BRITISH PORTS ASSOCIATION



Harbour Orders

Proposals for Reform in England

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The British Ports Association is the national trade body for UK ports and harbours. Our members handle 86% of the UK's seaborne trade and support other important maritime activity from offshore energy to fishing and marine tourism and leisure.

Purpose & Authors

This paper has been developed by the British Ports Association following the work of a small working group convened to consider how the Harbour Order regime could be made more effective, proportionate and capable of supporting the modernisation of UK ports. The group brought together experienced legal professionals from the maritime sector with industry representatives and identified the principal areas for reform. The BPA has developed those discussions and subsequent workstream contributions into the proposals set out below for further legal and industry consideration. **The BPA is grateful to those below who contributed their time and expertise.**

The immediate focus of this paper is the Harbour Revision Order (HRO) and Harbour Empowerment Order (HEO) regime as administered by the Department for Transport (DfT) and Marine Management Organisation (MMO) in England. Some of the recommendations would require amendment of the Harbours Act 1964 and may therefore have wider implications for Scotland and Wales, which would need to be considered with the devolved administrations. Scotland also provides useful examples of different approaches to elements of the Harbour Order process. Northern Ireland operates under a separate legislative framework and is not considered in detail.

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Summary & Recommendations

The current Harbour Order process is not working satisfactorily. MMO's own guidance advises applicants that a Harbour Order can take **four to five years** from receipt to determination, even for relatively straightforward applications to modernise powers that will often use similar language and clauses.

Government rightly expects statutory harbour authorities to ensure that their powers are fit for purpose. The British Ports Association agrees. Many harbour authorities operate under legislation accumulated over decades, and in some cases considerably longer. Changes in port operations, marine safety, commercial structures, energy, technology and the wider economy mean that statutory powers periodically need to be modernised.

However, modernisation should not itself be an exceptional, multi-year and prohibitively expensive exercise. Ports currently obtain HROs not only for major works, changes to harbour limits or genuinely novel statutory powers, but also to acquire or update powers that have already been accepted for numerous other harbour authorities. This creates unnecessary cost for applicants and unnecessary demand on a specialist government process.

There are also clear problems with the administration and delivery of Harbour Orders. In February 2026, the Department for Transport and Marine Management Organisation introduced a prioritisation framework in response to the significant caseload and delays. The industry welcomed prioritisation as a necessary short-term measure, particularly where delay could affect safety, port viability, nationally important infrastructure or investment. It must, however, be temporary. A system in which important applications require exceptional prioritisation simply to secure timely treatment is itself evidence that the normal process is not functioning as it should. Prioritisation also changes the order of the queue; by itself it does not increase throughput or reduce the backlog.

This paper proposes reform across three broad areas:

- immediate measures to clear the existing backlog and improve the management of current applications
- improvements to the Harbour Order process for applications which genuinely require statutory provision, and
- longer-term reform to reduce the number of Harbour Orders required at all, by providing harbour authorities with a more modern and consistent statutory toolkit.

Bespoke local legislation should remain necessary for genuinely local matters, including the creation of new statutory harbours, changes to

jurisdiction and harbour limits, significant works, constitutional provisions, compulsory acquisition and novel powers materially affecting public or private rights. That bespoke process should not be burdened with matters that can reasonably be dealt with through a simpler route.

Principles for reform

The BPA considers that reform should be guided by five principles.

1. **Harbour modernisation should be routine, not exceptional:** Government policy and good governance require harbour authorities to maintain appropriate statutory powers. The legal framework should make it straightforward for responsible authorities to do so.

2. **Local application does not necessarily require local substance:** Harbour limits, works and local impacts should continue to require bespoke treatment. Standard operational, regulatory and commercial powers do not necessarily need to be individually legislated for.

3. **Standardise the standard and scrutinise the exceptional:** Established provisions should not repeatedly consume the same government and legal resource. Detailed scrutiny should be concentrated on novel powers, departures from accepted precedent, unresolved objections and material impacts on third parties.

4. **Proportionality must apply to process as well as outcome:** A routine, uncontested modernisation HRO should not pass through essentially the same administrative machinery as a complex works order involving environmental assessment, compulsory acquisition or significant objections.

5. **The current queue must be treated as a temporary problem to be cleared, not a permanent condition to be managed:** The prioritisation framework and other exceptional measures should have a clear exit point, supported by a system capable of dealing with future applications within reasonable timescales.

Recommendations

The BPA recommends that Government pursue the following package. More details on each of these proposals can be found in subsequent sections.

