

**REPORT TO: ENVIRONMENTAL SERVICES COMMITTEE ON
20 FEBRUARY 2008**

SUBJECT: MORAY COUNCIL : BERTHING POLICY

BY: DIRECTOR OF ENVIRONMENTAL SERVICES

1. REASON FOR REPORT

- 1.1 The Committee is asked to consider amendments to the Council's Berthing Policy.
- 1.2 This report is submitted to Committee in terms of Section E(22) of the Council's Administrative Scheme relating to functions of the Council as Harbour Authority.

2. RECOMMENDATION

- 2.1 **It is recommended that the Council considers amendments to the Council's Berthing Policy.**

3. BACKGROUND

- 3.1 The Council is Harbour Authority for the ports of Buckie, Burghead, Cullen, Findochty, Hopeman and Portknockie.
- 3.2 In recent years, waiting lists for berths at each of the harbours have grown considerably due to a general shortage of berths in the Moray Firth as a whole.
- 3.3 To ensure that new applicants and existing boat owners are treated in a fair manner, a Moray Council Berthing Policy was approved by the Environmental Services Committee on 1 March 2006 (para 12 of the Minute refers).
- 3.4 At a meeting of the Buckie Harbour Advisory Committee on 6 November 2007 it was proposed that berths would only be allocated to vessels where the registered owner possessed third party public liability insurance for his or her vessel to cover costs of damage or injury incurred from collisions, pollution and the like. Experience in Aberdeenshire has shown that typical costs are upwards of £60/vessel/year depending on the vessel's size and type.
- 3.5 The proposal was discussed at the Harbours Advisory Committee meetings of Burghead and Hopeman on 13 November 2007 and of Cullen, Findochty and Portknockie on 15 January 2008. Both Committees agreed with the proposal.

4. SUMMARY OF IMPLICATIONS

- (a) **Corporate Development Plan/Community Plan/Service Improvement Plan**

This report encompasses the main aims of the Corporate Development Plan's priority to ensure that best use is made of public resources and keeping a balance between cost, quality and price.

(b) Policy and Legal

The proposals of this report will add an additional clause to the Council's Berthing Policy and a copy of this is given in **Appendix 1**. It is proposed that the new clause becomes effective from 1 April 2008.

(c) Resources (Financial, Risks, Staffing and Property)

Financial – None.

Staffing – Harbourmasters will be required to check each insurance policy at the start of the financial year.

Property – There are no property implications arising from this report.

(d) Consultations

Alasdair McEachan, Senior Solicitor, Legal Services has been consulted and his comments included in the report.

The 3 Harbour Advisory Committees of Buckie, Burghead and Hopeman, and Cullen, Findochty and Portknockie support the proposal.

5. CONCLUSION

5.1 That the Committee considers amending the Berthing Policy as shown in Appendix 1.

Author of Report: Keith Stratton, Engineer

Background Papers:

Ref: KRS/PA

APPENDIX 1

PROPOSED ADDITIONAL CLAUSE TO THE MORAY COUNCIL HARBOURS BERTHING POLICY FOR HARBOURS AT BUCKIE, BURGHEAD, CULLEN, FINDOCHTY, HOPEMAN AND PORTKNOCKIE

Clause 16 The owner shall maintain in full force and effect third party liability insurance against the liabilities of the owner, their crew, guests and invitees with an indemnity of not less than two million pounds sterling per incident for the vessel and its tenders together with such other insurance cover as is normal for a vessel of its size, power and description. Such insurance to be effected with reputable insurers. Additionally where the owner engages paid crew for the vessel they shall maintain a policy of Employers' Liability Insurance fully in accordance with current legal requirements.

The owner shall not cancel, surrender or materially alter the terms of any part of the insurance programme without the prior written consent of The Moray Council.

The owner shall furnish The Moray Council on request with full details and legible copies of the current insurance certificates and policies together with evidence of their goodstanding.

Notwithstanding any other provisions of these Regulations concerning the control and management of any person working upon the vessel and the consenting process for work to be undertaken it is the owner's strict responsibility to ensure the competence, satisfactory insurance status and adequate and safe working conditions of all persons that may carry out any work upon the vessel. It is a condition of the owner's agreement with The Moray Council that the owner ensures that any such persons hold current, adequate and appropriate insurance cover. Failure to do so will expose the owner to substantial financial risk and possible prosecution. The owner should notify the Harbourmaster in advance of any such work being carried out.

Third party insurance cover must also be provided for vessels stored in compounds.