

**Summary of Stranraer 2023 General Directions consultation feedback – Updated 25 4 23**

Consultee (Blank on website)	Date	Response	Action	Change	Resolved
	4.4.23	Plan is wrong – it cuts through Stena's ownership and out with the harbour limits as defined on the HRO  Note – <b>remove the red circle</b> around Cairn Ryan or change the colour	This will be corrected on updated chart		
	7.2.23	Not able to commit to Joint 24 hr LPS	Section 31-34 adjusted to reflect 3 x SHAs will not operate joint LPS.	Section 31-34 adjusted to reflect working day only LPS operated by Str Hbr. Radio reporting position requirement retained for vessels over 25m, to maintain large vessel movement safety.	
	8.2.23	Not able to commit to Joint 24 hr LPS	Section 31-34 adjusted to reflect 3 x SHAs will not operate joint LPS.	Section 31-34 adjusted to reflect working day only LPS operated by Str Hbr. Radio reporting position requirement retained for vessels over 25m, to maintain large vessel movement safety.	
	15 3 23	I am sure you are aware that paragraphs 31 to 34 of the draft general directions may capture our vessels.	Section 31-34 only to apply to large vessels inbound / outbound to / from Stranraer Harbour.	Section 31-34 wording adjusted to clarify radio reporting position is for large vessel inbound to Stranraer Harbour.	
	15 3 23	The understanding of paragraphs 31 to 34 of the draft general directions would be enhanced by defining "the Local Port Service" and "Stranraer Harbour",	Stranraer Harbour means the area delineated in red on the plan and pursuant to the HRO  Local Port Service means the local port service serving the Stranraer Harbour for the purposes of	Changed Redefined  Changed	

			improving port safety during operational periods and which may assist with the co-ordination of port services for harbour users by the dissemination of port information to vessels and berth or terminal operators and the supply of information on berth and port conditions.		
	22 3 23	We feel that some of the wording of the individual General Directions should be improved following the suggestions below. A General Direction creates a criminal offence so it should clearly articulate what behaviour is prohibited and who is required to comply with it. As such, a general direction should state “a person / the master must not ...” rather than “no person will ...” etc.	<p>See section 2 – ‘these directions apply to all Harbour users (except where otherwise specified)’</p> <p>Have changed all ‘will’ to ‘shall’</p> <p>A general direction does not need to articulate a prohibitive behaviour, it can set out obligation. This section governs obligations and provides certainty.</p>	<p>Changed</p> <p>Changed to replace ‘will’ with ‘shall’</p>	

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	22 3 23	GD 4. It is helpful to include a provision which makes it clear that Special Directions take precedence over General Directions but the reference to “Mooring Licences issued by Marine Scotland” is erroneous. [We suggest deleting 'any Mooring Licences issued by Marine Scotland ' although the reference to a mooring licence in part b should remain.]	Deleted 'issued by Marine Scotland'	Changed	
	22 3 23	GD 6. In the definitions: a. the definition of “officer” overlaps with the definition of “harbour master” and is unnecessary; b. in respect of vessels and vehicles, the definition of “owner” should not include references to a “broker” or an “agent”; c. the definition of “personal watercraft” should be replaced with a reference to the definition of “watercraft” to be found in the Merchant Shipping (Watercraft) Order 2023; d. the definition of “recommended small vessel routes” appears to duplicate the definition of “small vessel route”, although the length parameter is different; and	a. Harbour Master is as defined under the Act.  Officer, is anyone else with delegated authority DGC to act as Harbour Master or in capacity of Harbour Master or delegated Harbour Master powers/responsibilities  b. For the purposes of these directions, it should be anyone for whom is responsible in law which includes agent or broker.  c. Changed to match HRO with 2023 definition  d. recommended small vessel route retained 'small vessel route' deleted  e. Not necessary to change because the provision relates to a vessel that is subject to the regulations, at any given time	No change  No change  Changed  Changed  Changed  No change	