Table 1: Summary of Recommendations

ID	Recommendation	Route
Modernising the process		
A1	Remove routine Parliamentary laying	Legislative
A2	Make greater use of standard clauses and precedent	Administrative
A3	Modernise the handling of objections and examinations	Legislative
A4	Better integrate Harbour Orders and marine licensing	Legislative
A5	Modernise the statutory framework	Legislative
A6	Make the process digital, transparent and predictable	Administrative
A7	Introduce service standards and clearer case ownership	Administrative
Reducing demand		
B1	Establish a common statutory baseline for harbour authorities	Legislative
B2	Set a timetable for byelaw confirmation	Administrative
B3	Provide a simpler route for transfers of harbour undertakings	Legislative
B4	Ensure existing applicants benefit from reform	Administrative
Clearing the backlog		
C1	Maintain an accurate record of the live caseload	Administrative
C2	Undertake a one-off triage of every live application	Administrative
C3	Create a dedicated, time-limited backlog recovery team	Administrative
C4	Complete applications which are already substantially ready	Administrative
C5	Resolve recurring legal and drafting issues once	Administrative
C6	Agree a way forward on stalled applications	Administrative
C7	Report progress transparently	Administrative
C8	Set a clear end point for backlog recovery	Administrative

These reforms should be treated as a single programme rather than sequential exercises. Improvements to case management and backlog recovery can begin immediately, while the legislative reforms required to remove unnecessary procedural stages and reduce future demand are developed in parallel. The measure of success should ultimately be that fewer Harbour Orders should be necessary, and those which remain necessary should be capable of being obtained within a reasonable and predictable timeframe.

Background & Core Challenges

A system under increasing strain

Harbour Orders remain an important part of the statutory framework for ports. Harbour Revision Orders allow the legislation governing an existing harbour to be amended, while Harbour Empowerment Orders are principally used to establish or empower new harbours and harbour authorities. They provide an appropriate mechanism where genuinely local statutory change is required, including changes to harbour limits, significant works and bespoke powers.

The problem is not the existence of Harbour Orders, but the extent to which the current regime has become slow, resource-intensive and increasingly unsuited to routine statutory modernisation. It is also being asked to perform too many different functions: major works and substantial changes to statutory jurisdiction can pass through essentially the same underlying system as comparatively straightforward applications to update the powers of an existing harbour authority.

Harbour Orders take too long to deliver

MMO guidance advises applicants that a Harbour Order can take four to five years from receipt to determination. That is an exceptionally long period for any regulatory process and is particularly difficult to justify where an application concerns routine modernisation rather than contentious development or significant changes to third-party rights.

Delay can occur at several stages. MMO advises that its full pre-consultation review may itself take more than three months following initial validation. Front-end scrutiny is valuable where it identifies issues early, but applicants need greater certainty about what is required, which issues remain outstanding and when the application will move to the next stage.

Long and uncertain timescales create costs well beyond the legal fees associated with preparing an application. They can delay investment, affect project sequencing and financing, and postpone changes required for the safe or efficient operation of a harbour.

A process that does not sufficiently distinguish between applications

The current framework does not adequately differentiate between relatively straightforward statutory modernisation and complex Harbour Orders involving major works, environmental impacts, compulsory acquisition or substantial unresolved objections.

Much of the process is necessarily drafting-intensive, but provisions which have already been accepted in numerous recent Harbour Orders can nevertheless be subject to repeated negotiation and legal review. This consumes scarce specialist resource both within Government and among applicants.

There should be greater scope to standardise established provisions and concentrate detailed scrutiny on what is genuinely novel, contentious or locally significant.

Objections should be resolved proportionately

Consultation and the ability of affected parties to object to Harbour Orders are important safeguards. The issue is not the existence of objections, but whether the process provides sufficiently proportionate ways of resolving them.

In England, there is a significant gap between continued correspondence and the comparatively formal machinery of a hearing or public inquiry. Previous Harbour Order cases have demonstrated that inquiries can add very substantial cost and delay for applicants. They should therefore be a last resort, used where there are genuinely complex disputes of fact, significant impacts on rights, or issues that require evidence to be tested orally.

Where objections concern questions of law, policy or relatively narrow factual issues, Government and MMO should be prepared to determine those matters without automatically escalating them to an inquiry. A public inquiry should not become a substitute for the decision-maker reaching a difficult or potentially contentious conclusion.

The legislation should allow objections to be considered through written representations before escalation to a hearing or inquiry where necessary. This would allow objections to be tested and resolved fairly, while ensuring that the most costly and time-consuming procedures are reserved for cases that genuinely require them.

Some procedural requirements add delay without proportionate benefit

Certain procedural requirements also warrant modernisation. Harbour Order applications are still subject to statutory publication requirements centred partly on newspaper and other print-era notices. The objective of ensuring that harbour users, affected communities and other interested parties are properly informed remains important, but digital publication and targeted notification can now often achieve that more effectively.

More significantly, English Harbour Orders are currently subject to a further Parliamentary laying stage after the substantive application and determination process has been completed. MMO advises that securing a laying date can itself add at least three months, depending on the Parliamentary timetable.

We do not consider routine Parliamentary laying to provide sufficient additional scrutiny to justify retaining it for ordinary Harbour Orders. This is therefore an area where legislative reform should remove a procedural stage rather than merely seek to administer it more efficiently.

The backlog is evidence of a wider delivery problem

The scale of the current difficulties is demonstrated by the introduction of the DfT/MMO Harbour Order prioritisation framework in February 2026 in response to a significant caseload and longer waits.

The BPA welcomed the framework as a pragmatic short-term response. Where delays threaten safety, port viability, nationally important infrastructure or significant investment, it is right that Government should be able to identify applications requiring particular urgency.

However, prioritisation cannot be a permanent solution. It determines which applications move towards the front of the queue but does not, by itself, increase the rate at which applications are completed. Accelerating one case can simply increase the delay experienced by another. The need for a prioritisation system is therefore also an indication that the normal Harbour Order process is not delivering within reasonable timescales.

