

FURTHER BACKGROUND TO THE HISTORY, USE & MANAGEMENT OF THE CANAL:

HISTORY & SETTING:

The Grand Union Canal is by far, the longest canal in the country. It was created from an amalgamation of 11 different canal companies that all dated back to the 1790's and the unification of these canal companies did not occur until 1929.

The section of the main line within Dacorum was originally part of the Grand Junction Canal, with the Dacorum reaches being constructed between 1797 & 1799. The principal engineers involved in what is now Dacorum & near environs were William Jessop and John Barnes.

The section of the main line between Brentford and Braunston (formerly the Grand Junction Canal), was built as a 'wide' or 'broad' canal - that is, its locks were wide enough to accommodate two narrow boats abreast (side by side) or a single wide barge up to 14 feet (4.27 m) in beam.

However, the onward sections from Braunston to Birmingham had been built as 'narrow' canals – that is, the locks could accommodate only a single narrowboat.

An Act of Parliament of 1931 was passed authorising a key part of the modernisation scheme of the Grand Union, supported by Government grants. The narrow locks (and several bridges) between Napton and Camp Hill Top Lock in Birmingham were rebuilt to take widebeam boats or barges up to 12 feet 6 inches (3.81 m) in beam, or two narrowboats. The canal was dredged and bank improvements carried out: the depth was increased to 5 feet 6 inches (1.68 m) to allow heavier cargoes, and the minimum width increased to 26 feet (7.92 m) to enable two boats of 12 feet 6 inches to pass. Lock works were completed in 1934 when the Duke of Kent opened the new broad locks at Hatton, and other improvements finished by 1937.

However, these improvements to depth and width were never carried out between Braunston and London. Camp Hill Locks in Birmingham were not widened, as it would have been very expensive and of little point, since they lead only to further

flights of locks not in the ownership of the Grand Union. A new basin and warehouse were constructed at Tyseley, above Camp Hill, to deal with this.

Although the Grand Union company had a number of broad boats built to take advantage of the improvements, they never really caught on and the canal continued to be operated largely by pairs of narrow boats, whose journeys were facilitated by the newly widened locks in which they could breast up.

There are approximately 17½ miles of navigable waterway in Dacorum forming part of the Grand Union Canal. This includes 2 miles of canal along the Aylesbury Arm and approximately 1½ miles along the somewhat narrower and partly disused Wendover Arm.

The canal is therefore a heritage asset of historical interest and is also a significant feat of engineering. It rises from sea level in London, to over 380ft at its summit just north of Cow Roast Lock within Dacorum. The Tring reservoirs were constructed primarily to provide water to the canal. To the south east of Tring there is a section of approximately 2.5 miles from Bulbourne to New Ground Bridge which is known as the Tring Cutting, where construction of the canal could only be accommodated by extensive engineering into the landscape by hand. On either side of the canal in this cutting, the banks are tall and steep and any off line mooring of boats on this stretch is impractical.

There are 32 locks located along the Grand Union Canal within Dacorum boundaries as well as over 25 bridges, most of which are for vehicular use, though many of these bridges have restricted widths & weight limits.

The towpath runs alongside the whole length of the canal, although the towpath alternates from being beside the northern or southern bank of the waterway at points where one can cross over the waterway by bridge. This towpath is open for public use and forms part of the Grand Union Canal Walk which was Britain's first national waterway walk. The Grand Union Canal Walk was officially launched in July 1993 & runs from Little Venice in London to Gas Street Basin in Birmingham providing a footpath route of approximately 167.7 miles.

THE CANAL & RIVERS TRUST:

According to their website, CRT administer & manage the canal under 6 strategies:

- Ensuring their canals and rivers are open, accessible and safe
- Inspiring more people to enjoy the canals and rivers and to support their work
- Earning financial security for canals and rivers
- Doing everything possible to deliver on its charitable objectives
- Minimizing the impact on scarce resources
- Establishing the Trust as a respected and trusted guardian of our canals and rivers

Part of their role is managing the use of boats on the waterways. This is done by requiring all boats to have a registration licence renewed annually. The terms of the licence include proving to CRT that the boat is safe (by holding a boat safety certificate) & that it has a place to moor when not in use. This is a statutory requirement under Section 17(c) of the British Waterways Act 1995. If a mooring space is not specified, the licence can only be issued if the boat owner declares that his boat is “continuously cruising”. This term means that the boat must not stay moored in the same neighbourhood or locality for more than 14 days. (See separate CRT guidance on boats without a permanent mooring.)

Although CRT have a subsidiary company called BWBM Ltd that directly operates a number of moorings nationally (including some within Dacorum) they are not responsible for providing moorings on the waterway. CRT are dependent upon third party operators & private developers bringing forward schemes for the development of new moorings or for enhancement of existing facilities. This is illustrated by the fact that in 2011/12 CRT issued a total of 34,683 boat licences but only 5,276 mooring licences.