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		e. in the definition of “regulated vessel”, the reference to “licensed to carry passengers” should be to “licensed to carry more than 12 passengers”.			
	22 3 23	GD 7-9. In general terms, there is a risk associated with giving a harbour direction that incorporates or applies the IRPCS, in that the courts could hold that either: the direction is <i>ultra vires</i> , since the IRPCS apply anyway through secondary legislation – the harbour authority’s powers are limited to implementing only local variations to the IRPCS; or the incorporating direction is itself a local variation to the IRPCS such that the IRPCS themselves do not apply, in which case the maximum penalty is that for breach of a direction (£2,500 fine for Master) rather than that applicable to breaches of the IRPCS generally (unlimited fine and/or two years imprisonment for the owner, Master and any other person in charge). (By analogy with byelaws, see <i>Douglas &amp; Geen</i> at paragraph 7.17).	<p>GD 7 sets out clearly the general obligations to all vessels using Stranraer Harbour and provides certainty.</p> <p>GD 8 – setting out clearly that rule 9 applies to Stranraer Harbour</p> <p>GD 9 setting out clearly that rule the obligations that apply to each vessel using Stranraer Harbour</p> <p>GD’s 7-9 setting out clearly what is expected of vessels. It is not a variation nor <i>ultra vires</i> and the statutory provisions still apply.</p>	<p>No change</p> <p>No change</p> <p>No change</p> <p>No change</p>	

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	22 3 23	GD 10. The defined term is “the Harbour”, not “Stranraer Harbour”. Also, given the extent of the Council’s proposed jurisdiction, a speed limit of 10 knots throughout the harbour could be construed as being unjustified and unreasonable. In 10.3, the Harbour Master cannot “enforce rule 9.1 [sic] in this zone” if the speed limit does not apply. Harbour users are entitled to know what behaviour is prohibited by these General Directions and it would be unreasonable for the application (or otherwise) of a speed limit to be a matter for the Harbour Master’s discretion. [The principle of the GD is accepted, it is the wording that needs to be reconsidered.]	<p>Redefined.</p> <p>10 knots is the speed that DGC has determined.</p> <p>The Harbour Master can enforce rule 9.1 if it determines it is necessary to do so for safety reasons under 10.3 by virtue of these GD’s</p> <p>The Harbour Master is responsible to ensure safe navigation of vessels is maintained and therefore for the purposes of safety, is reasonable.</p>	<p>Changed - redefined.</p> <p>No change</p> <p>No change</p> <p>No change</p>	
	22 3 23	GD 11. The narrative part of this provision should be moved to a footnote to GD 10	I see no narrative only clear qualification to the responsibility of the Harbour Master	No change	
	22 3 23	GD 12. The local sailing club’s safety boats should be considered to be “recognised rescue or patrol craft”.	The provision provides ‘recognised rescue or patrol craft in an emergency situation’ and the local club is not excluded from this provision.	No change	
	22 3 23	GD 14. A general direction should clearly articulate what behaviour is prohibited and who is required to	1. Changed to ‘A vessel shall use an auxiliary engine when entering and exiting the area inside the	Changed	

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		comply with it. This provision does neither. [I am not sure that I agree with this as it is permissive but there may be a subtle legal point I am unaware of.]	<p>breakwater. Vessels without auxiliary engines may sail (or use manual propulsion) inside the breakwater when entering or exiting, but only in such circumstances when it is absolutely considered by the Master to be the safest, most practicable route taking account of prevailing conditions of weather, tide and traffic.</p> <p>See section 2 – ‘these directions apply to all Harbour users...’ and the provision clearly states it is the Master’s responsibility.</p>		
	22 3 23	16. A general direction should clearly articulate what behaviour is prohibited and who is required to comply with it. This provision does neither. [It would seem to me to be better to add 'and manoeuvring zone' to mentions of fairways and to mention it explicitly in 10.2.]	<p>See section 2 – ‘these directions apply to all Harbour users...’</p> <p>Reworded slightly</p> <p>All general directions relevant to fairways apply to this zone with the exception of section 10.2 whereby the speed limit of 5 knots applies.</p>	Changed	
	6.4.23	16.1 new condition added	<b>Declaring for the avoidance of doubt</b> that no vessel shall pass between the west pier and the breakwater at any time.	Added	

