

AGENDA ITEM

REPORT TO CABINET

18 OCTOBER 2018

**REPORT OF SENIOR
MANAGEMENT TEAM**

CABINET DECISION

Access, Communities and Community Safety - Lead Cabinet Member – Councillor Steve Nelson

OPEN WATER SAFETY STRATEGY

Summary

Following an increased focus on water safety and drowning prevention both nationally through the Local Government Association (LGA) Safer and Stronger Communities Board and regionally following a number of different incidents this report presents the Water Safety Strategy for the Borough of Stockton.

Recommendations

1. Cabinet endorsement and adoption of the Water Safety Strategy and initial Water Safety Plan.
2. The establishment of the Water Safety Operational Working Group be agreed.

Reasons for the Recommendations/Decision(s)

To establish a Water Safety Strategy for the Borough of Stockton.

Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) paragraph 21 of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (paragraph 22 of the code)

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SUMMARY

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RECOMMENDATIONS

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DETAIL

1. Over recent years the LGA Safer and Stronger Communities Board have been working to address water safety concerns collaborating with the National Water Safety Forum to support campaigns and to seek and share examples of best practice. One of their key objectives being to encourage all councils to have a Water Safety Strategy and local risk assessments, in support of the National Drowning Prevention Strategy.
2. Having acknowledged that the National Drowning prevention strategy is directly applicable to the area Stockton Borough Council have been working with Royal Society for the Prevention of Accidents (ROSPA) to provide a wider perspective of the risks associated with water within the Borough boundary. This work considered the adequacy of existing control measures to prevent drowning due to both intentional and accidental immersion in publicly accessible bodies of water.
3. ROSPA's work which included site visits reinforced that the water bodies within the area formed part of an attractive and valuable landscape that provides both amenity and environmental benefit. ROSPA commended Stockton Borough Council overall for taking positive steps to manage water safety and the related risks around these assets.
4. ROSPA's work concluded that the development of a Council wide Water Safety Strategy would be beneficial in addressing community level risk assessments and would enable an effective water safety plan.
5. Services across the authority have worked together to develop the Water Safety Strategy attached at **APPENDIX 1** and the initial water safety plan **APPENDIX 2** in taking this work forward it is recommended that an operational working group is formed to ensure an on-going coherent approach and the support of wider stakeholders.

6. Proposed Membership of the Water Safety Operational Working Group is as follows:-
- Flood Risk Management Team
 - Greenspace
 - Community Services
 - Health and Safety
 - CaRT (Canals and Rivers Trust)
 - RUG (River User Group)
 - Operator
 - Community Safety Partnership
7. In addition in order to enhance public awareness and improve our communication of water safety issues a specific web page has been developed to deliver key water safety messages. <https://www.stockton.gov.uk/community-safety/staying-safe-around-water/>

COMMUNITY IMPACT IMPLICATIONS

8. The strategy will have a positive impact in terms of community safety in relation to both intended and accidental immersion in publicly accessible bodies of water.

FINANCIAL IMPLICATIONS

9. There is no financial impact directing ensuing from the strategy, operational resources to be determined.

LEGAL IMPLICATIONS

10. This strategy will support the management of SBC liabilities in relation to water safety.

RISK ASSESSMENT

11. Low risk.

COUNCIL PLAN

12. Safeguarding of adults and children.

CONSULTATION INCLUDING WARD COUNCILLORS

13. Across the Authority and with the River and Cannels Trust as the strategy rolls out.

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Education related - No
Background Papers - None
Ward(s) and Ward Councillors - Not ward specific
Property - No property implications

Stockton on Tees Borough Council

Water Safety Policy
July 18

Draft v5

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1.0 Introduction

Within the Borough there are a number of Public Open Spaces within the responsibility of Stockton on Tees Borough Council (SBC) that includes both permanent and seasonal areas of open water.