Outside of the borough the nearest major marinas to the south are at Harefield and Hillingdon where there are over 200 berths each and at Milton Keynes to the north. The aforementioned facilities to the south are known as Harefield Marina and Packet

Boat Marina, Uxbridge and are approximately 9 miles and 15 miles south of the Borough boundary respectively. Significantly, there are a large number of locks that would need to be navigated I the southern end of the bough & the neighbouring area to the south and therefore cruising time to or from the southernmost boundary of Dacorum would represent between 7 to 8½ hours.



GUIDANCE FOR BOATERS WITHOUT A HOME MOORING

If a boat is licensed without a home mooring¹ it must move on a regular basis. This Guidance² seeks to explain in day to day terms the nature of the movement that must take place.

There are three key legal³ requirements:-

the boat must genuinely be used for navigation throughout the period of the licence.

unless a shorter time is specified by notice the boat must not stay in the same place for more than 14 days (or such longer period as is reasonable in the circumstances); and

it is the responsibility of the boater to satisfy the Trust that the above requirements are and will continue to be met.

"Navigation"

The law requires that the boat "will be bona fide used for navigation throughout the period of [the licence]".

'Bona fide' is Latin for "with good faith" and is used by lawyers to mean 'sincerely' or 'genuinely'.

'Navigation' in this context means travelling on water involving movement in passage or transit.⁴

Therefore, subject to stops of permitted duration, those using a boat licensed for continuous cruising must genuinely be moving, in passage or in transit throughout the period of the licence.

Importantly, short trips within the same neighbourhood, and shuttling backwards and forwards along a small part of the network do NOT meet the legal requirement for navigation throughout the period of the licence.⁵

The terms 'cruise' and 'cruising' are used in this guidance to mean using a boat bona fide for navigation.

"Place"

The law requires that stops during such cruising should not be "in any one place for more than 14 days".

"Place" in this context means a neighbourhood or locality, NOT simply a particular mooring site or position⁶.

Therefore to remain in the same neighbourhood for more than 14 days is not permitted. The necessary movement from one neighbourhood to another can be done in one step or by short gradual steps. What the law requires is that, if 14 days ago the boat was in neighbourhood A, by day 15 it must be in neighbourhood B or further afield. Thereafter, the next movement must be at least to neighbourhood C, and not back to neighbourhood A (with obvious exceptions such as reaching the end of a terminal waterway or reversing the direction of travel in the course of a genuine cruise).

What constitutes a 'neighbourhood' will vary from area to area – on a rural waterway a village or hamlet may be a neighbourhood and on an urban waterway a suburb or district within a town or city may be a neighbourhood. A sensible and pragmatic judgement needs to be made.

It is not possible (nor appropriate) to specify distances that need to be travelled, since in densely populated areas different neighbourhoods will adjoin each other and in sparsely populated areas they

may be far apart (in which case uninhabited areas between neighbourhoods will in themselves usually be a locality and also a "place").

Exact precision is not required or expected – what is required is that the boat is used for a genuine cruise.

"14 days or such longer period as is reasonable in the circumstances"

Circumstances where it is reasonable to stay in one neighbourhood or locality for longer than 14 days are where further movement is prevented by causes outside the reasonable control of the boater.

Examples include temporary mechanical breakdown preventing cruising until repairs are complete, emergency navigation stoppage, impassable ice or serious illness (for which medical evidence may be required).

Such reasons should be made known immediately to local Trust enforcement staff with a request to authorise a longer stay at the mooring site or nearby. The circumstances will be reviewed regularly and reasonable steps (where possible) must be taken to remedy the cause of the longer stay – eg repairs put in hand where breakdown is the cause.

Where difficulties persist and the boater is unable to continue the cruise, the Trust reserves the right to charge mooring fees and to require the boat to be moved away from popular temporary or visitor moorings until the cruise can recommence.

Unacceptable reasons for staying longer than 14 days in a neighbourhood or locality are a need to stay within commuting distance of a place of work or of study (e.g. a school or college).

Boater's Responsibility

The law requires the boater to satisfy the Trust that the bona fide navigation requirement is and will be met. It is not for the Trust to prove that the requirement has not been met. This is best done by keeping a cruising log, though this is not a compulsory requirement. If however, the Trust has a clear impression that there has been limited movement insufficient to meet the legal requirements, it can ask for more information to be satisfied in accordance with the law. Failure or inability to provide that information may result in further action being taken, but only after fair warning⁷.

Summary of Guidance for Boats without a home mooring

- **Boats without a home mooring must be engaged in genuine navigation throughout the period of the licence.**
- **They must not stay moored in the same neighbourhood or locality for more than 14 days.**
- **It is the boater's responsibility to satisfy the Trust that they meet these requirements.**

NOTES

¹ 'Home Mooring' is "a place where the vessel can reasonably be kept and may lawfully be left".