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	22 3 23	GD 22. There should be an exception to this direction for small vessels where the contact causes no damage. Otherwise, every dinghy or yacht coming alongside a harbour wall or pontoon would give rise to a reportable incident.	GD allows for reporting of incidents and near misses which is essential for monitoring the ongoing safety of the Harbour and is considered to be best practice	No change	
	22 3 23	GD 31. This direction would make it an offence for the Local Port Service to fail to co-ordinate all large vessel movements, which almost certainly is not what is intended.	The Local Port Service, may provide vessel's with advice and guidance in respect to movements if it determines it is reasonable and safe to do so	Changed	
	6.4.23	GD 32. (a) and b) ) Channel 14 added	Change to VHF Ch 12 & ch 14	Changed	
	22 3 23	GD 36. This direction should make it clear who is required to comply with it. The narrative part of this provision should be moved to a footnote. [Presumably the reference should be to the pilot of the aeroplane.]	Changed to pilot	Changed	
	22 3 23	GD 37. This direction should make it clear who is required to comply with it. The narrative part of this provision should be moved to a footnote.	As above	Changed	

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	22 3 23	GD 38. Enforcement powers relating to marine licensing (including the relevant offences) are set out in the Marine (Scotland) Act 2010. To give a general direction which duplicates or overlaps with these statutory powers would create double jeopardy and thus be unreasonable. This direction should be omitted in its entirety.	<p>The provision is clarifying that there is an obligation to procure a licence and that the terms of the same will apply. It is legally competent to include reference to other legislation, regulations, codes etc</p> <p>There is nothing in this section that conflicts with a Marine Scotland licence as it is the terms of the licence that apply.</p>	No change	
	22 3 23	GD 44. It would be unreasonable the master of a small vessel to be required to obtain the Harbour Master’s permission every time he or she wished to run the vessel’s propulsion system.	Changed to the Master of a vessel which is at any quay, pier or attached to any mooring device must not permit the engines of their vessel to be worked (nor operate the propulsion system) in such a manner that could cause injury or damage to the sea bed or shore side of the Harbour or to any other vessel or property or other harbour user	Changed	
	22 3 23	GD45. A general direction should clearly articulate what behaviour is prohibited and who is required to comply with it. The use of the word “should” in this provision suggests that it is optional.	<p>See section 2 – ‘these directions apply to all Harbour users...’</p> <p>A general direction does not need to articulate a prohibitive behaviour, it can set out obligation. This section governs an obligation to ensure the vessel is capable of being safely moved and navigated is clear and the obligation to ensure sufficient crew is clear and additional specific obligations are listed in a – c. the obligation is on the Master of a Vessel.</p>	<p>No change</p> <p>Minor change</p>	



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			Have changed 'should' to 'shall'		
	22 3 23	<p>GD 47. A general direction should clearly articulate what behaviour is prohibited and who is required to comply with it. This provision does neither.</p> <p>GD 50. A general direction should clearly articulate what behaviour is prohibited and who is required to comply with it. The use of the word "should" in this provision suggests that it is optional.</p>	<p>See section 2 – 'these directions apply to all Harbour users...'</p> <p>GD 47 A general direction does not need to articulate a prohibitive behaviour, it can set out obligations also. This section applies an obligation to keep vessels in a moveable condition.</p> <p>GD 50 A general direction does not need to articulate a prohibitive behaviour, it can set out obligations also. This section applies an obligation to ensure that at least one competent person is on board at all times if required by the Harbour Master</p>	No change	
	22 3 23	<p>GD 54. A general direction cannot be used to apportion civil liability. The last sentence of this provision should therefore be omitted.</p>	<p>A general direction can impose liability for making good which this provision does. Have made a minor change for clarity:</p> <p>The Master shall be liable to the mooring owner for all costs in making good any damage caused by the Master to the mooring in clearing their anchor from a mooring without, or prior to, notification to the Harbour Master .</p>	No change	
	22 3 23	<p>GD 55. A power of entry (i.e. to board a private vessel) cannot be conferred on the harbour master (or anyone else) by way of a general</p>	<p>GD 55 provides certainty to Harbour Users supported by the HRO which grants the powers. Minor stylistic changes made for clarity.</p>	Change.	

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		direction, so this direction would be <i>ultra vires</i> and must be omitted in its entirety. In any case, the requisite power would be conferred by article 12 of the proposed harbour revision order. If the proposed power in the order is too narrow then it should be expanded in the order, not by way of general direction.			
	22 3 23	GD 57. This direction should make it clear who is required to comply with it.	Now defined Harbour Users	Changed	
	22 3 23	GD 59. This direction should make it clear who is required to comply with it.	Now defined Harbour Users	Changed	
	22 3 23	GD 62. This direction should make it clear who is required to comply with it. [delete the word 'gas' as there are other types of cooker with naked flames]	The obligation is on Masters of vessels. Have deleted gas and added quayside restriction.	Change	
	22 3 23	GD 63. This direction should make it clear who is required to comply with it.	Changed to Masters	Changed	

