

Public Consultation Explanatory Document

Skills Audit for the Southwold Harbour Management Committee

Terms of Reference and Membership of Harbour Stakeholder Advisory Group

Introduction

As many stakeholders of Southwold Harbour will be aware, Ashfords LLP has been instructed to advise East Suffolk Council ('the Council') in respect of setting up of a new Harbour Management Committee (HMC) for Southwold Harbour. Following the close of a public consultation carried out between September and December 2019, regarding the proposals for the creation of the HMC, Lara Moore of Ashfords LLP attended the Southwold Harbour Lands Joint Committee (JC) meeting on 3 February 2020 to provide advice and answer questions about the proposals for the creation of the HMC.

At that meeting it was resolved by the JC that:

- (a) the Harbour Management Committee should be created by the Cabinet of East Suffolk Council, based on the revised Terms of Reference and the revised Memorandum of Understanding agreed in the meeting and initialled by the Chairman for the purposes of identification;
- (b) Ashfords LLP should be instructed to prepare the draft terms of reference and structure for the Advisory Group as soon as reasonably practicable;
- (c) a skills audit for the Harbour Management Committee is carried out as soon as reasonably practicable; and
- (d) the Joint Committee should be disestablished on creation of the Harbour Management Committee.

Following that resolution, Ashfords LLP were instructed by the Council to:

1. Advise on the method of appointment to the HMC (including proposed appointments panel) and to provide input into the skills audit being carried out to identify the skills required on the HMC during its initial establishment (and broadly during its first three years); and
2. Prepare the draft terms of reference and structure for the Advisory Group

Following completion of the initial stages of this work the Council is carrying out a further 28 day public consultation on the:

1. **The skills audit priorities for the initial appointment of members of the proposed HMC;**
and

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2. **Draft Terms of Reference for the Advisory Group** (which includes information about suggested members of the Advisory Group); and

PART 1: Skills Audit for the establishment of the HMC

Following the close of the previous public consultation (September and December 2019) and as set out above, it was resolved at the JC meeting on 3 February 2020 that the Harbour Management Committee should be created by the Cabinet of East Suffolk Council, based on the revised Terms of Reference and the revised Memorandum of Understanding agreed in the meeting. These documents are in the form originally proposed by Ashfords LLP but with a reduction in the number of members of the HMC to nine (5 appointed by the Cabinet of the Council and 4 external co-opted appointees). The Terms of Reference and Memorandum of Understanding approved, comply with the requirements of the PGGG. Southwold Town Council does not have a reserved position on the HMC, but it nevertheless remains very likely that at least one member of the Council will be appointed to the HMC following the skills audit.

As set out in the previous public consultation and discussed at the JC meeting on 3 February 2020, before the proposed HMC is set up the Council, as the statutory harbour authority and as recommended by the PGGG, needs to carry out a skills audit to assess the balance of skills required to effectively govern the harbour and deliver against the business plan.

As there is not yet a formal business plan in place, the audit has instead been carried out with a view to the first tasks of the new HMC (which will include putting in place a new business plan, potentially pursuing a harbour revision order application to modernise the statutory powers and duties applying to the harbour etc.) and the approach taken by other local authorities.

The types of skills, experience and knowledge often considered useful to an HMC include:

- (a) maritime industry and activities;
- (b) commerce;
- (c) health and safety;
- (d) management;
- (e) public relations and community issues;
- (f) industrial relations;
- (g) shipping, fishing or cargo handling;
- (h) accountancy or financial management;
- (i) boating and other water related leisure activities;
- (j) environmental matters affecting harbours; and
- (k) any other skills and abilities considered from time to time by the Council to be relevant to the discharge by the HMC of its functions.

However, this list has now been refined to the particular circumstances of Southwold Harbour and it is this list (including priorities) which is now included in Appendix 1 and is the subject of a further public consultation.

Following the close of this new public consultation, the skills audit list and priorities will be finalised. If the decision is taken at the proposed simultaneous meetings of East Suffolk Council and Southwold Town Council (date to be confirmed due to Covid-19 restrictions) to dissolve the JC on

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establishment of the HMC it is proposed that the following steps will then be taken to establish the HMC:

1. The Council will consider the final skills audit and priorities and identify potential cabinet appointees that hold one or more of those skills, at the same time, identifying any required key skills that are not held by potential cabinet appointees.
2. It will then prepare (with the assistance of Ashfords LLP) a public advertisement for the four co-opted HMC positions, providing the full list of skills required for the HMC, but identifying, as a priority those key skills which are not already provided by the potential cabinet appointees.
3. Once all applications for the four co-opted positions have been received, a short list of applicants will be prepared, giving due regard to the skills audit requirements (if the number of applicants means that a shortlist is required).
4. The short listed applicants will then be interviewed by an appointments panel consisting of a member of the Council, a member of Southwold Town Council and an independent external person (Ashfords LLP is assisting in identifying potential suitable external persons).
5. The appointments panel will then make recommendations to the Council as to the persons it considers should be appointed to the co-opted HMC positions for the Council to consider.
6. In considering the recommendations of the appointments panel, the Council will also consider its potential cabinet appointees and whether all remain suitable for appointment or whether, with regard to the skills audit and priorities and applications received any other person should be appointed in place of one or more of the potential Cabinet appointees.
7. The Council will then confirm both the five Cabinet appointments and the four external co-opted appointments to the HMC, including confirming the length of initial terms of the external co-opted appointees in accordance with the approved MoU and Terms of Reference for the HMC.

In making appointments to the HMC, the Council will also act in accordance with any guidance issued by the Secretary of State from time to time with regards to the exercise of such functions. Currently this guidance is contained in the PGGG (which the above steps comply with).

Duties of members of the HMC to the HMC

Once appointed, when sitting as the HMC, the duties of all members of the HMC are primarily to the harbour, within the terms of reference and parameters of the MoU governing its operation. As set out in the PGGG, municipal harbours should (within the constraints of their statutory harbour powers and duties) be *“governed and operated in the interests of stakeholders including the local community”*.

For example, if a stakeholder has been appointed to the HMC, they are required when making decisions to act in the best interests of the harbour as a whole. Similarly, in respect of members of the Council appointed to the HMC, they are required to act in the same way. Therefore, members of the HMC are not ‘representatives’ of any particular stakeholder group. As set out in the skills audit, knowledge of local stakeholders and community is a valid criterion against which to appoint a

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person as a member of the HMC, but once appointed to the HMC that person is not there as that group's representative.

If stakeholders wish to 'represent' the interests of their particular stakeholder group only, then this should be done through stakeholder user groups, including the Advisory Group described below.

PART 2: Draft Terms of Reference for the Advisory Group

Ashfords LLP have drafted the proposed Terms of Reference for the Advisory Group. The draft Terms of Reference can be found in Appendix 2 of this consultation document. They accord with the requirements of the likely provision that will be included in any future Harbour Revision Order ('HRO') to provide the Advisory Group with statutory protection and rights of consultation.

In order to provide draft the Terms of Reference, Ashfords LLP has carried out a review of Terms of Reference in place for Advisory Groups at some other statutory harbour authorities and has received input from the Council regarding the range of stakeholders who should be represented on the Advisory Group. The Advisory Group needs to be kept at a manageable size so that meaningful consultation and discussion can take place with it, but it is important that the Advisory Group contains balanced representation from a wide range of stakeholders.

In considering the draft Terms of Reference consultees are asked to consider both the terms themselves and potential members of the group.

As set out in the draft HRO provision, it is normal practice that a statutory harbour authority makes the final appointments to any statutory Advisory Group. Some statutory harbour authorities make the appointment without allowing nominations, others invite nominations, but reserve the right to ask for a different nominee if they do not consider that the person nominated is suitable. The draft Terms of Reference proposed reflect a mix of the two. They invite nominees where it is likely that the stakeholder group concerned will be able to agree itself who its nominee should be (subject to final approval by the HMC). Where the stakeholder group to be represented is more diverse, the Terms of Reference provide that the HMC will appoint (if there is no obvious and suitable appointee then expressions of interest to join may be requested).

The final number of representatives on the Advisory Group does not have to be 17 and could be slightly more or less than that number, but it should stay at a manageable number. Representation on the Advisory Group may also change over time by varying the Terms of Reference or in accordance with them.

A group which is represented on the AG (for example one of the Council's) may also have a person who is a member of that group or Council appointed to the HMC as part of the HMC process. However, it is important to remember that the AG and the HMC have very different purposes and persons appointed to them very different roles. As set out above, all members of the HMC are required to act at all times in the best interests of the harbour overall and not as representatives of any particular group. A person who is a member of the HMC cannot also be a member of the AG. On the other hand, members of the AG represent the interests of the group of stakeholders (including Councils) whose interests they were appointed to represent, within the overall objective and mission of the Advisory Group:

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The core objective of the Advisory Group is to represent a wide range of stakeholder opinion and viewpoint and to provide feedback and advice to the HMC to assist in managing Southwold Harbour in the best interests of stakeholders including the local community. It's proposed mission (as set out in the draft Terms of Reference) is:

“To consider matters of interest to the HMC related to conservation, protection, regulation, management, maintenance and improvement of the Southwold Harbour and its navigation. To identify matters of interest to harbour users and other stakeholders and make recommendations that they should be considered by the HMC. To provide advice and opinion to the HMC on matters under consideration.”