Due to the diverse shape and size of these areas of water, their use is varied. The Council recognises the need for open water for both environmental reasons and for recreation and leisure activities. Types of open water within the responsibilities of SBC include for example:

- Lakes
- Ponds
- Rivers and Streams
- Balancing Ponds
- Ditches

(A full list of types of open water under the Council's within responsibility can be found at **Appendix 1**)

Open water can present significant risks that may vary in response to environmental changes, for example, the desire to swim in cold water on a hot day or the attraction to walk on ice in the winter and potentially rapid changes in depth after heavy rain.

The council in its risk assessment of open water will take all 'reasonable steps' to protect people from danger. This water safety policy has been designed and developed with advice and guidance from the Royal Society for the Prevention of Accidents (RoSPA), 'Safety in Inland Water Sites- Operational Guidelines' (RoSPA document) and 'The Visitor Guide to the Countryside' (www.vscg.co.uk).

2.0 Responsibilities

Directors are responsible for the safety of all Council employees and anyone affected by the Council's work activities. They should ensure that appropriate resources and arrangements are in place to implement, monitor and review this policy to minimise risks at Council open water sites.

Corporate Health and Safety (H&S) Team advisers will ensure that water safety assessments for known open water sites owned or managed by the council are in place. Priority will be given to those sites considered to be high risk this may include visitor attractions or locations of previous incidents.

The relevant Directorates will maintain a record of all water safety assessments and associated documentation and guidance. The H&S team will audit service grouping inspection and monitoring regimes where they have been established following water safety assessments.

The H&S Team will periodically review sources of information and guidance on aspects of water safety as appropriate to ensure that any information and awareness remains current and in accordance with best practice. In conjunction with appropriate Directorates, the H&S Team, will provide education and awareness on appropriate aspects of water safety to the Audit Committee as part of the annual performance update of H&S across the council.

Service Managers are responsible for ensuring that the requirements of the policy are fulfilled and that actions arising from water safety assessments, are resolved and implemented within recommended timescales.

Services are responsible for the risk assessment of any work activities on, over or around an open water site. These assessments must take account of the specific hazards and risks associated with the tasks.

Employees involved in any work activities on, in or around open water sites must follow the control measures specified in the associated risk assessments.

Generally, all employees have a duty to report any concerns regarding water safety to their Line Manager and the Council's H&S team immediately.

3.0 Statement of Intent

Stockton on Tees Borough Council recognises that good health and safety management supports the delivery of services to the people of Stockton.

This document underlines the Council's and stakeholder's commitment to upholding their responsibilities and obligations with regard to water safety by managing and providing, in so far as it is reasonably practicable to do so, safe places of work for its employees and contractors whilst providing reasonable steps to ensure visitors and invitees will be reasonably safe in using the premises for the purposes for which he is invited or permitted to be there.

One aim of the Council is to manage Council owned spaces in order to enable public enjoyment and activities to the full. In dealing with the design of public spaces, the Council will weigh up the benefits provided against any risk of harm with the objective of balancing positive attributes, against the inevitable risk of injury which any public space activity creates.

Stockton on Tees Borough Council recognises the conflicts arising between individual leisure users and the various permission providers, regulators and duty holders affecting users of publically accessible places and infrastructure, in helping to support, accommodate and to enable the important societal benefits including health and well-being benefits relating to improved quality of life and the recreational benefits to children and adults.

Stockton on Tees Borough Council does not support or approve the use of any area of open water for swimming or other in, or on-water recreational activities unless it is organised through a bona-fide organisation that have satisfied health and safety criteria.

Risk assessors shall be alert to consumer [paid for] leisure activities that can trigger statutory regulations imposing qualified duties to manage the risk inherent and should do everything that is reasonably practicable to ensure safety and to prevent people from being exposed to the risk of harm, whilst seeking to maximise positive social outcomes. The risk assessment methodology will be approved by the Council's Health and Safety Manager.

4.0 Legal Responsibility

Stockton on Tees Borough Council recognise that statute and common law place a range of duties upon relevant duty holders to ensure the safety of employees in so far as it is reasonably practicable to do so, whilst ensuring the reasonable safety of visitors and invitees for the purposes for which he is invited or permitted to be on Council owned or Council managed property over which the Council has some degree of control. These duties extend to stakeholders, partners and operators using or exposed to the bodies of water identified in **Appendix 1**.