² This Guidance does not have the force of law but seeks to interpret the law as set out in s.17 British Waterways Act 1995. The language of the Act is generic and, as with all statutes, requires interpretation. The Guidance is based on professional legal advice, including from Leading Counsel, and is believed by the Trust to reflect the correct legal interpretation of the Statute. The Guidelines issued in 2008 were considered by the court in the case of British Waterways v Davies in the Bristol County Court. The Judge expressly found that Mr Davies' movement of his vessel every 14 days (whilst remaining on the same approximate 10 mile stretch of canal between Bath and Bradford on Avon) was not bona fide use of the vessel for navigation. These Guidelines have been updated and refined in the light of that Judgment.

³ Section 17(3)(c) British Waterways Act 1995 states that BW may refuse a licence ("relevant consent") unless (i) BW is satisfied the relevant vessel has a home mooring or: "(ii) the applicant for the relevant consent satisfies the Board that the vessel to which the application relates will be used bona fide for navigation throughout the period

for which the consent is valid without remaining continuously in any one place for more than 14 days or such longer period as is reasonable in the circumstances.”

⁴ British Waterways places reliance on the meaning given to the word "navigation" in the case of Crown Estate Commissioners v Fairlie Yacht Slip Limited. Whilst a decision of the Scottish courts, the English courts can, and have, taken the views of the Scottish Judge into account. In that case the basic concept and essential notion of the word "navigation" was said to be "passage or transit", the underlying concept being one of movement.

⁵ The Judge in the case of British Waterways v Davies referred to in Note 1 above expressly confirmed that moving a vessel every 14 days on a 10 mile stretch of canal between Bath and Bradford on Avon was NOT use of the vessel bona fide for navigation.

⁶ The Shorter Oxford Dictionary gives some 8 separate principal meanings for the noun 'place'. Therefore the rules of legal interpretation require the meaning that most appropriately fits the context to be used. Since 'navigation' means travelling by water and 'travel' means a journey of some distance, the word 'place' in this context is used by the Act to mean an "area inhabited or frequented by people, as a city, town, a village etc" (meaning 4b in the Shorter Oxford Dictionary).

⁷ Enforcement of the legal requirements will be based on observations by the Trust. If initial observations indicate insufficient movement to meet the legal requirements, the boater(s) will be advised why the observed movement is considered insufficient and be asked to keep adequate evidence of future movements. Failure then to meet the movement requirements, or to provide evidence of sufficient movement when requested by the Trust, can be treated as a failure to comply with s.17 of the 1995 Act. After fair warning the boat licence may then be terminated (or renewal refused). Unlicensed boats must be removed from Trust waters, failing which the Trust has power to remove them at the owners cost.

POLICIES FOR MOORINGS ALONG THE BANKS OF OUR CANALS AND RIVERS

Related documents:

1. [Residential Use of Waterways – An Advisory Document \(AINA, Sept. 2010\)](#)
2. [Guidance for boats without a home mooring](#)

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Long term moorings

Strategic aims

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| <p>(1) Facilitate growth in supply of offline moorings to meet increases in demand and to reduce pressure for mooring along the line of the waterway. Work with the private sector to provide a wide choice of moorings to meet the needs of boaters</p> | <p>(2) Reduce long term moorings along the towpath</p> <p>(3) Increase the supply of residential moorings within suitably located and well-managed sites</p> <p>(4) Ensure a level playing field between the Trust and private moorings providers</p> |
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Supporting policies

Online mooring reduction

1. **New online moorings** are acceptable only if *all* of the following criteria apply
 - (a) there is clear excess demand for moorings in the area with no vacancies at comparable the Trust or third party sites.
 - (b) there is no prospect in the short or medium term of new off-line mooring development.
 - (c) there is low density of existing on-line moorings in the area
 - (d) there are no operational or environmental constraints to online moorings at the proposed location. Constraints include high boat traffic volumes, water availability for navigation, and navigational safety.
2. **Permitted exceptions** to these criteria
 - (i) Visitor moorings suitably located along the towpath or offside
 - (ii) A proportion of visitor moorings may be allocated temporarily to boaters requiring a home mooring for winter months only.
 - (iii) Moorings for the following types of boats will be permitted along the towpath or on the offside, providing that they bring significant clearly defined benefits to the location, and that there are no operational or environmental constraints as per para. 1(d):

