

Newquay Harbour

Byelaws 2014



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**CORNWALL
COUNCIL**

Newquay Harbour Byelaws 2014

Cornwall Council in exercise of the powers conferred in section 235 of the Local Government Act 1972 and section 52 of the Newquay Urban District Council Act 1967 hereby make the following byelaws for the regulation of Newquay Harbour.

Part 1 – Preliminary

Title and Commencement

1. These byelaws may be cited as the Newquay Harbour Byelaws 2014 and shall come into operation on the expiration of 28 days from the date of confirmation thereof by the Secretary of State.

Application

2. These byelaws shall apply to all parts of the Harbour, the limits of the jurisdiction of which are defined in byelaw 3 hereof.

Interpretation

3. In these byelaws, unless the context otherwise requires, the following words or expressions have the meanings hereby respectively assigned to them:

“the Council”	means Cornwall Council;
“the Harbour”	means the Area South and West of Latitude 50° 25.12 N Longitude 005° 05.10' W and the wharfs, quays, piers, and jetties which enclose the said Harbour registered at HM Land Registry under title number CL177040 and shown edged in blue on the plan at Schedule 1;
“Collision Regulations”	means the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations made under sections 85 and 86 of the Merchant Shipping Act 1995;
“Goods”	means all articles and merchandise of every description and includes fish, shell fish, livestock and animals;
“the Harbour Master”	means the person appointed by the Council and includes his authorised deputies, assistants and any other person authorised in writing by the Council to act in that capacity;
“Master”	when used in relation to any vessel means any person having the command, charge or management of the vessel for the time being;

“Mooring”	includes any buoy, pile, post, chain, pillar, sinker or like apparatus or convenience used for mooring of vessels;
“Owner”	when used in relation to goods includes any consignor, consignee, shipper or agent for the sale, receipt, custody, loading or unloading and clearance of those goods, and includes any other person in charge of the goods and his agent in relation thereto; and when used in relation to a vessel includes any part-owner, charterer (including but not limited to a charterer by demise) or mortgagee in possession of the vessel or other person or persons entitled for the time being to possession of the vessel; and when used in relation to a vehicle other than a vessel includes any part- owner or agent or person having charge of the vehicle for the time being;
“Power Driven Vessel”	means any vessel which is propelled wholly or partly by machinery;
“Sailing Vessel”	means any vessel under sail provided that propelling machinery, if fitted, is not being used;
“Quay”	means any quay, wharf, jetty, dolphin, landing stage or structure used for berthing or mooring vessels, and includes any pier, bridge, roadway or footway immediately adjacent and affording access thereto;
“Vehicle”	includes any machinery on wheels or caterpillar tracks, trailers, caravans and mobile homes;
“Vessel”	means a ship, boat or raft of any description and includes non-displacement craft and any thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily) and includes a hovercraft or any amphibious vehicle or hydrofoil or seaplane;
“Written Consent”	means consent given in writing which may include consent given by electronic means;
“Written Instruction”	means an instruction given in writing which may include an instruction sent by electronic means.

Part II Navigation

Vessels to navigate with care and caution

4. (1) Every Vessel navigating in the harbour shall be navigated with care and caution and at such a speed and in such a manner as not to be liable to endanger the lives of or cause injury or discomfort to persons or endanger the safety of or cause damage to other Vessels, moorings, structures or unreasonably interfere with the wildlife habitat.

(2) Special care and caution shall be used in navigating Vessels when passing other Vessels whether moored or under way and in the neighbourhood of public swimming and bathing places.

(3) Except in the case of an emergency no Power Driven Vessel shall exceed the speed of 4 knots within the breakwaters.

Navigation under influence of drink or drugs prohibited

5. (1) No person shall navigate any vessel in the Harbour whilst under the influence of drink or drugs.

(2) No master or Owner of a Vessel shall knowingly cause or permit any person to navigate or attempt to navigate that Vessel in contravention of this byelaw.

Vessel arrivals

6. During weekdays and during working hours Masters of visiting Vessels are to give verbal prior notice over VHF channel 16 if practicable of their arrival. In all cases Masters are to make their presence known to the Harbour Master the next working day after arrival.

Vessels adrift

7. The Master of a Vessel which parts from its moorings shall, as soon as practicable, verbally report the same to the Harbour Master.

Notifications of collisions etc.

8. The Master of a Vessel which:
 - (a) has been involved in a collision with any vessel or property, or has been sunk or grounded, or become stranded in the Harbour; or
 - (b) by reason of accident, fire, defect or otherwise is in such a condition as to affect its safe navigation or to give rise to danger to any other Vessels or property:
or
 - (c) in any manner that gives rise to an obstruction to a fairway;

shall as soon as reasonably practicable, verbally report the occurrence to the Harbour Master, and thereafter provide the Harbour Master with full details in writing; and, where the damage to a Vessel is such as to affect or be likely to affect its seaworthiness, the Master shall not move the Vessel except to clear the fairway or to moor or anchor in safety other than with the permission, and in accordance with the directions, of the Harbour Master. Fairway in this instance means the Harbour entrance and the section of the Harbour between South Quay and the Jetty which is used for lifeboat access.

Obstruction of free passage

9. (1) The Master of a Vessel shall not cause or permit the Vessel to manoeuvre, come to anchor or to be moored or be placed so as to obstruct in any manner the free passage of Vessels in the Harbour.
- (2) No person shall cast or place any drift, trawl or other net or pots in such a position as to be likely to become an obstruction or danger to any property including, in particular, but without prejudice to the generality of the foregoing, any Vessel or Mooring.

Protruding obstructions

10. The Master of a Vessel berthed within the Harbour shall ensure that his Vessel's anchors are securely housed and that all projections (other than projections which are integral parts of the Vessel) are stowed within the vessel's rail, and that outboard motors are adequately fendered.

Inspection facilities etc. to be made available to Harbour Master

11. The Master of a Vessel shall, so far as he may be required by the Harbour Master in the exercise of his duties, afford the Harbour Master access to inspect the Mooring arrangements of his vessel.

Launching of Vessels

12. Vessels are not to be launched without the prior Written Consent of the Harbour Master. Launchings outside of working hours are to be from designated areas.

Diving from Vessels

13. (1) No person shall undertake underwater operations or diving activities of any kind within the Harbour without the prior Written Consent of the Harbour Master.
- (2) Upon receiving such consent as is required by byelaw 13(1) no person shall dive from a Vessel within the Harbour unless there is a lookout on the Vessel at all times whilst such person is in the water.

(3) Whilst any person is diving from a Vessel, the lookout remaining shall ensure that there is exhibited on the Vessel a rigid replica of the International Code Flag Alpha not less than one metre in height. Measures shall be taken to ensure all round visibility.

Vessels to be effectively silenced

14. No person shall operate within the Harbour a Power Driven Vessel unless the engine is fitted with a silencer suitable for reducing as far as may be reasonable the noise caused by the escape of exhaust gases from the engine.

Conduct of Regattas etc.

15. (1) The organisers of any boat race, regatta or other occasion where more than 10 small craft are expected to assemble on the waters of the Harbour shall give not less than fourteen days' written notice thereof to the Harbour Master.

(2) All regattas, races or similar events shall be conducted on courses in accordance with conditions and at times previously approved by the Harbour Master.

(3) The Harbour Master may cancel or alter any conditions of such approval on giving where reasonably practicable notice to the Organiser at least seven days before the proposed date of the event.

Part III Signals and lights

Bright lights

16. No person shall exhibit in the Harbour searchlights, floodlights or other bright lights or pyrotechnics other than those for indicating emergency or distress, unless the Written Consent of the Harbour Master has first been obtained and at no time shall the exhibiting of lights or pyrotechnics be allowed if they endanger navigation.

Part IV – Berthing, mooring and anchoring

Vessels to be moored etc. as directed

17. The Master and crew of a Vessel in the Harbour, shall moor, anchor, place, load or unload or move and shall cease to moor, anchor, place, load and unload or move such Vessel in accordance with the verbal directions from time to time given by the Harbour Master.

