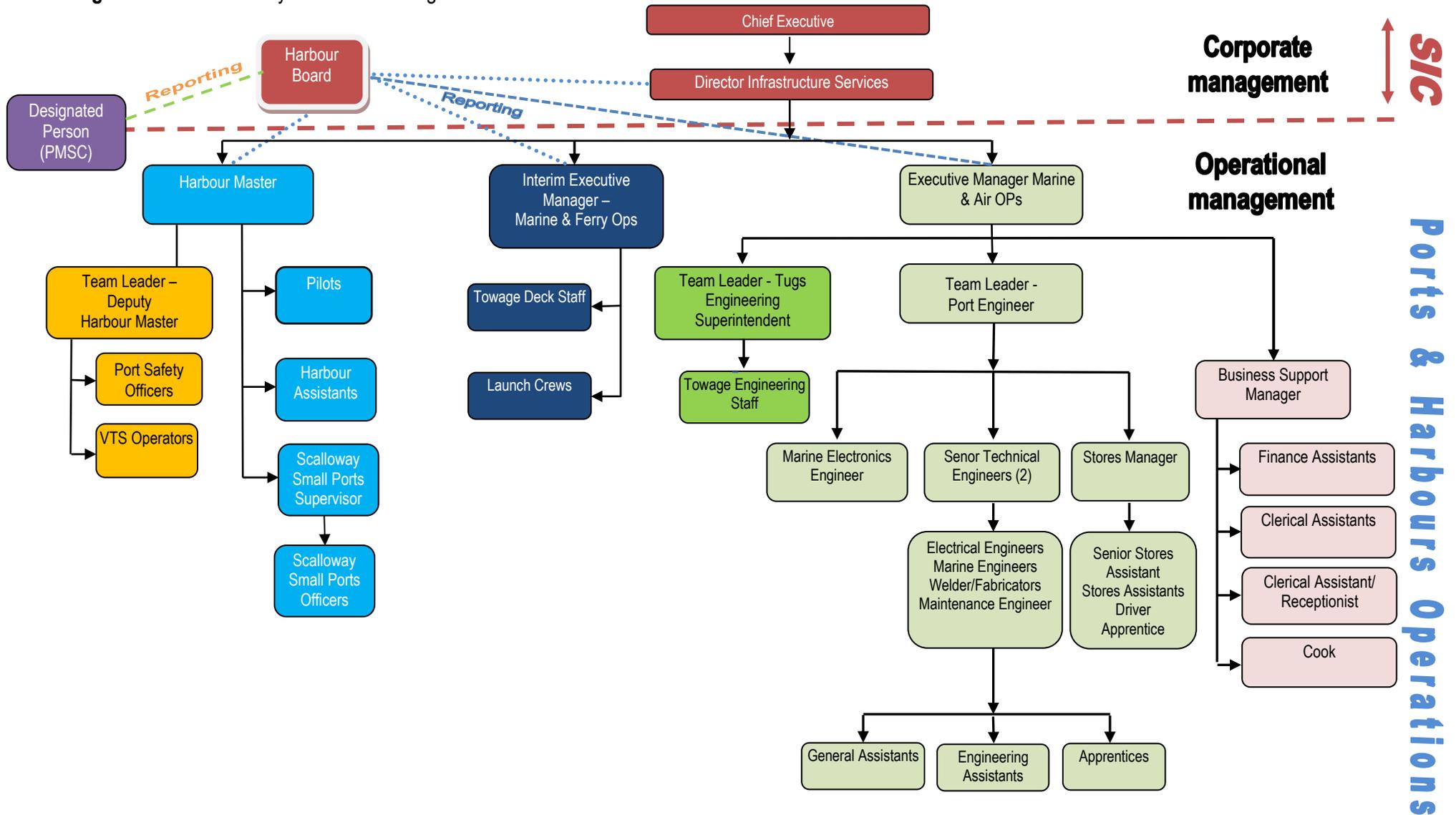
appointed a Designated Person for Scalloway Harbour. The inter-relationship between the SIC Duty Holder, Designated Person and Port/Marine staff within SIC is shown in Figure 2.

