



Port Reviews.

Trust and Municipal Ports.

1 What is a Trust Port?

Trust ports are a type of harbour authority. They are independent statutory bodies, governed by their own unique local legislation and controlled by an independent board. While all ports have statutory duties and responsibilities, trust ports are run for the benefit of their stakeholders including their users. As such they are accountable in principle to their stakeholders but those stakeholders have neither control nor power of sanction over the trust port boards. Trust ports do not have shareholders or a requirement to distribute any profit or surplus. The decision making body is often called a Harbour Board or a Harbour Commission.

2 What is a Municipal Port?

Municipal Ports are another type of harbour authority. They are statutory bodies governed by a local authority and subject to local government rules and financing requirements. Within this legal framework, local authorities have discretion to decide whether a port should be the responsibility of the executive or a committee of the council. This committee is sometimes called a Harbour Board or Harbour Management Committee.

3 What is a harbour authority?

A body created by statute to serve a public interest to manage, maintain and improve a harbour. Funded by charging vessels 'dues' to use the harbour and to load and discharge cargo and passengers. They have to be **“Open, Accountable and Fit for Purpose”** – **these are core principles** - and are considered as public authorities answerable to the Secretary of State.

4 The Port Reviews.

1. The **first Trust Port Review** (Modernising Trust Ports) was published in 2000 by the DETR. It followed a review of the trust port sector and focused on governance and accountability because of concerns that Trust Ports were not serving equally all their stakeholders. It found that there was a need for general improvement in the openness and accountability with which Trust Ports conducted their business and it went on to stipulated governance requirements.
2. The first Trust port Review indicated that many of the issues raised concerning accountability, governance and finance were shared by municipal ports so the DfT conducted a review. In 2006 they published the **Municipal Ports Review** (Opportunities for Ports in Local Authority Ownership: A Review of Municipal Ports in England and Wales.) Its available at <http://webarchive.nationalarchives.gov.uk/+http://www.dft.gov.uk/pgr/shippingports/ports/opportunities/rtunitiesforportsinlocal4960.pdf>
3. The **second Trust Port Review** (Modernising Trust Ports [second edition]) followed a study by consultants which was commissioned by the DfT to check all was well after the findings and stipulations made in the first review. It went on to make several recommendations that should apply across the ports sector regardless of the governance model. Its available at <http://www.dft.gov.uk/publications/modernising-trust-ports-guide/>

5 Precise and extracts from the second Trust Port Review.

1. Trust ports are independent statutory bodies, run by independent boards, for the benefit of stakeholders. Trust ports are not trusts in the legal sense, nor are trust port boards trustees in that sense.
2. They are *“a valuable asset presently safeguarded by the existing board, whose duty it is to hand it on in the same or better condition to succeeding generations. This remains the ultimate responsibility of the board, and future generations remain the ultimate stakeholder”*
3. Most trust ports were set up, and remain, specifically to serve regional and local interests. Trust ports are independent statutory bodies, governed by its own, unique, statutes. There are no shareholders or owners. Any financial surplus is ploughed back into the port for the benefit of the stakeholders of the trust port.

4. The standards set out in the review are designed to provide a benchmark of best practice for all trust ports. They apply whatever the size, turnover or type of port although a degree of proportionality is appropriate.
5. The core principles of openness, accountability and fitness for purpose run through the guidance in the review.
6. The Government considers that municipal ports should also seek to act in accordance with the guidance.
7. It is accepted that smaller ports will not necessarily be able to comply with all the standards in the guidance.
8. Trust port boards should transact port business in the interest of the whole community of stakeholders openly, accountably and with commercial prudence. Trust ports should be run as commercial businesses, seeking to generate a surplus which should be ploughed back into the port, or otherwise directed towards the interests of the port's stakeholders. The Government expects trust ports to be operated efficiently and effectively, and to generate a commercially acceptable rate of return. Harbour dues must be set at a level that allows for proper maintenance of the trust port's harbour and/or conservancy duties, and geared to attaining the target level of profitability.
9. There should be no presumption that dues levied on a specific group or type of user should be exclusively reinvested in improving services and facilities on offer to that user.
10. In the absence of shareholders, or an independent regulator, a trust port must be held to account for its performance and actions by its stakeholders, including the wider community it serves. One of the most important stakeholder groups for any trust port is the local community. Often the port is at the heart of that community. Accurate and pertinent reporting to stakeholders and the public at large is a critical responsibility of the trust port board.
11. In line with good commercial practice, a trust port board should comprise of between 8 and 12 members.
12. Board members should be appointed in open competition abiding by the Nolan principles:- Independence (importantly no representational rights for specific groups or interests), Accountability, Openness, Selflessness, Integrity, Objectivity, Honesty, Leadership.

13. Board members should be trained to undertake their role.

6 Precise and extracts from the Municipal Ports Review.

1. The guidance in the second Trust Port Review rather diluted this review as it was stated that Municipal Ports should “seek to act in accordance with the guidance” in the Trust Ports Review. However it does raise some useful points.
2. Where a municipal port is in receipt of an operational subsidy the owning authority should explore, as a priority, the feasibility of adopting a strategy for delivering a commercially viable port for the benefit of all stakeholders.
3. Even small ports, if effectively managed, have the potential to be significant economic drivers in regional and local economies.
4. There would be benefits to local authorities in developing clear plans for what they want to achieve from their operation of a port, bearing in mind considerations of commercial viability and wider activities, such as provision of leisure and tourist facilities.
5. It would be sensible to develop strategies for running ports that are appropriate for the local authorities’ particular circumstances, For example, a leisure port might wish to reflect in its strategy the fact that its facilities are used by the local council tax-payer, and point to the regional income from tourists who visit.
6. The fact that some ports are loss-making and receive subsidy from the local authority presents a problem in terms of distorting competition between those ports and either ports with trust status or in the private sector. If a port operation is not self-sustaining, the underlying causes need to be addressed. Structural changes may be required in order to deliver best value to the public. If an operation would not otherwise be viable subsidy simply exports the difficulties to other communities.
7. The Government believes that municipal ports, like those in any other category, should be primarily funded by dues which are levied on the right to use the facilities to pay for their provision and maintenance. Local authorities may properly seek a dividend as sole shareholder from commercial revenues but income should have ‘assured accounts’, which are protected from outward transfer of funds, to ensure that the interests of the port and its users are properly safeguarded.

7 Conclusion.

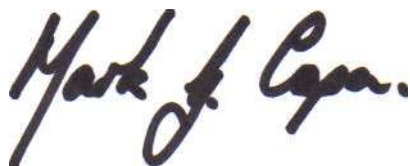
Harbour Authorities are bodies of statute formed to serve a public interest to manage, maintain and improve a harbour. The governance arrangements in Trust and Municipal Ports have to be open, accountable and fit for purpose.

Accounts should be ring fenced and any surplus invested in the port.

The governing body (Harbour Board) should consist of suitably skilled persons selected on the Nolan principles. They are accountable for the safe and efficient operation of the harbour which should be financially self sufficient. They must not be appointed to represent a particular stakeholder group or interest.

Even small ports can provide significant economic drivers in regional and local economies.

The 3 reviews produced in the last decade provided an opportunity for all harbour authorities to re-evaluate how they discharged their duties. Before the reviews some harbour authorities were run for the benefit of a particular stakeholder group because the decision makers had lost sight of their responsibility to serve a general public interest. There are indications that the reviews have prompted positive change.



Mark Capon
Harbour Master
Hayle Harbour Authority Limited.