


OBAN HARBOUR GROUP CONSULTATION MEETING

18 JULY 2018 – CORRAN HALLS – 1800

<u>Present</u>	<u>Title and Company</u>
Lorna Spencer (LS)	Director of Harbours and Piers, Caledonian Maritime Assets Ltd (CMAL)
David McHardie (DM)	Harbour Master, Caledonian Maritime Asset Ltd (CMAL)
Phil Day – Chair (PD)	Director of Marine Operations, Northern Lighthouse Board (NLB)
Ewen Mackerchar (EMK)	Marine Operations Manager, Northern Lighthouse Board (NLB)
Jim Smith (JS)	Head of Economic Services, Argyll & Bute Council (A&BC)
Vicki MacKenzie (VMK)	Harbour Master, Argyll & Bute Council (A&BC)
Paul Jennings (PJ)	Manager, Oban Bay Management Group (OBHMG)
Mhairi Wren (minutes)	Operations Assistant, Northern Lighthouse Board (NLB)
<u>List of abbreviations</u>	
CMAL	Caledonian Maritime Asset Ltd
NLB	Northern Lighthouse Board
A&BC	Argyll & Bute Council
OBHMG	Oban Bay Management Group
Cal Mac	Caledonian MacBrayne
SHA	Statutory Harbour Authorities
GHA	General Harbour Authority
MCA	Maritime & Coastguard Agency
OHDG	Oban Harbour Development Group
POCG	Port of Oban Cruise Group
HRO	Harbour revision order
PMSC	Port Marine Safety Code
<p>Approximately 70 members of the public were present for the meeting</p> <p>Paul Jennings discussed the history so far and delivered a presentation to present an argument for the creation of an Oban Harbour authority Group.</p> <p>A copy of this presentation can be found below:</p> <div style="text-align: center;">  <p>Public meeting presentation 18 7 18</p> </div> <p>Phil Day stated that from an NLB perspective the intention of this group is working towards getting the safest harbour we can achieve in Oban and trying to find the most pragmatic way to deliver the Harbour authority in Oban. He stated that he is quite aware of the communities desire to have trust port but as everyone can see the management group is quite clear that if a trust was created and wanted to take on the harbour role at a later date they would be more than willing to</p>	

pass that responsibility over, but just now the NLB and the management group believe this is the most appropriate way to the way to get the harbour in safe state in the quickest possible way.

QUESTIONS

<p><u>Question - Andrew Spence (AS) – Chief Executive of Bid 4 Oban</u> <u>Answer – Lorna Spencer (LS) Director of Harbours and Piers, (CMAL)</u> <u>Answer – Paul Jennings (PJ) Oban Bay Management Group Manager (OBHMG)</u></p>	
<u>AS</u>	<p>Andrew read a short statement – “On behalf of Bid 4 Oban, Oban and Lorn Tourism Alliance, Port of Oban Cruise Group (POCG) we are concerned at the short notification give to all parties for this meeting, we did not get dates confirmed until the 3rd of July, and the event was not advertised in the press until the 12th of July, some 6 days ago. It was only when the notice appeared in the Oban Times that we aware that this was to be a public meeting and not a meeting for the business community which had previously been agreed with Paul Jennings. Given that this is one of the busiest times of the year for businesses and the short notice of this meeting we do not see this as effective consultation although it is good to see tonight’s turn out. The time of this tonight’s meeting at 6pm is not appropriate for many businesses and the hospitality industry or other sectors within Oban, can you please give us an assurance that there will be another public and business meeting at a later date”.</p> <p>Looking at the slide before that, it appears there will be a further consultation and then we go to draft proposal, then the draft goes in, then there will be an opportunity to comment on it. I think the feeling within the room here is there needs to be a lot more consultation with a lot of the shore bases businesses with Oban and wider community.</p>
<u>LS</u>	<p>We do appreciate and recognise that this was a short notice. Paul had approached businesses for meeting with the business community, however there was further documentation issued from one of the parties that stated it was to be a public meeting.</p>
<u>AS</u>	<p>Myself and Linda Battison were responsible for the press releases which went out to the business community and Oban and Lorn Tourism Alliance and at no time was it mentioned that it was a public meeting.</p>
<u>PJ</u>	<p>Paul Jennings stated that the information came from social media and the press which cited it was a public meeting.</p>
<u>LS</u>	<p>Information had been released stating that it was a public meeting the partners in the group jointly decided to make the meeting public. It was felt that due to the information out there it was the correct decision to change it from a business meeting to a public one, however the group would be happy to meet with the business separately at a later date.</p>
<u>AS</u>	<p>We was advised that it was a meeting solely for business during his meeting with Paul Jennings on the 22nd June and there would be a public meeting at a later date so that’s quite incorrect.</p>

<p><u>LS</u></p>	<p>There was concern due to there being information in the public domain stating that it was a public meeting and it was felt the meeting should be made public due this.</p>
<p><u>CC</u></p> <p><u>LS</u></p>	<p><u>Question - Colin Crawford (CC) – Local Boat Owner</u> <u>Answer – Lorna Spencer (LS) Director of Harbours and Piers, CMAL</u></p> <p>The finances were mentioned during the presentation stating that CMAL would fund the project but it wasn't mentioned where these finances were coming from. Are all the users having to contribute to this or is it government funding?</p> <p>At the moment CMAL fund the harbour operation through their contract with Calmac Ferries Ltd as their harbour operator. The cost sharing for the work of the OBMG that has been undertaken over the last 10 including Paul's salary is currently shared between CMAL, NLB and A&BC which has been a shared project for all the cost incurred so far. Going forward there is a minimal cost on top of what we already do as far of our function to increase the responsibility of the local port services so there will be a cost of a conservancy fee that will be payable however the detail of how we do that, or the quantum of it, is not clear at the moment, however you can see from the documents that have been issued so far, which can be viewed on the website, the incremental costs are not significant and it would be shared across all commercial environments rather than just leisure. If you consider the number of calls of different types of commercial vessel the distribution of cost will be majorly through commercial vessels, the proposal would be that there is a marginal conservancy fee paid by all commercial operators, the finer details have yet to be calculated at this time, but I don't believe that it will be applied to the leisure industry.</p>
<p><u>LB</u></p> <p><u>JS</u></p>	<p><u>Question - Linda Battison (LB) – Oban and Lorn Tourism Alliance</u> <u>Answer - Jim Smith (JS) Head of Economic Services, A&BC</u></p> <p>Paul mentioned in his presentation that A&BC had actively declined to take on the responsibly for the harbour revision order (HRO), as I understand it, Vicki as Harbour Master and you have a new assistant Harbour Master coming on board, you have all the existing legislation in place, or can create a new bylaw to undertake whatever remedial action is required to improve the safety of the bay, I'm not entirely sure why A&BC have washed their hands of the situation</p> <p>There was report taken to the Argyll and Bute Harbour Board of the 28TH January this year and what came from that was the Harbour Board decided that the best option, of the 7 options that were looked at, the best one to take forward would be CMAL taking the lead as the single harbour authority providing that didn't have any issues with access to the North Pier so there are a number of caveats to be placed on that and those caveats need to be addressed as part of the consultation process. Essentially the councils policy position is that CMAL as the busiest operator, with the operation of the majority of vessels, through Cal Mac, were best placed to manage the bay and on that basis, provided there is unfettered access to the North Pier the councils Harbour Board at that time was satisfied, subject to</p>

