

HAMPSHIRE COUNTY COUNCIL

Report

Committee	River Hamble Harbour Management Committee
Date:	8 September 2017
Title:	Marine Director and Harbour Master's Report and Current Issues
Report From:	Director of Culture, Communities and Business Services

Contact name: Jason Scott

Tel: 01489 576387

Email: Jason.Scott@hants.gov.uk

1. Summary

- 1.1. This report combines the reports of the Harbour Master and Marine Director, summarises the incidents and events in the harbour and covers any issues currently under consideration by the Marine Director.

2. Patrols

- 2.1. The harbour has been patrolled by the Duty Harbour Master at various times between 0700 and 2230 daily.

3. Incidents and events

- 3.1 The reporting period has seen the following trends:

- a) Joint effort with Hampshire Constabulary to investigate swimming patterns, as well as to promote and maintain safety and reduce risk. General success of persuasive argument.
- b) Speeding events consistent with the time of year, with steps taken to both warn culprits and, where necessary evict them from the River using legal powers.
- c) A number of incidents involving the need to tow vessels with propulsion failure. Number not inconsistent with previous years.
- d) A number of relatively light diesel pollution events, none traceable, and consistent with those witnessed in earlier years.

- 3.2. 14 July. Routine patrol and moorings check. Hosted local school visit. Towed vessel with engine failure to mid-stream Visitors' Pontoon.
- 3.3. 15 July. Routine patrol and moorings check. In poor weather, assisted a motor boat in recovery onto Warsash Slipway. Routine liaison with Hamble Lifeboat. Fitted signage to Hamble Jetty as part of comprehensive plan to brief on swimming risks. Combined patrol with Hampshire Constabulary to promote swimming safety.
- 3.4. 16 July. Routine patrol and moorings check. Routine liaison with Hamble Lifeboat and Hampshire Marine Police Unit. Bait digging behavioural survey. Attended Hamble Jetty to manage swimmers. Attended RAFYC to assist in freeing a swan tangled in fishing line. Towed a broken-down RIB to preferred berth at the 'Jolly Sailor' Public House. Observed berthing collision between two yachts, one already berthed and unmanned, in good weather conditions on the midstream Visitors' Pontoon (VP). Statements taken and owners put in touch. Towed yacht with engine defect from the mouth of the River to her berth at a yacht club. Attended swamped RIB on HM Jetty Warsash – pumped out.
- 3.5. 17 July. Routine patrol and moorings check. Pattern of life work with Hampshire police and local community regarding swimming and associated anti-social behaviour. Assisted a member of the public in recovery of a set of keys dropped into the water off Hamble Jetty. Keys recovered using a magnet. Survey of 'J' moorings prior to routine and planned Crown Estate (CE) maintenance programme. Towed a yacht from HM Pontoon to a yard for maintenance. Further patrol to Hamble Jetty to support Hampshire Police in clearing swimmers. Liaison with Police regarding anti-social behaviour (slipping of Ferry mooring and misappropriation of Hamble Jetty lifebelt).
- 3.6. 18 July. Routine patrol and moorings check. Moved vessels on the midstream Visitors' Pontoon in preparation for routine CE maintenance programme on 'J' run. Commercial boat coding work. Patrol assisted a yacht with engine failure. Patrol conducted investigation a small patch of diesel oil near Land's End. Origin unclear. Broken up successfully with propeller wash. Patrol attended Hamble Jetty to disperse swimmers (30 +).
- 3.7. 19 July. Routine patrol and moorings check. Towed a yacht from the 'J run to the midstream VP prior to routine CE maintenance programme. Quarterly Operational and Safety Meeting. Assisted a yacht alongside at Warsash in strong winds. Patrol responded to a call from a member of the public regarding speeding PWCs in the vicinity of the Chinese Bridge. 5 jet skis apprehended subsequently near Badnam's Creek and evicted from the River. Liaison with Southampton HM patrol following close pass with container vessel in Southampton Water.
- 3.8. 20 July. Routine patrol and moorings check. Patrol assisted a vessel aground against Hook Spit. Vessel towed to safety. Assisted skipper of a visiting Australian yacht in meeting UK HMRC requirements. Patrol responded to a call

from a member of the public regarding 15 swimmers at Hamble Jetty. Patrol attended and swimmers dispersed. Patrol responded to a further call from a River User regarding swimmers vandalising tenders. On arrival, swimmers had dispersed. No apparent damage to tenders.