Public Consultation Questions

- 1. Do you have any comments or suggestions in relation to the Skills Audit contained in Appendix 1 (including the skills identified and the priorities given to them)?**
- 2. Do you have any comments or suggestions in relation to the draft Terms of Reference for the Southwold Harbour Stakeholder Advisory Group contained in Appendix 2 (including the list of potential members of the Group)?**

Public Consultation Period and Next Steps

The public consultation on the public consultation questions above commences on Friday 1 May **and will close at 5pm on Friday 12 June.**

- All consultation responses received will be taken into account in the papers that will be prepared for the simultaneous meetings of the Council and Southwold Town Council, date to be confirmed to consider approving the dissolution of the JC on establishment of the HMC.
- All consultation responses received during the consultation period will be taken into account as part of the finalisation of both the Terms of Reference for the Advisory Group and the skills audit priorities for establishment of the HMC.

All public consultation responses should include reference 'SHMC June 2020' and be provided in writing to and received by the Council before 5pm on Friday 12 June at:

Kerry Blair
Head of Operations
East Suffolk Council
Riverside
4 Canning Road
Lowestoft
NR33 0EQ

Or via email kerry.blair@eastsuffolk.gov.uk

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If anyone needs further time to respond due to the Covid-19 restrictions please let the Council know, using the details above before the close of the consultation period.

1 May 2020

Ashfords LLP

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Appendix 1

Skills Audit for the Southwold Harbour Management Committee

The skills audit set out below takes into account the likely key tasks and priorities of the proposed HMC during its first three years of operation. These include the tasks set out at Annex 2 of the Memorandum of Understanding for the HMC which has already been the subject of the public consultation. Those tasks were:

1. To review and finalise the Schedule of Assets for Southwold Harbour (and review annually)
2. To draw up an initial / five year business plan for Southwold Harbour (and then implement, with an annual and five year review)
3. To draw up the proposed budget for Southwold Harbour annually (and then to report on performance against budget every 6 months)
4. To prepare an annual report for Southwold Harbour every year.

In addition, in line with the draft MoU and Terms of Reference already consulted on, the following additional tasks will also be key tasks and priorities for the HMC during its initial three years of operation:

5. On establishment of the HMC to establish the proposed Southwold Harbour Stakeholder Advisory Group (and once established to consult with it and other stakeholders).
6. To consider and progress an application for a Harbour Revision Order to modernise the statutory provisions applying to Southwold Harbour (including placing the HMC and Advisory Group on a statutory footing).
7. In designing these long-term improvements, by applying for a Harbour Revision Order or otherwise:
 - a. specific safeguards should, subject to legal advice and the requirements of stakeholders, be included to protect income from the Harbour and preserve the Harbour in the ownership of the Council; and
 - b. the HMC should consider whether any appropriate additional powers should be sought, including powers of general direction and/or to carry out or fund works to the Blyth estuary, outside the Harbour, for the protection of the Harbour.

KEY SKILLS

Having considered the above tasks, it is considered that the key skills required on the HMC during its first three years of operation include:

1. Risk Management and Mitigation (including Coastal defence, flood protection, health and safety and marine engineering)
2. Knowledge of and management of ports / harbours
3. Financial/organisational/strategic planning and management
4. Knowledge of local stakeholders including the local community (e.g. residents, businesses, commercial users, leisure users, caravan site owners, visitors, Blyth estuary)
5. Management/development of property/facilities (and in particular caravan site operation and tourism)
6. Communications, marketing and consultation

OTHER SKILLS

Other skills that it is considered are important and would be useful to have on the HMC include:

7. Local industrial, commercial or financial matters
8. Management of marine leisure activities
9. Personnel management
10. Environmental matters
11. Legal
12. Shipping and other forms of transport
13. General maritime or other nautical experience

Any other skills and abilities considered from time to time by the HMC to be relevant

Appendix 2

STAKEHOLDER ADVISORY GROUP

Terms of Reference

1. Introduction / Purpose

1.1. The Southwold Harbour Management Committee ('HMC') will establish a group, to be known as the **Southwold Harbour Stakeholder Advisory Group** ('the Advisory Group'). The HMC will regularly consult the Advisory Group on all matters substantially affecting the conservation, protection, regulation, management, maintenance and improvement of the Southwold Harbour and its navigation.

2. Aims and Objectives

2.1. The core Objective of the Advisory Group is to represent a wide range of stakeholder opinion and viewpoint and to provide feedback and advice to the HMC to assist in managing Southwold Harbour in the best interests of stakeholders including the local community.

2.2. The Advisory Group is entrusted with the following mission:

"To consider matters of interest to the HMC related to conservation, protection, regulation, management, maintenance and improvement of the Southwold Harbour and its navigation. To identify matters of interest to harbour users and other stakeholders and make recommendations that they should be considered by the HMC. To provide advice and opinion to the HMC on matters under consideration."