The Designated Person's contact information is:

- Captain Trevor Auld
- Email contact: [shetland@abpmer.co.uk](mailto:shetland@abpmer.co.uk)
- Phone number: 023 8071 1840 (request a member of the 'Shetland' team)



**Figure 2.** SIC Duty Holder and Designated Person Structure





### 3.2 Statutory Duties (3.0-3.2, 4.0-4.1)

Scalloway Harbour has statutory duties of both a general and specific nature in respect of:

- (a) The observation of Section 33 of the Harbours, Docks and Piers Clauses Act 1847 in respect of maintaining Open Port Duty;
- (b) Regulating the activities of other persons using its Ports and Harbours, in particular, regulating the movement and berthing of vessels by means of directions and Bye-laws;
- (c) The conservancy of the SHA areas including marking navigation channels, the removal of wrecks and other obstructions and maintenance dredging of navigational channels;
- (d) The provision and maintenance of harbour facilities, including; quays, wharves, piers, etc;
- (e) The provision of a pilotage service. The general duties for the provision of pilotage services are contained in Section 2 of the Pilotage Act 1987;
- (f) The prevention of pollution and the nature conservation its Ports and Harbours and adjacent coastline;
- (g) Ensuring as far as reasonably practicable, the safety at work of its employees and other persons who may be affected by its activity; and
- (h) Local measures for compliance with the Code detailed within this Marine SMS.

### 3.3 Existing Powers, Duties and Responsibilities (3.10-3.11)

The Code requires Harbour Authorities to review their powers to ensure they discharge their duties correctly, and do not exceed their powers. SIC, as Harbour Authority, has reviewed its powers and duties, and these are detailed within the SIC MSMS in Section 3.1 and subsequent sub-section. The following headings are addressed in the SIC MSMS and apply directly to Scalloway Harbour:

- Statutory Harbour Authority Powers [Section 4.1] (3.3 – 3.4);
- Review of Harbour Authority Powers [Section 3.1] (2.3 – 2.6);
- Appointment of Harbour Master and Existing Powers [Section 2.1.5] (1.1 – 1.15);
- Competent Harbour Authority Powers [Section 4.6] (3.10 – 3.11);
- Detention of Vessels [Section 5.13];
- Local Lighthouse Authority Responsibilities [Section 5.11] (4.21 – 4.24); and
- Powers to Remove Wrecks [Section 5.12] (4.25).

#### 3.3.1 Scalloway Harbour Bye-Laws 2002 (4.3-4.5)

A Harbour Authority has a number of powers designed to regulate areas of marine activity, some of these powers will be supported through Bye-laws. The ZCC Act 1974 (as amended) provides Bye-law powers in Sections 44, 45 and 46.

Section 44 'General Bye-laws.' states that:

- (1) *The Council may from time to time by byelaws make provision for any matter falling within their duties under section 5 (General duties) of this Act and in particular, but without prejudice to the generality of the foregoing, for any of the following purposes:*
  - (a) *for securing the conservation and improvement of any harbour area as a navigable waterway and for promoting the ease and convenience of navigation;*
  - (b) *for the regulation of vessels in a harbour area and their entry into and departure from the area and, without prejudice to the generality of the foregoing, for prescribing rules for*



- navigation and the lights and signals to be exhibited or made by or for the benefit of vessels navigating in a harbour area;*
- (c) for regulating the use and for preventing the misuse of services and facilities provided by the Council at port premises;*
  - (d) for promoting the safety of persons and vessels at port premises;*
  - (e) for regulating the conduct of persons using a harbour area or its banks or shores whether for business, recreation, training or any other purpose;*
  - (f) for the prevention of nuisances in or beside a harbour area.*
- (2) Different byelaws may be made under this section in relation to different classes of vessels.*
- (3) Byelaws made under this section may provide for imposing upon persons offending against them fines not exceeding two hundred pounds and a daily fine of fifty pounds.*

Section 45 'Bye-laws as to dangerous goods' states:

- (1) The Council may make byelaws as to the loading and discharging by vessels within a harbour area of dangerous goods and generally as to the precautions to be observed with respect to vessels carrying dangerous goods while in a harbour area and such byelaws may in particular provide:
  - (a) for regulating places at which vessels are to load and discharge dangerous goods and the time and mode of, and the precautions to be taken on, such loading and discharging;*
  - (b) for regulating the places at which vessels carrying dangerous goods are to be moored.**
- (2) If a person is charged with an offence against a byelaw in force under this section it shall be a defence for him to prove that the offence was not caused or facilitated by any act or neglect on his part, or on the part of any person engaged or employed by him and, if the person so charged is the owner or master of a vessel, that all reasonable steps were taken by the master to prevent the commission of the offence.*
- (3) Byelaws made under subsection (1) of this section may provide for imposing on persons offending against them fines not exceeding one hundred pounds.*
- (4) This section does not apply to dangerous goods to which byelaws made by the Council under the Explosives Act 1875 or the Petroleum (Consolidation) Act 1928 for the time being apply.*

No Bye-laws made by SIC, as Harbour Authority, shall come into force until confirmed by the Secretary of State. Section 46 'Confirming authority for Bye-laws' states:

*For byelaws made by the Council under this Part of this Act the confirming authority for the purposes of section 301 of the Local Government (Scotland) Act 1947 shall be the Secretary of State.*

The current SIC 'Small Harbours & Piers Byelaws 1987 are divided into various parts, namely:

- Part 1 Preliminary;
- Part 2 Navigation;
- Part 3 Berthing and Mooring;
- Part 4 Good and Road Traffic;
- Part 5 General; and
- Part 6 Schedule of Harbour Areas.



### **3.3.2 Direction (Special Directions) (4.3-4.5)**

The Harbour Master is empowered to give Special Directions under Section 52 of the Harbours, Docks and Pier Clauses Act 1847 and Section 39 'Special directions to vessels' of the ZCC Act 1974 (as amended). The SIC MSMS provides more detail in Section 5.3.

The power to give Special Direction is also exercised by the Harbour Master's appointed deputies of the Deputy Harbour Master and the Team Leader Port and Marine Operations. Special Directions may be passed from the Harbour Master via VTS at Sullom Voe to vessels within the Harbour Authority areas of jurisdiction.

### **3.3.3 Direction (General Directions) (4.8-4.9)**

SIC, as Harbour Authority, may issue General Directions under Section 38 of the ZCC Act 1974 (as amended). The SIC MSMS provides more detail in Section 5.4 In respect of Scalloway Harbour, SIC has issued the 'Scalloway Harbour Area General Directions and Pilotage Directions 2007'. The issuing of General Directions is subject to prior consultation with Harbour users. Scalloway Harbour General Directions identify that requirement for carriage of VHF/RT Equipment, in-bound and out-bound requirements, and navigational requirements are met. The General Directions identify 50 Gross Registered tonnes as a threshold for compliance with in-bound, out-bound and navigation within the Harbour Area.

### **3.3.4 Conservancy Duties (3.6-3.7)**

SIC outsources hydrographic survey services as required; which, in addition to the dredging programme and maintenance for aids to navigation are overseen by the Port Engineer and detailed in Section 4.3 of the SIC MSMS document. Also see Appendix A which refers to relevant plans for survey and dredging.

Small scale surveys including depth checks at berths are routinely carried out by SIC personnel and equipment. Any changes to charted depths noted are advised to the UK Hydrographic Office for amendment and to mariners by Notices to Mariners.

### **3.3.5 Environmental Duties (3.8)**

The SIC Marine Safety Policy document sets out and acknowledges the SIC's duty to exercise its functions as a Harbour Authority with due regard to nature conservation and environmental best practice. This statement takes into account SIC's duties in relation to National, European and International requirements as a statutory undertaker, including the requirements of the Nature Conservation (Scotland) Act 2004 which places the duty on every public body and office holder in Scotland to further the conservation of biodiversity. These measures, as applied by SIC across all its Ports and Harbours, are detailed within Section 4.3 and 4.4 of the SIC MSMS document.

To enforce and monitor SIC's policy on Environmental Duties, Scalloway Harbour uses a range of measures which include active monitoring by using CCTV and the vigilance of Marine Staff who are trained to report pollution within the Harbour. Any pollution or other events likely to affect the port environment are reported as necessary, and the Harbour Authority will take action according to its responsibilities as described in the following two plans:

- Shetland Islands Council - Marine Pollution Contingency Plan; and
- Scalloway Harbour Oil Spill Contingency Plan.