- 3.9. 21 July. Routine patrol and moorings check. Patrol moved a catamaran alongside on the Warsash HM Jetty in order to accommodate PRINCESS CAROLINE. Assisted a yacht alongside the Warsash scrubbing piles in a stiff breeze. Patrol further assisted a PhD acoustic project measuring sound across the Main Channel near the Warsash Maritime College. Patrol freed a small tender trapped under a Hamble Point pontoon. 3 children had been embarked but were safely on the pontoon on arrival. Parents afloat but not nearby on a RIB. Tender and children returned to their sailing club and parents re-briefed. Patrol attended a yacht caught fast on a mooring pick-up line.
- 3.10. 22 July. Routine patrol and moorings check. Patrol marshalled racing yachts exiting the River to ensure compliance with the International Regulations for the Prevention of Collisions at Sea. Patrol attended Hamble Jetty following a report from a member of the public regarding swimmers. On attendance, swimmers were clear of the prohibited area and safe. Patrol assisted a yacht in difficulty adjacent to the Hamble Jetty; yacht towed to safety.
- 3.11. 23 July. Routine patrol and moorings check. Patrol assisted two canoes in difficulty in strong tides North of the A27 bridge. Patrol towed a number of yachts from the 'J' run to the midstream VP prior to programmed CE maintenance work. Patrol supported a 50 tonne racing yacht with engine failure in returning to her berth.
- 3.12. 24 July. Routine patrol and moorings check. Patrol checked an audible alarm on a moored motor boat above the Bridges. Reported. Patrol moved a yacht secured to the hatched area at Hamble Jetty. Patrol attended a yard following a report from a River user of fibreglass sanding taking place by contractors to conduct an emergency afloat repair. Environment Officer warned contractor of environmental obligations and the environmental impact. Patrol observed a failed mooring horse rail and removed the occupant yacht to the midstream VP before informing the owner and CE contractor of the need for repair. Patrol assisted the Calshot Lifeboat in towing a motor boat with propulsion failure to the Warsash HM Jetty for defect rectification.
- 3.13. 25 July. Routine patrol and moorings check. Patrol recovered a loose pontoon float adjacent to a marina. Recovered and marina advised to check pontoons accordingly. Patrol recovered a large log from the River adjacent to the Port Hamble fuel berth. Patrol supported Adler and Allen Contractors in local oil spill training adjacent to the Warsash slipway. Patrol reunited the owner of a tender with his craft, recovered from the River and held in the Warsash HM yard. Patrol responded to a call from a River User regarding debris floating in the River. Nothing found despite search. Patrol responded to a call from a member of the public regarding swimmers jumping into the River from the A27 Bridge. Not witnessed on arrival although some swimmers were in attendance at Land's

End. No cause for concern. Patrol towed two yachts from the midstream VP to their proper mooring on completion of maintenance work. Patrol attended a catamaran with her engine running and a television switched on. No-one was embarked. Commenced an investigation into whereabouts of the owner; located following a report to the police. Yacht made secure.

- 3.14. 26 July. Routine patrol and moorings check. Routine liaison with UK Border Force (alongside Warsash HM Jetty).
- 3.15. 27 July. Routine patrol and moorings check. Routine liaison with Hampshire Marine Police Unit. Patrol liaised with 3 swimmers on an vacant 'V' pontoon at Land's End. Swimmers advised of risks and asked to vacate this private pontoon which they did with no disagreement.
- 3.16. 28 July. Routine patrol and moorings check. Patrol check and replenishment of First Aid equipment. Patrol attended Hamble Jetty where a berthing collision had taken place involving a mooring holder's yacht. The yacht had collided with the downstream jetty light stanchion, causing it to become dislodged. Light temporarily refixed and yacht owner's details taken.
- 3.13. 29 July. Routine patrol and moorings check.
- 3.14. 30 July. Routine patrol and moorings check. Patrol pumped out a motor boat alongside Warsash HM Jetty which had taken on water. Towed a yacht to her proper mooring from the midstream VP following completion of routine maintenance work. Attended Land's End slipway to inspect damage caused by heavy rain, reported by a member of the public. Patrol towed a yacht with engine failure from the mouth of the River to her proper mooring.
- 3.15. 31 July. Routine patrol and moorings check. Towed a yacht from the midstream VP to her proper mooring following completion of planned Crown Estate maintenance work on the 'J' run. Patrol towed a motor boat with engine failure to her proper mooring at Bursledon. Tender recovered adrift with Hamble Jetty sticker attached; returned to Hamble Jetty. Hamble Jetty light permanently refixed. Commercial boat coding work. Patrol conducted a routine check of Aids to Navigation post twilight.
- 3.16. 1 Aug. Routine patrol and moorings check. Towed two motor boats from their moorings to the midstream VP prior to planned Crown Estate maintenance work on the 'M' run. Returned two yachts from the midstream VP to their proper moorings following completion of planned CE maintenance on the 'J' run. Visiting Dutch motorboat advised of speed limit and need to minimise wash with assistance from hosting marina.
- 3.17. 2 Aug. Enhanced patrol and moorings check. Strong winds. Replaced a number of failed and failing lines and re-positioned fenders where practicable.