The objective should be to clear the existing backlog and return to a position in which exceptional prioritisation is no longer routinely necessary.

There is not yet sufficient transparency over the full pipeline

It is also difficult for industry and Government to assess the scale and causes of delay because there is no complete public picture of every application within the system.

The public Harbour Orders register represents an important improvement, but applications which have been submitted and remain at the pre-consultation stage do not normally appear on it, subject to the relevant EIA arrangements. This means that the published register does not show the whole pipeline or allow users to understand how long applications are spending at each stage.

Better information about the number, age and status of applications would improve accountability, allow recurring bottlenecks to be identified and make it possible to measure whether reforms are succeeding.

The system generates avoidable demand

Improving MMO performance alone will not resolve the underlying problem. There is also a structural issue with the number of Harbour Orders the system is expected to process.

The statutory powers of individual harbour authorities are still heavily dependent on their own local Acts and Harbour Orders. Authorities consequently begin from very different statutory positions depending on the age and history of their legislation. Powers which are routine for one modernised harbour authority may be unavailable to another unless it obtains a further HRO.

Government encourages harbour authorities to keep their powers under review, and the industry supports that objective. Indeed, the Ports and Marine Facilities Safety Code expects harbour authorities to review their legal powers and obtain additional powers where necessary to meet their marine safety obligations. But the present arrangements can make statutory modernisation a costly exercise lasting several years. Harbour authorities should not routinely have to commission bespoke local legislation simply to acquire powers which Government has already accepted as appropriate for comparable ports.

This creates a self-reinforcing problem: the more ports seek responsibly to modernise their legislation, the greater the demand placed on an already constrained Harbour Order process.

Reform therefore needs to address both sides of the equation. The applications which genuinely require Harbour Orders need to be processed much more quickly and proportionately, while the number of matters which require a bespoke Harbour Order in the first place should be reduced.

The remainder of this paper sets out some potential solutions to the challenges we have identified across three main areas:

- Modernising the Harbour Orders process
- Reducing future demand for Harbour Orders
- Clearing the current backlog of applications

A. Modernising the Process

The Harbour Order process remains an important mechanism for ensuring that changes to statutory harbour powers are properly scrutinised and that affected parties have an opportunity to be heard. However, the process has accumulated requirements over time and is now often disproportionately lengthy, costly and complex, particularly for straightforward or uncontroversial applications.

The Government and Marine Management Organisation (MMO) have already taken steps to improve the administration of Harbour Orders. In February 2026, a new prioritisation framework was introduced to allow qualifying applications to be progressed more quickly towards a parliamentary laying date. This is welcome, but prioritisation can only determine which applications move through the existing system first. It does not address the underlying design of that system.

A wider review should therefore consider how the statutory process itself can be modernised, while retaining appropriate safeguards, transparency and opportunities for objection. There may also be scope for closer administrative alignment between Harbour Order and marine licensing processes where both are required for the same project. Where applications are being considered in parallel, Government and the MMO could align consultation, environmental information and decision-making as far as the respective statutory regimes allow, avoiding unnecessary duplication for applicants and consultees. As proposed in A4 below, this should include allowing Harbour Orders to incorporate deemed marine licences, following the approach already available for Development Consent Orders and, more recently, Transport and Works Act Orders.

Our specific recommendations for modernising the harbour orders process are:

A1. Remove routine Parliamentary laying

Once an application has been examined and a decision has been taken to make the Order, Harbour Orders in England are still subject to the negative resolution procedure. MMO guidance states that obtaining a laying date can take at least three months and that the timing depends on the Parliamentary calendar.

Routine Parliamentary laying should be removed from the Harbour Order process. Most orders concern the powers, governance, limits or works of an individual harbour and have already been subject to statutory consultation and determination by the competent authority. Parliament does not routinely consider individual Harbour Orders on their merits, and

the additional laying stage therefore adds time without normally adding substantive scrutiny.

There is already a useful precedent in Scotland, where the majority of Harbour Orders are made by Scottish Ministers without reference to the Scottish Parliament. Parliamentary scrutiny is reserved for orders authorising projects considered to be of national significance.

Government should examine two routes to removing routine Parliamentary laying for Harbour Orders in England. If the MMO continues to make the orders, section 54 of the Harbours Act 1964 should be amended to remove the routine negative procedure for those orders. Alternatively, Government should consider amending the delegation arrangements so that the Secretary of State makes the orders. DfT should assess which route would bring orders into force most promptly once the substantive issues have been settled. This reform should not remove any separate Parliamentary procedure required in exceptional circumstances, such as Special Parliamentary Procedure.

A2. Make greater use of standard clauses and precedent

A significant amount of legal and administrative resource can be spent reconsidering provisions which have already been accepted in recent orders. This can create unnecessary delay and, where similar provisions are negotiated differently from case to case, uncertainty for applicants.

DfT and MMO should work with the BPA and industry and government legal professionals to develop and maintain a publicly available, version-controlled library of standard clauses, model provisions and relevant precedent. Where an applicant adopts established wording for a provision which has already been accepted in comparable circumstances, the starting point should be that the wording does not require substantive reconsideration unless there is a material difference in the local circumstances or legal context.