The Scalloway Harbour website (<http://www.shetland.gov.uk/ports/contingencyplans>) contains contact information, and provides details of how to contact the Harbour Authority for routine and emergency matters. Reportable oil spills, following the Scalloway Harbour Oil Spill Contingency Plan, are reported using the POLREP form and sent to the MCA. If necessary, advice on environmental issues is also available from the Shetland Oil Terminal Environmental Advisory Group (SOTEAG). Scalloway Harbour also recognises the requirement to give sanctuary to vessels, under the direction of the Secretary of State's Representative for Maritime Salvage and Intervention (SOSREP), where there is a risk to safety or pollution by hazardous substances. This power is exercised by the Secretary of State, through the office of SOSREP. The Secretary of State also has wide powers to take action, or authorise others to take action, where it is considered that issuing directions alone would be insufficient.

### **3.3.6 Civil Contingencies, Dangerous Vessels and Substances (3.9, 4.10)**

SIC, as Harbour Authority, addresses Civil Contingencies as a centralised function, and has prepared contingency plans as laid out in the "Major Emergency Plan", with Appendix E-9 and 10 'Action List' detailing the expected response by the Team Leader - Harbour Master and His Deputy under the Civil Contingencies Act (as amended).. See Section 4.5 and 5.6 of the SIC MSMS for detail on Harbour Master's powers for Dangerous Vessels and Substances.

### **3.4 Formal Risk Assessment (2.7-2.11)**

Scalloway Harbour formally assesses risks and carries out reviews as described in the SIC MSMS. Responsibility for the maintenance of up-to-date risk assessments is the responsibility of the Deputy Harbour Master, as a delegated function of the Harbour Master, who ensures that all necessary competent staff and stakeholders are involved at all stages of assessment and review.

### **3.5 Incident Investigation (2.19-2.23)**

Following an incident involving a collision, grounding, close-quarter (potential incident) or any other reportable incident within the Scalloway Harbour area, an Incident/Accident/Near Miss Form (SMSF-P-1001) contained within the SIC MSMS Procedures Manual) is raised and submitted together with any supporting evidence to the Harbour Master. The process followed by the Harbour Master for accident and incident investigation is described in the SIC MSMS Section 3.5 and following sub-sections. Where relevant, links will be made with risk assessments to ensure the process of incident investigation is reflective. In the event of an incident which could call into question the capability of a pilot under Section 3(5) of the Pilotage Act 1987, the Harbour Master will, on a formal basis, investigate the circumstances, collect reports, statements and other evidence, and report the facts with a recommendation to the Harbour Authority.

Accidents and incidents are now required to be reported to the MAIB. Additionally where appropriate Harbour Authorities must, so far as is reasonably practical, ensure that the circumstances of every accident are examined. The findings of such an examination, stating the measures taken or proposed to prevent a recurrence, must be provided to the Chief Inspector as soon as is practicable, irrespective of any investigation that may be conducted by the MAIB.



## 3.6 Pilotage (4.11-4.12)

SIC is the CHA for the provision of pilotage services in Scalloway Harbour under the provisions of the [Pilotage Act 1987](#), and covers the SHA and CHA areas (see Figure 1). Details of pilotage are given in Section 5.7 of the SIC MSMS. The following headings are also addressed in the SIC MSMS and apply to Pilotage in Scalloway Harbour:

### 3.6.1 Pilotage Directions (4.11-4.12)

Scalloway Harbour Pilotage Directions are contained within the 'Scalloway Harbour Area General Directions and Pilotage Directions 2007'. Pilotage is compulsory for all ships navigating within the Scalloway Harbour Area which carry passengers or have on board dangerous goods to which the provisions of the Dangerous Goods in Harbour Areas Regulations 2016 (as amended) apply. Pilot boarding and landing areas are identified within the Pilotage Directions.

