



# **MARINE POLICY**

**November 2015**

Minor Revision – Replaces July 2015 Version

## 1. Introduction (1.1 – 1.4)

ABP (The Harbour Authority) has developed policies and plans in accordance with the standards set out in the Port Marine Safety Code (PMSC). This document details the policies adopted to achieve the Code's required standard. The policies and plans are based upon a full assessment of the requirements of the Port Marine Safety Code and the hazards that have to be managed to provide for the safety of ABP's ports and harbours and their users.

This document is intended to be read in conjunction with the ABP Group Port Marine Operational Procedures Manual, which details *how* the policies set out in this document will be implemented. These two documents together with other group policies, and local policies and procedures, underpin the ABP Group "Marine Safety Management System" (MSMS).

Each section of this policy is cross referenced to the appropriate sections of the Port Marine Safety Code, for example (1.1 – 1.4)

## 2. Accountability

### 2.1. ABP as Harbour Authority (2.1 – 2.2)

ABP is ultimately owned by ABP (Jersey) Limited, a limited liability company incorporated in Jersey. However, under Part II of the Transport Act 1981 ABP is controlled by Associated British Ports Holdings Ltd (ABPH), a company formed by the Secretary of State. The directors of ABP (of which there must not be less than five nor more than thirteen) are appointed by ABPH, but ABPH has no power to give directions to the directors of ABP in respect of the execution of their powers and duties as a Harbour Authority. The directors of ABP while acting in their capacity as Harbour Authority are therefore the "Duty Holder" as defined by the Port Marine Safety Code. (See section 2.2 of this document)

ABP is the Statutory and Competent Harbour Authority for the following ports and harbours, although the precise nature of the arrangements varies according to local circumstances:

|           |           |             |             |
|-----------|-----------|-------------|-------------|
| Ayr       | Goole     | King's Lynn | Southampton |
| Barrow    | Grimsby   | Lowestoft   | Swansea     |
| Barry     | Hull      | Newport     | Troon       |
| Cardiff   | Humber    | Plymouth    |             |
| Fleetwood | Immingham | Port Talbot |             |
| Garston   | Ipswich   | Silloth     |             |

In addition Teignmouth Quay Company Ltd. (a wholly owned subsidiary of ABP) is the SHA and CHA for Teignmouth Quays, and the Directors of that company (who are also directors of ABP as defined above), are the "Duty Holder" for Teignmouth Quays. Meetings of the Teignmouth Quay Company SHA take place concurrently with those of ABP, and the company has adopted the same Marine Policy and MSMS as all other ABP ports.

The main functions of the Harbour Authority may generally be classified as follows:

- a) The provision and maintenance of harbour facilities, i.e., quays, wharves, piers, etc.
- b) Navigational safety functions, including lighting and buoying the harbour, the removal of wrecks and other obstructions and maintenance dredging of navigational channels.
- c) Regulating the activities of other persons at the harbour including, in particular, the movement and berthing of ships in the harbour, by means of directions and byelaws, and licensing dredging and the construction of works in the harbour by other persons.
- d) Carrying out harbour operations including, in particular, cargo-handling activities.
- 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) Nature conservation and the prevention of pollution.

## **2.2. The Duty Holder (2.3 – 2.7)**

The Harbour Authority accepts responsibility for ensuring that its duties and powers are discharged to the standard set out in the Port Marine Safety Code. ABP recognises that it is the Duty Holders who are accountable for compliance with the code, and while they will appoint appropriate officers (see sections below) to assist in the discharge of their duties, the Duty Holder recognises that they may not assign or delegate their responsibilities on the grounds that they do not individually have particular skills.

## **2.3. The Designated Person (2.8 – 2.9)**

The Harbour Authority will appoint appropriate individuals as the 'designated person' to provide assurances that ABP marine safety-management systems are working effectively at each port. Generally this will be the ABP Marine Advisor, although this may be varied for individual ports to avoid conflicts of interest. The Designated Person will have access, and report directly to, the Duty Holder and regularly attend Harbour Board meetings (or similar).