	<p>various consultations and various safeguards around that provision. That's the current position, the detail needs to be drawn out, we need to understand exactly what the harbour provision order will look like and what implications, if any, there may be for the council. Those will then go back to appropriate parties for the council to determine.</p>
<p><u>FG</u></p>	<p><u>Question – Fergus Gilanders (FG) – Previously Assistant Harbour Master, A&BC</u> <u>Answer – Phil Day (PD) Director of Marine Operations, (NLB)</u></p> <p>Fergus stated that he didn't have a question but this statement was based on his knowledge on the situation.</p> <p>The council has a statutory duty to consider Oban Harbour as a local asset, to manage it and run it on behalf of all stakeholders, whether it is in the statutory legal position to say what we just heard, I challenge. I also challenge the fact that neither of the two bodies we saw on the slide, that are Statutory Harbour Authorities (SHA) have any statutory authority in the areas shown on that chart, on the contrary, there is statutory and legal jurisdiction and legislation which makes the general Harbour of Oban, which has been in existence since the late 1800's, as the SHA for the wider area of the general harbour of Oban, and that area excludes the two areas we saw on the chart. So we have switched this thing round since 2008 180 degrees, so we should not be considering now whether one agency should extend an SHA as agreed by the other, we should be talking about current General Harbour authority of Oban and the legislation that supports it and how we then take that are, which extends from the Dog Stone to the Brandy Stone to extend out and cover the North Channel, which is the fundamental safety issues which is at the heart of this process. Safety itself is not the most important consideration for a GHA, it is one of many, and if you look at the appropriate safety code and all the appropriate legislation it represents less than half, well less than half, of all the legislation that covers conservancy, dredging, anchorage, etc. and we are missing the point that the safety issue and the incorrect application of the legislation is driving us down a path which is invalid and fraudulent. I feel we need to look at the stakeholder consultation on that basis, rather than on the basis of what we have heard so far in this presentation because the options that were raised in the report by Fisher Associates (†) in 2010 were invalid from the word go, so I will leave and I plead with everyone to bear these thoughts in mind before we take this issue of consultation any further.</p> <p><u>PD</u> Thank you very much for your comments. The legal position of the harbour is that, and it is certainly very interesting going through the legislation and the variety of acts which have been created over the years, when we started this process 8/10 years ago one of the first things we did was get legal counsel on what the statutory position of the harbours were. The opinion that was given to the whole group was that these two harbour areas do exist, there might be another legal opinion to say they don't, at the moment we are working on the legal opinions that we were given at that time which state that these harbour areas do exist. If that wants to be challenged, then that is something that could be done, at the</p>

	<p>moment however the legal views that we received from the council was that they do exist.</p>
<p><u>DM</u></p>	<p>Statement - Duncan Martin – Chairman Oban Bay Community Berthing</p> <p>You referred to the fact that this process has been ongoing for quite some time, back in 2012 what was then the Oban Harbour Development Group (OHDG), its terms of reference advised that other stakeholders should be invited to join this small group that put together this code of practice. Until about six months ago there were no members of the wider stakeholder participating in the Oban Bay Management, although there are now, at the time when this decision was taken, I say decision in inverted comma's, as I don't believe the management group has the power to make such decisions, it is quite ultra vires for them to make such a decision, they can make a recommendation, but they can't make a decision. At the same the development group was advised of the difficulties that other ports, whether or not Harbour Authorities, the group were required to demonstrate how it would improve safety, all stakeholder have their own interests, and therefore an independent harbour authority would be desirable. That was the view in 2012, it remains my view now, this is Oban's harbour, and not CMAL's harbour, and must never be CMAL's harbour.</p> <p>Paul referred to in his presentation the idea of a hybrid, joint council which would be "bizarre and untested", I would suggest that a harbour, an open access multi user harbour, run by one of its users is also untested and does not exist anywhere else, it would be bizarre, Clyde Port Authority doesn't running shipping services, most of the other port harbours throughout the width of Scotland either belong in some cases to the council or they are harbour trusts. Oban would be unique in having this big harbour run by one of its users. There would be severe governance issues in doing that and therefore major delays in trying to set it up. We must have a harbour authority, independent of any of the users and put together by all the stakeholders, now I am well aware that is a very serious business, being a harbour authority is not playing at anything. There are legal responsibilities, it has taken Tobermory ten years, I'm sure we could advise from them, but I'm sure the people of Oban would have set up several community groups at one point or another i.e. Atlantis Leisure, Rockfield, Oban Phoenix Cinema and so on, are quite up to creating a harbour authority and seeking good professional advice from those able to provide it, like CMAL and the council, and as far as the council officials have signed up to various things, I'm not sure the "council" has. I believe the local councillors are very much of the view that this is Oban's harbour that must be run by the people of Oban, or representatives of the people of Oban for all the users of the harbour, not just for CMAL.</p>
<p><u>RW</u></p>	<p>Question – Ross Wilson – Resident and Yacht Owner Answer - Lorna Spencer (LS) Director of Harbours and Piers, CMAL</p> <p>Who manages the other harbours which Cal Mac go into, for example Craignure, who is the Harbour authority for those?</p>
<p><u>LS</u></p>	<p>It is a very mixed arrangement across the whole Cal Mac network, there are some Trust Ports, private, municipal and CMAL harbour authorities, and for example Craignure is Argyll & Bute Council, whereas Coll and Tiree are CMAL. There are many nested authorities within Clyde Port, so having a nested wider authority is not unusual, there is a number of examples of that across the UK. There are many trust ports which have been set up by a group of local</p>

