

Dear Mr Stephens,

Please could you include the following question on the agenda of the Kennet and Avon Canal User Group meeting on 19 November 2009.

In view of the correspondence quoted below between a boater without a home mooring and Martin Skinner, BW Enforcement Officer:

“29th September 2009

Dear Martin,

Thank you for your phonecall last week. Sorry for not having got back to you, but I have been very busy with work and our baby daughter. I recall you recommended that we move a little further in order to satisfy British Waterways that we are complying with the Continuous Cruising Guidelines. You specified that if we moved in the area from Bath to Hilperton that then we would be complying. Please could you confirm this in writing by replying to this email or writing to me.

Thanks for your time and I wish you all the best.

Tom.

30th September 2009

Dear Tom

Thanks for the E Mail.

I can send you a copy of the guide lines for continuous cruising if you wish but I suspect you have already had sight of these.

I do not believe it is for me to dictate to you, where you should cruise to comply with the terms of your licence. To state one place is a very short term and simplistic view and would not fulfil the requirements anyway. The ethos as you are aware is to continually cruise on a progressive journey over a significant part of the waterway.

As I have stated I do not believe your current movement pattern satisfies the terms and conditions of the licence. But you are far from one of the worst offenders. For your info the movements I have recorded for you are within a parameter of 15 Km. this should be measured against what is a significant part of the waterway (2200 miles). The reason for my hopefully received, ‘friendly message’ was just so that you are aware of our position and you don’t fall foul of our enforcement procedure. In considering moving further a field also be aware of the need to make a progressive journey i.e. in one direction.

I hopes this helps, if I can be of further assistance please don’t hesitate to give me a ring

Best wishes

30th September

Dear Martin,

Thank you for your reply. I have seen and read the guidelines for continuous cruising, but of course these are but guidelines, so we choose to abide by the law (BW Act 1995 Section 17) which states that we may stay in one place for

up to 14 days but does not state how far. You very rightly said that it is not the business of British Waterways to dictate how far we should move, so I look forward to keeping a pleasant, amicable, customer-service-based relationship with British Waterways. We move a reasonable distance and don't overstay on moorings, so I don't expect to be given any more notices. We pay a lot of money for our licence and I don't like seeing it wasted on notices and letters trying to 'enforce' guidelines which don't have the force of law, when the time and money could be spent on doing much more important and relevant jobs like dredging the canal, maintaining the banks so that we can moor in more places, and increasing the number of facilities in the area.

Again, I appreciate the time that you have taken to reply, but I trust that I won't see more of my licence fee wasted on enforcing the unenforcable.

All the best,
Tom .”

And in view of the legal opinion obtained by NABO which states:

“1. British Waterways may not legally deny or withhold a licence if a boater breaches the continuous cruising guidelines which do not have the force of law but are stated as a requirement in the Terms and Conditions.”

please can you confirm that British Waterways will not be sending any more letters such as this one:

I am writing to remind you about an important condition of your current boat licence. If you do not have a "home mooring" for your boat you must use it continuously for cruising in accordance with the British Waterways Act 1995. Included with your last licence application or renewal form was our "Mooring Guidance for Continuous Cruising". This Guidance sets out what is required to comply with the British Waterways Act 1995. I enclose another copy and you will see that:-

- (a) your boat must be genuinely used for navigation throughout the period of the licence;
- (b) you must not stay at any one place for more than 14 days (unless special reasons prevent onward movement); and
- (c) it is your responsibility to satisfy us that you keep to the rules.

According to our records, you do not have a mooring where you can lawfully leave your boat and we have noticed that your boat has been moored in the Hilperton to Bath area since 2nd March 2009.

Our initial sightings indicate insufficient movement to meet our legal requirements (and Condition 2 of the General Licence Conditions of Private Pleasure Boat Long Term Licences).

You have three options in order to comply with our requirements:-

1. use your boat for continuous cruising as set out in the Guidance; or
2. obtain a mooring where you can lawfully leave your boat when it is not being used for cruising (a "home mooring"); or
3. remove your boat from our property and water.

If you decide to use your boat for continuous cruising, I must ask you to begin keeping adequate evidence of the boat's movements. If you are unable to meet the movement requirements or to provide evidence of sufficient movement when requested by us this can be treated as a failure to comply with Section 17 of the 1995 Act.

to boaters without a home mooring for their boat who obey Section 17 (3) c ii of the 1995 British Waterways Act by not remaining in any one place for longer than 14 days or such longer period as is reasonable in the circumstances.

Thank you,

Yours Sincerely,