## **2.4. Chief Executive (2.10)**

The Chief Executive Officer of ABP (Chairman of the Harbour Authority) is accountable to the Harbour Authority for the operational and financial control of the authority. The Chairman will advise the Harbour Authority on all matters related to its duties and powers, with appropriate advice from The Marine Advisor, Harbour Masters and other officers. The Chairman will oversee the implementation of the Harbour Authority's policies and decisions and will have overall executive responsibility for the safety of its operations and staff.

## **2.5. Harbour Master (2.11 – 2.13)**

The Harbour Authority will, where necessary, exercise its powers to appoint Harbour Masters for its ports and harbours. The Harbour Master is defined in Section 2 of the Harbour Docks and Piers Clauses Act 1847 so as to include, in addition to the Harbour Master himself, his assistants. The expression includes any person authorised by the Harbour Authority to act in the capacity of Harbour Master.

- i. In considering the role of the Harbour Master, the Harbours, Docks and Piers Clauses Act 1847 states:  
"The Expression "The Harbour-Master" shall mean, with reference to any such Harbour, the Harbour-Master and with reference to any such

Dock, the Dock-Master and with reference to any such Pier, the Pier-Master, respectively appointed by virtue of this or the Special Act, and with respect to all Acts authorised or required to be done by such Harbour-Master, Dock-Master or Pier-Master, shall include the Assistants or every such Harbour-Master, Dock-Master or Pier-Master.”

- ii. Section 52 of the Harbours, Docks and Piers Clauses Act 1847 details the Harbour Master’s statutory powers, namely:  
“The Harbour Master may give directions for all or any of the following purposes; (that is to say)

For regulating the time at which and the manner in which any vessel shall enter into, or go out of, or lie in or at the Harbour, Dock or Pier, and within the prescribed limits, if any, and its position, mooring or unmooring, placing and removing, whilst therein.

For regulating the position in which any vessel shall take in or land its passengers, or shall take in or deliver ballast within or on the Harbour, Dock or Pier.

For regulating the manner in which any vessel entering the Harbour or Dock or coming to the Pier shall be dismantled, as well for the safety of such vessel as for preventing injury to other vessels and to the Harbour, Dock or Pier, and the moorings thereof.

For removing unserviceable vessels, and other obstructions from the Harbour, Dock or Pier, and keeping the same clear.