Stockton on Tees Borough Council's commitment to effective health and safety risk management is articulated in the Council's Health and Safety Policy.

Various pieces of legislation place statutory duties on owners of inland water sites, or the person responsible for the site, to provide for the safety and the well-being of visitors, which include employees and members of the public. Both statute and common law have a relevance to the operation of inland waters.

In addition Stockton on Tees Borough Council recognise that Local By-Laws and Public Space Protection Orders may exist and be relied upon should enforcement action be necessary.

4.1 Statutory Health and Safety Requirements

The following principal legislation will be considered amongst others:

- Health and Safety at Work Act etc 1974
- The Management of Health and Safety at Work Regulations 1999
- Health and Safety (First Aid) Regulations 1981

- The Health and Safety (Safety Signs and Signals) Regulations 1996
- The Construction (Design and Management) Regulations 2015
- The Social Action, Responsibility & Heroism Act 2015
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013

The Health and Safety at Work etc Act 1974, places a general duty on employers with respect to the health, safety and welfare to persons at work. The Act also places a duty on employers to conduct their undertaking in such a way as to ensure, so far as is reasonably practicable, that people not in his employment are not thereby exposed to risks to their health or safety.

4.2 Civil Duty of Care

Occupiers Liability Acts 1957 & 1984 - In respect of the Occupier's Liability Act 1957, the common duty of care is to see that visitors will be reasonably safe in using the premises, noting that this duty does not extend to absolute safety, nor to eliminate nor minimise risk.

The law is not required to afford protection to the foolhardy or to the minority, to deprive or to interfere with their pursuit of the enjoyment of the liberties and amenities to which they are rightly entitled.

The duty incumbent upon the Council is to ensure the visitor will be reasonably safe in using the premises for the purpose for which he is invited or permitted to be there.

Where visitors use the premises contrary to their intended purpose, he may be regarded as a trespasser. In these circumstances, a duty should be discharged where the Council give warning of the danger concerned or to discourage people from taking that risk to avert injury. The aim of the Council is to manage Council owned public spaces in order to enable public enjoyment and activities to the full. Towards that goal, the Council will do everything that is reasonable to ensure the reasonable safety of visitors while seeking to maximise positive social outcomes.

4.3 Responsible Authorities

Other agencies have responsibilities for bodies of water beyond the scope of the policy.

For example:

- The Canal and River Trust
- PD Ports Ltd
- Marine and Coastguard Agency
- The Environment Agency

4.4 Exclusion Clauses

Civil liability can to some extent be passed on to a tenant or club, but some liabilities simply cannot be limited. A clause that purports to exclude liability for injury or death caused by a lack of reasonable care cannot be excluded (Unfair Contract Terms Act 1977).

River Tees Barrage and Upstream River Byelaws 1993 were introduced by the Teesside Development Corporation – Byelaw 14 states that “no person shall while using or while in, on or about the river or the banks thereof:- (b) knowingly bathe at any place where bathing is for the time being prohibited by the Authority, and so indicated by notice publically displayed”. Penalty on conviction is a fine not exceeding £1,000.00;

Byelaws for Good Rule and Government of the Borough – indecent bathing “no person shall within 200 metres of any street or public place, unless effectually screened from view, bathe from the bank or strand of any water, or from any boat thereon without wearing a dress or covering sufficient to prevent indecent exposure of the person”. Penalty on conviction is a fine not exceeding £50.00;

Byelaws relating to Country Parks and Picnic Sites in the Borough which covers specific areas as detailed by maps appended to the byelaw has a clause that “no person shall, without reasonable excuse, bathe or swim in any waterway comprised in the land, except in an area where a notice exhibited by the Council permits bathing and swimming”.

5.0 Provision of Off-Site Information

This section highlights the Council's commitment to providing safety information to staff and the public.

