

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

15 DECEMBER 2020

REPORT OF THE CORPORATE DIRECTOR COMMUNITIES

PORTHCAWL HARBOUR BYELAWS

1. Purpose of report

- 1.1 The purpose of this report is to seek Cabinet approval to undertake a process to revise the byelaws that are currently effective at Porthcawl Harbour, to reflect the current operations and activities that take place and to consult on and advertise any proposed new byelaws, under the provisions of the Local Government Byelaws (Wales) Act 2012.

2. Connection to corporate well-being objectives/other corporate priorities

- 2.1 This report assists in the achievement of the following corporate well-being objectives under the **Well-being of Future Generations (Wales) Act 2015**:-

1. **Helping people and communities to be more healthy and resilient** – taking steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services. Supporting individuals and communities to build resilience, and enable them to develop solutions to have active, healthy and independent lives.
2. **Smarter use of resources** – ensuring that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help deliver the Council's well-being objectives.

3. Background

- 3.1 Bridgend County Borough Council (BCBC) has invested in Porthcawl Harbour and successfully developed the historic harbour into a community space that accommodates a range of activities and can be enjoyed by all.
- 3.2 The capital development of Porthcawl Marina was completed in 2013, benefitting from external investment and European funding. The Marina is situated within the footprint of Porthcawl Harbour that extends beyond the confines of the Marina basin including areas of Cosy Corner, the breakwater and lighthouse and more.
- 3.3 As a result of this development project, Porthcawl Marina now has a range of additional features including a tidal lock gate and a pontoon access system that provides 70 berths for berth holders, visitors and commercial operators.

- 3.4 Since opening the Marina in 2013 the Marina has performed well in terms of generating income and has a healthy demand for moorings with a consistent waiting list of around 50 people.
- 3.5 The development of the Marina has supported increased interest in other regeneration and investment projects within the Harbour footprint including the sale of the Jennings Building which now accommodates 3 commercial premises and 14 live/work apartments. It was critical to the success of the Porthcawl Townscape Heritage Initiative (THI) bid for Heritage Lottery funding, to bring back into use key historic buildings in the Harbour Quarter, including the Look-out Tower and the Customs House.
- 3.6 Porthcawl Harbour is situated on the Bristol Channel which is famous for its large tidal range and strong currents making it a hazardous area to navigate. The Bristol Channel has a large amount of commercial activity and very often ships navigating their way up to Bristol Docks can be seen laden with containers, cars and raw materials for distribution across the UK.
- 3.7 BCBC are granted powers to assist in the operation, maintenance and development of Porthcawl Harbour and must act in the capacity of the Harbour Authority under the provisions of Part V of the Mid Glamorgan County Council Act 1987("the 1987 Act"). The Council is identified as being the Harbour Authority with the undertakings associated with the Harbour being vested in the Council.
- 3.8 Porthcawl Harbour is home to the busiest inshore lifeboat station in Wales and consequently a very active branch of National Coastwatch Institute (NCI). Both charities are dedicated to working with BCBC to improving water safety across the coastline of Bridgend County Borough.
- 3.9 Porthcawl Harbour now attracts various groups of individuals. Some visiting the site for social purposes to visit the commercial food and drink premises or to participate in a full range of coastal and water based activities. Activities include but are not limited to fishing, sailing, powerboating, water skiing, stand up paddle boarding, open water swimming and kayaking.

4. Current situation / proposal

- 4.1 Specific areas within the footprint of Porthcawl Harbour (as defined by the 1987 Act) are currently subject to local byelaws that identify Public Bathing Places across Porthcawl. These byelaws were established in 1953 by the Urban District Council of Porthcawl. A byelaw is a local law which is made by a statutory body under an enabling power which is contained in an Act of Parliament or a Measure of Act of the National Assembly.