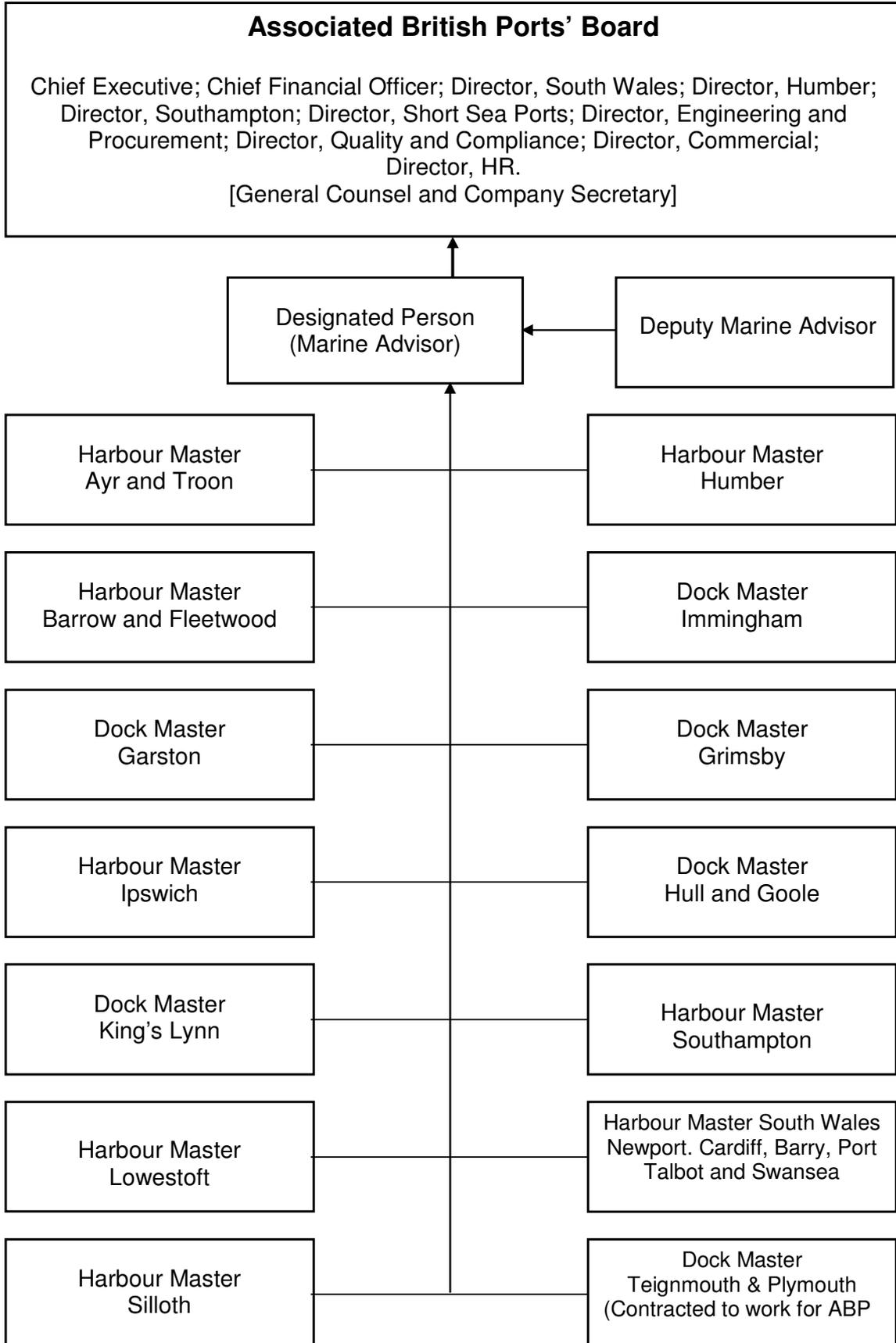
For regulating the quantity of ballast or dead weight in the hold which each vessel in or at the Harbour, Dock or Pier shall have during the delivery of her cargo, or after having discharged the same. Provided always, that nothing in this or the Special Act contained shall authorise the Harbour Master to do or cause to be done any Act in any way repugnant to or inconsistent with any law relating to the Customs, or any regulations of the commissioners of Her Majesty's Customs.

With specific reference to the aforementioned statutory powers, the organisation chart on the following page illustrates the lines of responsibility between Associated British Ports (ABP) in its capacity as Harbour Authority and its Harbour Masters.

## **2.6. The Authority’s Officers (2.14 – 2.15)**

The Harbour Authority will ensure that executive and operational responsibilities are assigned to properly trained people, with delegations being clear and formal. Section 2.7 below summarises the Harbour Authority’s organisational structure

**2.7. Harbour Authority Organisation Chart effective from 1<sup>st</sup> March 2015**



### **3. Key Measures for Compliance with the PMSC**

#### **3.1. *Review Existing Powers (3.3 – 3.5)***

The Harbour Authority will keep its powers - and the extent of its jurisdiction - under review to ensure that they are appropriate for maintaining the overall safety of its ports and harbours, promoting changes where necessary.

#### **3.2. *Formal Risk Assessment (3.6 – 3.8)***

The Harbour Authority has undertaken a formal, documented marine risk assessment of each of its ports and harbours, and established systems designed to review the findings of the assessments.

The Harbour Authority acknowledges that the process of port marine safety assessment is continuous, so that new hazards and changing risks are properly identified and addressed. The Harbour Authority will supplement the continuous review process with formal reviews at suitable intervals.

The Harbour Authority will, so far as is practicable, take measures to eliminate any risks identified, through the assessment and review process.

#### **3.3. *Implementing a Marine Safety Management System (3.9 – 3.12)***

The Harbour Authority will implement a Marine Safety Management System in order to manage marine hazards, risks and emergency preparedness. The Marine Safety Management System will be prepared at Harbour Authority level, and supplemented by local MSMS documents for each of the Harbour Authority's ports and harbours.

