



KHM Portsmouth Enforcement Policy

Enforcement Policy

The King's Harbour Master Portsmouth (KHM), as the authority responsible for superintending the Dockyard Ports Regulation Act 1865 in the Dockyard Port of Portsmouth, has a responsibility to ensure that all who navigate in the port area may do so without danger to life or property and a commitment to comply with the measures set out in the Port Marine Safety Code. KHM achieves this through the rules and regulations set out in the Dockyard Port of Portsmouth Order 2005 (DPPO); General and Special Directions made under powers conferred from the order; and, national legislation including the international Regulations for the Prevention of Collisions at Sea. These are published and made publicly available on the KHM website at www.royalnavy.mod.uk/KHM/portsmouth. This policy sets out the nature of the rules and regulations used to govern safe navigation within the Dockyard Port limits and the policy for enforcing them.

The DPPO and supporting Directions apply throughout the limits of the Dockyard Port of Portsmouth, which includes all of the waters of Portsmouth Harbour and a large proportion of the eastern Solent. The DPPO is made up of Schedule 1 (Regulations to be observed) and Schedule 2 (Rules to be complied with). General Directions set out additional rules and may apply for a discrete period or be standing until incorporated into the DPPO. In addition, KHM, together with delegated staff including KHM Patrol and Harbour Control personnel, are able to give Special Directions to vessels or persons within Dockyard Port limits to deal with matters that are of immediate concern and will normally be a verbal instruction to one or more users requiring immediate direction.

Any person who fails to observe the regulations set out in Schedule 1 of the DPPO or comply with Schedule 2 of the DPPO, General Directions, or Special Directions shall be guilty of an offence and liable on summary conviction in the Magistrates Court to a fine not exceeding Level 3 (up to £1,000) on the standard scale depending on the offence. The Maritime and Coastguard Agency (MCA) may also consider investigating incidents under the Merchant Shipping Act 1995 or other national legislation; offences under this legislation carry penalties that far exceed those applicable to KHM's legislation.

Principles of Enforcement

To assist in the management of marine operations, the preservation of public safety, security of His Majesty's Naval Base Portsmouth and Ministry of Defence (MOD) vessels, and the protection of the environment, enforcement action will sometimes be necessary. It is recognised that most port users will seek to comply with the law and local practice. KHM will, where possible, help users to meet their legal obligations without unnecessary expense while taking firm action, including prosecution where appropriate, against those who allegedly flout the law or act irresponsibly.

KHM will provide information and advice in plain language on the rules that apply in the Dockyard Port of Portsmouth and will disseminate these as widely as possible. Legal powers will be used proportionately and appropriately to safeguard and improve public safety, security, and the environment.

KHM's staff will consider dialogue, education and persuasion in dealing with those who allegedly contravene Orders or Directions. Where a criminal offence has allegedly been committed the further

option of prosecuting the alleged offender is available. KHM will minimise the costs of compliance for users by ensuring that any action taken will be proportionate to the risks.

KHM staff will carry out their duties in a fair, equitable and consistent manner. They will seek to be clear, open and helpful in their approach to enforcement.

KHM will seek to target enforcement resources in areas of greatest need, which will be based on risk assessment, incident reporting and KHM's Navigation Safety Policy, Plan and Objectives. Regular liaison with other local enforcement agencies will take place and joint working will be considered to resolve particular issues as they arise.

Enforcement Action

Enforcement action can take the form of:

- Verbal Warning – education by KHM Staff should they observe a contravention of the Directions.
- Formal Written Warning – written warning from KHM or staff, setting out the manner in which the Directions have been breached and the implications should the recipient re-offend.
- Prosecution in the local Magistrates Court.
- A combination of any of the above.

Consideration of Action

Prosecution is a serious step and must be regarded as the ultimate sanction. A prosecution will be initiated when the alleged offender's conduct has been such that KHM cannot impose an appropriate sanction and that the alleged offence warrants the attention of the Magistrates.

KHM is committed to assisting other enforcement agencies, including the police, to pursue their statutory duties. KHM will liaise with any enforcement agency that may also have an interest in any matter being considered for prosecution. The Ministry of Defence Police Marine Unit (MDP MU) may lead on investigations and prosecutions through the Crown Prosecution Service on behalf of KHM where appropriate, as may any other appropriate harbour or council authority for whom there is an interest in pursuing prosecution.

When investigating alleged offences, KHM Staff will always explain the purpose of the stop, visit or interview. Each case will be considered on its individual merits and a prosecution will only be initiated in accordance with this policy.

In addition to KHM's policy, due regard will also be given to the Code for Crown Prosecutors. Legal advice will be sought prior to making a prosecution to establish that the case is 'sound'. Any decision to initiate a prosecution will be recorded in writing and the reasons for initiating the action will be given. Any investigation by KHM staff will be conducted pursuant to the Police & Criminal Evidence Act 1984 and the relevant Codes of Practice. Where applicable, best practice will be observed as set out in national guidelines issued by such bodies as the Department for Transport (DfT) and/or the MCA.

In addition to the criteria set out in this policy, the Ministry of Defence Police Marine Unit (MDP MU) may choose to commence enforcement action, including consideration of prosecution, particularly where the actions of an individual or vessel have presented a threat to the security of HM Naval Base, vessels or other Ministry of Defence (MOD) assets. The MCA may also seek to investigate and when appropriate prosecute where a contravention of national legislation has been alleged.

KHM recognises that once a prosecution has been commenced, control of the matter is ceded to the Courts and Criminal Justice System.

Enforcement Factors

In considering the appropriate enforcement action, KHM will take into account the following:

- The seriousness of the alleged offence;
- Whether an absolute liability offence has been committed (i.e. breach of exclusion zones);
- The risk of harm to the public and others;
- The public interest;
- The level of disruption or inconvenience caused to other harbour users;
- The explanation of the alleged offender;
- Whether the alleged offender has obstructed officers in the pursuance of their functions;
- Whether the matter is a recurrence;
- Whether there have been any other contraventions of the DPPO, General Directions or other relevant legislation by the alleged offender;
- The willingness of the alleged offender to take action to prevent a recurrence of the incident;
- The action taken by the alleged offender to mitigate damage or loss to others;
- The availability of witnesses; and
- The sufficiency of evidence.



N J Randall
King's Harbour Master Portsmouth

27 September 2023