Stockton-On-Tees Borough Council understands that providing literature / information on water safety to both the public and staff can help in the prevention of accidents and drowning. The development of this information is key in order to prevent wherever possible, drowning and water related incidents.

The purpose of such information is to heighten people's perceived risk of open water and its surroundings to match that of the real risk.

Stockton on Tees Borough Council will provide the following information

- Website
- Residents Magazine
- Social Media Campaign
- Targeted Water Safety Campaign

6.0 On-Site Safety Provision

In order to assess the level of risk at each open water location within the confines of Stockton Borough, the Council will use a range of risk factors to categorise and prioritise locations including local site specific safety provision where it is deemed necessary.

These may include for example:

- Previous fatalities, incidents or near misses
- Proximity of open water to night time economy
- Proximity to open water to schools and colleges
- Proximity to open water of designated visitor attractions such as parks, play parks, picnic areas and nature reserves
- Proximity to open water to densely populated areas
- Known swimming, including open water swimming locations
- Known in water features that present additional risks, e.g. weirs and bridges
- Notification from the general public with concerns regarding water safety

6.1 Risk Assessment (categorisation of sites)

The Council recognises that the provision of appropriate and adequate training and information to employees and information and awareness to stakeholders and the general public, is key to the development of an effective water safety policy in order to prevent wherever possible, drowning and water related incidents. The nominated water safety risk assessor/s will attend appropriate training, with additional specific training for water related hazards such as weirs.

6.2 Future Design of Water Edges

In the development of any new sites containing water, appropriate design guidance needs to be taken into consideration to mitigate against the risks.

7.0 Staffing and Contractors

All SBC staff and contractors responsible for open water sites are required to implement the Council's Health and Safety Policy and to undertake suitable and sufficient risk assessments in relation to activities carried out in the vicinity of water.

The Council has produced a documented lone worker code of practice and all staff are required to consult this code of practice when developing their local procedures related to work at open water sites.

Working in the vicinity of water may trigger the need for a specific lone worker risk assessment.

8.0 Use of Open Water for Activities

Where a group or organisation wishes to use an area of water in the Council's responsibility for an event or activity, an application must be made to Stockton's Independent Safety Advisory Group (ISAG). This does not apply to normal arrangements of a club or group using the water by lease, license or any other formal agreement. Applications must be made at least eight weeks in advance of the proposed event.

The event organiser will be responsible for organising the event in line with the sites Normal Operating Procedures (NOP's) and Emergency Action Plans (EAP's). Risk assessments will be required for each event and will be checked by ISAG.

The responsibility for the implementation of the policy and for the approval of any water based events rests with the Council's Events Board.

The above only applies to areas of open water in the Council's responsibility as specified in **Appendix 1** for all other bodies of water approval should be sought from the appropriate body.

8.1 Acquisitions and Adoptions

Risk Assessment procedure would be applied to acquisitions, but protocol, procedure and review of Risk Assessments has as yet to be agreed.

Also need to add to this the creation of new waterbodies on our property (eg the creation of 30 new seasonal and permanent ponds as part of the Tilery Wood restoration programme of works (2016) and the water dependant habitat creation works by the Environment Agency at Hartburn (2018).

Following the approval of any policy document, a significant amount of work will be required to ensure that risk assessments and method statements are written for each watercourse that the Council has direct responsibility for. In addition, interaction is required with other stakeholders who also have additional responsibilities for watercourse safety to ensure that their documentation is also appropriate and adheres to required Health and Safety legislation.

It is therefore proposed that, following the sign off of the Water Safety Policy, that a small working group is established to oversee the completion of actions that arise from this Policy. It is proposed that ongoing discussions and liaison will be maintained with RoSPA to ensure appropriate levels of compliance although the bulk of the work will be completed by the group.

9.0 Recording and Reporting of Accidents

Where an employee sustains an injury or a near-miss as a result of a water related incident, reporting must be in accordance with the Council's procedures for accident, incident, ill health or near miss reporting.