- 4.2 BCBC hold stakeholder and partnership engagement opportunities locally through the Coastal Partnership and Porthcawl Harbour Stakeholder Group where water safety is an agenda item. A regular topic of discussion is the mixture and often conflicting uses of the water surrounding Porthcawl Harbour and calls have been made to BCBC for a workable solution for all users whilst giving BCBC a degree of control in the area that currently is not being provided by out of date byelaws.
- 4.3 Based on a recent review of Health and Safety and recent incidents reported in the area, it is considered that revisions are required to the current byelaws. In undertaking a process to revise the byelaws the intention is not to prohibit any particular activity but put in place a clear set of rules that are aligned to other coastal and quayside environments that has users safety as a priority.
- 4.4 The intention is that the byelaws that are currently in place will be revoked in so far as those byelaws are relevant to Porthcawl Harbour and replaced by up to date byelaws.
- 4.5 A process is set out in the Local Government Byelaws (Wales) Act 2012 (“the 2012 Act”) for making and revoking byelaws. The 2012 Act changed the procedure for confirmation of byelaws by Welsh Ministers and introduced an alternative procedure which removes the need for confirmation by Welsh Ministers for byelaws specified in the 2012 Act. Welsh Government has published statutory guidance on the 2012 Act (March 2015) and this document gives detailed guidance on the procedure to be followed when making byelaws under the 2012 Act. If, following the completion of the consultation process described in the paragraphs below in more detail, an authority decides to make a byelaw, at least six weeks before that byelaw can be made the authority must publish notice of their intention to make the byelaw in one or more local newspapers and also on the authority’s website.
- 4.6 Under Section 6 and Schedule 1 of the 2012 Act any byelaw made by a local authority under an enactment listed under Part 1 of Schedule 1 does not require confirmation by Welsh Ministers. The 1987 Act is listed under Part 1 of Schedule 1 so BCBC can follow the procedure in the 2012 Act which does not require confirmation by Welsh Ministers to make byelaws at Porthcawl Harbour.
- 4.7 The 2012 Act prescribes that prior to making a byelaw under Section 6 an authority must:
- a) Publish on the authority’s website an initial written statement which describes the issue which the authority thinks may be addressed by making a byelaw; and
 - b) Consult any person (including, where applicable, a community council) who the authority thinks is likely to be interested in, or affected by, the issue.
- 4.8 Following the consultation, the authority must consider the responses and decide whether making a byelaw is the most appropriate way of addressing the issue. A report back to Cabinet will be made at this stage.

4.9 The authority must then publish on its website a second written statement which contains:-

- a) the initial written statement;
- b) a summary of the consultation and the responses; and
- c) its decision – either to introduce byelaws or to address the problem through other means - and the reasons for that decision.

4.10 A copy of the proposed byelaws, intended for consultation, is included at Appendix A. It is important to stress that these have a draft status at this time.

5. Effect upon Policy Framework & Procedure Rules

5.1 There are no effects upon BCBC's Policy Framework or Procedure Rules.

6. Equality Impact Assessment

6.1 It is considered that no negative impacts will be created as a result of this report as the report is seeking authority to undertake a process of amending byelaws as set out in the Local Government Byelaws (Wales) Act 2012.

7. Well-being of Future Generations (Wales) Act 2015 implications

7.1 The Well-being of Future Generations (Wales) Act 2015 Assessment Template has been completed and a summary of the implications from the assessment relating to the five ways of working is below:

- Long-term: The process as outlined will be undertaken to ensure a consultation process considers not only the current issues in the area but also those that are considered to be issues in the future and will seek to put in place a more fit for purpose situation.
- Prevention: The changing nature of the Harbour area and its users has highlighted a number of concerns which the process to revise the byelaws will seek to mitigate and manage.
- Integration: The consultation process to revise the byelaws will be undertaken to ensure that their implementation integrates with current and future operations
- Collaboration: The process for revising the byelaws will be undertaken through a partnership approach between BCBC and key stakeholders.
- Involvement: The process of revising byelaws and undertaking consultation will be that as set out Local Government Byelaws (Wales) Act 2012.

8. Financial implications

8.1 It is considered at this time, based on information available, that the costs involved in undertaking the process outlined above will be in the region of between £2,000 to £3,000. These costs will relate to external costs in relation to the required steps of the consultation process.

8.2 The costs involved in undertaking the above process will be met through the 2021-2022 Destination Management revenue budget within the Economy, Natural Resources and Sustainability service area.

9. Recommendations

9.1 It is recommended that Cabinet:

- authorise the Corporate Director, Communities, to undertake a consultation process, under the provisions of the Local Government Byelaws (Wales) Act 2012, and to take all necessary steps described in Paragraph 4 of the report to make new byelaws under the Mid Glamorgan Act 1987 in relation to Porthcawl Harbour to reflect the current operations and activities that take place.
- note that a further report will be made to Cabinet once the process described in paragraph 4.7 of this report has been completed.

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30th November 2020

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Background documents

- Mid-Glamorgan County Council Act, 1987
- Local Government Byelaws (Wales) Act, 2012
- Local Government Byelaws(Wales) Act 2012: Statutory Guidance to Welsh local authorities, community and town councils, national park authorities and Natural Resources Wales. March 2015.

BRIDGEND COUNTY BOROUGH COUNCIL

**BYELAWS FOR REGULATING PORTHCAWL HARBOUR AND
ASSOCIATED WATERS**

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Title and commencement

These byelaws may be cited as the Porthcawl Harbour Byelaws 2020 and shall come into effect on the expiration of 28 days from the date of their being confirmed by the Council.