Vessels to be properly berthed

18. (1) The Master of a vessel shall at all times keep the Vessel properly and efficiently moored when berthed or lying at any quay.

(2) The Master of a Vessel berthed within the Harbour shall ensure that the vessel's sails (if present), including mizzen sails, are to be neatly furled whilst at Moorings or berths.

Sufficiency of crew

19. Except with the Written Consent of the Harbour Master, the Master of a Vessel shall at all times when his vessel is within the harbour, ensure that his Vessel is capable of being safely moved and navigated and that there are contact details left in order to ensure that a competent person who can represent the Master is contactable:

(1) to comply with any directions given by the Harbour Master for the unmooring, mooring and moving of the Vessel, and

(2) to deal, as far as reasonably practicable, with any emergency that may arise.

Provision of proper fenders

20. The Master and the Owner of a Vessel shall ensure that it is provided with a sufficient number of fenders adequate for the size of the Vessel, and when berthing and leaving, or lying at a quay or against other Vessels, the Master shall cause the Vessel to be fended off from that quay or those other Vessels so as to prevent damage to that quay, those other Vessels or other property.

Access across decks

21. The Master of a Vessel alongside a quay or alongside a Vessel already berthed within the Harbour shall, if required so to do by the Harbour Master and if it is safe so to do, give free access across the deck of his Vessel for persons and goods to and from Vessels berthed alongside his Vessel.

Vessels not capable of being safely moved

22. When a Vessel is at any time not capable of being safely moved by means of its own propulsive machinery, the Master or Owner shall verbally inform the Harbour Master as soon as reasonably practicable and shall give to him any further information he may reasonably require.

Vessels not to make fast to unauthorised objects

23. No person shall make a Vessel fast to any post, ring, fender, navigation buoy or mark or any other thing or to any quay or other place not assigned for that purpose by the Harbour Master as suitable for making fast the Vessel concerned.

Use of engines while vessel moored or berthed

24. The Master of a Vessel which is at a quay or attached to any mooring device shall not permit the engine of his Vessel to be worked in such a manner as to cause injury or damage to the bed or banks of the harbour or to any other Vessel or property.

Restricted berthing

25. (1) Vessels are not to lie alongside the working quays for any longer than the time required to fuel or complete the work in hand. Exceptionally, where the tide is unsuitable for reaching Moorings, Vessels may lie against the working quays for no longer than 2 low waters.

(2) Vessels are not to be left unattended at any of the Harbour Steps.

Abandonment etc. of vessels prohibited

26. (1) No person who owns or has charge of a Vessel shall intentionally abandon, break up, set fire to or otherwise destroy that Vessel on the banks or shore of the Harbour except with the permission of the Harbour Master.

(2) For the purposes of paragraph (1) of this byelaw a person who leaves a Vessel on the banks or shore of the Harbour in such circumstances or for such a period that he may reasonably be assumed to have abandoned it, shall be deemed to have abandoned it there intentionally unless the contrary intention is shown.

Relocation of moorings

27. The owner or other person in charge of a mooring shall, on the Written Instruction of the Harbour Master remove it from the harbour or to a new position therein.

Laying down of moorings, buoys or other tackle

28. (1) No person shall lay down any mooring, buoy or similar tackle without a licence or prior Written Consent of the Harbour Master nor except in accordance with such conditions as the Harbour Master may impose.

(2) A mooring, buoy or similar tackle shall as soon as reasonably practicable be removed by its owner or any other person claiming possession of it, if the Harbour Master so directs.

(3) If a person fails to comply with a direction made under paragraph (2) above, the Harbour Master may cause the mooring buoy or similar tackle to be removed and he may recover the expenses of so doing where reasonably incurred from that person as a civil debt due to the Council.

