

National Barge Travellers Association

Response to Stage 1 of CRT Review of Boat Licensing (Initial scoping questionnaire)

Questions:

views on the function of the licensing system

This question is back to front. The boat licensing system is a function of the law relating to boat licensing. In operating the boat licensing system, CRT must comply with the law. It is clearly not complying with the law in its treatment of boaters licensed without a home mooring.

ideas for an ideal boat licensing system

CRT is a charity and as such, it must operate within its charitable objects. A charity can only do what is set out in its charitable objects, and it must do what is in its charitable objects. It cannot use the licensing system to price the poor off the waterways so that richer people can enjoy boating in peace. That is precisely what charity law does not allow. CRT's charitable objects include at 2.6.1 "The improvement of the conditions of life in socially and economically disadvantaged communities in such vicinity". This means that there must be no differential pricing to discourage people from licensing their boats without a home mooring. This is because using a boat without a home mooring is the least expensive way of licensing a boat.

The Rivers Only boat licence is mandatory because of the Public Right of Navigation (PRN) on all navigable rivers. The entitlement to this licence through the PRN is codified in the British Waterways Act 1971 and cannot be dispensed with unless there is new primary legislation. The price of this licence is set by the 1971 Act to be no greater than 60% of the Standard Canal and River Licence.

The Standard Canal and River Licence must continue to provide access to the entire waterway system of CRT. There must be no differential pricing; there must continue to be one price for the Standard Canal and River Licence and for the Rivers Only licence, regardless of whether a boat is licensed with or without a home mooring.

future issues that might need to be considered (I was thinking here of things like an ageing population, but no doubt there will be other things that I won't have considered)

According to CRT's own statistics, there is a continuing decline in leisure use of boats and a corresponding growth in residential use of boats. Some 48% of boats are now used as the owner's only, primary, secondary or temporary home. The increased use of boats as homes corresponds with the arrival of a younger age group in the boating community. This is likely to be the result of the ageing leisure boating population and the difficulty for younger people in finding affordable housing both to rent and to buy. The implication of this is that CRT needs to ensure that its licensing system takes account of the Article 8 ECHR rights of boat dwellers, which have been clarified by the recent Court of Appeal judgment CRT v Matthew Jones [2017] EWCA Civ 135.

views on the approach we have suggested for the way in which we engage boat owners in this project: we have designed a 3-stage approach, and would like to hear whether there are ways we can improve this / change it in ways that will help boaters to contribute

The consultation must be publicised in a way that will reach Bargee Travellers. Many Bargee Travellers do not have regular access to a postal address and do not use the internet very much. Therefore any approach that relies on publication on the CRT web site and online surveys will exclude many of our community, especially those who are older and those who are on low incomes. Age discrimination must be avoided at all costs. Email and online questionnaires should be considered as a supplement to paper questionnaires, not the opposite.

Many Bargee Travellers do not collect their post more frequently than two or three times per year. Many do not have email addresses; regular or reliable internet access; smartphones; postal addresses. There must be a paper option. If this is posted, there must be an adequate time period to allow them to respond. We suggest a paper consultation questionnaire posted allowing a period of 4 months for the response. This should be combined with delivery of paper questionnaires to all boats licensed without a home mooring. Delivery of paper questionnaires can be carried out in conjunction with the National Boat Count carried out annually by CRT in which CRT sights and records every boat on its waterways.

To ensure the inclusion of Bargee Travellers who have literacy issues, the consultation must include a facility to complete the questionnaire by telephone, that includes an introductory telephone call to inform them of the consultation and an explanation of its purpose and scope.

Regardless of whether the consultation is completed online or on paper, there must be a mandatory free text field to ensure that respondents can submit comments that are outside the scope of the closed questions.

any other topics that interviewees think are important

NBTA members on CRT waterways include those without home moorings; those with home moorings that are not residential and roving traders.

CRT states that it is conducting a review of the licensing system as it was "overly complex". The NBTA refutes the proposition that the system for private boat licensing is complex at all. The NBTA handles a caseload of around 170 each year and over the 8 years of the NBTA's existence, it has not received one single enquiry from boat dwellers who find the CRT/ BW licensing system "overly complex", "unfair" or "out of date". Boat dwellers come to the NBTA for advice and assistance and therefore we know what issues they require assistance with.

Therefore the consultation appears to be spurious. It follows that there must be some ulterior motive for conducting the consultation. We believe that CRT has already decided what changes it wants to introduce and will go ahead with these regardless of the outcome of any consultation.

CRT also states that many boaters feel the current licensing can be perceived as unfair. It is very important to distinguish between perceived unfairness and actual unfairness.

Addressing perceived unfairness is a waste of resources; is likely to have costly unintended consequences; reinforces prejudice and divisions and risks creating actual unfairness. For example, many boaters perceive it to be unfair to boaters with home moorings that boats without home moorings are permitted to moor on the towpath throughout the year. This perception of unfairness has been created by misinformation promulgated by CRT; BW; the IWA; marina operators; mooring operators; hire boat companies and boaters who choose to have a home mooring. These interest groups appear to resent having to pay for the privilege and convenience of having a home mooring. The misinformation spread by these interest groups alleges that boaters without a home mooring are “exploiting a loophole in the law” when they are simply doing what the law entitles them to do. Any assessment of “fairness” must be in line with the law and must take into account the Article 8 rights of boat dwellers.

