



## PORT OF SOUTHAMPTON PILOTAGE ENFORCEMENT POLICY



## Document Control Information

### Policy Information

<b>Document Number</b>	
<b>Business Area</b>	
<b>Document Title</b>	Port of Southampton Pilotage Enforcement Policy
<b>Version</b>	1
<b>Author(s)</b>	Simon Lockwood
<b>Approver(s)</b>	Steve Masters
<b>Effective Date</b>	01/01/2022
<b>Review Date</b>	

### Review/Approval History

Version	Date	Reason for Update	Updated by	Signed Off by

### Accountable Owner

The Accountable Owner for this Policy.

Accountable Owner	Title	Geographical Location
Steve Masters	Harbour Master	Southampton

## Contents



<a href="#">Port of Southampton Pilotage Enforcement Policy</a> .....	1
<a href="#">1. Introduction</a> .....	4
<a href="#">1.1 General Provisions</a> .....	4
<a href="#">1.2 General Definitions</a> .....	5
<a href="#">2. Investigation of Incidents</a> .....	6
<a href="#">3. Enforcement Process</a> .....	7
<a href="#">4. Suspension and Revocation</a> .....	8
<a href="#">5. Appeal</a> .....	9

## 1. Introduction

### 1.1 General Provisions

The Pilotage Act 1987 (as amended by the Marine Navigation Act 2013) lays down the requirements for granting, suspending and revoking pilotage authorisations or pilotage exemption certificates (“**PECs**”), and nothing in this policy is to be understood as preventing Associated British Ports (“**ABP**”) from fulfilling its statutory duties under such legislation.

The Pilotage Act 1987 generally requires competent harbour authorities to determine which vessels require pilotage and to provide such pilotage services as needed.

The purpose of this policy is to set out and describe measures by which ABP intend to comply with their duties under the Pilotage Act 1987, and in accordance with the principles of the Port Marine Safety Code.

This policy is not intended to be used to unduly penalise holders of pilotage authorisations or PECs.

## 1.2 General Definitions

For the purposes of this policy the following definitions shall be inferred:

“Pilot” – a person duly authorised by the Harbour Master under section 3 of the Pilotage Act 1987.

“PEC Holder” – a person duly authorised by the Harbour Master under section 8 of the Pilotage Act 1987.

“Harbour Master” – a person appointed by the harbour authority in accordance with the Harbours, Docks and Piers Clauses Act 1847.

“ABP” – Associated British Ports, competent harbour authority as defined by the Pilotage Act 1987.

‘Directions’ – any direction exercised through the power of the Harbour Master pursuant to their obligations as granted by the Harbours, Docks and Piers Clauses Act 1847 and the Pilotage Act 1987. It includes:

- General Directions
- Pilotage Directions
- Southampton Byelaws
- any Special Directions given by the Harbour Master
- Local Notices to Mariners

“Misconduct endangering ship” – to have the same definition as defined by the Pilotage Act 1987 Part II, section 21 (1).

“Incompetence or misconduct affecting their ability as a Pilot” – as laid down in the Pilotage Act 1987 Part I, section 3 (5) (a), for the purposes of this policy to include but not limited to the following:

- Causing serious damage to a vessel or dock or quayside infrastructure due to serious omission;
- Running a vessel into danger due to serious omission;
- Any single serious failure to comply with the Directions, such as to present a danger to any person, vessel, dock or quayside infrastructure;
- Repeated failures to comply with the directions of a minor nature;

The sole act of allowing a Master to manoeuvre their vessel under the supervision of a Pilot shall not be construed to be incompetence or misconduct as defined in this policy.

“Professional misconduct” – in the case of a PEC Holder, to have the same meaning as “Incompetence or misconduct affecting their ability” as described above.

## **2. Investigation of Incidents**

- 2.1 In accordance with the Directions, Pilots and PEC Holders are obliged to report incidents within 7 days of occurrence using either the Pilotage Incident Form PIR1, in the case of Pilots, or the Solent Accident and Incident Report, in the case of PEC Holders.
- 2.2 On receiving notification of an incident the Harbour Master shall determine whether a formal investigation of such incident is deemed necessary and shall appoint an appropriate person from the Harbour Master's team to lead the investigation.
- 2.3 In accordance with the Directions, a Pilot or PEC Holder is expected to cooperate fully with ABP and the Harbour Master in relation to any such investigation.
- 2.4 The investigation shall establish the facts of the incident and develop recommendations based on analysis of the established facts.
- 2.5 The conclusions of the investigation shall not apportion blame in relation to the incident, however there may be a recommendation made for the conduct of the Pilot or PEC Holder to be reviewed in accordance with Section 3 of this policy.
- 2.6 Notwithstanding 2.5 above, the Harbour Master, upon their own review of the investigation, may determine that enforcement action is necessary and therefore invoke Section 3 of this policy.