The Duty Holder is responsible for ensuring that adequate resources are provided to its officers to enable them to manage marine operations effectively and to adhere to the stated marine and navigation policies, procedures and systems, recognising that proper discharge of the authority's duties will otherwise be compromised. This includes adequate resource for training.

#### **3.4. *Consultation (3.13)***

The Harbour Authority will seek to consult with harbour users and relevant interested parties when considering applicable port marine safety-related matters.

#### **3.5. *Competence Standards (3.14)***

The Harbour Authority will assess, using the most appropriate means available, the competence of all persons appointed to positions with responsibility for safety of navigation, and provide additional training where such need is identified.

The Harbour Authority (Duty Holder) will ensure that individual Board members receive an introduction to their duties under the PMSC within two months of taking up a Board position. All Board members will subsequently receive PMSC refresher training at intervals not exceeding two years.

Wherever possible, the Harbour Authority will encourage port users to undertake appropriate training in order to develop a shared understanding of the marine safety management system in use.

### **3.6. Incident Investigation (3.15 – 3.17)**

The Harbour Authority recognises that however effective the safety regime is, incidents including “near misses” will occur. All significant incidents and potential incidents will be investigated in accordance with a process, and all stages of that process will be recorded. The process will recognise the often conflicting essential purposes of an investigation:-

- to determine the cause of the incident, with a view to preventing a recurrence,
- to determine if an offence has been committed and whether enforcement action is appropriate.

The Harbour Authority considers that the principle requirement of a marine incident investigation should be to determine the probable causes and contributing factors, so that precautions can be put in place to ensure known risks are managed to As Low As Reasonably Practicable. By identifying the “what” and “why” of an incident the harbour authority will be better equipped to prevent a recurrence. In meeting this objective an investigation to determine if an offence has been committed (a criminal investigation) may be compromised and in such cases the Harbour Authority will seek assistance through an agency of another authority such as the Police or the Maritime and Coastguard Agency (MCA).

### **3.7. Statutory Reporting Requirements (3.18)**

Details of any statutorily reportable marine incident will be sent to the Marine Accident Investigation Branch (MAIB) as soon as possible.

### **3.8. Monitoring Performance and Auditing (3.19)**

In considering the safe operation and management of its ports and harbours, the Harbour Authority will monitor and review their performance against a number of predetermined indicators. The results of such reviews will be recorded and, where appropriate, information will be made available to users and other interests.

### **3.9. Enforcement (3.20)**

The Harbour Authority will demonstrate that its policies and procedures are monitored and where appropriate enforced. The Harbour Authority will respond to breaches of local legislation by imposing a proportional sanction appropriate to the circumstances. Enforcement of the harbour byelaws and directions may result in the prosecution of the offender. The Harbour Master is authorised to initiate criminal proceedings in respect of navigation and pollution offences when it is appropriate and after he has sought approval from the Harbour Authority. When considering the range of sanctions available including the possibility of prosecution the Harbour Master will comply with the “Code for Crown Prosecutors”.

When it is in the interests of safety and where the circumstances of the incident dictate, enforcement action will not interfere with the paramount requirement to determine the cause of an incident.

### **3.10. Publication of Plans and Reports (3.21 – 3.23)**

The specific manner in which relevant Harbour Authority policies are observed at each of the ports and harbours may vary according to local circumstances. Details are included within the individual port's plans.

The Harbour Authority will make available reports of its formal periodic reviews, measuring performance against its plans and against the standards as set out in the Code.

The Harbour Authority's policies and procedures commit the authority to undertake and regulate marine operations in a way that safeguards all of its ports and harbours, their users and the environment.

### **3.11. Monitoring Compliance (3.24 – 3.26)**

The Harbour Authority will ensure that a prompt and internally verified response is made to the MCA's compliance programme, every three years. The statement will reflect the compliance status as assessed at the date of response.

ABP will assist the MCA in every regard, should a verification visit be required at any ABP port.