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	22 3 23	GD 64. This direction should make it clear who is required to comply with it.	Changed to restriction on a Master	Changed	
	22 3 23	GD 65. Enforcement powers relating to the protection of the environment (including the relevant offences) are set out in the applicable legislation. To give a general direction which duplicates or overlaps with these statutory powers would create double jeopardy and thus be unreasonable. Moreover, it would be inappropriate for it to be an offence to fail to comply with "advice". This direction must be omitted in its entirety.	<p>There is no conflict in legislation and this provision clearly sets out the obligations on Harbour Users whilst in/using the Harbour and clearly sets out the Authority's expectations. Have made some minor changes to reflect feedback comments.</p> <p>Every vessel &amp; harbour user shall comply with environmental regulations and to prevent Invasive Non Native Species being brought into the harbours and shall strive to follow the appropriate advice and guidance wherever reasonably practicable.</p>	Change	
	22 3 23	GD 67-68. Enforcement powers relating to the licensing of boats let for hire or carrying passengers (including the relevant offences) are set out in the applicable legislation. To give a general direction which duplicates or overlaps with these statutory powers would create double jeopardy and thus be unreasonable. These directions must be omitted in their entirety.	This provision sets out the rules for operating vessels within the harbour for the purposes of carrying fare paying passengers and provides the Authority's expectations. There is no conflict as the provision merely points to the relevant regulations etc	No change	

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	22 3 23	GD 70. The narrative part of this provision should be moved to a footnote.	The provision contains clear obligations on the organisers of events in harbours and rights of the Harbour Master.	No change	
	22 3 23	GD 71. This direction should make it clear who is required to comply with it.	It states race officers, safety boats and all yachts.	No change	
	22 3 23	GD 72. This direction should make it clear who is required to comply with it.	Added 'by any Harbour User'	Changed	
	22 3 23	GD 73. This direction should make it clear who is required to comply with each part of it.	Directed at Master of Vessel – have made minor changes for clarity.  Nor shall the Master permit nets to be left unattended, or fishing to be undertaken in any fairway, manoeuvring or, any area designated as small craft moorings or, no anchoring zone. Furthermore, the Master shall ensure that any gear left unattended must be marked so to be clearly visible by day and fitted with a light if deployed between sunset and sunrise.	Changed	
	22 3 23	GD 75. This direction should make it clear who is required to comply with it.	Deleted bullet points 2 and 3. GD 2 makes it clear that all GD's apply to all Harbour Users.		

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	22 3 23	GD 81. A general direction should clearly articulate what behaviour is prohibited and who is required to comply with it. This provision does neither.	See GD 2 – ‘these directions apply to all Harbour users’  Directed at anyone discarding waste and imposes a clear obligation on them		
	22 3 23	GD 82. A power to remove a vessel and to recover the cost of doing so cannot be conferred on the harbour authority by way of a general direction, so this direction would be <i>ultra vires</i> and must be omitted in its entirety. If the Council wants to be able to remove an abandoned vessel and to recover the cost of doing so then it should seek a specific power to that effect in the proposed harbour revision order.	The Authority has a statutory duty to recover its costs in remedial actions and such is not <i>ultra vires</i> . This power to do so is set out and supported by the HRO and under Scots law, and will be supported by terms and conditions of use of the harbour. Making a GD to this effect, clearly sets out to all Harbour Users that the Authority shall pursue the recovery of costs when dealing with abandoned vessels.		
	22 3 23	GD 84. This direction duplicates article 19 of the proposed order and would create double jeopardy. This direction would thus be unreasonable and must be omitted in its entirety.	GD 84 is a direction pursuant to Article 19 of the HRO and is therefore competent in the general directions.	To be double checked and reworded if necessary	
	27 3 23	Happy to communicate re diving operations. No other commercial impact.	No change required	No change required	Yes

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	27 3 23	Perhaps the unrestricted area is too far out for water skiing to undertake quick changeovers from the beach.			
	23 3 23	General Directions 10.3 refers to 9.1, should this be 10.1?	Amended as suggested	Amended as suggested	Yes
	23 3 23	General Directions 16 refers to 9.1, 5 knot speed, should this be 10.2?	Amended as suggested	Amended as suggested	Yes