- Commercial boats and boats providing services for tourists and day visitors (e.g. trip and passenger boats, floating shops and restaurants),
 - Historic/feature boats that have a specific and documented function for adding value to tourism and enjoyment of visitors to the area.
 - Community boats operated for charitable purposes, for which there is no suitable alternative mooring in the area.
- (iv) Permission will normally be granted for just one boat to be moored adjacent to the garden of a private residential property on the offside of the canal providing that there are no operational or environmental constraints as per para. 1(d). This does not apply on the Kennet & Avon Canal which is subject to the provisions of its conservation plan¹.
- (v) Where there is an acute shortage of moorings and new marinas are under development, temporary additional offside moorings may be approved through the issue of limited period (temporary) mooring permits. These will expire subject to 6 months' notice by the Trust when new off-line moorings become available in the area.
- (vi) The Trust's operational vessels may be moored as required but will be located away from designated visitor moorings and lock landing areas. Where operational vessels need to moor occasionally at visitor moorings in order to use or maintain facilities, their stay time will be limited to the time required for this purpose.
- (vii) Other exceptions may be made if they are specifically stated within the local mooring strategy approved by the Canal & River Trust.
3. The Canal & River Trust will **reduce the number of online, long term moorings** as new offline capacity comes onto the market. This will be done in a ratio of 1:10: one on-line berth will be given up for every ten new berths created off line. Reductions will be made within the geographical market supplied by the new offline marina within 12 months of the opening date of the new site. For the purpose of clarity, we will make the reductions within a 30 mile radius of the new marina berths.
- 3.1. Policy no. 1 above includes provision for some increase in online moorings where there is no prospect of offline investment. These will be in geographically distinct areas and they will not be counted against the 1:10 offset rule applicable elsewhere.
4. Reductions in online moorings will take place primarily through reductions in the number of the Trust's directly managed long term mooring berths. Exceptionally, where legally possible, reductions may be achieved by terminating (subject to notice) or not renewing agreements, for privately owned offside sites.

Residential moorings

5. Policies 1 – 4 apply
6. New residential moorings are not generally acceptable alongside the towpath, but exceptions may be made in the context of the local mooring strategy
7. Proposals for residential moorings are assessed to check consistency and compliance with environment, heritage, operational and safety policies. They require planning permission and possibly consents from other agencies, depending on the location and type of proposal. The Trust is a consultee

¹ Exception for the Kennet & Avon Canal

On the Kennet & Avon Canal we will not permit the creation of any further offside moorings against residential property. This underlines our commitment to delivering the policies within the Kennet & Avon Canal Conservation Plan (second edition, October 2000):

Policy H10: There will be a general presumption for the offside bank to remain nonaccessible.

Policy H10.2 There is a presumption against the creation of moorings, paths and access on the offside canal bank, although a case may be made for this in some urban locations.

The term 'urban' shall be deemed to mean the city of Bath and the towns of Bradford-on-Avon, Devizes, Hungerford, Newbury and Reading.

in the statutory planning process and we assess our response in the context of our moorings and other relevant policies.

8. Boats at new residential moorings should possess the recognisable attributes of a boat typical to the Trust's network and be capable of navigation. Exceptionally, we may approve suitable static floating structures in large scale, urban, modern, offline settings. Where approved, we will request a salvage bond to cover the costs of removal should it ever be abandoned leaving the Trust with the responsibility for removal.
9. All residential boats (and static floating structures where permitted) must have a suitable sewage-holding facility unless the boat has a direct mains sewer connection.
10. We will promote understanding of the diverse mooring needs of residential boaters amongst local authority planning and housing departments during the development of local mooring strategies.

We seek more appropriate recognition of residential moorings in national and local government policy and guidance, particularly within the planning and housing sectors, and encourage more informed consideration by local authorities. The differences between residential moorings and built development should be recognised and treated appropriately.

11. When we are undertaking works, and during our normal operations, we will consider and endeavour to respect the reasonable needs of boaters at residential moorings. However, the operation, maintenance and repair of our network takes precedence over the needs of residential boaters and other users.
12. Unauthorised full time residential use at long-term leisure moorings may be contrary to planning control. It is for the Local Planning Authority to establish that a mooring is being used as a primary residence, and whether planning enforcement is necessary.

12.1. In response to a planning enforcement notice, we will assess the suitability of the site for residential use against the Trust's policy criteria (see policies 6-9). In the light of this assessment we will either use reasonable endeavours to seek consent from the LPA for the residential use or explore options for ceasing the residential use at the site with the LPA and the boaters concerned.

12.2. We may also undertake these actions for any of our long-term leisure mooring sites where there are both indications of unauthorised residency and concerns about a site's suitability for residential use.

12.3. We will draw the attention of our long term mooring permit holders to the possible implications for them of 12.1 and 12.2.

Policies 6 – 12 also apply to residential moorings in the Trust's directly managed offline sites.

Short term towpath moorings

Strategic aims

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| (a) Ensure that casual moorings are available where needed to meet the needs of cruising boaters and holiday-makers | (c) Increase local communities' involvement in decisions about the designation of casual mooring maximum stay times and about the siting of long term moorings. |
| (b) Reduce the extent of unauthorised mooring alongside the towpath. | |

Supporting policies

13. We are strengthening our **enforcement processes** to better target persistent breaches of licence terms and conditions.
 - 13.1. We will improve communications with our boating customers to improve their understanding of the rules and the sanctions available against those who break them.
 - 13.2. We will communicate promptly with boaters whom we believe to be in breach of licence terms and explain to them clearly the steps they need to take to avoid legal action.