Applicants would still need to explain why a provision is required and consultation on its local effect would remain necessary. The purpose would be to concentrate detailed legal scrutiny on departures from precedent, genuinely novel powers and provisions which raise material local issues, rather than repeatedly reopening drafting that Government has already accepted.

This could largely be implemented through guidance and administrative practice and should therefore form part of the short-term programme of improvements to the Harbour Order process. Similar approaches to standard and model provisions are already used in the Development

Consent Order and Transport and Works Act Order regimes, providing a useful precedent for a more consistent approach to Harbour Orders.

A3. Modernise the handling of objections and examinations

Consultation and the ability of affected parties to object to Harbour Orders are important safeguards. The issue is not whether objections should be heard, but whether the process provides sufficiently proportionate ways of resolving them.

In England, there is currently a significant gap between continued correspondence and the comparatively formal machinery of a hearing or public inquiry. Public inquiries can add substantial cost and delay for applicants and should therefore be a last resort, reserved for cases involving genuinely complex disputes of fact, significant effects on rights, or issues which require evidence to be tested orally.

Where objections concern questions of law, policy or relatively narrow factual matters, the determining authority should be expected to reach a decision on those issues without automatically escalating the application to an inquiry. A public inquiry should not become a substitute for Government or the MMO taking a difficult or potentially contentious decision.

The legislation should therefore provide a clearer hierarchy of examination methods. Written representations should normally be the first formal step where objections remain unresolved, with issue-specific hearings available where oral discussion or testing of evidence would materially assist. A full public inquiry should be used only where the nature or complexity of the outstanding issues genuinely warrants it.

Recent reforms to the Transport and Works Act regime under the Planning and Infrastructure Act 2025 provide a useful precedent. These include changes to the circumstances in which objections trigger a hearing or public inquiry, supporting a more proportionate approach to the examination of applications. A similar approach should be adopted for Harbour Orders.

A4. Better integrate Harbour Orders and marine licensing

Port development can require both a Harbour Order and a marine licence. Although both processes may be administered by the MMO in England, they remain legally separate. Current MMO guidance expects applications for a works Harbour Order and a marine licence to be submitted together where both are required.

There is an opportunity to go further and provide applicants with a genuinely integrated consenting process. Government should legislate to make clear that Harbour Orders may, where appropriate, include provision

deeming a marine licence to have been granted. While there may already be scope to do this under existing legislation, explicit provision would remove uncertainty. Development Consent Orders can already include deemed marine licences, and section 44 of the Planning and Infrastructure Act 2025 has extended this approach to Transport and Works Act Orders. There is no obvious justification for treating Harbour Orders differently.

This would not reduce environmental or other procedural safeguards, but would avoid applicants, regulators and consultees having to address substantially the same project through overlapping statutory processes. Where a deemed marine licence is not appropriate, Government and the MMO should still seek to coordinate applications, consultation, environmental assessment and decision-making wherever possible.

A5. Modernise the statutory framework

Any legislation brought forward to reform the Harbour Order regime should also take the opportunity to modernise the substantive framework in the Harbours Act 1964.

Section 14 and Schedule 2 were enacted more than sixty years ago and define the purposes for which Harbour Revision Orders may be made and the objects which their provisions may address. They have proved sufficiently flexible to accommodate considerable change in the ports sector, but inevitably reflect the circumstances and expectations of the period in which they were drafted.

Legislation amending the Harbour Order regime should therefore include a review of section 14 and Schedule 2 to identify any gaps or ambiguities which unnecessarily constrain the ability of harbour authorities to obtain powers appropriate to modern port operations. Particular consideration should be given to whether the existing framework adequately accommodates developments in energy infrastructure, decarbonisation, digitalisation, security and resilience.

The objective should be to ensure that the framework remains sufficiently broad and flexible to accommodate future changes in port operations and infrastructure. This should not be taken as a proposal to impose new general statutory duties on harbour authorities. Any changes to existing obligations, including environmental duties, should be considered separately and subject to appropriate consultation.

A6. Make the process digital, transparent and predictable

Modernisation should address the administration of the system. The MMO's public Harbour Orders register, relaunched in its current form in May 2026,

provides a useful central record of applications once they reach the relevant stage of the process.

The MMO should develop the register with applicants and consultees, starting with the information they most often have to request from case officers: the current stage, the latest documents and the next expected action. Any facility for submitting documents or responses should replace an existing step and allow information already supplied to be reused.

The Harbour Order remains a flexible and valuable mechanism. Reform should preserve its ability to tailor statutory powers to individual harbours while removing procedural requirements that no longer add commensurate value. A faster, more proportionate and predictable process would reduce costs for ports and government alike and make it easier for harbour authorities to keep their statutory powers aligned with modern operational, safety, environmental and investment requirements.

A7. Introduce service standards and clearer case ownership

Applicants currently have too little certainty about how long individual stages of the Harbour Order process should take, what issues remain to be resolved and when their application is expected to move forward. Long overall timescales are compounded by periods in which there may be limited visibility of progress or responsibility for the next action.

DfT and MMO should introduce published service standards for the principal stages of the Harbour Order process. Each application should have a named case lead, a clear list of outstanding issues following validation and pre-application review, and an agreed target for the next significant milestone. Applicants should be able to understand both what is required of them and what they can reasonably expect from the decision-maker.