	<p>individuals who establish themselves as an organisation and applied to be a statutory Harbour authority.</p> <p>A link to the Ports of Scotland website where an inclusive list of all Port and Harbour Authorities in Scotland can be found - http://www.portsofscotland.co.uk/links/ (2)</p>
<u>RW</u>	<p>As I understand it then Argyll and Bute Council are the harbour authority for Craignure, do they charge fees for Cal Mac using it and if so does that contribute towards the cost of running it and if that is the case why would that not apply here i.e. cover the costs for example, the council being the Harbour authority, not that I'm suggesting that's the answer, I'm just talking money.</p>
<u>LS</u>	<p>The council do charge Cal Mac for using all there facilities across the network, along with all the other councils. Cal Mac ferries pay harbour dues and charges, some which cover conservancy, some conservancy charges are separate, across a network of ports that they service in Scotland, for example in Clyde Port they pay a separate conservancy and pilotage fee, and in Argyll & Bute Council area Cal Mac pay fees to sit alongside the North Pier, a harbour authority can't function without charging the customers.</p>
<u>RW</u>	<p>In the case of the A&BC costs, did that make allowance for the receipts that they will get from providing that service or is that a straight cost?</p>
<u>LS</u>	<p>All the comparisons were costs</p>
<u>RW</u>	<p>So it doesn't take accounts of receipts that A&BC would charge if they were the harbour authority?</p>
<u>LS</u>	<p>It also doesn't take account of what CMAL charge Cal Mac as the harbour authority.</p>
<u>RW</u>	<p>So in other words those quoted costs need to be detailed and analysed very carefully because they seem to be presenting a false picture.</p>
<u>LS</u>	<p>They are presenting a direct cost of providing a conservancy service, they don't reflect the revenue which you might get for the conservancies but bearing in mind that CMAL also charge Cal Mac ferries charges to berth alongside our piers as well</p>
<u>RW</u>	<p>What I think we need is a detailed breakdown of these costs and figures as they all seem to be up in the air from what we are hearing now.</p>
<u>LS</u>	<p>It has been suggested that we have an independent report done on the costings which we are quite happy to consider, our challenge is that we can appoint an independent person to look at it but whether it is accepted as an independent report we don't know. The figures that we presented are based on our own investigations and have been supported by the group, the additional costs to A&BC were prepared by A&BC, the additional costs that it would cost CMAL to provide the service was identified by CMAL. We are happy to have a look at providing an independent report. Establishing a Trust port, the best example you have locally is the Tobermory Harbour Association, who are now established as a trust port, I know they have found that far harder and far more expensive than they ever thought it</p>

	would be, but we are happy to look at some independent reporting on that if that's was is required.
	<p><u>Question – Phil Hamilton – Sailor</u> <u>Answer - Lorna Spencer (LS) Director of Harbours and Piers, CMAL</u></p> <p><u>PS</u> Following up that point in trying to respond to the survey online I found it impossible to understand where the figures had come from, the one figure that I really do want to know is how many harbour users are there given the changes that have been seen over the last few years, the figures that we get on ferries are reasonably accurate, there have been approximately 800,000 user in the last 12 months, however there seems to be no figures available on leisure users and small business users, without those figures it is impossible to give any assessment on the various models of the costings so could perhaps provide those figures, I'm sure they are available somewhere for vessel movements or footfall through the harbour.</p> <p><u>LS</u> We can certainly provide footfall through the ferry terminal, I'm sure we can provide information from A&BC and NLB across their particular piers, the bit that we can't capture is through traffic through the harbour because if it doesn't tie up somewhere we don't have any way of recording it.</p> <p><u>PS</u> I don't know who the population would be who sail through the harbour, it is not the shortest way of going anywhere.</p> <p><u>LS</u> It's very pretty and I've sailed through the harbour.</p> <p><u>PS</u> I suspect the number of boats that just transit the harbour and don't stop is relatively small, the important issue is the number of people who are using the facilities.</p> <p><u>LS</u> We can clarify those figures for you .</p>
	<p><u>Question – Fergus Gilanders (FG) – Previously Assistant Harbour Master, A&BC</u> <u>Answer – Phil Day (PD) Director of Marine Operations, (NLB)</u> <u>Answer - Jim Smith (JS) Head of Economic Services, (A&BC)</u></p> <p><u>FG</u> I think if you'd permit me ladies and gentlemen I will come in and pick up on that point, if anyone else disagrees or has any views on thoughts and charges then follow up on what I have to say. I think it is important to understand the difference between costs and charges. Now there are three types of charges in the Legislation ⁽³⁾ in the UK, there are harbour dues, wharfage charge which you know as berthing charges and commercial and other charges, now the only charge that a harbour authority can make under the jurisdiction it makes up are harbour dues. The harbour dues which Linda mentioned, conservancy, is one aspect of their costs that harbour authorities may have to fund, paid for by the charge income that they get in, so I think it's clear that we all understand that. The other question, quite rightly, talking about the costs in the graph are talking about the costs of running a facility, building expensive ferries, replacement equipment and wear and tear etc. That is a cost and many of the costs we are talking about here currently in Oban are costs on the</p>