13.3. We seek to extend our capacity for regular monitoring of towpaths in areas which experience the greatest frequency of unauthorised mooring and/or breaches of licence terms. In line with our '2020 vision' of greater public engagement and third sector status, we aim to do this by seeking joint working arrangements with local authority enforcement services, and where feasible to recruit and train volunteer canal rangers.

14. We will apply charges for extended stays at short term towpath mooring sites

14.1. Short stay moorings are designated as visitor moorings if the maximum free stay period is less than 14 days. At all other moorings not designated for long term permit holders, the free stay period is 14 days.

14.2. A free period will apply in all but exceptionally popular sites (e.g. as currently at Llangollen) and for particular uses (e.g. see 17.6). Any new exceptions will be subject to appropriate consultation.

14.3. Time limits will be published and signed along with any restrictions on return frequency². The time limit means the total time spent within the designated stretch, whether or not the boat changes its position within the stretch.

14.4. The charging regime will be introduced gradually, with priority being given to stretches which are currently subject to most overstay reports. The stay time rules will be informed by the local mooring strategy, but interim arrangements may be introduced with a lesser degree of public consultation pending the completion of the strategy where overstay problems require more urgent action.

14.5. A daily charge will apply for stays longer than the free period. We will warn boaters by letter posted onto the boat, as they approach the end of the free period of the daily charge that will apply from the relevant date.

14.6. We will introduce a choice of payment arrangements for remittance of mooring charges. These will include a significant early payment incentive.

14.7. Invoices will be issued for all charges. Outstanding invoices must be settled before a licence or mooring permit will be renewed.

14.8. Boaters anticipating the occasional need to stay longer on a visitor mooring will be encouraged to deposit credits on their licensing account with the Trust from which payments at the reduced rate will be taken. We will give notice to customers before debiting their account. Unused credit will be refunded to the customer on request. No interest will be payable on credit balances.

14.9. We will appoint rangers or local agents to support local charging regimes.

15. We will develop local mooring strategies in consultation or partnership with local communities and boaters in those areas of the network where pressure on space along the waterway is most acute.

15.1. We will prioritise locations for this treatment where we receive requests for such action by local authorities along with commitments of support in carrying through the necessary work.

15.2. We may also initiate strategies on request from local waterway users, again providing that the necessary practical support is forthcoming.

15.3. Local mooring strategies will:

(a) Define different types of mooring zone with associated time restrictions and terms of use

(b) Define neighbourhoods for the purposes of implementing the mooring guidance for continuous cruisers

(c) Identify locations suitable for the development of long term moorings, offline and online, taking account of policies 1-4 above

(d) Take account of, and provide for the access needs of boaters with mobility difficulties

² Restrictions on return frequency will generally be defined through a local mooring strategy. Implementation rules should allow for use of the same location by hire and shared ownership boats.

- 15.4. In areas where full mooring strategies are not yet developed but where mooring congestion is apparent, the Trust may undertake informal consultation with stakeholders as a basis for (re)defining mooring zones.
- 16. Mooring zones** must reflect, and aim to balance the needs of boaters and other waterway users.
- 16.1. We will monitor use of towpaths for mooring and consult with local stakeholders periodically to determine what changes are needed to local short term mooring provisions.
- 16.2. Mooring zones should provide the ability for boats to stop for the following purposes
- (a) use of boating services, such as taking on water, refuse and sewage disposal,
 - (b) visits to local facilities (such as shops, pubs etc)
 - (c) leaving a boat for a while in the course of a cruise away from the home mooring, up to a specified maximum period (normally 14 days)
- 16.3. Zones may exceptionally be defined for new long term mooring, subject to policies 1-4 above, and for use as temporary home moorings during the months of November through to March.
- 16.4. Mooring zones should be indicated through clear, but not over-intrusive signing, displayed on the Trust's website in map format and available in paper on request.
- 17. We will offer an optional 'transient mooring permit'** to meet the needs of residential boat owners who wish to cruise only within a limited area of our network, the extent of which is insufficient to meet the qualifying requirements for continuous cruising.
- 17.1. A limited number of permits will be available within a designated area as determined in the local mooring strategy. The mooring strategy may indicate a termination date for the availability of some or all of these permits as a means of phasing out unauthorised long term mooring alongside the towpath.
- 17.2. They will be subject to consultation with the local authority, particularly with respect to council tax liability.
- 17.3. They may include a fixed location winter mooring for the months of November – March inclusive
- 17.4. They will be charged at no less than the average for the Trust's directly managed moorings in the same area.
- 17.5. Transient mooring permit holders must comply with published time limits at all moorings. The local mooring strategy may prescribe reasonable movement rules for the summer period using appropriate zoning arrangements.
- 17.6. In locations with high tourist footfall, a small number of berths may be designated for the exclusive use of licensed roving trading boats (up to a specified maximum period for each trader). Long term moorings may also be created for static trading vessels, subject to the Trust's boating trade operator agreements.