These standards should establish a clear expectation that applications will be determined substantially more quickly than the four to five years currently indicated in MMO guidance. The existing timescales are increasingly difficult to reconcile with Government's wider ambitions to accelerate infrastructure delivery and investment.

Performance reporting should distinguish between time within Government's control and periods when an application is legitimately paused while information is provided by the applicant, objections are addressed or a related statutory process is completed. This would provide a fairer and more useful measure of performance than a single undifferentiated end-to-end timescale.

These changes should be introduced administratively as part of the immediate improvement programme. Government should also commit to

reviewing performance against the new standards after an appropriate period. If they do not produce a sustained improvement in timeliness and predictability, statutory time limits should be introduced for key stages of the process, with clearly defined circumstances in which the clock may be stopped.

B. Reducing Demand

Reforming the Harbour Order process will improve the handling of future applications, but process reform alone will not resolve the underlying problem. Government should also consider why so many Harbour Orders are required in the first place. Many Harbour Orders are sought simply to modernise the powers or constitutional arrangements of a harbour authority, without authorising any new development or harbour works. These applications should not necessarily require the same level of scrutiny as orders authorising major infrastructure projects.

The powers of statutory harbour authorities remain heavily dependent on the particular Acts and Orders applying to each harbour. Authorities therefore begin from very different statutory positions according to the age and history of their legislation. A power available to one harbour authority as a matter of course may require another to obtain an HRO, even where substantially the same provision has already been accepted by Government elsewhere.

Recent Harbour Orders illustrate the extent to which modernisation can involve recurring packages of familiar powers. There will always be matters which are genuinely specific to an individual harbour and justify bespoke local legislation. However, there is little public benefit in repeatedly using a process that can take several years simply to confer substantially standard powers on individual harbour authorities.

B1. Establish a common statutory baseline for harbour authorities

Government should legislate to provide harbour authorities with a modern set of generally available statutory powers. The precise legislative model should be developed through further consultation with industry but could take the form of either a defined statutory baseline of common powers or a broader general enabling power, such as a general power of competence, supported where necessary by specific provisions and safeguards.

Local legislation would continue to establish the authority, define its harbour and jurisdiction and contain provisions which are genuinely particular to that harbour or its geographical circumstances. The general statutory framework would instead provide powers which have become an ordinary part of running and developing a modern harbour.

Substantially similar powers now recur often in modern harbour legislation, including general powers for the management, operation, improvement and development of the harbour; appropriate powers relating to land; the ability to establish subsidiaries and participate in joint ventures and other commercial arrangements; borrowing and financial powers; the provision

of energy and related services; harbour directions; and byelaw-making powers. These are generally not controversial and should form part of a common baseline of powers available to harbour authorities without going through a four to five year harbour revision order. They are summarised in *Table 2*, below. Access to these powers is increasingly important for harbour authorities seeking to accommodate offshore wind development, port electrification and other changes in the operation and commercial use of ports.

The legislation should be sufficiently broad to accommodate the changing role of ports without requiring repeated statutory amendment as business models and technologies develop. At the same time, appropriate safeguards would need to reflect the different legal and governance arrangements applying to private, trust and municipal harbour authorities. Existing planning, environmental, competition, energy and other regulatory regimes would continue to apply.

The powers required by harbour authorities have also changed as the role of ports has developed. Modern ports are major landowners, infrastructure providers and centres for logistics, industry and energy as well as places for the loading and unloading of vessels. Harbour authorities may therefore need to manage land and property, establish subsidiaries or joint ventures, raise finance, invest in infrastructure and procure or provide energy in ways which were not contemplated when much of their underlying legislation was enacted.

The working group identified a number of powers which now recur in modern harbour legislation and which should be considered for general application. These are summarised below.

Table 2: Baseline powers for ports

Powers	What it should enable	Safeguards and limitations
General management and development	Take steps reasonably connected with the maintenance, operation, improvement, management and development of the harbour and its undertaking; provide facilities and support activities connected with the harbour.	Powers should remain connected to the harbour undertaking and should not disapply separate planning, environmental, marine or other consenting requirements.
Land	Acquire and hold land by agreement; use and develop land for harbour purposes; manage, develop or dispose of surplus land, including for appropriate non-harbour purposes.	General powers should not confer compulsory acquisition powers. Existing planning requirements and appropriate safeguards applying to the development of port assets should remain
Companies, joint ventures, and commercial arrangements	Form and participate in companies and joint ventures; acquire or dispose of interests; enter commercial arrangements and provide services connected with the harbour undertaking.	Existing company, public-law and governance obligations should continue to apply, recognising differences between private, trust and municipal harbour authorities.
Borrowing and security	Borrow for harbour-authority purposes and provide appropriate security over assets and revenues.	Powers should operate subject to any relevant prudential, governance or statutory restrictions applying to the particular type of harbour authority.
Energy services	Generate, procure, distribute or supply energy for harbour users; develop and operate associated energy networks and infrastructure, including shore power and alternative fuels; and make charges for the provision of such energy and services.	Powers should sit alongside energy regulation, competition law and existing safety and environmental controls and should not create unnecessary exclusivity.
Harbour and general directions	Give general directions for the safe and efficient management of the harbour, covering the activities of harbour users as well as the movement and management of vessels, without first obtaining a bespoke HRO.	Directions should relate to the authority's statutory harbour functions. A common framework should provide for consultation with affected users, publication and a procedure for considering objections.
Byelaws	Make, amend and revoke harbour byelaws relating to the management, safety and operation of the harbour, without requiring a bespoke HRO to obtain the underlying byelaw-making power.	Existing consultation and objection rights should be retained. Where ministerial confirmation is required, DfT should publish a target timescale for its decision.