Assisted a yacht in picking up her mooring. Recovered a tender adrift off Mercury bend and returned same to her proper berth.

- 3.18. 3 Aug. Routine patrol and moorings check. Re-secured a yacht with loose mooring lines in high winds. Advice given to a visiting Dutch motor boat creating excessive wash. Recovered an abandoned Dory with no markings and awash adjacent to the 'L' run.
- 3.19. 4 Aug. Routine patrol and moorings check. Investigated a light sheen of diesel near the Bursledon bend but not traceable. Broken up effectively with propellor wash.
- 3.20. 5 Aug. Routine patrol and moorings check. Moved 3 vessels from the 'M' run to the midstream VP prior to planned CE maintenance work. Assisted in moving a yacht to the scrubbing piles at Warsash. Routine liaison with Hampshire Constabulary as part of planned pattern of life work with swimming. Towed two more yachts from the 'M' run to the midstream VP in advance of planned Crown Estate maintenance work. Assisted a catamaran with a torn sail to the midstream VP for defect rectification.
- 3.21. 6 Aug. Routine patrol and moorings check. Moved two more yachts from moorings on the 'M' run to the midstream VP prior to planned CE maintenance work. Assisted a yacht with a broken throttle cable in returning to her proper mooring. Stood by another yacht with engine failure as she proceeded up River to her mooring and assisted her in picking up. Rendered assistance to a yacht aground in the vicinity of the A27 Bridge. Yacht freed, Gave assistance to two members of the public who had arranged to meet with friends arriving in a motor boat. Arrival overdue. Liaison with Her Majesty's Coast Guard (HMCG) revealed the motor boat had been beached at Lee-on-the-Solent. Crew safe. Boat recovered by RNLi to Warsash Slipway later.

4. Swimming

- 4.1 The Harbour Board's Strategic Vision recognises that the River is popular for swimming¹. The primary supporting objective of the Vision is the safety of all River users. This includes, equally, swimmers and also other River users whose own activities may be impacted upon by conflict with those who choose to swim in busy boating areas as well as more broadly. The Board seeks to establish the most appropriate and pro-active approach to the management of swimming to ensure that the risks associated with it are reduced to a level that is as low as reasonably practicable (ALARP).
- 4.2. Swimming takes place in the River throughout the year. Some of it, such as open water swimming in the River Hamble Games, is organised and some of it is not. Organised swimming events are assessed on their merits and

¹ RHHB Strategic Vision 2015 5.2.1.

appropriate control measures applied to ensure that the risks are as low as reasonably practicable. Promotion of such events is consistent with the Board's ambition but they will not be considered further here because they are managed in a bespoke manner. In contrast, the shaping of Board policy within the Vision towards the management of uncontrolled swimming merits further consideration. In terms of scope, this note will not address the matter of Anti-Social Behaviour, which can accompany swimming; that is a matter for the Police.