Application

These byelaws shall apply to all parts of the Porthcawl Harbour.

These byelaws apply to all persons and vessels using the harbour or within the harbour premises and, in addition, the byelaws set out in part V apply to all roads from time to time within the harbour premises except for public roads and the byelaws set out in part VIII apply to pleasure craft and recreational activities within the harbour.

Interpretation

In these byelaws, unless the context otherwise requires, the following words or expressions have the following meanings:

1996 Regulations”	means the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996 (SI 1996/75);
Authorised officer of the company	means any person lawfully acting on behalf of the Council;
Berth	means any place within the harbour where a vessel may properly lie whether at a quay, at a mooring or at anchor;
Council	Bridgend County Borough Council
Dangerous Substances Regulations	means the Dangerous Substances in Harbour Areas Regulations 1987 (SI 1987/37;)
Docks	means the enclosed basin of water with a man-made structure built over water where passengers can get on or off a boat, or where goods can be transported on or off.
Harbour	means all tidal waters and all enclosed waters which lie within the area to which these byelaws apply and includes immediately adjacent quays and docks ancillary to the use of those waters;
Harbour Master	means the person appointed as the harbour master and includes his authorised deputies, assistants and any other person authorised by the Council to act in that capacity; and any permission or instruction of the harbour master, unless the byelaw requires that it be in writing, includes any authority, permission or instruction given orally in person or by radio;
Harbour premises	means the docks, quays and all other works, land and buildings for the time being vested in or occupied or administered by the Council and

	used for the purposes of or in connection with the harbour;
Master	when used in relation to any vessel means any person having the command, charge or management of the vessel for the time being;
Owner	when used in relation to goods includes any consignor, consignee, shipper or agent for the sale, receipt, custody, loading or unloading, handling and clearance of those goods and includes any other person in charge of the goods and his agent in relation thereto; and when used in relation to a vessel includes any part owner, broker, charterer, agent or mortgagee in possession of the vessel or other person or persons entitled for the time being to possession of the vessel; and when used in relation to a vehicle includes any part owner or agent or person having charge of the vehicle for the time being;]
Fairway	A navigable channel used to access or egress the harbour.
Pedal cycle	means a cycle as defined in section 192 of the Road Traffic Act 1988;
Pleasure craft	means any vessel designed or adapted wholly or in part for the purpose of sport or recreation including, without limitation, a personal watercraft and sail board;
Public roads	means all roads which are now or in the future dedicated for use as a public highway which at the date of these byelaws comprise;
Quay	means any quay, wharf, jetty, dolphin, landing stage or other structure used for berthing or mooring vessels, and includes any pier, bridge, roadway or footway immediately adjacent and affording access thereto;
Road	means any road, pier, wharf, quay, bridge or other work or any land within the harbour premises accessible by vehicles;
Sail board	means a raft with a sail or sails designed to be operated by a person or persons standing upright thereon;
Small vessel	means any vessel of less than 24 metres in length;
Vehicle	means any mechanically propelled vehicle including, without limitation, any of those vehicles referred to in sections 185, 186, 187 and 188 but not any vehicle defined in section 189 of the Road Traffic Act 1988;
Vessel	means a ship, boat, raft of any description and includes non-displacement craft and any other thing constructed or adapted for floating on or being submersed in water (whether permanently

	or temporarily) and amphibious vehicles during such time as it is in the water.
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In these byelaws:

- the expression "Highway Code" has the meaning given to it in section 38(8) of the Road Traffic Act 1988;
- the expression "Collision Regulations" means the 1996 Regulations and any other regulations made pursuant to sections 85 and 86 of the Merchant Shipping Act 1995;
- references to a byelaw are to numbered paragraphs of these byelaws; and
- references to a part are to any part of these byelaws.

BYELAWS MADE UNDER THE PROVISIONS OF THE MID GLAMORGAN ACT 1987 WITH RESPECT TO PORTHCAWL HARBOUR

PART I - REGULATING THE USE OF THE HARBOUR AND ASSOCIATED WATERS

Berthing

1 **Vessel movements**

- 1.1 The master of a vessel shall give reasonable prior notice to the harbour master of the vessel's arrival at, departure from or movement within the harbour.

2 **Vessels to be berthed and moved as directed**

- 2.1 The harbour master shall determine the order in which vessels may enter or leave the harbour and the master of every vessel in the harbour shall moor, or place and keep moored, the vessel where directed by the harbour master and shall move that vessel to or from any berth within the harbour in accordance with any directions which the harbour master may give from time to time.