	<p>realm of the pier owners, A&BC because they own the North Pier and Craignure, CMAL because they own the South Pier, NLB because they own their pier. That has been the situation with Oban since those piers were bought and paid for all those years ago.</p> <p>The costs and the charges and the actual running of a Harbour authority comes from legally laid down harbour dues that the harbour authority legally can levy, so I just think it's important that we don't get our "knickers in a twist" by misunderstanding the difference between costs and charges because some of the questions that we've had have blurred it, if you don't mind me say, the question was about the cost of running something or was it the cost to us, as the leisure users as to what the new Harbour authority is going to charge us. If I may, very briefly, just to finish off, just remind everyone here that as far as harbour dues are concerned A&BC does not charge, to my knowledge, a harbour dues element in its current tariffs, so you are not paying harbour dues at the moment. All the payments for the running of the harbour and A&BC harbours comes from the charges it makes as pier and harbour owners, that puts a different slant on the comments I've heard about the relevant costs and how we pay for a harbour authority, and those charges, the harbour dues, can be levied in time, they can be standing and they can change by local bylaws, local legislation, and A&BC has that power at the moment, in the GHA to do that but not in a little area around the area of the North Pier based on the ownership of the North Pier.</p> <p><u>PD</u> Just to clarify the way I understand it, the costs which have been proposed and we accept that we should do some further work to clarify those and getting them checked, the costs are the added costs of running the water way, the water area outside the existing harbour areas, so it's the costs of vessel traffic services or a monitoring Harbour Master if that was required for a trust port for instance, a small patrol vessel in the summer season, those are the costs which have been proposed, not existing operating costs. Would anyone like to comment on the charges?</p> <p><u>JS</u> The council has got a set of fees and charges that take into consideration all the charges that we need to recover to run the operation, take for instance <u>port charges</u> ⁽⁴⁾, I don't envisage any changes to that, we do review fees and charges on a regular basis and we have a provision in place that covers the cost for running North Pier, as we have for running all of other facilities that the council manages.</p>
<p><u>EC</u></p> <p><u>LS</u></p>	<p><u>Question – Eric Chapman – Oban Bay Committee Berthing & Oban Sailing Club</u> <u>Answer - Lorna Spencer (LS) Director of Harbours and Piers, CMAL</u></p> <p>Do Marine Scotland have any involvement in this project to establish an HRO and to make an overall statutory Harbour authority and have they been consulted and voiced an opinion?</p> <p>We have certainly consulted initially with <u>Transport Scotland</u> ⁽⁵⁾ who are the regulating authority for harbour legislation, we wouldn't actually have to apply for a Marine Scotland licence in this process, the application for harbour legislation is through Transport Scotland Ports Policy, they have been to a number of meetings with us, we also know that the Minister, is broadly supportive in the work that we have been doing here in terms of improving safety for the benefit of the harbour and the Port Policy team won't actually offer an opinion until you formally apply for a <u>harbour revision order</u> ⁽⁶⁾ but they are</p>

	certainly aware of what we are doing as are the Maritime & Coastguard Agency (MCA) ⁽⁷⁾ .
	<p><u>Question – Peter Tosh (PT) – Oban Port Users</u> <u>Answer - Lorna Spencer (LS) Director of Harbours and Piers, CMAL</u></p>
<u>PT</u>	If it does go ahead and a harbour authority is created, you mentioned extra charges to commercial vessels . Now at the present moment in time we pay nothing to CMAL and the railway pier and we pay a percentage to the South Pier, when these vessels come in will there be any extra charges to them.
<u>LS</u>	Until we actually understand the detailed cost and how the port is going to be managed I can't actually guarantee that. I don't see any increase being significant, as I have tried to allude to the biggest user in the harbour is Cal Mac with the biggest number of calls in and out, I see the majority of the costs being passed to Cal Mac ferries if I'm honest, but we have to show transparency and we have to be able to demonstrate that they are not being charged for all the costs, it has to be a reasonable mechanism that demonstrates that all the users in some way are making a contribution. With regard to CMAL it may be that there is a small charge for conservancy at Oban, which would be that same for all three facilities, but that charge might be £10 but it may be reduced from your annual berthing dues. It's not going to be a significant sum of money based on the work we have done on the costs, but it has to be paid for somehow. The majority of the costs will be picked up by the ferries but it has to be decided how that is split in cost. I would like to say that there is no intention to make any profit or increased return from improving the conservancy environment to the wider extreme, it will purely be to cover costs and we are very well prepared to information transparent within the legislation so that we can demonstrate transparency of those cost and the reasonableness of it. Under the Harbour Act, Section 31 ⁽⁸⁾ you have to be able to demonstrate the reasonableness of the charges you are making, so we are quite prepared to be able to that if the Harbour Revision Order is made.
<u>PT</u>	Another thing that was said was charges would be for commercial users and not leisure.
<u>LS</u>	That has been talked about, there has not been a decision reached on that, at the moment I don't have an answer. I don't see it being a significant sum of money if you split it across all the activity all-round the harbour but it will be for the group to come to a solution and we are quite happy to share and be transparent about in how the costs are going to be covered.
	<p><u>Question – Neil MacKay (NM) – Port of Oban Cruise Group</u> <u>Answer - Lorna Spencer (LS) Director of Harbours and Piers, CMAL</u> <u>Answer – Phil Day (PD) Director of Marine Operations, (NLB)</u></p>
<u>NM</u>	A short statement before I come to my question, back in 2013 the OHDG had 6 representatives, either elected members of A&BC or officers and there is none of them there now as part of this group, although I acknowledge Lorna Spencer, Phil Day and Ewen are there now. The current group has one representative for A&BC, Mr Stewart Turner, who is currently off with illness so A&BC don't really, whilst the senior officer might be answering and have an input with the minutes come out for meetings, there is no representative at these meeting for A&BC and previously there was 6. We have a

	<p>presentation there, which I wouldn't have called a presentation, I would call it a statement of intent.</p> <p>Of the various options, I think there have been three that have been put forward, has there been a feasibility study for these options? If the answer is in the positive, where is it? If it is the negative, why not?</p>
<u>LS</u>	Can you clarify what you mean by a feasibility study?
<u>NM</u>	A study into the options that have been put forward
<u>LS</u>	And what would you see as the outcome of that feasibility study? A recommendation on a way forward? I'm just trying to clarify what is meant.
<u>NM</u>	What I mean is a feasibility study not just into the costs, there had been a lot of talk about costs, into see which would be the best option for all the representatives in question and I mean all stakeholders, the freight business, the fishermen, the leisure boats, the Port of Oban Cruise Group.
<u>LS</u>	There has been no feasibility study done in that, there has been a lot of work done with independent consultants on what the best options are and the OBMG went through a clear agreed evaluation object proposal which is included in the document which was available for distribution. The making of a HRO is something that anybody can establish and do themselves, there isn't a requirement for a feasibility study in that regard, there is a very clear process to follow for a HRO which involves informal engagement, which is what we are doing now and also a formal consultation process, at which point you can make your representation to Transport Scotland and the Minister directly about the concerns which the HRO is causing you. The officers at Transport Scotland will take on concerns but there is no requirement to undertake a feasibility study and as an organisation we don't see this having a negative impact on any businesses or the ability to bring tourism to Oban, we actually see this as having a benefit to Oban in terms of encouraging more cruise ships where there is a controlled environment and they feel more comfortable bringing their ships in. we don't see this as causing a disadvantage but we understand that there are some serious concerns but our experience is such that these concerns are not unusual in prompting harbour legislation and generally we work through those concerns and make sure we accommodate them within the legislation and that is why I would encourage everyone to put their feedback on the survey ⁽⁹⁾ and your comments at the end so that we can make sure that the major are addressed with the legislative process.
<u>NM</u>	So there is no feasibility study but there is the consultation, we as representatives of Port of Oban Cruise Group, which is to just cruise ships but anybody who cruises to Oban or on a major sized vessel, have had no contact, we have had no consultation and I'm sure we are not the only organisation in this room today that have had no consultation at all so if I was allowed a supplementary question it would be to each of the representatives here, do you feel the level of consultation had been adequate, there are many people here who believe it wasn't and that we require a lot more time. Yes, it needs looked at, it's not broken, do we need to fix it just now?

