ORKNEY
ISLANDS COUNCIL

ORKNEY ISLANDS COUNCIL
Harbour Authority

ENFORCEMENT POLICY
Revision 3.1

Orkney Islands Council by virtue of the Orkney County Council Act 1974, as amended and extended, is the Statutory Harbour Authority and therefore has a primary responsibility for the safety of navigation in the Ports and Harbours under its jurisdiction in Orkney – these are shown in the Appendix to this Policy – and compliance with legislation, bye laws and regulations. For the purpose of this Policy the Statutory Harbour Authority as described will be referred to as Orkney Harbour Authority (OHA).

The two large and main harbour areas that are managed and operated by the Harbour Authority are Scapa Flow and Kirkwall with respective areas of 324km^2 (125 square miles) and 73km^2 (28 square miles). These include an oil terminal for the export of crude oil and liquefied petroleum gas, two marinas for leisure / pleasure craft, ferry terminals for both internal and external ferry services, multi-purpose berths and quays for use by cruise liners, general cargo, offshore supply and various other types of vessels. Regardless of these being the main harbour areas it should be noted that this Policy (in its entirety) is applicable to all harbour areas as shown in the Appendix to this Policy.

OHA provides a comprehensive range of facilities in order to ensure the save movements of shipping. This includes a vessel traffic system (VTS), pilotage and navigational aids such as a lighthouses, shore marks and buoys. Playing an integral role is the Scapa based Orkney VTS manned by qualified VTS operators providing VHF radio and radar coverage of the two main harbour areas 24 hours a day.

OHA has a duty to enforce the following:-

- Orkney Harbour Areas – General Bye-Laws 1977
- Orkney Islands Council – The Orkney Harbours (Liquefied Gases) Byelaws 1978
- Orkney Islands Council – The Orkney Harbours (Petroleum) Byelaws 1980
- Orkney Islands Council – Orkney Harbour Areas (Vehicles) Byelaws 1984
- Any General Directions as made under the Orkney County Council Act 1974

OHA aims to ensure a safe passage of all commercial, naval, and other vessels / craft from sea to port and back to sea or within the Harbour Areas, at all times.

This Enforcement Policy sets out the general principles which OHA will follow when taking enforcement decisions.

Aims of the Enforcement Policy

The aims of this Enforcement Policy are:

- To ensure compliance with legislation, bye laws or regulations that may affect the proper operation of OHA functions;
- To ensure that a consistent approach to enforcement is adopted throughout OHA;
- To achieve consistent treatment of offenders;
- To promote understanding of OHA's attitude to enforcement issues.

This Policy applies to all enforcement action taken by OHA. Enforcement in this context means any action taken to ensure compliance with legislation, byelaws or regulations. OHA will take action to protect, conserve or enhance the environment and safety and prevent or punish breaches of legislation, byelaws or regulations. Enforcement action can include:

- Discussions;
- Meetings;
- Warning letters;
- Reporting a case to the Procurator Fiscal for prosecution.

Principles of Enforcement

OHA Enforcement Policy reflects principles of good regulation, which are also employed by the Government when enforcing regulation.

Proportionality

OHA will ensure that any enforcement action taken is proportional to the risks posed by the breach of legislation, byelaws or regulation and the seriousness of the offence. As far as the laws allows, OHA will take into account the circumstances of the case and the attitude of the offender when considering action.

Consistency

OHA will be fair, equitable and consistent in its enforcement. OHA will promote a similar approach to enforcement in similar circumstances to achieve similar ends throughout the organisation and will develop and maintain effective liaison with other enforcing authorities. OHA will treat all people equally.

Openness

OHA will provide clear information and advice on the rules it applies and make it widely available. OHA will be open about how it sets about its work, and will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.

Targeting

OHA efforts in relation to enforcement will be concentrated on those activities which cause the greatest environmental damage, pose the greatest threats to the environment and safety or undermine regulatory regimes, which have been created to protect and improve the environment and safety and prevent harm to human health. Action is focused on those who break the law or those directly responsible for serious environmental and safety damage or risk.

Prosecution

The objective of enforcement is to ensure that preventative or remedial steps are taken to protect the environment and general safety and to prevent or minimise and make harmless releases that can cause pollution and / or deter, prevent or minimise future breaches of legislation, byelaws or regulations. Prosecution of offences under relevant legislation is one of the ways of achieving this objective.

OHA, as a specialist reporting agency, can report cases to the Procurator Fiscal. Cases will be reported where justified in order to punish offenders, to avoid recurrence and to encourage general compliance.

Where the circumstances warrant, a case may be reported to the Procurator Fiscal without prior warning or recourse to alternative methods of enforcement.