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1. Overview of statutory framework

The Canal & River Trust (the Trust) is a registered charity and the navigation authority for the majority of inland waterways of Great Britain. Its purpose is to protect its network of historic waterways, to secure and earn the necessary funding, to promote investment in them and to optimise the public benefit they can deliver.

The Government transferred all the powers and duties of British Waterways in England and Wales to the Canal & River Trust in 2012

British Waterways (BW) was established by an Act of Parliament in 1962. The powers to manage the waterways largely derive from the private Acts of Parliament, often called the “Enabling Acts” that authorised the various predecessors to BW to build the canals or improve rivers. These Acts have been considerably supplemented by later public and private legislation, notably the Transport Act 1968 and British Waterways Acts of 1971, 1975, 1983 and 1995.

The powers and duties set out in these Acts cover matters relating to use of the waterways by boats and powers to charge and to set conditions for use, but they also include provisions relating to wider leisure and recreational use and protection of the waterway environment.

We are of course also governed by the normal accounting, employment, environmental, planning and safety legislation that affects any modern organisation. As an organisation with both regulatory and commercial functions, we must also be particularly mindful of UK and European competition law which is reflected in our staff [Fair Trading](#) code of practice. This is important in the context of applications from private investors to develop new mooring sites.

The British Waterways Act 1995 limits to three specific criteria our ability to refuse to licence a boat. These relate to (1) boat safety standards (the equivalent of the car MOT); (2) third party liability insurance cover; and (3) the requirement for the boat to have a home mooring, unless it is used for navigation throughout the period of the licence. There are no statutory provisions for refusing a licence on the grounds of say, congestion or aesthetics both of which are subjective. Adequate moorings control is therefore essential for preserving the amenity of the waterways for boating and other uses.

The Canal & River Trust boat licence terms and conditions, including navigation rules and mooring guidance are consistent with the relevant legislation and are the main basis for management actions in relation to boats on our waterways. We are able to revoke licences where people persistently breach terms and conditions..

Fees paid by boaters for licences and moorings provide a critical element of The Canal & River Trust funding. In 2009/10, for every £5 spent by BW on maintaining and repairing the waterways, approximately £1 was derived from this source.

2. General principles underlying boating and moorings policies

The following are principles that have evolved over a number of years and that influence management decisions within our boating and mooring business.

1. Boating is at the core of our business. We want it to thrive into the future.
2. Navigation is what differentiates our canals and rivers from other water courses. We must have sufficient moorings but enough 'breathing spaces' between groups of moored boats to protect the intrinsic value of waterways as tranquil places for enjoyment.
3. Boating contributes to public amenity and local business prosperity. We want to foster a spirit of shared responsibility amongst local communities as well as amongst boaters for the development and fulfilment of waterways' potential.
4. Continued growth in boat numbers must not be at the expense of the waterway environment and public amenity. Sustainable boating means conserving water when using locks, reducing waste, minimising disturbance and environmental impact and being considerate to other waterway users.
5. There should be a varied mix of moorings and facilities to meet demand from different segments of the boating market, and where there is competition between these groups for bank side space, we must have policies to encourage a fair and appropriate mix.
6. Healthy competition between providers of moorings and facilities encourages appropriate levels of provision and good choice for customers.

3. How the policies were developed

Three pieces of work fed into the set of policies published in September 2010.

1. In 2006 we set out our policies for long term moorings along the line of the waterways. This followed a period of challenge by the British Marine Federation who believed that BW was not sufficiently supportive of the development of new marinas by private investors. We reformed our internal processes to ensure that the granting of consent is given using consistent criteria and published helpful information on a dedicated website, www.britishwaterways.co.uk/marinadevelopment. This resulted in the creation of some 5,000 new offline long term mooring berths between 2006 and 2011. At the same time, we undertook to start reducing the number of authorised long term moorings along the line of the waterway in some areas and to tightly restrict the creation of new online moorings.
2. Conscious of the serious shortage of authorised residential moorings (mooring sites which have local authority planning consent for use as a person's primary residence), we undertook a programme of research and policy development in collaboration with the Residential Boat Owners Association during 2008 and 2009, and included the policy proposals within a wider public consultation on moorings policies, November 2009 – February 2010. This consultation informed our September 2010 policy statement.

