



Title of meeting: Cabinet

Date of meeting: 5 October 2021

Subject: Port Terms and Conditions

Report by: Port Director

Wards affected: All

Key decision: No

Full Council decision: No

1. Purpose of report

The purpose of this report is to gain approval for the implementation of the revised general terms and conditions for the use of Portsmouth International Port (PIP).

2. Recommendations

That these terms and conditions be approved and be put into use as soon as possible, being published on the Port's website to ensure transparency for all Port users.

3. Background

Previously PIP's General Terms and Conditions had been brief and were not standardised in line with the rest of the Port industry. This left PIP open to risk in relation to the non-payment of Port dues and liability claims.

The key advantage of a standardised set of terms and conditions being put in place across the port industry is that, as the industry norm, they naturally become much more enforceable.

Each port and harbour encompasses differing activities/governing legislation and as such from work started back in 2012, and backed by the British Port Association (BPA), the Port engaged an expert in the field (Abingdon Risk Consultancy) to provide a template standard terms and conditions document for the port to adopt.

Thereafter, and with the help of a specialist maritime lawyer (Ashcrofts LLP) and in conjunction with Portsmouth City Council Legal Services, this template was adapted to take into consideration all of PIP's 'port specific' terms and

conditions and to develop the necessary additional clauses in order to encompass the specific activities and variances at PIP.

4. Reasons for recommendations

To protect PIP and therefore Portsmouth City Council from liability claims and the possibility of non-payment of port dues and to provide a clear port specific set of terms and conditions for PIP's customers.

5. Integrated impact assessment

An integrated impact assessment is not required as the recommendations do not directly impact on service or policy delivery. Any changes made arising from this report would be subject to investigation in their own right

6. Legal implications

PCC Legal Services have worked closely with a leading maritime solicitor at Ashfords LLP in preparing draft terms and conditions. The terms and conditions substantially protect the Council more than the current brief ones.

The terms and conditions will apply within the Council's statutory harbour authority area and on land owned/operated by the Council as part of PIP. The terms and conditions will apply (a) to all services provided by PIP, and (b) to all physical access by any vessel, person, goods or equipment. The aim is to ensure that PCC's terms prevail over any competing terms and conditions of the customer, in order to protect PCC. Users must be given reasonable notice of the terms and conditions, which can be updated as required by giving the same amount of notice. Leases to Portico should be checked as the areas covered by these may require Portico's consent to implement the terms.

7. Director of Finance's comments

There are no direct financial implications as a result of approving the recommendation within this report.

The cost of revising the Terms and Conditions has been met from the port's cash limited budget and will provide further payment protection for PIP.

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Signed by:

Appendices:

Background list of documents: Section 100D of the Local Government Act 1972



The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Port Terms and Conditions	Attached

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by:

