

WHAT ARE TRUST PORTS?



A British Ports Association briefing paper
January 2021

INTRODUCTION

Trust ports are a particular type of port model in the UK and this briefing is designed to provide a short overview of what they are and how they operate. Trust ports come in a wide variety of sizes and locations around the UK. There is often confusion as to who owns trust ports and how they should operate, and we have attempted to explain some of their characteristics. The trust port model has stood the test of time, although the sector has gone through a process of modernisation. The result is a diverse and successful group of ports that is both popular with government, employees, stakeholders and importantly customers.

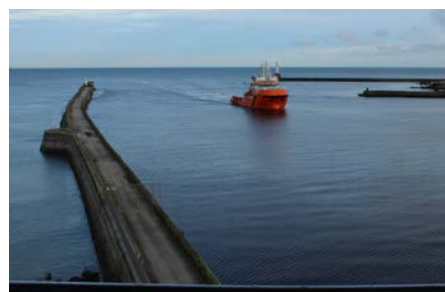
The British Ports Association is the national association for ports and harbours, representing ports that handle 86% of the UK's maritime trade as well as a host of ports that provide vital hubs for the maritime, energy, fishing, leisure and tourism sectors. The Association represents 53 trust ports around the UK and all of these have high standards of governance.

UK PORT OWNERSHIP AND PUBLIC ACCOUNTABILITY

There are three main types of Statutory Harbour Authorities (SHA) in the UK – private ports, municipal ports and trust ports, as well as a handful of smaller ports owned by parts of government. No two ports are the same, but all have various duties and responsibilities. Private or 'privatised' ports have equity owners or shareholders and municipal ports are owned by local authorities. Trust ports are slightly different and often need explaining to both those outside but also inside our sector.

Trusts are both strategically and financially independent of Government and operate largely in the private sector, although they are 'publicly accountable' to their stakeholders. Their accounts are fully audited and are typically published annually and their income is derived from their statutory functions and commercial operations. In terms of ownership, trust ports own themselves and can't be owned by another body without a major legal change. There is a common misconception that trust ports are owned by government, but this is incorrect.

Although they aspire to be open and transparent organisations, as commercial organisations trust ports are not subject to the Freedom of Information Act (with some minor exceptions in Northern Ireland) and therefore they have no legal obligation to divulge information to the public.



Also trust port board and other meetings are not typically open to the public or government officials. This is because like many other businesses, trust boards manage business and operational issues covering their financial, commercial, strategic and personnel responsibilities. However, trusts often hold annual public events, provide online information resources and publish their strategies and annual reports.

REVENUES AND FINANCE

Trust ports have powers to raise revenues by levying dues and charging for the use of port facilities. They operate on a commercial basis, pay taxes and, except in a very small number of cases where there is specific local legislation, receive no systematic public subsidies other than those which are, on occasion, made available, to all ports. Whilst operating in a commercially viable manner, any profit (surplus) trust ports make are reinvested back into the port for the development of its own business activities and are also used for the benefit of stakeholders. A broad definition is applied to trust port stakeholders which can include port users, employees and the local community. As independent bodies, trust ports do need to be prudent and ensure they have sufficient funds to continue to operate, maintain and invest in their assets. Unlike ports that are owned by parent companies or local authorities, trust ports do not have a 'funder of last resort' and there is certainly no obligation to provide a financial dividend to local communities or any tier of government.

PURPOSE AND INVESTMENT

The expression 'trust port' is not statutorily defined but may best be described as referring to a body created by or under statute for the purpose of managing a harbour that does not have a share capital. Trust ports, in the same manner as ports with a share capital, enter into a variety of vital commercial transactions with lenders and other commercial parties. Trust ports generally find that any investment proposals are assessed by lenders on the same basis as proposals from any other businesses. Lenders take into account the same factors it would normally including cash flow, balance sheet and the overall strategic direction of the business.

There are a wide variety of trust ports across the UK, in terms of both the size and type of operation. Some trust ports are primarily conservancy authorities, meaning they perform the basic but essential function of maintaining a safe harbour, whereas others undertake wider port operations. In all cases surplus revenues are recycled back for the benefit of the harbour and its stakeholders.





POLICY

Ports policy for all SHAs in England sits with the Department for Transport. The Wales Act 2017 came into effect in April 2018 which means that ports policy for Wales (excluding the Port of Milford Haven) has now been devolved to the Welsh Assembly Government. Ports policy responsibility for Scotland and Northern Ireland is also devolved and responsibility sits with Transport Scotland and the NI Department for Infrastructure respectively. Across the UK, ports policy for all sectors of the ports industry is characterised as competitive, market-led and independent of government. UK ports policy also supports the industry's mixed ownership.

LEGISLATION

Trust ports and all UK SHAs are governed by their own individual legislation, such as harbour acts and/or orders, specific to their location and with differing constitutions. To amend such legislation all types of port must apply to their relevant part of

government with a proposal. In England, the Harbour Revision Order process is through the Marine Management Organisation, while Scottish ports go to Transport Scotland. In Wales, with the exception of Milford Haven, orders are overseen by the Welsh Government. Unlike the rest of the UK, in Northern Ireland the NI Executive Government actually undertakes the drafting of the Order.