It may not be appropriate or necessary for every statutory harbour authority automatically to receive every power set out above. The legislation could therefore combine a common core of powers with standard additional powers or packages capable of being conferred through a simpler mechanism. This might be achieved through designation by the Secretary of State or a straightforward opt-in procedure for qualifying harbour authorities. Section 40A(4) of the Harbours Act 1964 already provides a precedent for a designation mechanism, albeit for the more limited purpose of conferring harbour direction powers.

Once Parliament has determined that a particular power is an appropriate standard power for harbour authorities, or a particular sub-set of them, individual ports should not need to commission bespoke drafting and undertake the full HRO process simply to acquire the standard provision.

This would retain Government oversight where appropriate while substantially reducing the amount of drafting, consultation and regulatory resource required. An HRO would remain available where an authority required something materially different from the standard package.

A more consistent statutory framework would also provide greater certainty for investors and commercial counterparties, particularly those unfamiliar with the different statutory arrangements applying to individual harbour authorities. This could reduce legal due diligence and transaction costs, and help facilitate the commercial partnerships and investment required for offshore wind, port electrification and other major infrastructure projects.

Legislation will need to address how these generally available powers interact with the existing local Acts and Harbour Orders applying to individual authorities. As a general principle, the new framework should supplement existing powers rather than remove any more extensive powers already held by individual harbour authorities. New powers should be available without an authority having to obtain a further HRO because its historic legislation contains no equivalent power, or expresses a similar power more narrowly. Legislation could therefore include appropriate application, savings and precedence provisions, preserving existing statutory duties, safeguards and genuinely local restrictions while making clear that the new general powers may be exercised notwithstanding older provisions which would otherwise prevent or unnecessarily limit their use. The detailed drafting will require further consideration, but the objective should be to avoid creating a new general power which remains constrained by existing legislation.

Harbour and General Directions

Designation under section 40A of the Harbours Act 1964 already gives harbour authorities a straightforward route to obtaining harbour direction powers. DfT should continue to make designation available and process applications promptly. The existing Code of Conduct should continue to apply to the exercise of harbour directions.

The gap is access to wider powers of general direction. A harbour authority may need to regulate activities on the quayside or elsewhere in the harbour where they affect the safety of users or the operation of the harbour. Government should make a standard general direction power available to qualifying harbour authorities, with consultation and objection arrangements appropriate to its wider scope. An authority should need a bespoke HRO only where its local circumstances require materially different powers.

As part of introducing generally available statutory powers, Government should make clear which matters should continue to require bespoke Harbour Orders. These should be matters whose substance is genuinely particular to an individual harbour, rather than powers which could reasonably be made generally available to harbour authorities.

These are likely to include the creation of a new statutory harbour or harbour authority; changes to statutory harbour limits or jurisdiction; significant harbour works requiring statutory authorisation; compulsory acquisition; significant bespoke changes to governance; novel regulatory powers materially affecting third-party rights; and cases where other legislation needs to be modified or disapplied specifically for an individual harbour.

These are the types of matters for which a locally focused statutory process, consultation and appropriate Government scrutiny remain justified.

The distinction should therefore be between local application and local substance. The fact that a power is exercised by an individual harbour authority within a particular harbour does not mean that the underlying statutory power itself needs to be recreated through bespoke legislation for every port.

The result should be fewer HRO applications, more tightly focused on the genuinely local changes requiring statutory treatment, allowing specialist Government and legal resource to be concentrated where bespoke scrutiny adds value.

B2. Set a timetable for byelaw confirmation

Byelaws remain useful where a harbour needs standing rules that apply generally to its users. The proposal in B1 would give qualifying harbour authorities access to a common byelaw-making power. A separate and more immediate issue is the time taken to confirm byelaws made under existing powers.

DfT should publish a target timescale for confirming harbour byelaws. On receipt, it should tell the authority whether it needs any further information and when a decision can be expected. If an objection or other issue affects that timetable, DfT should explain what remains to be resolved and provide a revised date.

There is precedent for simplifying byelaw-making procedures. Reforms introduced in England in 2016 allow local authorities to make certain byelaws without individual ministerial confirmation, subject to an alternative approval and consultation procedure. Government should consider whether similar reforms would be appropriate for harbour byelaws.

B3. Provide a simpler route for transfers of harbour undertakings

A further category worth addressing is the transfer of an existing statutory harbour undertaking from one legal entity to another.

Government oversight of such transfers remains justified. Statutory powers and public duties need to pass lawfully to the new authority, and there must be clarity over the continuation of existing byelaws, directions, liabilities and other statutory arrangements.

However, where the underlying harbour regime is not otherwise changing, the full HRO process may be disproportionate. Recent transfers at Fleetwood and Silloth were implemented through a transfer-of-undertaking HRO in 2026, while a similar mechanism was used at Teignmouth in 2017.