### 3. Enforcement Process

- 3.1 When determined by the Harbour Master that the conduct of the Pilot or PEC holder requires consideration, in light of an investigation or other report, the enforcement process shall be triggered.
- 3.2 The purpose of the enforcement process is to establish whether the actions of the Pilot or PEC Holder constitute the following, as defined in Section 1.2 above:
- In the case of a Pilot, incompetence or misconduct affecting their ability as a Pilot;
  - In the case of a PEC Holder, professional misconduct.
- 3.3 The enforcement process has two phases.
- Phase 1 – Formal warning by the Harbour Master.
  - Phase 2 – Panel review leading to possible revocation of authorisation or PEC.
- 3.3 Under Phase 1, a formal warning shall be issued in person by the Harbour Master detailing the nature of the misconduct. The formal warning shall be held on file for three years. Any further allegation of misconduct within this period shall result in a Phase 2 panel review.
- 3.4 Under Phase 2, a panel review shall be convened consisting of the Harbour Master or his Deputy and two 1<sup>st</sup> Class Unrestricted Pilots.

Formal notification shall be sent to the Pilot or PEC Holder informing them of the intention to conduct a panel review, the allegation to be reviewed and the date, time and place that the panel review shall take place. A minimum of 14 days' notice shall be given but this may be extended to up to 28 days upon request.

The Authorisation of a Pilot or PEC Holder shall be suspended from the point of notification until such time as the panel review has taken place.

The Pilot or PEC Holder will be entitled to have representation in attendance with them at the panel review.

The panel review shall be held at a location designated by the Harbour Master.

Members of the panel are entitled to further investigate and discuss the nature of the allegation in advance of the panel review.

The panel review shall hear details of the allegation and representations from the Pilot or PEC Holder whose conduct is under review.

Having reviewed all pertinent matters and representations, the panel shall consider action to be taken.

- 3.5 The panel shall determine the consequential action to be taken as follows:
- No further action;
  - Retraining and/or reassessment;
  - Formal warning (either first, in the case of direct Phase 2 action or additional, in the case of previous Phase 1 action having been taken).
  - Revocation.

## 4. Suspension and Revocation

- 4.1 A pilot authorisation or PEC may be suspended by the Harbour Master for any of the following reasons:
- a) In the case of a pilot authorisation, pending investigation of alleged incompetence or misconduct affecting their ability as a pilot under Phase 2 of the enforcement process.
  - b) In the case of a PEC:
    - Pending investigation into professional misconduct under Phase 2 of the enforcement process;
    - Failure to demonstrate sufficient skill, experience and local knowledge upon revalidation assessment;
    - Providing false information;
    - Failure to apply for certificate renewal prior to the required date of renewal.
- 4.2 A pilot authorisation or PEC may be suspended for a period of up to 28 days, extendable for a further 28 days maximum, pending the result.
- 4.3 A pilot authorisation or PEC may be revoked following Phase 2 action under the enforcement process or at any other time as otherwise determined by the Harbour Master under their powers as prescribed by the Pilotage Act 1987.
- 4.4 Additionally, a PEC shall be revoked after 28 days suspension if no application for renewal is made within the suspension period.
- 4.4 An authorised pilot or PEC Holder shall be given notice in writing of the revocation of their authorisation or PEC, detailing the reason for the revocation and referencing their right to appeal.



## 5. Appeal

- 5.1 Following revocation of a pilot authorisation or pilotage exemption certificate, the authorised pilot or PEC Holder shall have the right to appeal the decision. Requests for appeal should be made in writing within 14 days of the notice of revocation.
- 5.2 The appeal shall be considered by the Port Director and Marine Advisor representing the Duty Holder, with assistance from a 1<sup>st</sup> class unrestricted pilot independent of the pilots involved in the Phase 2 panel review. The outcome of the appeal shall be based on any additional evidence or statements made that were not considered during the Phase 2 panel review.
- 5.3 Any decision taken by the panel upon appeal shall not affect any person's rights under the Pilotage Act 1987.