3. Form and Composition

3.1. The Advisory Group shall consist of up to [17] persons appointed by the HMC (or such other number as the HMC from time to time approves). These persons shall be invited from the following organisations and stakeholder groups:

(a) Four Councillors shall be appointed, one nominated by Southwold Town Council, one nominated by Reydon Parish Council, one nominated by Blythburgh Parish Council and one nominated by Walberswick Parish Council;

(b) one appointed on the nomination of the Southwold Haven Port Stakeholders Group, one appointed on the nomination of the Blyth Estuary Partnership [and one appointed on the nomination of the Southwold and River Blyth Users Association];

(c) [two] appointed on the nomination of the Southwold Caravan Owners Association;

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(d) one appointed on the nomination of the Southwold Sailing Club to represent the interest of the Clubs using the Harbour including sailing, rowing and any other leisure clubs with vessels;

(e) one appointed on the nomination of the RNLI;

(f) one appointed on the nomination of the Environment Agency;

(g) one appointed to represent the Commercial Fishermen using the Harbour;

(h) one appointed to represent the Charter Boat Associations in the harbour including both dive and fishing charters.

(i)) two appointed to represent the interests of shoreside traders close to the harbour;

(j) one appointed to represent commercial passenger carrying vessels interests in the harbour including trip boats, mackerel boats, rowing boats and pedaloes (during such time as such activities are taking place within the harbour).

3.2. If the Council does not receive a nomination for any reason from any of the organisations mentioned in Clause 3.1 (a) to (f) above, the Council may, after consulting with such other organisations it thinks appropriate, appoint a suitable alternative or none at all. This procedure will also be followed should no appropriate appointee be found in respect of 3.1(g) to (j), and if any of the organisations mentioned in Clause 3.1 (a) to (j) above cease to exist or the function of the organisation changes significantly.

3.3. The Council shall not be obliged to appoint a person who is duly nominated in accordance with any of sub-paragraphs (a) to (f) above but may request the body or bodies who made the nomination to nominate another person.

3.4. The term of office of a member of the Advisory Group shall be **three years** from the date of his/her appointment and, on ceasing to hold office, (s)he shall be eligible for re-appointment for a further three year term, but he/she has no right to be reappointed. If there are suitable alternative persons available for nomination and appointment, it is anticipated that no person will serve more than two consecutive terms. Service of a term as chairperson shall not count as a term of membership under this provision.

3.5. A member of the Advisory Group may at any time, by notice in writing to the HMC, resign his/her office.

3.6. The Advisory Group shall nominate its own Chairperson, and shall conduct itself in accordance with these terms of reference.

3.7. A member of the Advisory Group shall not also be a member of the HMC.

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4. Meetings

- 4.1. The Advisory Group shall meet not less than twice a year (and may meet more often).
- 4.2. Meetings shall be convened by notice in writing to each member.
- 4.3. Minutes of all meetings will be prepared and circulated in advance of the next meeting. These minutes will be approved at the next meeting.
- 4.4. Without prejudice to paragraph (1) above, the HMC shall seek the views of the Advisory Group on:-
 - a) The Southwold Harbour Business Plan;
 - b) Proposals to vary any charges in relation to business and recreational use of the harbour and its use by any vessels;
 - c) The making of byelaws or directions;
 - d) Any harbour revision order application;
 - e) Any changes to these terms of reference or the HMC terms of reference and MoU;
 - f) Proposals to construct or license any significant works in the harbour including dredging; or
 - g) Changes to the use of the harbour.
- 4.5. The HMC shall take into consideration any matter, recommendation or representation which may from time to time be referred or made to them by the Advisory Group, whether or not it has been consulted by the HMC on the matter, recommendation or representation so referred or made.
- 4.6. Members may, on giving notice in writing to the chairperson and the HMC, nominate a substitute to attend the Advisory Group meetings: Provided that, no person may act as a substitute (whether on behalf of the same member or a different member) more than once in any three year period without the prior approval of the HMC.
- 4.7. In the absence of the Chairperson at any meeting, the Chair shall be taken by a member of the Advisory Group selected in advance by the Chairperson or, failing that, elected by a majority of those present.
- 4.8. The HMC will find a venue and provide secretarial support for the Advisory Group meetings.
- 4.9. The Southwold Harbour Master (or authorised deputy) may attend Advisory Group meetings to observe and advise but will have no voting rights.

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5. Quorum

5.1. A minimum number of 5 members are required in attendance at a meeting of the Advisory Group for it to be quorate.

6. Voting

6.1. Each member attending any meeting, shall have one vote. Decisions will be by simple majority. In the event of a hung vote, the Chairperson, or person presiding, shall have the casting vote.