Government should therefore establish a simpler route for cases in which an existing harbour undertaking is transferred substantially unchanged to another appropriate body. This could include a generally available statutory transfer power, subject to appropriate safeguards and ministerial consent where necessary, or a short-form approval procedure. The process should concentrate on the suitability of the proposed successor and the legal continuity of the undertaking, rather than requiring settled statutory powers and duties to be reconsidered.

There is already precedent for such arrangements. Article 46 of the London Gateway Port Harbour Empowerment Order 2008 provides powers to dispose of or transfer the whole or part of the undertaking, generally subject to the Secretary of State's consent. Government should consider

whether an equivalent safeguarded power could be made more widely available to harbour authorities without requiring individual HROs.

A full HRO would remain available where a transfer forms part of wider changes to the harbour's powers, jurisdiction, governance or statutory arrangements.

B4. Ensure existing applicants benefit from reform

The introduction of general powers should also benefit harbour authorities which already have HRO applications in progress.

Once new standard powers come into force, DfT and MMO should review live applications to identify provisions which have become unnecessary. Applicants should be able to remove those provisions without reopening consultation or assessment of unrelated parts of the application.

Where the sole or principal purpose of an application has been superseded by the new statutory toolkit, the applicant should not be required to complete an unnecessary Harbour Order simply because the application predates the reform.

This transition will also assist with the existing backlog. Reducing the content of live applications, and in some cases removing the need for them altogether, would release regulatory and legal capacity for cases which continue to require bespoke determination.

The wider objective is a system in which Harbour Orders are used because the proposed statutory change is genuinely specific to the harbour, not simply because an authority's historic legislation happens to lack a power which Government already regards as normal for a modern port.

B. Clearing the Current Backlog

Reforming the Harbour Order process and reducing future demand will help prevent the present problems recurring, but neither will resolve the large stock of applications already within the system. The existing backlog therefore requires a separate, time-limited recovery programme.

The February 2026 prioritisation framework is a sensible response to applications involving particularly urgent issues. However, prioritisation determines the order in which cases are considered; it does not by itself increase the number of applications completed. Unless overall throughput increases, moving one application forward can simply increase the delay experienced by another.

The objective should therefore be to reduce the overall stock of outstanding applications to a sustainable level, rather than establish increasingly elaborate arrangements for managing a permanent backlog.

C1. Maintain an accurate record of the live caseload

DfT and the MMO should use the caseload review as the baseline for backlog recovery. The MMO should keep the record up to date, including applications received but not yet shown on the public register. For each application, it should record the stage reached, any outstanding issue, the next action and who is responsible for it.

The record should distinguish cases awaiting action by Government, the applicant or a third party, and identify orders ready for a decision or laying. This would allow DfT and the MMO to direct resources to the stages where cases are waiting longest and report progress against the baseline.

C2. Undertake a one-off triage of every live application

The MMO should use its review of the caseload to identify what each live application needs to reach a decision, who is responsible for the next step and when it is expected to take place.

Applications with no material issues outstanding should move promptly to completion. Where the applicant needs to provide further information, the MMO should bring together its outstanding questions where practicable and agree a reasonable timetable for a response.

Where objections remain unresolved, the MMO should identify the next step available under the existing statutory procedure and give the applicant a timetable. For complex applications, the MMO and applicant should agree a case plan with a named lead and dates for the main stages.

Where an application seeks standard powers covered by the reforms proposed in section B, the MMO should discuss with the applicant whether it wishes to proceed with those provisions or revisit them once the reforms take effect.

C3. Create a dedicated, time-limited backlog recovery team

Clearing the backlog should not simply be added to the existing workload of the officials already responsible for progressing new applications.

DfT and MMO should establish a dedicated, time-limited Harbour Orders recovery team with a named senior responsible owner and sufficient legal and casework capacity to drive older applications to completion. The working group's earlier work identified the potential use of additional departmental and government legal resources, secondments and external legal or drafting support where appropriate.

This is particularly important because Harbour Order expertise is specialist and limited. The same small pool of officials should not simultaneously be expected to manage new applications, clear a historic backlog and implement significant reform of the wider system without additional capacity.

The recovery team should work alongside, rather than replace, normal case handling. Otherwise there is a risk that concentrating resources on the backlog simply creates a new backlog among applications submitted during the recovery period.

C4. Complete applications which are already substantially ready

The recovery programme should continue to give priority to orders ready for completion. Where consultation is complete, objections have been resolved or determined and drafting is substantially settled, the MMO should identify the remaining legal or administrative steps and give the applicant an expected decision date. The recovery team should operate against clear production and completion targets so that the programme is measured by orders completed and the net reduction in the caseload, not simply by activity undertaken.

While routine Parliamentary laying remains a statutory requirement, DfT should also agree a rolling forward programme of laying dates with Parliamentary business managers, allowing MMO to work backwards from known opportunities rather than seeking a laying date only once an individual order reaches the end of the process. This should be a transitional measure only: the wider reform proposed in this paper is to remove routine Parliamentary laying rather than make it a permanent feature of the improved system. The original workstream similarly proposed moving

ready cases forward in batches and regularising laying opportunities pending wider reform.

C5. Resolve recurring legal and drafting issues once

The backlog also provides an opportunity to identify issues which are repeatedly consuming legal resource across several applications.