Our policy for residential moorings should be read in the context of the Association of Inland Navigation Authorities' Advisory Document on the Residential Use of Water. This informs local planning authorities, navigation authorities, mooring providers and residential boaters on residential boating matters.
3. The third piece of work has been the development of clearer policies for managing use of short term moorings along the towpath. This was a major theme within the November 2009 – February 2010 public consultation mentioned above. BW's regular sample surveys of boat owners along with feedback from boaters, the boating trade and more recently, waterside residents and local authorities, pointed to growing concerns about the number of boats whose owners settle in a relatively small geographic area without a home mooring. The concerns usually relate to one of three themes: (1) impacts on the availability of short term moorings for cruising boaters; (2) perceived unfairness that such boaters contribute a great deal less to waterway upkeep than those who pay for a home mooring; (3) feedback from local communities that long term residential towpath moorers reduce the amenity of the waterway for other users and consume public services without paying council tax.

4. Definitions

Casual mooring	This is the term used in BW's statements of intent etc. made during the passage of the BW Act 1995 through parliament. It conveniently embraces both designated visitor moorings and towpaths generally where mooring is permitted for up to 14 days, unless otherwise indicated.
Visitor mooring	A length of bank that has been <i>designated</i> for temporary use for short periods only. Examples: designated visitor moorings, trip boat stop, moorings for use of sanitary station... Restrictions on use, including time limits should be clearly signed
Short-term mooring	A casual or a visitor mooring
Long-term mooring	Also called a ' home mooring ' in the boat licence terms and conditions, this is where a boat is lawfully kept when not being used for cruising. It is the boat's usual base or 'parking space'. Examples: residential moorings, leisure moorings, trade moorings for commercial boats.... Provided by private operators or the Trust Sometimes referred to as ' permanent mooring ' Usually let for periods of one year or more, and usually for a fee.
Residential mooring	A long-term mooring which has planning permission and the Trust's permission for the moored boat to be used as the occupant's sole or primary residence. The residential mooring may or may not have facilities and services.
Leisure mooring	A long-term mooring where the boat is used for leisure / recreational purposes.
Trade mooring	Moorings assigned to specially licensed operators of commercial boats. They may be for short periods or long term, depending on the nature of the agreement. Their purpose is to provide a service to waterway visitors, adding life and value to the local waterway environment.

5. Topic briefings

1. [An overview of boat licence terms and conditions](#)
2. [How we manage enforcement of boat licence terms and conditions](#)
3. [Continuous cruising](#)
4. [Relevance of Travellers legislation to waterways](#)
5. [Provision of moorings for residential use](#)
6. [Unauthorised residency at long-term leisure moorings](#)

5.1 An overview of boat licence terms and conditions

Key provisions are under the following headings:

- Use of the boat including mooring for short periods while cruising. 'Short period' means up to 14 days or less where a local restriction applies. Does not permit mooring for any longer period
- Requirement to cruise continuously if the boat has no home mooring (see 'continuous cruising' below)
- Boat safety and insurance requirements
- Payment terms and requirement to display the licence, boat name and index number on both sides of the vessel
- Compliance with navigation rules

- Obligation not to cause damage or nuisance to any other person or their property

See www.canalrivertrust.org.uk/media/library/654.pdf

5.2 How we manage enforcement of boat licence terms and conditions

We employ a national team of enforcement officers and support staff whose first responsibility is to monitor systematically the presence of boats on our waterways in order to ensure that they are correctly licensed. This is done by regular foot patrols with the assistance of hand held computers. The index number of each boat observed is entered into the computer which then returns its licence status. An unlicensed boat will generate an action for the enforcement officer.

We have a series of standard advisory messages, warnings and then enforcement notices for boaters found to be either without a licence or in (suspected) breach of any of the terms and conditions. These are posted on the boat concerned in a 'patrol notice' envelope. Some of the letters are also posted to the licence holders last known home address(es).

After warning messages, the great majority of boaters respond positively and put the matter right. For the minority who persistently ignore the rules, we exercise the appropriate legal powers applicable to the problem in question. Depending on the circumstances, we may use our byelaw powers and prosecute in the Magistrates Court. The sanctions would include a fine, legal costs and a criminal record, but the boat might still remain on the waterway without a licence. Our preferred route therefore in the case of unlicensed boats, particularly those being used for residential purposes, is to use civil remedies stemming from the licence agreement. This has the advantage of achieving a resolution in the form of a court order enabling us to remove the boat from the water.

We exercise our powers under Section 13 of the British Waterways Act 1971 or section 8 of the British Waterways Act 1983 to remove a boat from the waterway. If the boat is a person's sole residence, we will first obtain a Court Order before removing the boat.