GOOD GOVERNANCE

The government only has limited 'powers' over trust ports, and indeed all types of SHAs, and is not a 'regulator' of the sector as such but will investigate complaints. However, the Department for Transport and Transport Scotland have produced their own guidelines for trust port governance but these are not legally binding. In March 2018, the Department for Transport published 'Ports Good Governance Guidance' which applies to all Statutory Harbour Authorities in England and contains specific detailed guidance for trust ports. Transport Scotland's equivalent is 'Modern Trust Ports for Scotland' and we expect the Welsh Government to follow suit in publishing guidance due course.

It is expected that all trust ports in England and Scotland follow these guidelines where practicable, but where they do not, they should be able to explain why they have been unable to do so. It is acceptable for stakeholders to raise with the port itself why they might not have, for example, attempted to update their own legislation and structures.

BOARD APPOINTMENTS

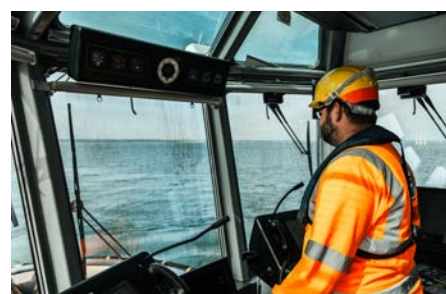
Arrangements for the composition and membership of trust port boards is usually specified in its own Harbour Order. Following various government reviews in England and Wales, appointees to trust boards must now be made on the basis of skills and being fit for purpose, rather than by representative appointment by named bodies or a particular stakeholder group, except where there is particular local legislation that specifies this.

This is to enable trusts to run as successful commercial businesses so that the port asset can be handed on to future generations in a suitable state. Some trusts previously experienced challenges having customers on their boards as it creates conflicts of interest, so modern trusts have now removed these risks and reviewed any historic geographical representative board positions as was prevalent in previous centuries.

As mentioned, in the Ports Good Governance Guidance, trust port boards have a duty to ensure that new board appointees are provided with clear information and receive appropriate training to enable them to undertake their role effectively. Training could take the form of individual or tailored activities at the port, or trust port board briefing sessions which we organise jointly with either the Department for Transport or Transport Scotland from time to time. We also hold Port Marine Safety Code Duty Holder briefing sessions for all our members.

In England and Wales, for historical reasons, the Secretary of State for Transport retains rights of non-executive director appointments to five trust boards, each with differing numbers. Scottish trusts do not have central government appointments, while in Northern Ireland the Executive Government appoints all the non-executive board members of the three main trusts, Belfast, Londonderry and Warrenpoint.

However, as with all trust non-executive board members, regardless of how they are appointed, these board members are in no way representatives of the government. They are responsible for their own port and advised to act in accordance with governance guidelines and in the best interests of the trust, and not as delegates.

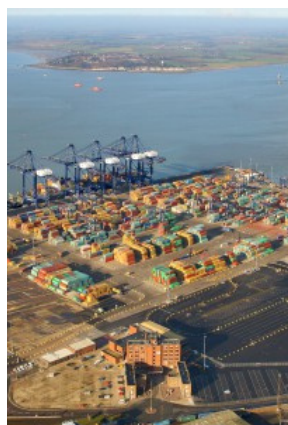


TRUST PORTS THAT ARE A MEMBER OF THE BRITISH PORTS ASSOCIATION

The diverse list of trust UK trust ports we represent is below. Given our role promoting governance and regulatory understanding, membership of the British Ports Association is typically a strong indicator of good port governance. Our member ports of all ownership type and size uphold high standards and our trust members have looked to embrace modern governance rules on board appointments and commercial procedures in accordance with government guidance.

We do not speak on the behalf of those trust ports that are not on the list below and very much encourage them to join the British Ports Association as a member so they can be kept informed of relevant policy developments, attend our free training sessions, events and working group meetings, plus much more.

- Aberdeen Harbour
- Belfast Harbour
- Berwick Harbour
- Port of Blyth
- Bridlington Harbour
- Brightlingsea Harbour
- Cattewater Harbour
- Chichester Harbour
- Coleraine Harbour
- Cowes Harbour
- Port of Cromarty Firth
- Dart Harbour
- Port of Dover
- Eyemouth Harbour
- Falmouth Harbour
- Fowey Harbour
- Foyle Port
- Fraserburgh Harbour
- Great Yarmouth Port Authority
- Harwich Haven Authority
- Inverness Harbour
- King's Lynn Conservancy Board
- Lancaster Port
- Langstone Harbour
- Lerwick Port
- Littlehampton Harbour
- Port of London Authority
- Lymington Harbour
- Mallaig Harbour
- Maryport Harbour
- Port of Milford Haven
- Montrose Port
- Neath Port Authority
- Newlyn Harbour
- Newport Harbour
- Peterhead Port
- Poole Harbour
- Saundersfoot Harbour
- Scrabster Harbour
- Shoreham Port
- St Andrews Harbour
- St Margaret's Hope
- Stornoway Port
- Tarbert (Loch Fyne) Harbour
- Teignmouth Harbour
- Tobermory Harbour
- Port of Tyne
- Ullapool Harbour
- Warrenpoint Harbour
- Wells Harbour
- Whitehaven Harbour
- Wick Harbour
- Yarmouth (IOW) Harbour



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