3 **Provision of proper fenders**

- 3.1 The master and the owner of a vessel shall ensure that she is provided with a sufficient number of fenders of a type that would float in water and a size appropriate to the vessel and, when berthing and leaving or lying at a harbour in order to prevent damage to other vessels and council property.

4 **Vessels to be kept in a movable condition**

- 4.1 The master of a vessel shall not, except when it is unavoidable that his vessel lie aground, take any steps to render his vessel incapable of movement without first notifying the harbour master and, subject as aforesaid, shall at all times keep his vessel so loaded and ballasted and in such condition that it is capable of being safely moved.
- 4.2 Where at any time a vessel is not capable of being safely moved by means of its own propulsive machinery, the master or owner shall, as soon as reasonably practicable, inform the harbour master and forthwith give to the harbour master any further information which he may reasonably require.

5 **Access across decks**

- 5.1 The master of a vessel alongside a quay or alongside any vessel already berthed within the harbour shall, if required to do so by the harbour master or other authorised officer of the company, give free access across the deck of his vessel for persons and goods to and from vessels berthed alongside his vessel.

Navigation

6 Vessels to navigate with care

- 6.1 The master shall navigate his vessel with such care and caution at such speed and in such manner as not to endanger the lives of or cause injury to persons or damage to property and as not to obstruct or prejudice the navigation, manoeuvring, loading or discharging of vessels or cause unnecessary damage to moorings or other property.

7 Speed of vessels

- 7.1 Within the docks and except with permission of the harbour master and subject to byelaws 5 and the Collision Regulations, the master of a vessel shall not cause or permit the vessel to proceed at a speed greater than 3 knots.
- 7.2 The master of any vessel granted permission by the harbour master to exceed a speed limit shall comply at all times with any conditions attached to that permission, it shall be a defence for the master or operator charged to prove that at the material time the vessel was engaged in an emergency or rescue operation in circumstances where adherence to the speed limit would have been likely to have hindered the use of the vessel for that purpose.

8 Vessels not to be made fast to aids to navigation

- 8.1 The master of a vessel shall not make fast his vessel to or lie against any buoy, beacon or mark used for navigational purposes.

9 Notification of collisions etc.

The master of a vessel which:

- 9.1 has been damaged or caused damage in a collision with any vessel, buoy, beacon or mark used for navigational purposes or any other property; or
- 9.2 has been sunk or grounded or become stranded in the harbour area or the approaches thereto; or
- 9.3 by reason of accident, fire, defect or otherwise is in such a condition as to affect its safe navigation or to give rise to danger to other vessels or property; shall, as soon as reasonably practicable, report the occurrence to the harbour master and, as soon as practicable thereafter, provide the harbour master with full details in writing and, where the damage is such as to affect or be likely to affect its seaworthiness, the master shall not move the vessel except to moor or anchor in safety otherwise than with the permission and in accordance with the directions of the harbour master.

10 Navigation while affected by drink or drugs

- 10.1 No person shall have the command, charge or management of a vessel underway or otherwise navigate or have the charge of or undertake any activity which is or may be material to the safe conduct of a vessel underway when unfit by reason of drink or drugs to do so or to have that charge.

- 10.2 The master of a vessel shall not cause or permit any person to navigate or otherwise have charge of or undertake any activity which is or may be material to the safe conduct of a vessel underway if that person is unfit by reason of drink or drugs to do so, have that charge or undertake that activity.

Fishing

11 Fishing in docks

- 11.1 No person shall fish in the docks.
- 11.2 No person shall discard any bycatch or dead fish into the water within the confines of the harbour.

Parking

12 Observance of the Highway Code

- 12.1 Subject to any conflicting provisions contained in these byelaws, the rules in the Highway Code shall apply to all persons within the harbour premises.

13 Parking

- 13.1 No person shall park any vehicle in the harbour area except in the areas permitted for parking as shown [coloured blank] on the plan attached to these byelaws.

14 Obstruction and danger to persons or property

- 14.1 No person in charge of a vehicle shall cause or permit the vehicle to remain at rest on a road in such a position or in such a condition or in such circumstances as may be likely:
- i. to cause danger to other persons using the road; or
 - ii. to obstruct the use of all or any part of any road.

Bathing and Diving

15 Safe Swimming and Bathing

- 15.1 No person shall engage in swimming or bathing in the harbour and associated water areas except with the consent of the harbour master.
- 15.2 Swimmers may cross the channel at the entrance to the harbour but must do so using the shortest route possible.
- 15.3 Swimmers shall not cross a narrow channel of fairway if such crossing impedes the passage of a vessel.