If a person is in breach of the licence terms and conditions, after due warning and allowance of reasonable time for them to put matters right, we will terminate the licence and exercise the above powers for removing it from the waterway. During the year to 31/3/2010, we issued over 2,000 initial patrol notice warnings and 100 section 8 or 13 notices and removed 70 boats

5.3 Continuous cruising

The British Waterways Act 1995 introduced a requirement that a vessel either (a) have a long term 'home' mooring, or (b) be used for navigation throughout the period of the licence. The key provision is

17(3) *Notwithstanding anything in any enactment but subject to subsection (7) below, the Board may refuse a relevant consent in respect of any vessel unless—*

(a) the applicant for the relevant consent satisfies the Board that the vessel complies with the standards applicable to that vessel;

(b) an insurance policy is in force in respect of the vessel and a copy of the policy, or evidence that it exists and is in force, has been produced to the Board; and

(c) either—

(i) the Board are satisfied that a mooring or other place where the vessel can reasonably be kept and may lawfully be left will be available for the vessel, whether on an inland waterway or elsewhere;

or

(ii) the applicant for the relevant consent satisfies the Board that the vessel to which the application relates will be used bona fide for navigation throughout the period for which the consent is valid without remaining continuously in any one place for more than 14 days or such longer period as is reasonable in the circumstances.

The provision in c(i) above is commonly referred to as the 'home mooring' requirement and the provision in c(ii) above is commonly referred to as the 'continuous cruising' requirement.

The Act did not define 'place' so it is the duty of The Trust to make its own interpretation for practical management purposes. This is contained in our [Guidance for Boats without a Home Mooring](#).

5.4 'Bargee Travellers'

Local authorities have statutory duties relating to the provision of temporary stopping places for gypsies and travellers. These may extend to provision for certain 'travelling boaters'. BW helps by providing casual moorings extensively throughout its network which are available to boat licence holders, subject to the terms and conditions of the licence. There are however no statutory requirements for any special provision for 'travelling boaters' and The Trust has no duties as a housing authority.

5.5 Provision of moorings for residential use

The canals have always had a resident population, dating back to the first boatmen and their families living and working on the waterways. Clearly the context has changed over the years, but residential boating is a continuing feature of the waterway environment.

Whilst there are many different patterns and degrees of living afloat, our residential mooring policy relates to long-term moorings where the moored boat is used as someone's sole or primary residence. The change of use of the Canal to a full time residential mooring may be a material change of use requiring planning permission.

There is very strong demand, which is growing, from people wanting to live afloat, and it is particularly high in certain locations close to population concentrations. Customer preferences for on site facilities range from demand for a comprehensive range of services to those who consciously seek out 'low-impact living' at sites with fewer facilities.

The supply of long-term mooring sites where residency is permitted (i.e. sites where planning permission has been granted for residential use by the Local Planning Authority (LPA)) is very limited (for example around 40 out of BW's 400 long-term mooring sites are designated for residential use). They vary in the range of facilities provided and the location. Urban sites with good facilities are more common, although there are some sites in rural areas, and some have few facilities on site.

Waterways have a certain capacity for boating and different types of moorings (casual, long-term leisure and residential, plus trade). Some sections are nearing, or have reached, acceptable limits of mooring concentrations. However there are other areas that could comfortably accommodate more moorings. There is a need to achieve an appropriate level and mix of moorings on our network.

Despite significant differences between residential moorings and built development, there is no specific national planning policy or procedural guidance. Residential moorings are therefore treated by local planning authorities as residential development and subject to the relevant national and local planning policy. Much of our network is in areas where 'bricks and mortar' residential development is constrained or excluded.

In August 2011, the Housing Minister published a statement encouraging local authorities to grant planning consent for more residential moorings, confirming that additional berths created would qualify for additional grants to the local authority under the New Homes Bonus scheme.

BW does not have a responsibility to provide housing or affordable moorings. It provides residential moorings, for which it must charge market rates, as part of its commercial moorings business. Fees at residential sites tend to be higher than for leisure moorings, which reflect demand for a mooring where a boat can legitimately be used as a person's main residence, and sometimes higher operational costs.

5.6 Unauthorised residency at long-term leisure moorings

A mooring for a boat used as someone's sole or primary residence may require planning permission. Therefore a boat occupied as a primary residence at a long-term leisure mooring would normally constitute (a) a breach of planning control and therefore (b) a breach of BW's mooring agreement³ or lease with an operator.

³ Condition 8. You must comply with the conditions of any planning permission for the Mooring Site and comply with relevant laws, byelaws, Site Rules and special conditions, including any concerning your private use of land at the Mooring Site.

Where there is a breach of planning control, the Local Planning Authority (LPA) is not necessarily compelled to take action. They usually act if they believe it's expedient to do so (e.g. the breach represents unacceptable development that cannot be properly controlled by conditions, is contrary to policy etc.) In other words they would have refused consent if a planning application had been submitted.

If the Trust knows there is unauthorised residential use, it means we are vulnerable to enforcement action. LPA's expect The Trust, as navigation authority and land-owner of the waterway, to control and regulate activity at mooring sites. We are not however able to gather evidence of residential use, and it is up to the local authority to establish this.