SIC also acknowledges that the Pilotage Act 1987, Section 7 (3) identifies that:

*'A pilotage direction shall not apply to ships of less than 20 metres in length or to fishing boats of which the registered length is less than 47.5 metres.'*

### 3.6.2 Passage Plan

Passage planning is a primary risk control for regulating the movement of vessels within harbour waters. Passage planning for the Scalloway Harbour is carried according to the port operating procedures laid out in SC-SMSP-1001 contained within the Scalloway Harbour Procedures Manual (see Appendix A for reference). For all vessel movements with an embarked Pilot, a Passage Plan is provided in advance, which addresses the specific transit. The Pilot to Master exchange is recorded on a Pilotage form 'SC-SMSP-1001'.

## 3.7. Towage

Tug assistance is not deemed necessary for the size and type of vessel which berth at Scalloway Harbour and therefore no harbour tugs are based at Scalloway. Where tug assistance is requested by the vessel's master, or deemed prudent by the Harbour Master (or appointed Deputy) such request should be routed to VTS in Sullom Voe where arrangements for tug attendance may be made. The Harbour Master, in the instance of controlling marine risk, may direct a vessel to take towage through powers of Special Direction. Details of towage arrangements are provided in SC-SMSP-2005 contained within the Scalloway Harbour Procedures Manual (see Appendix A for reference).



### 3.8. Collection of Dues (4.17-4.20)

SIC have the power through the Harbours Act 1964 to collect dues from users of the Harbour. The collection of dues forms an important aspect of safety management, by providing the necessary resources to discharge Harbour Authority duties in respect of the Code. SIC's power to levy and collect dues also extends to any vessel using pilotage services through the Pilotage Act 1987. SIC's power to levy dues and pilotage charges are subject to the statutory right of objection to the relevant Scottish Minister.

### 3.9 Fishing and Recreational Navigation

Good management, use of appropriate powers and stakeholder consultation are all needed to strike a balance between the recreational and commercial use of the port. Recreational navigation in the Scalloway Harbour is an important aspect of harbour activities. Two marinas are located within the Harbour Area and private recreational and fishing vessels use port berthing facilities. The predominant traffic is small day-fishing boats, with recreational yachting, power boating and small craft (kayaks) in the summer months. The Small Harbours and Piers Bye-laws provide the main formal statutory mechanism for managing recreational navigation.

Potential conflicts between commercial, fishing and recreational users have been identified through the risk assessment process, and control measures are in place to minimise conflicts. These include regular consultation with user groups and a number of formal marine traffic controls:

- Buoys and lights mark the principal channels;
- Scalloway Harbour monitoring and onsite harbour staff; and
- Website information for Port and Harbour users.

Recreational event organisers are requested to consult with the Harbour Master at the earliest opportunity, where formal approval will generally only be given in the light of a proper risk assessment to be conducted by the event organiser. Before approving the event the Harbour Master satisfies himself that any risk to navigation or other port users has been effectively mitigated and reduced to levels which are ALARP. Any requirement for additional Harbour Authority resources (for example, additional navigational marks, escort craft, marine event officers, etc) are normally made available at the expense of the event organiser. Having conducted a risk assessment and following any advice or requirement of the Harbour Master, the event organiser is required to promulgate clear details of the event, including where appropriate:

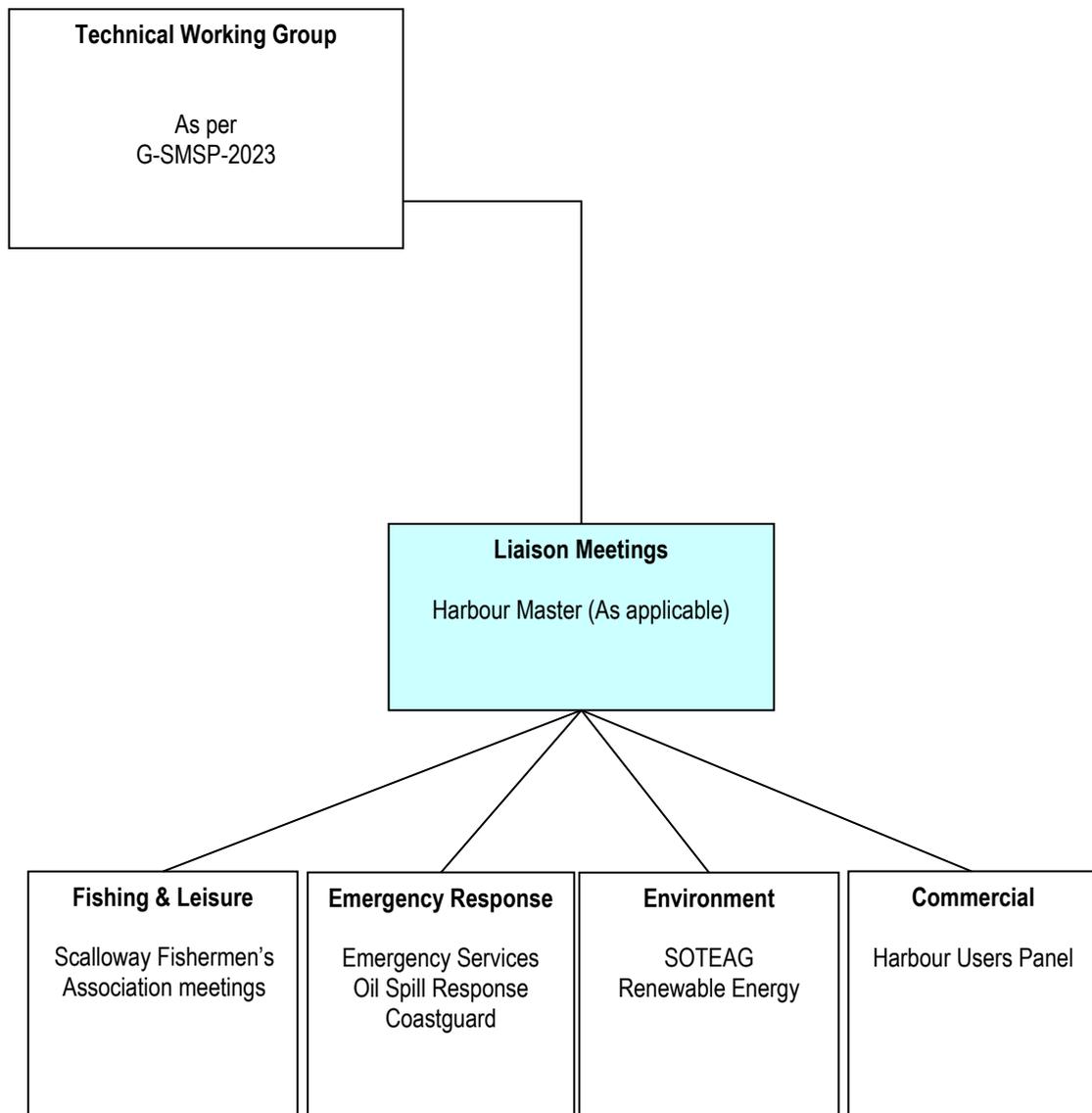
- Names and contact details of event organisers and officials;
- Timetable and programme of events;
- Arrangements for controlling the event, including any special communication;
- Any navigational constraints being imposed, such as restricted areas, or partial port closures;
- Emergency arrangements;
- Media arrangements; and
- Appropriate insurance.

In order that the co-operation of recreational users is best assured, the Harbour Authority regularly consults with them through liaison meetings and participation in working groups and committees. Details of established consultation groups are provided in Section 3.11 'Consensus'.



### 3.10 Consensus (2.29)

The Harbour Master carries out a range of consultation on behalf of Scalloway Harbour. This consultation includes port operatives, port users and stakeholders. Figure 3 provides a schematic layout of the involvement of the Technical Working Group (TWG) and liaison groups; that include both SIC internal meetings and public facing consultation with stakeholders. All meetings are minuted and recorded.