Where a member of the public is involved in a water related accident or incident at a Council owned open water site and it is witnessed by a Council employee, the incident should be reported in accordance with Council's accident / incident reporting procedure.

List of SBC Owned Outdoor Leisure Water Sites

Principal sites with heavy public use and large amounts of water:

- Preston Park and Quarry Wood
- Stockton Riverside
- Cowpen Bewley Woodland Park
- Billingham Beck Valley Country Park
- Ropner Park
- Charltons Pond

Other sites include:

- Newham Grange Park
- Stillington Forest Park
- Wynyard Woodland Park inc Thorpe Wood Pond
- River Tees Sites in Thornaby including The Holmes, Bassleton Wood, Black Bobbies Field, Thornaby Riverside Path
- Bassleton Beck in Thornaby Wood and Ingleby Wood
- Teesdale Way inc Bowesfield footpath
- The Brickie Pond
- Hartburn Beck and Wetland at The Six Fields Site
- Honey Pott Wood
- Grangefield Park
- Oxbridge Community Garden
- Great North Park / Tilery
- Newport Woodland / former Incinerator site
- Harringtons Pond
- Stainsby Wood
- Barwick Pond
- Belasis Pond
- Greenvale Local Nature Reserve
- Yarm Viaduct Site
- Jubilee Bridge Wetland / riverside
- Old River Tees Path
- Cowbridge Beck (High Grange)
- Norton Duck Pond
- Daffodil Park
- Lustrum Beck tributaries (Roseworth / Hartburn etc)

Leased to Tees Valley Wildlife Trust:

- Hardwick Dene
- Elm Tree Wood

To be transferred to SBC:

- Yarm Wharf
- Roundhill

**Draft Water Safety Action Plan
(to be developed Stockton Water Safety Group)**

No.	Recommendation	Proposed Actions	Responsibility	Date
1.	A water safety policy should be drafted, presented and adopted by all services within the Council.			
2.	Establish who the duty holder is for all water assets owned by, or bordering Council land.			
3.	Budgets should be made available to implement controls which will deliver consistency in water safety across the portfolio. Consideration of resources for education and communication with key risk groups in the area should be included within this budget			

No.	Recommendation	Proposed Actions	Responsibility	Date
4.	Consider whether the existing human resource is sufficient to the work to be undertaken, with adequate resilience.			
5.	All water assets should be risk assessed individually using a consistent approach and by people who understand the hazards inherent.			
6.	Existing and future controls should be reviewed to ensure they are consistent across the portfolio			
7.	A process to ensure that assets being acquired have been risk assessed prior to being entered into the control of the Local Authority need to be implemented as part of the overall risk assessment strategy.			

No.	Recommendation	Proposed Actions	Responsibility	Date
8.	Consultation with Stakeholders on the Council's policy needs to be undertaken to ensure that first steps are taken on defining obligations and future actions			
9.	Discussions with key partners (for example the Safer Stockton Partnership) as to whether assessing reactive spending could be more productive for water safety if spent proactively on items such as CCTV equipment and monitoring.			
10.	Ensure that those that are risk assessing or inspecting water safety issues are competent to do so, this includes local groups and volunteers			
11.	Consider a programme of public education and/or communication on water safety	<ul style="list-style-type: none"> • Develop a Water Safety Web Page • Provide water safety information drowning statistics teacher lesson guides • Prepare Communications and Media Campaign <ul style="list-style-type: none"> ○ Stockton News ○ Case Studies ○ Videos ○ Social Media ○ Targeted campaigns 		

No.	Recommendation	Proposed Actions	Responsibility	Date
12.	Develop Stocktons Risk assessment process			
13.	Develop Stockton Water Safety Working Group	Members <ul style="list-style-type: none"> • Flood Risk Management Team • Greenspace • Community Services • Health and Safety • CaRT • RUG • Operator • Community Safety 		
14.	Agree a consistent approach on intervention measures			
15.	Develop an appropriate water safety training plan for employees and volunteers			