Part V – Vehicles, goods and use of the Harbour

Goods etc. left on harbour premises

29. (1) No person shall leave any goods, stores, equipment, boats, cranes, bait etc. on any part of the harbour premises without prior Written Consent of the Harbour Master and in accordance with such conditions as he may impose.
- (2) Any goods, stores, equipment, boats, cranes, bait etc. shall as soon as reasonably practicable be removed by its owner or any other person claiming possession of it if the Harbour Master so directs.
- (3) If a person fails to comply with a direction made under paragraph (2) above, the Harbour Master may cause the goods, stores, equipment, boats, cranes, bait etc. to be removed and he may recover the expenses of so doing where reasonably incurred from that person as a civil debt due to the Council.

Obstruction at the Harbour

30. (1) No person shall, except with the permission of the Harbour Master, deposit or place on any part of the Harbour any goods or park any vehicle, trailer etc. so as to obstruct any road, building, mooring place, plant, machinery, equipment or apparatus or the access thereto. Any such goods or impediment may be removed by the Harbour Master.
- (2) No person shall without the Written Consent of the Harbour Master, work or move any plant, machinery, equipment or apparatus at the Harbour premises.
- (3) No person shall so range fishing gear as to obstruct any quay or the working space behind any quay without the Written Consent of the Harbour Master. When fishing gear is ranged, appropriate warning signage is to be used.

Parking of vehicles and trailers

General - parking within the Harbour

31. (1) No person shall park or leave a vehicle or trailer in any place where it is likely to obstruct or interfere with the use of the Harbour, or in any part of the Harbour premises where the parking of vehicles or trailers is prohibited and notice of any such prohibition has been erected by the Harbour Master.
- (2) Any notice erected under paragraph (1) of this byelaw shall be conspicuously posted in or in proximity to the place to which it relates.
- (3) If the Harbour Master so directs, the Owner of a vehicle or trailer parked or left in contravention of paragraph (1) of this byelaw shall remove the same to a place where it does not contravene the byelaw and if the Owner fails to comply with the Harbour Master's direction or cannot reasonably be found, the Harbour Master may remove the vehicle or trailer.

(4) The Harbour Master reserves the right to issue annual parking permits for vehicles to use certain parts of the harbour premises with the issuing of such permits to be at the discretion of the Harbour Master. Vehicles not bearing permits are not to park within those areas marked for permit holders only.

Safe driving of vehicles

32. No person shall drive or otherwise operate a vehicle on the Harbour premises without due care and attention or without reasonable consideration for other persons using the Harbour premises.

Speed limit for vehicles

33. No person shall drive or allow a vehicle to proceed anywhere on the Harbour premises at a speed greater than 10 miles per hour.

Supervision of vehicles

34. A person having charge of a vehicle on the Harbour premises shall at all times comply with any directions of the Harbour Master with respect to the loading, discharging, manoeuvring and removal thereof, and shall not, without the permission of the Harbour Master:

- (a) leave the vehicle unattended anywhere on the Harbour premises: or
- (b) take it into any shed or working area

Exception for Emergency Services

35. The foregoing byelaws 30 to 34 shall not apply to the providers of emergency services when attending the Harbour premises for the purpose of dealing with an emergency.

Loads not to leak, spill or drop

36. (1) The Owner, driver or other person having charge of a vehicle on the Harbour premises shall not permit any substance to leak, spill or drop from the vehicle.
- (2) This byelaw shall not apply to any spillage of clean water or any water spillage from a vehicle in which fish are being transported in bulk where the spillage could not have been reasonably prevented.

Loads to be secured

37. The Owner, driver or other person having charge of a vehicle on the Harbour premises shall ensure that any load carried thereon or therein is properly secured and that it complies with all statutory restrictions on the weight of goods to be so carried as are applicable on public roads.

Refuelling etc. of vehicles

38. No person shall, on the Harbour premises, charge or recharge any vehicle with, or empty it of, fuel except with the Written Consent of the Harbour Master.

Part VI – Safety, health etc.