Should internal audits reveal potential compliance issues which cannot be resolved internally, ABP will immediately seek the advice of the MCA to assist in gaining confirmation of compliance.

## **4. General Duties and Powers**

### **4.1. *Open Port Duty (4.2)***

The Harbour Authority recognises this duty, as regulated by the local legislation governing each port and harbour.

### **4.2. *Conservancy Duty (4.3 – 4.4)***

The Harbour Authority shall endeavour to conserve each of its harbours to ensure they are reasonably fit for use as a port, taking reasonable care to ensure that each is in a fit condition for a vessel to resort to it.

The Harbour Authority will use all appropriate means to find, mark and monitor the best navigable channel or channels in its harbours. It will promulgate, as appropriate, relevant hydrographic information associated with its ports and harbours, including information relating to navigational hazards.

The Harbour Authority will seek to work closely with the UK Hydrographic Office to ensure that relevant information required for inclusion within Admiralty charts and publications is made widely available.

### **4.3. *Environmental Duty (4.5)***

The Harbour Authority acknowledges that it has a general duty to exercise its functions with regard to nature conservation and other related environmental considerations, in particular with regard to the requirements of the Habitats Directive. If considered necessary, the Harbour Authority will seek additional powers for these purposes.

### **4.4. *Civil Contingencies (4.6)***

The Harbour Authority will ensure that appropriately detailed emergency plans are prepared in conjunction with other relevant authorities, and that such plans are published and periodically exercised.

### **4.5. *Harbour Authority Powers (4.7 – 4.10)***

The Harbour Authority will keep its powers - and the extent of its jurisdiction - under review to ensure that they are appropriate for maintaining the overall safety of its ports and harbours, promoting changes where necessary.

### **4.6. *Byelaws (4.11 – 4.13)***

The Harbour Authority will make best use of powers to make Byelaws where appropriate, and seek to ensure that existing Byelaws are kept under review and fit for purpose.

### **4.7. *Collecting Dues (4.14 – 4.17)***

The Harbour Authority dues will be kept under review and properly accounted for. The Harbour Authority will ensure that adequate resources are provided to its officers to enable them to operate its policies, plans and systems effectively, recognising that proper discharge of the authority's duties will otherwise be compromised.

## **5. Specific Duties and Powers**

### ***5.1. Appointment of Harbour Master (5.2)***

The Harbour Authority will, where necessary, exercise its powers to appoint Harbour Masters for its ports and harbours.

### ***5.2. Special Directions (5.3 – 5.4)***

The Harbour Authority will ensure that appropriate use is made of the power to give Special Directions, and that these powers are fully understood by authorised Assistants to each Harbour Master.

### ***5.3. General Directions and Harbour Directions (5.5 – 5.6)***

Where the ability to give General Directions is available, The Harbour Authority will ensure that they are appropriately devised and implemented at each port or harbour. The Harbour Authority will regularly review the need for General Directions or Harbour Directions at those ports where they are not currently available.

### ***5.4. Directions and Passage Plans (5.7)***

The Harbour Authority will utilise and promote the use of appropriately detailed passage plans within its ports and harbours.

The Harbour Authority will provide, in the most appropriate format, up-to-date passage guidance applicable to its ports and harbours.

### ***5.5. Incidents Threatening Pollution and Safety (5.8 – 5.9)***

The Harbour Authority will always co-operate with directions from the Secretary of State's Representative.

### ***5.6. Dangerous Vessels (5.10)***

The Harbour Authority will ensure that due notice is provided to the directions that may need to be given in relation to a dangerous vessel that may wish to enter an ABP port or harbour.

### ***5.7. Dangerous Substances (5.11)***

The Harbour Authority will ensure that all reporting requirements for Dangerous Substances are complied with, and that Harbour Masters make use of their powers when necessary to prevent any risk to health and safety within harbour areas.

### ***5.8. Prevention of Pollution (5.12 – 5.13)***

The Harbour Authority will ensure that contingency plans are in place to deal with oil spills, and that local powers are sufficient to ensure any pollution incident is reported and cleared.