<p><u>PD</u></p>	<p>Thank you very much for that comment, in my view we have approached and engaged with stakeholders, perhaps in the latter part of the we've been involved with, it's been more the people who actually have marine activities in the harbour but I think this process is that consultation, this is informal, it allows us to gather all your views and comments and allow us to think again about whether we need to do some further study but this is the consultation process starting and it will take as long as it takes, we have set ourselves a timeline that could deliver a HRO, but if it needs to take longer it will take longer, we need to get it right for Oban and we absolutely understand your comments and take them on board.</p>
<p><u>NM</u></p>	<p>If I may, any normal consultation would be, yes the stakeholders who have a vested interest, all the other stakeholders, then as an Oban person, I would saying all the businesses in Oban, and then general public. I wouldn't have thought there would be any requirement for a public meeting at this stage so the members of the public here have been told what is happening, we have had a statement of intent as I referred to earlier, and I think we are about 12 months away from a public meeting.</p>
<p><u>PD</u></p>	<p>Thank you for that, it will be noted.</p>
<p><u>Question – Sarah Brown (SB) – Local Sailor and Business Owner, sits of Stakeholder Group for Oban Bay</u></p>	
<p><u>Answer – Paul Jennings (PJ) Oban Bay Management Group Manager (OBHMG)</u></p>	
<p><u>Answer – Phil Day (PD) Director of Marine Operations, (NLB)</u></p>	
<p><u>SB</u></p>	<p>It had been asked if Marine Scotland had been involved and while it correct that the statutory consultee is Transport Scotland, they decided the HRO, under the National Marine Plan which was defined by Marine Scotland, Recreation and Tourism, Chapter 12 ⁽¹⁰⁾, there are a number of policies which state the Scottish Governments ambitions for marine tourism around Scotland , there are a number of policy objectives, if I could draw your attention to number three and four. Three is “Promote diversification of the recreation and tourism sector to increase the value of assets in rural towns and exploit opportunities from future climate change”. I don't see how this fits with that but perhaps that is something you should discuss with Marine Scotland and the second one is, number four “Continued and improved access to marine and coastal resources for tourism activities and recreational use”. I think that while Marine Scotland will fully approve any improvements to Marine Safety they may also have concerns about particularly the impacts on the port.</p>
<p>That is something of a statement my actual question is the incidents that have been reported, in which has Paul has put up on the heat map, for which there was no key, I wonder how many of these incidents have actually been reported to MRIB?</p>	
<p><u>PJ</u></p>	<p>The incidents shown are reported to the MCA as the water owners and if it is a significant incident, as agreed with the MCA, I report it straight away, I don't have the exact number to hand but it is the region of 10 to 20 of those 100 incidents. I have also, if appropriate, reported the incidents to HSC diving.</p>
<p><u>PD</u></p>	<p>Just to clarify the Marine Accident Investigation branch has very clear definitions of what accidents or incidents should be reported to them, I'm not sure that any of the events that</p>

	have occurred have met those criteria.
	<p><u>Question – Jamie MacGregor (JM) – Councillor Ward 4</u> <u>Answer - Lorna Spencer (LS) Director of Harbours and Piers, CMAL</u></p>
<u>JM</u>	<p>I have had to dealt with not only ferries in Oban but in many other places, so although I would never describe myself as any kind of expert on ships or harbours I have had quite a lot of experience of listening to what people want for their areas and it does occur to me from listening to what I've heard tonight that while I respect in every way, Cal Mac, and during my parliamentary time I have stood up and supported Cal Mac, which I know although not the same thing CMAL and Cal Mac are involved with each other. The point about that is that I always mention the safety record which is second to none and I don't see that although there may be increased used of the bay, I don't see the safety record being impinged particular and I quite like the idea that Oban Bay, and let's face it Oban harbour is famous worldwide as the Gateway to the Hebrides, there are lots of thing we can do to improve it, we could be here all night, but I'm not sure that changing the management structure and certainly giving the management structure to one body is a good thing if you want it to remain a local manager, that's my opinion. I think as far as consultation goes and I have been to a lot of those in my life, I tend to find that consultations tend to be that people have an idea and they want to tell people what is going to happen rather than asking the what they might like to happen and I rather hope if there is a consultation of this that all the stakeholders will be taken into account to gift the management or new management to one particular body.</p> <p>One other thing I would like to ask is CMAL, when someone asked who was paying and it was stated CMAL, are they a government body?</p>
<u>LS</u>	Yes.
<u>LM</u>	So it is us, as a tax payer that is paying?
<u>LS</u>	Yes.
	<p><u>Question - Duncan Martin – Chairman Oban Bay Community Berthing</u> <u>Question – Jamie MacGregor (JM) – Councillor Ward 4</u> <u>Answer – Phil Day (PD) Director of Marine Operations, (NLB)</u> <u>Answer - Lorna Spencer (LS) Director of Harbours and Piers, CMAL</u></p>
<u>DM</u>	<p>There has been a reference to the fact that there were 800,000 passengers through the ferry terminals, what is Cal Mac ferries total revenue out of Oban because I suspect the cost of running a Harbour authority will be a very small fraction of 1% of the revenue that Oban Harbour take in, not just CMAL but also the North Pier is actually generating. People seem worried about extra charges but I think they would be minimal because 1% of Cal Macs revenue would fund the whole system. The other thing I want to ask is, I do know, because at the last stakeholders meeting I was told this, the vast majority of responses have been against a CMAL harbour, do you propose assuming this is still the situation at the end of the consultation, do you intent to ride rough shot over the consultation and ignore it or will you accept the verdict of those who have filled in the consultation?</p>