The NBTA is opposed to any increases in the price of boat licences except annual increases in line with inflation. This includes price increases that would only affect a small proportion of boaters such as owners of wide beam boats. Any increases in price would make life more difficult for our members. It cannot be assumed that the owners of wide beam boats are better off than owners of narrowboats. Some of the cheapest boats, such as converted lifeboats, are wide beam. We note that the increase in licence fees for April 2017 is above the rate of inflation. This is unfair.

CRT claims in its press release of 20th February 2017 that the boat licensing system been in place unchanged for over 20 years. This is patently untrue. The boat licensing system has been reviewed and changed far too many times. If after 20 years the licensing system is still unfit for purpose, this suggests an irrevocable level of incompetence in the organisation. Another such review is not welcome. Since 1997 there have been at least eight consultations regarding the boat licensing system:

January 2015 - Changes to boat licence terms and conditions;
June 2013 - Reforming Business Boating Licensing consultation;
May 2012 - Houseboat Certificate Terms and Conditions consultation;
November 2010 – Boat Licence Changes, Payment Discounts and T&Cs consultation;
November 2008 – Consultation on increasing the licence fee without a home mooring by £150.00;
October 2007 - Public Consultation on Licence Fees;
June 2005 - Licence Fee Consultation;
May 2002 – A fresh look at BW’s craft licensing structure: Consultation Paper for Boaters.

CRT states the review of boat licensing will be “cost neutral”. If the review is to be cost neutral, then any reallocation of costs within the boat licensing system must be progressive and not regressive. That is, they must not penalise those who are on low incomes in favour of those who are wealthy. Leisure boaters with a marina mooring are likely to be the most wealthy and those likely to be the least well off are those whose boat is their only home and who do not have a home mooring.

The Prompt Payment Discount must be retained for all boaters regardless of whether they renew their licences online, by telephone or by post. To disadvantage those who do not or cannot use the internet; who cannot afford to use the internet; who do not have regular or reliable internet access or who do not carry out financial transactions online for fear of fraud, would be discriminatory and would fall foul of the Equality Act 2010, as evidenced by the judgment in *LH Bishop Electrical Co Ltd & Others v HMRC Commissioners* [2013] UKFTT 522 (TC).

The Late Payment Charge is grossly disproportionate and is not a true reflection of the cost of chasing late payers. In addition, it is grossly unfair to penalise the new owner of a boat that has remained on CRT's waterways unlicensed for more than one month by forcing them to pay the Late Payment Charge when they were not responsible for the boat being unlicensed. This practice contravenes the Consumer Protection from Unfair Trading Regulations 2008 and it should be abandoned immediately.

For those who own more than one boat, it should be made easier to bring the renewal dates of licences of different boats into line with each other. For those with a mooring, it should be made easier to bring the renewal dates of mooring fees and boat licences into line with each other. Both can be done by invoicing the owner for the balance of the licence fee, with the Prompt Payment Discount applied if it was applied at the start of the licence.

The historic boat discount should be retained as it helps to keep the heritage of the waterways alive. The unpowered butty discount should be retained and extended to all boats under 50 feet long.

The restriction on tenders to less than 3 metres, imposed in May 2015, should be lifted. Tenders are kept for a variety of purposes, and the 3 metre limit is arbitrary and impractical, especially on rivers where tenders may need to be used in strong stream or flood conditions.

The electric boat discount should be retained as it stands, and increased for those boats that do not charge their batteries with a generator but rely solely on solar or wind power for propulsion.

The discount for disconnected waterways should be retained.

Those licensing their boats online should be able to pay in 12 monthly instalments. At present this is only available to those who licence their boats by post. The availability of 12 monthly instalments should be more widely publicised by CRT.

When a boater cancels a direct debit because they have sold one boat and bought another, they should not be denied the facility to pay for the licence of the new boat by direct debit on the grounds that they are a bad credit risk because they cancelled the previous direct debit. The licensing system should be amended to ensure that this does not happen.

The NBTA objects to the unilateral and unlawful changes to the boat licence Terms and Conditions imposed by CRT in May 2015. Boaters have no choice but to agree to them, effectively under a form of duress, because CRT unlawfully refuses to licence a boat without agreement to these. This is despite the fact that the British Waterways Act 1995 sets only three conditions that must be met for a boat to be licensed, which are set out in Section 17. Many of the Terms and Conditions are replicated in Byelaws which all boaters must obey, so the inclusion of these in Terms and Conditions is redundant. Other Terms and Conditions have no basis in law and are thus unenforceable. For instance, the Guidance for Boaters Without a Home Mooring and the restriction on tenders to less than 3 metres is an example of Terms and Conditions that have no basis in law.

CRT should inform new boaters that it is possible to insure a boat third party only; that this is the only insurance that is required to licence a boat and that third party only insurance is affordable and does not require a hull survey. The NBTA has assisted boaters who were unable to obtain the statutorily required third party insurance for their boats because they were unaware of this and had been told by insurance companies interested in selling comprehensive insurance that a hull survey was necessary. Hull surveys can cost £600 or more because the boater has to pay for dry docking or craning out. In contrast, third party only insurance for a boat on inland waterways costs around £72.00.

National Bargee Travellers Association
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