Where Government has reached a settled position on a standard clause, safeguard or legal interpretation, that issue should not routinely be reopened in subsequent applications unless there is a material difference in the facts or law. DfT and MMO should maintain an issues and precedent log and use the recovery programme to populate the standard clause and precedent library proposed earlier in this paper.

Where several applications are being delayed by the same legal or policy issue, Government should consider that issue collectively rather than requiring it to be resolved independently between different applicants and case officers.

This would both accelerate existing cases and ensure that the experience of clearing the backlog produces a permanent reduction in repetitive work.

C6. Agree a way forward on stalled applications

Where a long-running application has no agreed next step, the MMO or the applicant should be able to request a short meeting to settle what remains outstanding. The parties should confirm which provisions are still sought, who will take each remaining action and the expected timetable.

C7. Report progress transparently

The backlog recovery programme should have clear measures of success and Government should report regularly on progress. Performance information should include the total number of live applications, their age and stage, the number awaiting Government, applicant or third-party action, the number of orders made or applications withdrawn, and the resulting net change in the caseload. It should also show how long applications are spending at the principal stages of the process. The earlier workstream proposed a recovery dashboard based on broadly these measures.

This is important because simply reporting that individual priority cases have progressed would not demonstrate that the underlying backlog is being cleared. The principal measure should be whether the total stock and age of outstanding applications are falling towards a sustainable level.

Regular reporting would also help identify whether particular procedural stages or recurring legal issues continue to constrain throughput and therefore require additional reform.

C8. Set a clear end point for backlog recovery

The recovery programme should be explicitly temporary. Government should define at the outset what constitutes a sustainable business-as-usual caseload and set an objective for returning the system to that position. Once that point has been reached, temporary recovery resources should either be withdrawn or transferred into a permanent operating model capable of meeting the service standards proposed elsewhere in this paper.

The backlog should not become an accepted feature of the Harbour Order regime, nor should prioritisation become the normal means by which applicants secure a reasonable timetable.

Success should mean that the exceptional recovery arrangements are no longer necessary: new applications can be dealt with within reasonable and predictable timescales, priority status is genuinely exceptional, and the number of outstanding cases remains within the capacity of the normal system.

Next Steps

The reforms proposed in this paper should be taken forward as a single programme, but they do not all depend on the same route or timetable. A number of improvements to case management, transparency, standardisation and backlog recovery can begin within the existing statutory framework. In parallel, the BPA believes that work should begin on the legislative changes needed to modernise the Harbour Order regime and reduce the number of applications required in future as soon as possible.

The immediate next step should be for the BPA, Department for Transport, Marine Management Organisation and relevant legal and industry experts to consider the proposals in this paper and identify an agreed programme of administrative and legislative reform. This should include further development of the proposed common statutory baseline for harbour authorities and the detailed safeguards and transitional arrangements that would be required.

The eventual legislative vehicle should remain open. Reform could be taken forward through any available legislative route. The BPA is ready to work in a constructive and open manner with DfT, harbour authorities and legal experts to ensure that the eventual proposals are workable in practice and command broad support.

Administrative reform and recovery of the existing caseload should not wait for legislation. DfT and MMO should be able to begin work on service standards, case ownership, the standard clauses and precedent library, improved information about the live caseload and a structured backlog recovery programme while legislative proposals are developed in parallel.

Where amendments to the Harbours Act 1964 have implications beyond England, the relevant devolved administrations should be engaged as the legislative proposals are developed.

Reform should ultimately be judged by outcomes rather than the number of individual procedural changes made. Fewer Harbour Orders should be necessary; those which remain necessary should be focused on genuinely local or bespoke statutory change; and applications should be capable of being determined within reasonable and predictable timescales. The prioritisation framework and exceptional backlog recovery measures should then be able to return to what they ought to be: temporary arrangements for genuinely exceptional circumstances rather than permanent features of the Harbour Order system.

Table 3: Indicative timeline for reform

Timing	Action
Immediate: first 3 months	Agree the reform programme with DfT and the MMO. Use the caseload review to agree priorities for completion and a baseline for reporting progress. Begin work on service standards, case ownership and the standard clauses and precedent library. The BPA should convene industry and legal experts to develop the proposed statutory baseline and other legislative reforms.
Short term: 3–6 months	Review progress on backlog recovery and publish the first report against the baseline. Agree next steps with applicants where cases remain stalled. Introduce the administrative improvements, settle the principal policy choices and prepare legislative proposals. While Parliamentary laying remains necessary, agree a forward programme for orders ready to be laid.
Medium term: 6–12 months	Finalise draft legislative provisions following engagement with Government, industry and other affected interests. Identify and pursue an appropriate legislative vehicle, whether Government legislation or a Private Member's Bill. Continue backlog recovery and publish performance against the new service standards.
Legislative implementation (subject to Parliamentary timetable)	Secure the necessary amendments to the Harbours Act 1964 and associated provisions. Develop any secondary legislation, guidance, standard powers or designation arrangements required for commencement.
Following commencement	Review every live Harbour Order application against the new statutory framework, removing provisions or applications which have become unnecessary. Assess whether service standards are delivering sufficiently timely and predictable determinations and consider statutory time limits if they are not. Transition temporary backlog resources once the caseload has returned to a sustainable business-as-usual level.