Dumping in waters of the Harbour prohibited

39. (1) Except in the case of emergency, no person shall deposit, throw, unload, put or suffer to fall any spoil, gravel, ballast or substance which has been used as ballast, or any stones, earth, mud, ashes or refuse into the waters of the Harbour or onto the shores thereof below the level of high water.

(2) No dumping of shellfish or bait is permitted within the Harbour.

Shellfish processing

40. No shellfish processing of any kind shall take place within the harbour premises provided that this byelaw shall not apply to any person processing any such shellfish for scientific purposes and with the Written Consent of the Harbour Master.

Vagrancy

41. Vagrancy or sleeping rough is not permitted within the Harbour estate.

Fire precautions

42. (1) No person shall burn or heat any flammable matter or have or permit any fire or light on any Vessel in the Harbour.

(a) In such a manner as to cause danger of fire; or

(b) without due precautions to prevent danger of fire on or to such Vessel or elsewhere.

(2) No person shall light a fire or permit a fire to be lighted on any part of the Harbour premises, except with the Written Consent of the Harbour Master.

(3) No tanks, containers or other facilities used for storage or transport of flammable materials shall be repaired within the Harbour or Harbour estate with hot rivets, welding or burning equipment until the operators of such equipment have ensured that such facilities have been rendered safe for the making of repairs and that all necessary precautions to prevent fire or explosion from the use of such equipment have been taken.

Fire extinguishing equipment to be available for use at all times

43. The Master of every Power Driven Vessel and/or those Vessels with cooking equipment/facilities on board, within the limits of the Harbour, shall have adequate fire extinguishing equipment available for immediate use in any part of the Vessel at all times, and the nature and amount of such equipment shall take into account any abnormal fire risk associated with any such Vessel.

Smoking

44. No person shall smoke within the Harbour premises in any area where 'No Smoking' notices are displayed or where requested by the Harbour Master not to do so.

Fireworks and pyrotechnics etc.

45. No person shall within the Harbour or on the Harbour premises ignite any firework or other explosive substance, provided that this byelaw shall not preclude the proper use of any lawful distress signals or race starting guns loaded with blank cartridges or pyrotechnic displays authorised by the Harbour Master.

Part VII – Water sports

Personal water craft

46. No person shall operate or cause to be operated, inside of the piers, a personal watercraft or any similar type of watercraft, except with the permission of the Harbour Master under such reasonable conditions as he may impose, provided that nothing in this byelaw shall conflict with any public right to navigate.

Fishing and bathing

47. (1) No person shall fish within the Harbour when directed not to do so by the Harbour Master.

(2) No person shall swim within the Harbour when directed not to do so by the Harbour Master or by warning signs or flags.

(3) No person shall jump or dive into the Harbour except for the Master, Owner or crew of a Vessel where this is necessary for the purposes of maintenance works to the Vessel, e.g. to remove fouling, carry out a hull check or to clear rope from the propeller.

Prohibited activities - water-skiing - aquaplaning - parascending - sub-aqua activities

48. No person shall engage in water-skiing, aquaplaning, parascending or sub-aqua activities within the Harbour without the Written Consent of the Harbour Master.

Part VIII – Miscellaneous and general

Restrictions on placards

49. Except with the Written Consent of the Harbour Master no person shall on the Harbour premises publicly exhibit any bill, placard or notice, or distribute any leaflet, pamphlet or circular, nor attach any such document to or write upon any part of the Harbour.

Assistance to fire and other services

50. The Master of a Vessel shall give every reasonable facility and assistance to the fire, police, ambulance and other emergency services for dealing with, alleviating or preventing any emergency.

Obstruction of Harbour Master

51. No person shall intentionally obstruct the Harbour Master or his nominated deputies in the execution of his duties.

Unauthorised trading prohibited

52. No person shall engage by way of trade in buying or selling any goods or property on the Harbour premises without the Written Consent of the Licensing Department of the Council.

Meetings

53. Except with the Written Consent of the Harbour Master, no person shall within the Harbour premises: -

(a) organise any general meeting; or

(b) deliver any address to an audience or gather together any persons; which is likely to obstruct, impede or hinder the operation of the Harbour.