<u>PD</u>	<p>Speaking from an NLB perspective we have no intention of being involved in something that rides rough shot over the local community, what we are very keen on is ensuring the safety of the harbour is achieved. As we have said a couple of times already we would be very happy for the harbour to be taken on by a trust, we need a body to form to create the seed of that trust which because we are already statutory harbour bodies we are not able to create that trust. It needs another body to form to create a trust, our estimate is that it would take five to six years, that's five to six years more that the safety of that harbour is not being managed and we see that this is the best option to extend one of the other harbour areas, and CMAL has volunteered to take this on, with the blessing of the group, then if a trust comes along it would then be transferred to that trust. It buys time this way, another six years or however long it takes, we know with certainty that we could deliver a safer harbour with no impact on commercial business, maybe even improve some situations for individual and companies if we stick to the timeline we have suggested of 12 to 18 months, longer if that's what the consultation process requires.</p>
<u>DM</u>	<p>Could I have an answer to my question regarding revenue</p>
<u>LS</u>	<p>I did provide that information to you via the stakeholder group, the revenue that CMAL gets in Oban is approximately £7 million pounds.</p> <p>Pot meeting note: CMAL's annual revenue from berthing and traffic dues at Oban is £3m (approx.) from a total of £17.5m (approx.), this is about 17%. This is based on the activity from 2016/17 contract year</p> <p>This is ferry activity only and does not include any other customer, additional revenue from non -ferry activity is minimal by comparison</p>
<u>DM</u>	<p>There is 800,000 people, that would indicate they are paying less than £10 a ticket</p>
<u>LS</u>	<p>There is no relation between the fares charged by Cal Mac and harbour dues that charge, the fares are set by Transport Scotland.</p>
<u>DM</u>	<p>You are taking about what CMAL get from Cal Mac, maybe you don't know what Cal Macs income is</p>
<u>LS</u>	<p>It is a different organisation.</p>
<u>DM</u>	<p>Yes I know it is, maybe no one knows here what the revenue ⁽¹¹⁾from Cal Mac is, but that is by the largest bit of the body</p>
<u>LS</u>	<p>Absolutely, that is what has been said</p>
<u>DM</u>	<p>It would be a very small charge of their income, or indeed the council's income from the North Pier. We have to go back to what is being said just now, in 2012 it was agreed by the harbour development group that a trust was desired, we have had 12 years to set them up, can we have an assurance that you will now begin to set one up and widen the membership</p>



<p><u>LS</u></p> <p><u>JM</u></p> <p><u>LS</u></p> <p><u>JM</u></p> <p><u>LS</u></p>	<p>to all the stakeholders that should have been on since the start and get us round a table to gather a constitution and get a harbour trust started because they agreed to do that six years ago.</p> <p>My interpretation of that six year ago is slight different but the OBMG would be happy to try and facilitate the establishment of an organisation to take forward the trust, we are more than happy to provide guidance and help wherever we can. Everyone is identifying that they want a Trust port for the local community for the Harbour because its Oban peoples harbour, there needs to be an established group come forward that we would be happy to engage with in setting up a trust port, however as Phil suggested in the short term we believe this provides a solution and we would be happy to work with a trust port and input into the legislation so it becomes sacrosanct and if this was established we would withdraw the limits back to our existing area and we have made that very clear at the stakeholder groups as well. We are happy to work and establish a trust port in Oban, the short term though, we have perhaps not the perfect solution, but a solution that will improve the environment and that's what we are working on towards at the moment and we are engaging on so we can get your feedback and try and incorporate the right protective provisions with the legislation to look out for the views in Oban.</p> <p>Can I ask how is it going to improve the environment?</p> <p>The marine environment in terms of navigational safety</p> <p>The marine environment I see as being the bed of the sea</p> <p>Its terminology, my apologies.</p>
<p><u>YC</u></p> <p><u>LS</u></p>	<p><u>Question – Owner of Yacht Corryvreckan (YC)</u> <u>Answer - Lorna Spencer (LS) Director of Harbours and Piers, CMAL</u></p> <p>I have a statement from the skipper “do please attend on our behalf and represent our view that it is important to Oban that they are yacht friendly as the pontoons have shown, if you build it they will come. Cal Mac seems to be very obstructive everywhere in the Hebrides where recent investment has tried to develop accessibility to leisure yachts, as a minimum there must be very strong leisure and fishing representation capable of overruling Cal Mac and their bully attitude to other seafarers”.</p> <p>From my own point of view I would I note that no one has yet mentioned that there is a very good kayak school in the bay and also Kilbowie outdoor centre is using the same water.</p> <p>With regard to the comments about other environment, bullying tactics and not working with local communities, the harbour authority in rural environments when it is a CMAL harbour, which is not always the case, we work very closely with a lot of the local leisure user groups, I work very closely with Tobermory Harbour Association and helped them the Trust port that they have now established and worked with them and supported their application in that. We have worked very closely with the Port Ellen Harbour Group who created an environment for pontoons where they needed to do more dredging and we had a dredger on site, they only paid for the dredging, we paid for all the mobilisation of the</p>

	<p>plant and equipment. We have worked with the local Tarbert harbour in Harris to help them develop and deliver pontoons so while that might be a perception I wouldn't say that was necessarily an across the board true reflection of the work that we do in the local environment to try and assist the local users and provide a better environment for the leisure and fishing industries</p>
<p>TB</p> <p>LS</p>	<p><u>Question – Tim Bowers (TB) – Retired Coastguard & Business Owner</u> <u>Answer - Lorna Spencer (LS) Director of Harbours and Piers, CMAL</u></p> <p>I am wondering if CMAL is given authority over all of Oban Bay what action would they take to control that traffic through the narrows of the channel? How would they prevent rogue yachts and small boats without radio aware of the rules of the road and prevent incidents from happening and improving safety.</p> <p>While it's not clear we have established a clear protocol, there is obviously some indication of how we might do this, one of the things that we have put in our paper is that we would have to agree locally how you would manage the traffic to make sure that it was fair across all the users of the harbour, some of the things we have talked about is in the summer time having a small patrol boat, we have looked at getting a AIS through Vessel Traffic Services so we can monitor the boats. Paul and Vicki with Ewen and his team have been working very hard creating a diary to monitor larger ships activities. We have looked at making a provision so that if a vessel above a specific weight or length was wanting to leave or arrive in the harbour they would have to place a call so that we could make sure the channel was clear and free. These are the kinds of things we have looked at within the statutory environment which we are not allowed to do currently, this would give us clear transparency regarding movements, better working relationships, which are already good between ourselves, but this would extend to the wider community and then the ability to actually give direction to the larger vessels, for example, where a cruise ship can anchor, where the tenders from the cruise ship can or cannot run and also how we coordinate the movements of bigger vessels in and out of the harbour i.e. you can't leave until ten past as another ship is leaving at the moment. That is the kind of environment we can create through statutory legislation which we can't do at the moment.</p>
<p>JM</p> <p>LS</p>	<p><u>Question – Jamie MacGregor (JM) – Councillor Ward 4</u> <u>Answer - Lorna Spencer (LS) Director of Harbours and Piers, CMAL</u></p> <p>Can I just make one other point, much emphasis was made of having a single point of contact, I would agree with that, it is important, but I don't see why you have to have one body, it would work just as well with several. I don't take that argument, you could still have a single point of contact, it doesn't matter how many stakeholders you have got within a management committee so I don't think that's a strong point.</p> <p>I'm all for having a single point of contact but what you're saying is you can't have it unless there is one lot in charge of the management and I don't agree with you there, I think it's wrong.</p> <p>Thank you, we will note your comment</p>