### ***5.9. Vessel Traffic Monitoring Reporting Requirements (5.14)***

The Harbour Authority will forward data subject to these requirements to the MCA by the quickest possible means.

### **5.10. Drink and Drugs (5.15)**

The Harbour Authority will ensure that officers are suitably trained in relation to their powers of detention in relation to drink or drug offences committed by a mariner.

### **5.11. Vessel Traffic Services / Local Port Services (5.16 – 5.17)**

The Harbour Authority will determine, through a process of formal risk assessment, circumstances in which a functional radar or radio-based vessel traffic service should be established and operated in accordance with internationally agreed guidelines. In those ports where a VTS is not appropriate a Local Port Service will be operated.

### **5.12. Pilotage (5.18 – 5.20)**

The Harbour Authority will keep under consideration whether any and, if so, what, pilotage services need to be provided to secure the safety of ships navigating in, or in the approaches to, its harbours. It will also consider whether, in the interests of safety, pilotage should be compulsory for ships navigating in any part of that harbour or its approaches. If compulsory pilotage is deemed necessary, the authority will consider to which ships this should be applied and in what circumstances. It will also consider the pilotage service to be provided for those ships. Should the use of an ABP port or harbour change, pilotage services will be reviewed to ensure that the service provided continues to meet requirements.

Having considered the above, the Harbour Authority will ensure that the appropriate level of pilotage service is provided.

### **5.13. Pilotage Directions (5.21 – 5.22)**

Where the Harbour Authority considers, in the interests of safety, that pilotage should be compulsory in any of its ports or harbours or any part thereof, it will issue pilotage directions.

The Harbour Authority will ensure that its pilotage directions define the circumstances in which pilotage is to be compulsory, how, and to which vessels they apply, and in what circumstances.

In providing a pilotage service, the Harbour Authority will consider the possibility that the Master of a vessel may ask for a pilot even when not required to take one by Pilotage Directions. The Harbour Authority will seek to make allowances for such requests and refer to them when reviewing whether in any circumstances pilotage should become compulsory.

The Harbour Authority will ensure that the risks associated with vessels to which the requirements of pilotage directions may not apply are adequately managed.

### **5.14. Pilotage Exemption Certificates (5.23 – 5-24) *(currently mis-numbered in March 2015 edition of code)***

The Harbour Authority will ensure the provision of appropriate formal procedures for assessing the suitability of PEC applicants. The standards and procedures adopted by the Harbour Authority for each of its ports and harbours will be published and available to applicants.

The Harbour Authority will issue PECs to appropriately qualified mariners. The Harbour Authority will make arrangements with PEC holders and their employers, setting out agreed conditions on which PECs are issued and used.

**5.15. Authorisation of Pilots (5.24)** *(currently mis-numbered in March 2015 edition of code)*

The Harbour Authority will determine the qualifications for the authorisation of its pilots in respect of age, physical fitness, time of service, local knowledge, skill, character and otherwise. The Harbour Authority will ensure that proper arrangements are in place for the ongoing review of pilot competence and fitness and that detail of these arrangements are made available to applicants.

The Harbour Authority is committed to exercising its clear role in the authorisation and discipline of pilots, and on the issuing of exemption certificates.

**5.16. Ship Towage (5.25 – 5.26)**

The Harbour Authority will ensure that, where applicable, appropriate guidance is provided for the use of tugs in ABP's ports and harbours, including recommendations on the appropriate number of tugs required.

**5.17. The General Lighthouse Authorities (GLAs) (5.27)**

The Harbour Authority will make arrangements for GLA inspections, and comply with any directions from the GLA concerning aids to navigation.

**5.18. Local lighthouse Duties (5.28 – 5.30)**

The Harbour Authority, in its role as a local lighthouse authority, will seek to maintain applicable aids to navigation in accordance with the availability criteria laid down by the General Lighthouse Authorities.

**5.19. Wrecks (5.31 – 5.32)**

The Harbour Authority will ensure that its marine safety management systems require a risk assessment to be undertaken of any wreck in, or in the approaches to, an ABP port or harbour which may cause a danger to navigation.