Prohibition of dogs on fish landing areas

54. No person in charge of a dog, except registered assistance dogs and dogs embarking on Vessels, shall allow the dog to enter or remain on any part of the Harbour designated and marked as a fish landing area.

Part IX – Penalties, defences, crown rights

Penalties

55. (1) Any person who contravenes or otherwise fails to comply with any of these byelaws, or any condition, requirement or prohibition imposed by the Harbour Master in the exercise of the power conferred on him by these byelaws, shall be guilty of an offence and be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) Where the commission by any person of any offence under these byelaws is due to the act or default of some other person, that other person shall be guilty of an offence; and that other person may be charged with, and convicted of, the offence by virtue of this byelaw, whether or not proceedings are taken against any other person.

Defences

56. (1) In any proceedings for an offence under these byelaws it shall be a defence for the person charged to prove:

(a) that he took all due diligence to avoid the commission of such an offence, or

(b) that he had a reasonable excuse for his act or failure to act

(2) If in any case the defence provided by paragraph (1a) of this byelaw involves the allegation that the commission of the offence was due to the act or default of another person the person charged shall not rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of, that person as was then in his possession.

Crown rights

57. Nothing contained in any of these byelaws shall be deemed to be or shall operate as a grant on behalf of the Duchy of Cornwall, as owners of the foreshore and seabed below the level of high water, of any estate or interest in, or right over such foreshore, seabed or any part thereof, nor shall anything contained in or done under any of the provisions of these byelaws in any respect prejudice or injuriously affect the rights and interest of the Duchy of Cornwall in such foreshore or seabed.

EXECUTED as a Deed by the)
CORNWALL COUNCIL)
whose common seal was hereunto)
affixed in the presence of:)

Authorised Officer: Catherine Linchen X
Catherine Linchen
Principal Legal Officer
Legal Services
CORNWALL COUNCIL



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The Secretary of State for Transport confirms the foregoing byelaws.
SIGNED by the authority of the Secretary of State for Transport.

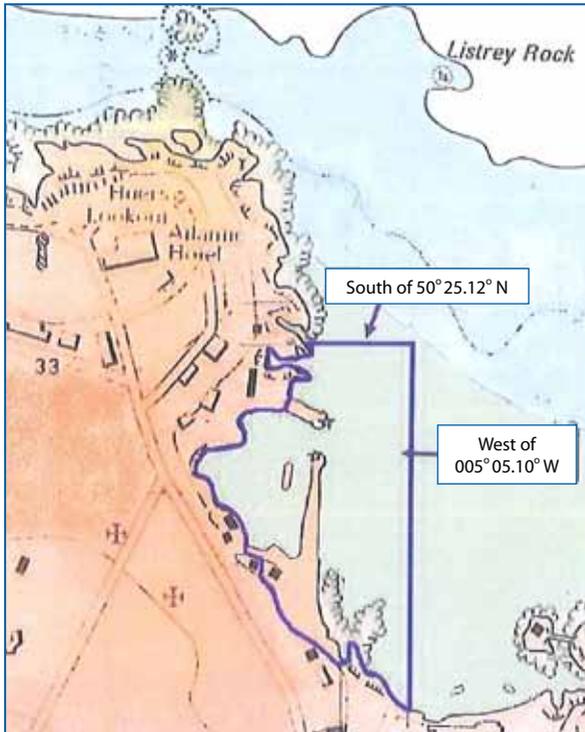
Linda Willson

Linda Willson
Deputy Director
Maritime Commerce and Infrastructure
Department for Transport

Date: 12 December 2014

Schedule 1

The Harbour



Plan showing harbour limits

For help and advice contact:

Newquay Harbour, Newquay

Tel: 01637 872809

Email: harbouroffice@cornwall.gov.uk

If you would like this information in another format or language please contact:

Cornwall Council, County Hall, Treyew Road, Truro TR1 3AY

Telephone: 0300 1234 100 Email: enquiries@cornwall.gov.uk www.cornwall.gov.uk