<p><u>TC</u></p>	<p><u>Question – Tony Cave (TC) – Business Owner and Chairman, Bid4Oban</u> <u>Question - Duncan Martin – Chairman Oban Bay Community Berthing</u> <u>Answer - Phil Day (PD) Director of Marine Operations, (NLB)</u></p> <p>I have looked at CMAL’s principal activity, in their 2017 report ⁽¹²⁾ it says that their principal activities provision safeguard the development of ferries and harbours to be used by operator Cal Mac Ltd which is 100% owned by CMAL, I understand what you are saying about safety in the harbour and that obviously as we get more ferries and boats coming in then that is an issue, my one concern, that I think everybody is missing, is that it is actually the development of Oban harbour and how we take that forward and I think that from my own point we are looking to develop the town and move it forward one of the things that we should be looking at is how we can develop the harbour and improve it so that we can get more activity, I think that what you are doing there, really there isn’t a lot of that and I think that what we are concerned about is that we need to take the town forward, we need to take the harbour forward and that is something that you be looking at within what you are looking to do.</p> <p>Post meeting note:- CalMac is not 100% owned by CMAL, both organisations are owned by Scottish Ministers</p> <p><u>PD</u> Thank you very much, I would agree, we are not here to stilt any development, that’s what we want for Oban, as far as a growing point there is a good environment here.</p> <p><u>DM</u> Can I just say one more thing, I believe that trusts have access to sources of funding which CMAL or government agencies or the Council would not have and therefore if we wanted to develop a harbour of Oban a trust would have access to the funding</p> <p><u>PD</u> That way well be true, as I have explained we would be very welcome for a Trust to form and take on the harbour but the pragmatic, and quicker approach we believe would be for one of our organisation to expand their harbour area in the short to medium term, let the Trust form, we help it develop, it takes it on in an orderly manner.</p>
<p><u>ER</u></p>	<p><u>Question – Elaine Robertson (ER) – Chair of Area Committee</u> <u>Question - Linda Battison (LB) – Oban and Lorn Tourism Alliance</u> <u>Question – Fergus Gilanders (FG) – Previously Assistant Harbour Master, A&BC</u> <u>Answer - Lorna Spencer (LS) Director of Harbours and Piers, CMAL</u> <u>Answer - Phil Day (PD) Director of Marine Operations, (NLB)</u></p> <p>I would like to thank everyone for their contribution and coming along to answer some of the questions. Oban Bay is vital asset to Oban, Lorn & the Isles, not just Oban, it is the surrounding areas as well and I do welcome the widening of the consultation process because I don’t think it’s any secret that the proposal is raising huge concerns within the town and the surrounding area and we need to continue talking because in my opinion and those of my colleagues who are here the development of the bay cannot be under just one corporate body, we have to include, in a meaningful partnership, all those representing the interests in the bay and that I hope to see come about throughout this process.</p>

	<p>We have an Oban Bay Management Committee at the moment, people are looking to create a trust port, a CMAL suggestion would be to take it first of all then pass over, but what is to stop the current management committee continue and assist a trust to come about.</p>
<u>LS</u>	<p>CMAL have said previously that the Oban Bay Management Group and the people that work within it, including myself would be happy to help establish a body that then become a trust port, we are happy to facilitate that.</p>
<u>ER</u>	<p>You did say that earlier, what I mean though it that is that I thought you wanted to take through the CMAL proposal at the moment and then help a trust, I'm asking why can't the management that is here take on that and give those that want to set up the trust the support to do this</p>
<u>PD</u>	<p>I think there are two aspects to that, one which has been said several times is the time it would take to create the trust, the other thing is if you do create a trust you have to start from scratch, if CMAL take the harbour area they have got the organisation set up, they've got the direction and the rules established, these would all be passed over to the trust so part of the work would already be done, we would have an active port functioning harbour.</p>
<u>LS</u>	<p>There are some very clear guidance on establishing a Trust Port, there is trust port governance models, it would be very difficult for the representative of the 3 organisations to establish, as a body, and promote a trust port because we would be in conflict. A trust Port is set up with the strict public governance, it is quite complicated, which CMAL broadly follow, although we couldn't establish ourselves as a corporate organisation as well as a Trust Port. We would be happy to work alongside the current process to do that, but we cannot establish ourselves as a group to promote a trust port because it would be in direct conflict with our own statutory legislation.</p>
<u>LB</u>	<p>I think your comment regarding conflict really sums up them major concern that the community has because CMAL is in conflict with NLB and A&BC.</p>
<u>LS</u>	<p>It's not CMAL that would be in conflict, it's the individuals sitting on the board, I sit on the CMAL board, and I can't sit on the board of a trust port as well.</p>
<u>LB</u>	<p>My point is that if one body has control of the harbour then you automatically are favouring your own organisation, it is fait accompli is it not. CMAL take control, you are by your own articles of association you are there to support the development of Cal Mac ferries to the detriment of everyone else.</p>
<u>FG</u>	<p>It would make Oban a nationalised port</p>
<u>LS</u>	<p>CMAL is responsible to Transport Scotland as a public body under the safety code if we be a statutory harbour authority our obligations are set out in legislation and we have a very clear mandate under the Port Marine Safety Code (PMS) (13) in terms of what we are obliged to do, being a SHA does not necessarily mean that we can do what we want, we have obligations as well as duties to the Oban port environment and that is very clearly</p>