Companies, as well as individuals within a Company, such as directors or senior managers, may be reported for prosecution. Individuals may be reported where it can be shown that the offence was committed with their express or implied consent, or was due to their negligence.

Overarching Principles

- OHA will not ignore any knowingly criminal or negligent act by any person or Company which damages or threatens the environment or which flouts the law.
- Persistent breach of legislation, byelaws or regulations will not be tolerated. Required action may be phased in over a reasonable but binding timescale, depending on the importance to the environment and regard to safety, and the attitude of the offender.
- Whatever the timescale and urgency of enforcement action, it will be fair, reasonable and open.
- Where practical, the person or Company against whom action is proposed will be informed of the action. Notwithstanding any remedial action taken, no relief from criminal proceedings will be offered as an inducement of reward.
- All enforcement action taken will be recorded and put in file. Records of meetings will be kept. Actions will be recorded. Warning letters will be clear, simple, unambiguous and signed by the appropriate person.
- If a final warning is given, there will be no further discussion on the matter and the final warning will stand. Any failure to comply with the final warning will be followed by enforcement action.
- The full facts will be gathered and there will be no unnecessary delay.

- Appropriate action will be taken against those who intentionally obstruct any person in the exercise of their duties under this Policy or any other legislation, byelaw or regulation.
- OHA reserves the right to recover the full costs of any enforcement actions from offending parties

Signed: Douglas Manson
Harbour Master

Dated : 1st July 2026

Signed : Mellissa Thomson
Chairman of the Harbour Sub Committee
as Duty Holder, Orkney Islands Council

Dated : 1st July 2026

Appendix:

Orkney Islands Council – Orkney Harbour Authority, Harbour Areas:-

+ **Scapa Flow Harbour Area** is defined in the Orkney County Council Act 1974 as the area bounded in the west by a line from Out Taings, Hoy to Breckness, Mainland and in the south by a line from Brough Ness, South Ronaldsay to the southern-most tip of Swona and thence to Brims Ness, Hoy.

  This area also encompasses the following piers and harbours: -

  - Stromness Harbour, including Copland's Dock;
  - Scapa Pier;
  - Houton Ro-Ro Terminal;
  - Graemsay Pier;
  - Hoy, Lyness Piers and Terminal;
  - Burray Pier;
  - Hoy Moaness Pier;
  - Flotta Sutherland Pier;
  - Flotta Gibraltar Pier and Ro-Ro Terminal;
  - St Mary's, Holm Pier;
  - Longhope Pier;
  - South Ronaldsay, Burwick Pier.

  Note:
  A Trust Port also exists at St Margaret's Hope, South Ronaldsay.

  The St Margaret's Hope Pier Trustees have authority of the marine area lying within nine hundred yards of any part of the pier. As such, the Trustees have responsibility for any required dredging works and the installation and maintenance of Aids to Navigation to ensure safe local navigation in the approaches to the St Margaret's Hope pier. The requirements for Aids to Navigation are as directed by the Northern Lighthouse Board. Consent for marine works is however required from Orkney Islands Council as the Harbour Authority prior to any undertaking.

+ The Wide Firth and Shapinsay Sound Harbour Area (referred to as **Kirkwall Harbour**) is defined in the Orkney County Council Act 1974 as the area bounded to the south by a straight line between Harpy Taing on Mainland and Strombery on Shapinsay and to the east by a straight line between Hackness on Shapinsay to Rerwick Head on Mainland.

  This area also encompasses the following harbours and piers: -

  - Kirkwall Harbour;
  - Hatston Pier and Terminal;
  - Shapinsay Balfour Pier and Terminal;
  - Finstown Slip
  - Hatston Slip.

- **Other Harbour Areas**; In addition to the two major harbour areas under the jurisdiction of Orkney Harbour Authority, there are also a number of smaller piers and harbours. These are listed below. Harbour Areas for these piers extend to 1 km from the end of the pier, with the exceptions of Westray Rapness Terminal and Sanday Loth Terminal, where the harbour limit is 500m from the end of the pier.

  - Rousay Trumland Pier and Terminal;
  - Westray Pierowall Harbour;
  - Westray Rapness Terminal (500m);
  - Egilsay Pier and Terminal;
  - Evie Tingwall Terminal;
  - Wyre Pier and Terminal;
  - Sanday Blackrock Pier;
  - Stronsay Whitehall Pier and Terminal;
  - Stronsay West Pier;
  - North Ronaldsay Nouster Pier;
  - Eday Backaland Pier and Terminal;
  - Sanday Loth Terminal (500m);
  - Papa Westray Moclett Pier;
  - Sanday Kettletoft Pier.