

Langstone Harbour – Enforcement Policy

1. GENERAL POWERS

- 1.1 The purpose of the Langstone Harbour Board (the Harbour Authority) is to administer Langstone Harbour in accordance with the Pier and Harbour (Langstone Harbour) Confirmation Act 1962 (as amended). The 1962 Act (as amended) incorporates certain sections of the 1847 Harbours, Docks and Piers Clauses Act that give the Harbour Master statutory powers, including powers of special direction, for the management of the Harbour. Additionally, the 1964 Harbours Act empowers the Board to fix rates at the level required to meet its statutory obligations.

The Marine Navigation Act 2013 introduced amendments to the Harbours Act 1964 and Pilotage Act 1987 in relation to powers of general direction and pilotage exemption certificates respectively.

Langstone Harbour Board is a Competent Harbour Authority (CHA) under the Pilotage Act, 1987.

- 1.2 The Langstone Harbour byelaws were made in 1963 and were last amended in 1994. Contravention of Harbour Byelaws may result in prosecution through the Magistrates' Court.
- 1.3 The Criminal Justice Act 1982 (as amended) provided for a standard scale of fines for summary offences. The range of fines applicable to contraventions of LHB byelaws is: Level 2 for three byelaws concerning the naming and registration of small vessels (currently £500) and level 3 or 4 (currently £1,000 or £2,500) for other offences.

2. PRINCIPLES OF ENFORCEMENT

- 2.1 The statutory powers of the Harbour Authority are conferred for the purpose of regulating the conduct of vessels within the Harbour jurisdiction and managing the risks of marine operations. To these ends, enforcement action will sometimes be appropriate.
- 2.2 The Harbour Authority recognises that most harbour users want to comply with the law. Therefore, where it can, the Harbour Authority will help users to meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly.
- 2.3 The Harbour Authority will provide information and advice in plain language on the rules that apply and will disseminate it as widely as possible. The Harbour Authority will provide encouragement and support to ensure that their legal powers are used appropriately to improve and safeguard public health, public safety and the environment.
- 2.4 The purpose of any enforcement action is to promote the safety of harbour users.
- 2.5 Where it appears that Harbour byelaws or directions may have been contravened, the Harbour Authority may impose sanctions ranging from informal advice to formal warning or prosecution.
- 2.6 The Harbour Authority will minimise the costs of compliance for users by ensuring that any action it takes is proportionate to the offence. As far as the law allows, the Harbour Authority will take account of the circumstances of the case and the operator's attitude when considering action.

- 2.7 The Harbour Authority will carry out its duties in a fair, equitable and consistent manner. It will seek to be clear, open and helpful in its approach to enforcement.
- 2.8 The Harbour Authority will seek to target enforcement resources where they are most needed and will be informed by its other policies, aims and objectives. It will liaise with other authorities and enforcement bodies as appropriate.

3. ENFORCEMENT ACTION

Enforcement action can take the form of;

- A verbal warning, which will be given by an authorised member of the harbour staff and recorded should they observe a contravention of the byelaws.
- A written warning explaining the way in which a byelaw has been contravened and the implications should the offender re-offend.
- Interview under caution
- Suspension or revocation of a licence issued in accordance with Harbour byelaws. Mooring licences, Waterski licences and Jetski Permits are issued annually and require adherence to the byelaws.
- Prosecution.

4. CONSIDERATION OF ACTION

- 4.1 A proportional approach will be taken to enforcement action. Consideration of prosecution action will primarily relate to, but not be limited to, offences where the safety of other harbour users may be threatened, where there is deliberate or reckless disregard of harbour regulations or where there is repeated misconduct.
- 4.2 The Harbour Authority is committed to assisting other enforcement agencies, including the Police, to pursue their statutory duties. The Harbour Authority will liaise with any enforcement agency that may also have an interest in any matter within the Board's jurisdiction being considered for prosecution.
- 4.3 When dealing with offences,
- Officers will always identify themselves and explain the purpose of their visit or interview.
 - Each case will be considered on its individual merits and a prosecution will only be initiated in accordance with this Policy.
 - Any decision to initiate a prosecution will be recorded in writing and the reasons for initiating the prosecution will be given.
 - Any investigation carried out by the Harbour Authority will be conducted in accordance with relevant provisions of the Police and Criminal Evidence Act 1984.
 - In addition, where applicable, best practice will be observed as set out in national guidance issued by bodies such as the Department for Transport (Ports Policy) and Maritime and Coastguard Agency.

5. ENFORCEMENT FACTORS

5.1 In considering the appropriate enforcement action, the Harbour Authority will take into account the following;

- The seriousness of the offence.
- The risk of harm to the public and others.
- The public interest.
- The explanation of the offender.
- The attitude of the offender.
- Whether the matter is a recurrence.
- Whether there have been any other contraventions of harbour regulations by the offender.
- The willingness of the alleged offender to prevent a recurrence of the incident.
- Any action taken by the offender to mitigate damage or loss to others
- The availability of witnesses.
- The reliability of witnesses.
- The sufficiency of evidence.

6. SUSPENSION OR WITHDRAWAL OF LICENCES OR PERMITS

6.1 If after consideration the Harbour Master decides that a licence or permit should be suspended or revoked altogether, he will offer the licence or permit holder the opportunity to make written representations about that before making any decision. If after further consideration the Harbour Master orders suspension or revocation of the licence or permit, then the boat owner may make a written request for the Chairman of the Board to review that decision. The Chairman's decision will be final.

7. PROSECUTION

7.1 Prosecution, as an ultimate sanction will be considered in the following circumstances where;

- The alleged offence is a deliberate or reckless breach of byelaws or legislation such that public safety or well being is or has been put at risk.
- The alleged offence involves failure to comply with a warning.
- There is a history of similar offences.
- The alleged offence involves risk of damage to the environment.
- There is sufficient evidence to proceed
- There are no other public interest factors indicating that prosecution is not appropriate.

8. COSTS

8.1 The Harbour Authority will seek to recover the costs of taking enforcement action following a conviction. Any award of costs will be for the court to determine.