**Figure 3.** Scalloway Harbour MSMS - Committee, Meetings and Liaison Groups



## References

Department for Transport (DfT) "Port Marine Safety Code", November 2016

Department for Transport (DfT) "A Guide To Good Practice On Port Marine Operations - Prepared In Conjunction With The Port Marine Safety Code", February 2018

Her Majesty's Government, 1847. 'Harbours, Docks and Piers Clauses Act 1847'

Her Majesty's Government, 1964. 'Harbours Act 1964'

Her Majesty's Government, 1985. 'Dangerous Vessels Act 1985'

Her Majesty's Government, 1987. 'Pilotage Act 1987'

Her Majesty's Government, 1995. 'Merchant Shipping Act 1995'

Her Majesty's Government, 2016. 'Dangerous Goods in Harbour Areas Regulations 2016'

Her Majesty's Government, 1974. 'Zetland County Council Act' (ZCC) Act 1974 (as amended)  
[http://www.legislation.gov.uk/ukla/1974/8/pdfs/ukla\\_19740008\\_en.pdf](http://www.legislation.gov.uk/ukla/1974/8/pdfs/ukla_19740008_en.pdf)

Her Majesty's Government 2012. 'The Merchant Shipping (Accident Reporting and Investigation) Regulations 2012'. [http://www.legislation.gov.uk/uksi/2012/1743/pdfs/uksi\\_20121743\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/1743/pdfs/uksi_20121743_en.pdf)

International Maritime Organization (IMO), 2002. 'Guidelines For Formal Safety Assessment (FSA)'. International Maritime Organization, 2002.

International Maritime Organization (IMO), 2008. 'Adoption Of The Code Of The International Standards And Recommended Practices For A Safety Investigation Into A Marine Casualty Or Marine Incident (Casualty Investigation Code)'. May 2008 Resolution MSC.255(84)

International Hydrographic Office (IHO), 2008. Standards for Hydrographic Surveys (SP44), February 2008

Maritime and Coastguard Agency (MCA), 2009. Navigation: Vessel Traffic Services (VTS) and Local Port Services (LPS) in the United Kingdom. Marine Guidance Note - MGN 401 (M+F). Maritime and Coastguard Agency, September 2009.

Shetland Islands Council (SIC), 2001. 'General Directions and Pilotage Directions'. Scalloway Harbour Area.



## Appendix A. Scalloway Harbour - Marine Safety Management System Document Reference List

Safety Management System Documents	Latest Edition
<b>Shetland Islands Council (SIC) Documents, Plans and Procedures</b>	
▪ SIC Quality Policy	Issue 4 Ver 0 October 2019
▪ SIC Marine Safety Policy	Issue 4 Ver 0 October 2019
▪ SIC Marine Safety Management System	Issue 4 Ver 0 October 2019
▪ SIC Staff Training Matrices	Constantly updated
▪ SIC – Health and Safety Policy (shore based)	December 2006
▪ SIC – Procedures Manual	December 2018 Constantly updated
<b>Emergency Plans</b>	
▪ Shetland Islands Council – Emergency and Resilience Plan	Under review
▪ Shetland Islands Council – Marine Pollution Contingency Plan	Issue 4, April 2015
▪ Scalloway Harbour Oil Spill Plan	Issue 6 Ver 1, August 2018
<b>Scalloway Harbour Documents</b>	
▪ Scalloway Harbour – Harbour Procedures Manual (SIC staff only)	December 2018 Constantly updated
▪ Scalloway Harbour – General Directions and Pilotage Directions	22 August 2007
▪ Scalloway Harbour – Waste Management Plan	under review (Sept 2013)
▪ Scalloway Harbour – Navigational Risk Assessments (MarNIS database)	Ongoing
▪ Scalloway Harbour – Accident/Incident Database (Port Information System database)	Ongoing
<b>Legal / External Documents</b>	
▪ Zetland County Council Act 1974 (as amended)	1980
▪ Shetland Island Council (Small Harbours and Piers)	31 July 1987
▪ <a href="#">Port Marine Safety Code</a>	November 2016
▪ <a href="#">A Guide To Good Practice On Port Marine Operations Prepared In Conjunction With The Port Marine Safety Code</a>	February 2018
<b>Additional Published Information Includes:</b>	
The latest versions of these documents, or any relevant current information is available on <a href="http://www.shetland.gov.uk/ports/scalloway/">http://www.shetland.gov.uk/ports/scalloway/</a>	
▪ Local Notice To Mariners <sup>Note 1</sup>	Ongoing and as required
<b>Note 1</b> - Latest information available on Scalloway Harbour Website: <a href="http://www.shetland.gov.uk/ports/notices.asp">http://www.shetland.gov.uk/ports/notices.asp</a>	