16 Diving operations (with respiratory support)

- 16.1 No diving is to take place within the harbour without the prior consent of the harbour master.
- 16.2 Where the harbour master has approved any diving, all persons taking part shall comply with the Diving at Work Regulations 1997 and any instructions given by the harbour master.

Lockgates

17 Interference with plant, dock machinery, lockgates etc

- No person shall, without lawful authority:

- 17.1 use, work, move, tamper or interfere with any plant, dock machinery, equipment or apparatus at the harbour premises; or
- 17.2 open, drawn or shut any lockgate, sluice paddle or bridge of any dock basin under control of the council.

18 Access to lockgates

- 18.1 No person shall enter or remain or attempt to enter upon any lockgate under the control of the council while it is in motion, or pass over any barrier or gate placed before or across any such lockgate before it is swung, or step on such lockgate before the barrier or gates shall have been removed by an officer or servant of the company on duty at the lockgate, and no person other than such officer or servant shall remove, unfasten or interfere with any such barrier or gate.

Slipway

19 Usage

- 19.1 When using the slipway the master of the vessel will ensure:
- i. the boat and engine are seaworthy.
 - ii. adequate marine insurance is in place
 - iii. arrangements have been made with the Harbour Master or appointed staff for permission to launch or recover.
- 19.2 The slipway must be kept clear. Vehicles and trailers must not be left unattended on the harbour premises.

Shoreline restrictions

- 20 With the exception of accredited lifesaving groups or appointed rescue services. No vessels or masters of vessels shall navigate within 50 meters of the beach shoreline referred to in appendix

PART II - Miscellaneous

Waste

21 Deposit of rubbish, interference with refuse bins etc.

- 21.1 No person shall:
- i. abandon, deposit or dump any materials, goods, furniture, machinery or items of any kind or any rubbish, refuse or waste at any place in the harbour premises not specifically appointed by the Council for such purpose; or
 - ii. interfere with the contents of or remove anything from any receptacle, bin, container or place appointed or used for the time being for the deposit or storage of any rubbish, refuse, waste or other discarded items.

22 Disposal of refuse and waste from vessel.

22.1 The master of a vessel shall ensure that:

- i. Only paper, packaging and food waste are to be placed in the covered receptacles provided for that purpose on the quay by the council;
- ii. the receptacles are kept closed when not in use; and
- iii. the area in the vicinity of the receptacles is kept clean.

22.2 No person other than a member of the crew of a vessel or person employed, engaged or authorised by the master of a vessel shall dispose of any item of any kind in any receptacle, bin or other container provided for the use of a vessel.

23 **Pumping of Bilges**

23.1 The master of a vessel shall not permit bilge water to be pumped from the vessel into the docks unless the written consent of the harbour master shall have been first obtained or unless such action is necessary to avoid his vessel sinking.

Safety

24 **Interference with firefighting and lifesaving equipment**

24.1 Except with the permission of an authorised officer of the Council, no person shall use, obstruct, remove, interfere or tamper with any firefighting equipment or any lifesaving apparatus except for the purpose of combating fire or saving life.

25 **Fires and naked lights**

25.1 No person shall light, or attempt to light, or use any open fire or naked flame within the harbour premises except with the permission of an authorised officer of the Council and subject to such conditions as the Council may prescribe from time to time.

Security

26 **Unauthorised entry and trespassing**

26.1 No person shall enter or leave or attempt to enter or leave the harbour premises or any area or building within the harbour premises other than by means of an approved entrance or exit.

27 **Damaging or defacing premises**

27.1 No person shall damage or wilfully deface any part of the harbour premises or any of the councils property.

28 **Defacing notices, etc**

28.1 No person shall destroy or deface any authorised notice, bill or placard.

29 **Affixing notices, etc**

29.1 No person shall, without the previous approval of an authorised officer of the Council, affix or cause to be affixed any notice, bill or placard or distribute any notice, bill, leaflet or placard anywhere within the harbour premises.

30 Obstruction of officers or employees of the Council

30.1 No person shall obstruct:

- (i) any officer of the Council in the proper execution of his duties;
- (ii) any person carrying out an act which is necessary to the proper execution of any contract with the Council: or
- (iii) any other person in proper use of the harbour.

32 Removal of offenders

32.1 any person offending against any of these byelaws may be removed from the harbour by an officer of the Council or a constable.

33 Penalty

33.1 Any person offending against any of these byelaws is liable on summary conviction to a fine not exceeding level 2 on the Standard Scale.

34 Revocation

34.1 The byelaws made by (blank) and confirmed by (blank) on (blank) relating to the harbour are hereby revoked.