- 4.3 While uncontrolled swimming can take place anywhere in the River, in practice, it takes place mostly in four areas². In each of these, there is significant opportunity for interaction other River Users, most notably boats. There are also other significant risks to swimmers including but not limited to drowning, cold water shock, entrapment, strong tidal streams and impact with submerged objects.
- 4.4. Recognising the Board's desire to be 'forward-leaning' where swimming is concerned, the legal implications of sanctioning formally an activity over which it can have little practical control have been sought. The following legal advice applies:
- a) There would be concern if any stretch of the River were to be labelled as being 'safe' for swimming as the whole of the harbour area is accessible to vessel traffic, as well as local hazards including cold water and strong tidal streams etc.
 - b) In addition to responsibilities under the Port Marine Safety Code to vessels which may be placed at risk by the consequences of the action of uncontrolled 'ad-hoc' swimmers, the other relevant legislation is contained in the Occupiers Liability Acts from 1957 and 1984. The 1957 act sets out a duty for those in charge of premises to ensure that persons using the area for acceptable purposes (and with permission) are reasonably safe. This covers ordinary visitors and those swimming with permission (or who have been encouraged to swim). The 1984 Act deals with trespassers or those using the premises without permission or for purposes which are specifically not permitted.
 - c) The erection of advisory notices informing members of the public of what they can and cannot do at the access points, would make it clear that anyone undertaking one of the prohibited activities was covered by the 1984 Act as a trespasser rather than the 1957 one as a visitor. This is important because the 1984 Act includes specific provisions giving landowners some protection where warning signs have been put up covering known hazards.

² From North to South: River Hamble Country Park Jetty, Bursledon/Swanwick Bend, Hamble Jetty and Warsash.

- d) Case law exists which says that if the risk is connected to the activity and not to the condition of the premises (so, for example, choosing to dive off a jetty into otherwise safe water) the usual Occupiers' Liability Acts do not apply and so in the event of a claim following an accident any claimant would have to prove that RHHA had been negligent in some way. The only point where this would not be the case would be where there was a known source of danger. In those circumstances, it might be the condition of the premises as well as the activity which could raise the level of risk and so the expectation would be that the effect of the known source of danger would be limited as far as possible or appropriate warning signs put up. Therefore, each area where there are known to be issues should be assessed for risks and signs erected or access limited accordingly.
- e) A combination of general advisory safety information (at access points, on the website and in promotional material), risk assessments covering known dangers and associated warning signs might give some protection from liability in the event of a claim.
- f) Any promotion should be low-key and focussed on specific events and swimming being possible, but also warn of the risks. Investment in appropriate signage and fencing should be made and also recognition given that the Board has a duty to those that they may encourage to swim which requires it to ensure that they are reasonably safe when doing so by implementing measures to achieve that e.g by providing a lifeguard. If the Board cannot do that then it is putting themselves at risk of receiving claims in the future.

4.5. In summary, any indication that swimming is "safe" or encouraged in a particular location will impose a liability on the Authority to ensure swimmers are safe to swim and provide a lifeguard. As the Authority is aware that swimming does take place, mitigation of risk is key. Appropriate signage, which should include relevant warnings and educate must have in mind the most vulnerable users, such as unsupervised children who might not take much notice of signage or even be attracted to the dangers the signs represent.

4.6 RHHA policy regarding swimming should therefore:

- a) Not encourage actively swimming within the River but acknowledge that it will always take place;
- b) Put in place Risk Assessments particular to each of the four sites where swimming takes place routinely;
- c) From these Risk Assessments, derive appropriate signage which will inform, educate and alert potential swimmers to the particular risks at each swimming site and also prohibition warning signs at each local hazard site;
- d) Put in place and maintain reasonable life saving equipment at or near those sites where swimming is known to take place frequently, recognising that equipment will, from time to time go missing;
- e) Use the RHHA website, Social Media and school briefing programmes to highlight the risks inherent in swimming in a busy boating and tidal environment;

- f) Highlight to visiting yachtsmen the need to be wary of the potential presence of swimmers at particular sites within the River by amending the Visitors' Guide.

5. Recommendations

5.1. It is recommended that the River Hamble Harbour Management Committee:

- a) Notes paragraphs 1, 2 and 3.
- b) Agrees to recommend to the Board endorsement of the recommendations made at paragraph 4.6 a-f.

CORPORATE OR LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes
People in Hampshire live safe, healthy and independent lives:	yes
People in Hampshire enjoy a rich and diverse environment:	yes
People in Hampshire enjoy being part of strong, inclusive communities:	yes

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

None

IMPACT ASSESSMENTS:

1. Equality Duty

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

1.2. Equalities Impact Assessment:

A full Equalities Impact Assessment for the River Hamble Harbour Authority's compliance with the Port Marine Safety Code (including environmental responsibilities) has been carried out and this report does not raise any issues not previously covered by that Assessment.

2. Impact on Crime and Disorder:

2.1. This report does not deal with any issues relating to crime and disorder.

3. Climate Change:

3.1. How does what is being proposed impact on our carbon footprint / energy consumption? The contents of this report have no impact on carbon footprint or energy consumption

3.2. How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts? Not applicable to this report.