<p><u>FG</u></p>	<p>stated in the legislation, yes we would be a SHA, we are owned by the public, responsible to Transport Scotland and the Ministers, I don't believe the Ministers would be comfortable in any way, shape or form if we were seen to be halting or stopping development in Oban or indeed making it difficult for the environment to develop and move forward, we would be very much governed by the requirements of the PMSC rather than our own desires or wishes to work with Cal Mac, it is a very different environment and we would be regulated by the MCA to make sure we complied with the PMSC, so it is not necessarily CMAL as a SHA we have control, we can do what we like, that is not the case at all, we would be constrained by the requirement of the PMSC which is regulated by the MCA and we have a very clear Oban Port duty within the requirements of the PMSC to make sure the facility is open and safe for everybody that wants to use it.</p> <p>Can I just point out that the governance of a harbour is not determined by the PMSC, it is a document, it is guidance, the governance of a harbour is determined by the legislation of the Harbours Act 1964 ⁽³⁾, Harbours, Docks and Piers Clauses Act 1847 ⁽¹⁴⁾, 1882 Bylaws, 1870 Callander to Oban Railway, we seem to be missing the point that there is legislation that currently governs Oban harbour and we are dispelling that, dismissing it and denying it and we have done throughout this whole presentation so I think we need to consider very carefully this notion that we can take something forward on a two leap ballot and non-fraudulent legislative basis when we are not ladies and gentlemen.</p>
<p><u>AS</u></p>	<p><u>Statement - Andrew Spence (AS) – Chief Executive of Bid 4 Oban</u></p> <p>We have some minutes from one of the stakeholders meetings and I would just like to read out a quote from it “some of the stakeholders felt that they had not been consulted sufficiently in the decision making process and their views had been ignored, culminating in a very disappointing and significant waste of time over the last four years. They felt the invitation of 2 members of the user group onto the OBMG did not sufficiently represent the stakeholders in the making of the decision of whom should progress the making of the wider Oban into a SHA, some of the stakeholders stated they did not accept the validity of the data used by OBMG to make the agreement that CMAL should extend their SHA and it was not representative fait accompli”.</p> <p>So I think we have heard, or it has been put over to you quite clearly this evening that it is the lack of consultation going on which is causing concern, that is not to say that there is people in this room who do not want to work with you, because that do, that is why everyone has come out tonight and there is probably a lot more people who were unable to come this evening, because of the short notice etc. an I think that we keep on hearing if we get CMAL proposal, or the OMBG proposal then we can revert to a trust in the future, that's all good but numerous times tonight Lorna you have stated that setting up a trust is a long and cumbersome process, so where will the will to do that be when we have someone looking after the bay for us, and I think that is question we all need to ask ourselves and I think that in terms of consultation what we need to be doing is getting everyone together and lets go back to the drawing board and look at the extension of your proposals for the HAO so that we can actually get some more input from local businesses in the community and all the users that are affected by this proposal. We don't want to work against you, we all want to work together but it is very important that we are all represented.</p>

	<p style="text-align: center;">THANK YOU FROM PHIL DAY</p> <p>Thank you very much, I think those are great comments to end the meeting with, I think we have heard everyone that wanted to speak, we would like to very much thank you all for coming out at, as you say, short notice. Thank you again, we want to further engage with you, there will be other meeting in due course, we would like as many as possible of you to answer the questions in the questionnaire which will help us for a view that allows us to go forward, not necessarily the CMAL option but allows to go forward, listen to you and consider the next steps. Thanks again</p>
	<p style="text-align: center;"><u>DISCLAIMER</u></p> <p>Every reasonable effort has been made to ensure that the information provided in these minutes is comprehensive, accurate and clear. There are several questions which due to the location of the person in the room the recording did not fully pick up the question or background noise drowning out the speaker. If there are any changes to be made please contact mhairiw@nlb.org.uk within two calendar months from the date of the meeting so these changes can be checked. After this date the recording will be deleted and no more changes will be made.</p>
	<p style="text-align: center;"><u>REFERENCES</u></p> <p><u>1</u> Fisher Associates report - https://www.obanharbour.scot/files/7214/5090/8345/140714_Oban_Bay_Harbour_Management_Plan_Phase_1_Final_Report.pdf</p> <p><u>2</u> Ports of Scotland website - http://www.portsofscotland.co.uk/links/ ⁽²⁾</p> <p><u>3</u> Harbours Act 1964 – http://www.legislation.gov.uk/ukpga/1964/40/contents</p> <p><u>4</u> Argyll & Bute Council Port Charges - https://www.argyll-bute.gov.uk/ports-and-harbours-vessels/ports-and-harbours-rates-vessels</p> <p><u>5</u> Transport Scotland Port Governance - https://www.transport.gov.scot/transport-network/ports-and-harbours/port-governance/</p> <p><u>6</u> Transport Scotland Harbour orders - https://www.transport.gov.scot/transport-network/ports-and-harbours/harbour-orders/#</p> <p><u>7</u> Maritime & Coastguard Agency - https://www.gov.uk/government/organisations/maritime-and-coastguard-agency</p> <p><u>8</u> Harbours Act 1964 – Section 31 - http://www.legislation.gov.uk/ukpga/1964/40/section/31</p> <p><u>9</u> Oban Bay stakeholder questionnaire June 2018 - https://www.surveymonkey.co.uk/r/T9RLPPL</p>



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| <u>10</u> | National Marine Plan, Marine Scotland, Chapter 12 - http://www.gov.scot/Publications/2015/03/6517/13 |
| <u>11</u> | Caledonian MacBrayne Annual Reports - https://www.calmac.co.uk/article/2611/Annual-Reports |
| <u>12</u> | Caledonian Maritime Assets Ltd - Annual Report & Accounts 2017 - http://www.cmassets.co.uk/wp-content/uploads/2015/07/CMAL-Annual-Report-2017.pdf |
| <u>13</u> | Port Marine Safety Code - https://www.gov.uk/government/publications/port-marine-safety-code |
| <u>14</u> | Harbours, Docks and Piers Clauses Act 1847 - http://www.legislation.gov.uk/ukpga/Vict/10-11/27/contents |