

PUBLIC CONSULTATION ON DEVELOPING LOCAL MOORING STRATEGIES 2009

RESPONSE QUESTIONNAIRE

Please use this form to submit your response before **31 January 2010**. To do this electronically, please download the form which is available at www.britishwaterways.co.uk/mooringconsultation09 and email it to consultation@britishwaterways.co.uk.

Paper copies should be posted to:

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If you have any questions about the consultation, please contact us:

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Your name and contact details

Please provide email or postal address, depending on how you would prefer to be contacted. Note, we will not be able to acknowledge individual contributions, but will contact you with a copy of the final report when available. Exceptionally, we may contact you if we need to clarify any aspect of your feedback. Unless you specify otherwise, we may quote, but not attribute, your views

Details removed

In what capacity are you responding to this consultation? (please tick all that apply)

As a representative of a company, organisation or local authority (please state which and include your position within the organisation) _____

Residential boater

Current boat owner (using boat mainly for leisure)

Continuous cruiser

Owner or employee of an inland marine business

employee of a business serving boaters

Angler

Resident living close to a waterway frequented by boats

Parish or District Councillor

Other (please indicate) __Owner of and resident on boat without home mooring

QUESTIONS

Mooring strategy steering group membership and chairing

1. Is the scope of the consultation clear? Would you include anything else in its scope?

The Waterways Ombudsman has ruled that BW must consult with interested parties before implementing changes in mooring. This consultation, and the remit of any group set up to make decisions on mooring, should therefore include all visitor and time limited moorings and 'no return within' restrictions that have been imposed without consultation before being changed from 14-day moorings. The consultation should also include designation of winter moorings and changes to leisure and residential moorings which were not subject to consultation. All current moorings should be opened to consultation before any other changes in mooring are proposed.

It should also include consideration of how this proposed policy would be funded and what the proposed budget is for it, and what it would cost compared to how much it would raise. BW licence payers should be given this information before being asked to comment on these proposals, because a considered judgement cannot be made without the financial information, and it is our money that BW would be spending.

BW has 'consulted' with canalside residents, parish councils and the leisure industry. The information it has gathered has been used a true account of the situation without any attempt to verify assertions or assess whether there are contrary views. Some 3,500 or 10% of BW's customers will be directly affected by these proposals, but none of these boaters have been involved in BW's analysis of the problems and nor have these boaters have been involved in any way in drawing up these proposals. They are only being consulted at exactly the same time as BW intend to implement these proposals and will not have the voice that the 10% of customers deserve.

The predetermined set of answers which statistical analysis will be based on in support, or otherwise, of the proposals, are skewed to prevent proper objection on the grounds above. It is not clear that proper weighting will be given to objections outside of this questionnaire.

2. What qualifications and skills should members of the steering group have?

I do not support the proposal for local steering groups. Only boaters and BW licence payers should have a say on the issue of moorings. No other group has the knowledge and practical experience to make such decisions. Any such group should consist of boaters only.

BW acknowledges that the task of the proposed steering group is complex, calling for knowledge and skill. Relying on unpaid, unfunded volunteers to draw up such strategies will result in decisions based on ignorance, lack of experience of the canal and of boating, prejudice against travelling boaters, vested interests and hearsay. We have already seen evidence of this in the minutes of the meetings and canal walk held between BW and Bathampton Parish Council on 15 June 2009; 10, 17 and 28 August 2009, and 10 September 2009.

For example a canal walk with representatives of British Waterways and Bathampton Parish Council took place in Bathampton on 17 August. This walk included a question and answer session. The following question was posed:

"2. What are we going to do about non-continuous cruisers' children going to local schools? "

This was the answer from Damian Kemp of British Waterways:

"This is not something that can be addressed by British Waterways on its own. Other stakeholders involvement is required but this is only likely to happen if a broader project is commissioned."

Decisions made under these circumstances will be unworkable and will not have the support of boaters, and will create conflict between BW and its paying customers, which could reduce BW's income. The use of unpaid, unfunded volunteers will exploit the prejudice, self-interest and also the goodwill of those on the steering group.

3. Is the principle of a locally-led steering group comprising all relevant and interested parties, preparing a mooring strategy agreeable? If not what other method would you use to do this?

No. BW has not provided any evidence to show that there is not enough mooring space for all the users of the canals and that the use of existing mooring space by those who need to use it is a

problem that requires solution. These proposals have been drawn up by BW in response to aggressive and effective lobbying by the leisure industry and by a small but vociferous number of wealthy and powerful canalside villagers reacting to use of the canals by a group of people they instinctively fear and dislike.

The legal powers BW already has, Section 17 of the 1995 British Waterways Act, are perfectly adequate to regulate mooring, but for some reason BW does not regularly enforce the 14-day rule, perhaps because it does not generate any income. Firstly, BW should enforce the 14-day rule consistently and fairly. Secondly, BW should carry out proper dredging, bank maintenance and vegetation control to increase the space available for mooring; this would result in much more additional mooring space than BW's current proposals would. I and most other boaters I know have had far more problems finding places to moor due to lack of dredging, dredging to a shallower profile than the original design, reed growth, bank collapse, low water depth and overgrown vegetation than because of overcrowding.

The process described for setting up and operating the local mooring strategy groups will be extremely costly and will not raise enough income to cover the costs. BW will be wasting its own and its customers' money, which would be better spent on the maintenance tasks listed above.

4. Do you think the list potential group members is appropriate? If not, what changes would you suggest?

No, it is not appropriate. I do not agree with the idea of local mooring steering groups. The group members should be boaters and no-one else. Any local decisions about moorings should be made by boaters as this is the only group that is directly affected and the only group that pays a BW boat licence. As users of moorings, boaters have the best knowledge of the situation and the greatest expertise. The proposed membership of the group means that the people who will be directly affected by its decisions will be outnumbered by those who are not. This is undemocratic and unjust. It is not the business of parish councils, local authorities, house dwellers and canalside businesses to decide where boats can tie up. Any additional members apart from boaters of any group making decisions on mooring should be drawn from organisations representing travelling boat dwellers, such as Friends, Families and Travellers; National Bargee Traveller Association; National Association of Boat Owners; Residential Boat Owners Association; or the Traveller Liaison Officers of local authorities.

Including parish councils and canalside residents will give a platform to prejudice and discrimination such as that demonstrated by the resident of Bathampton or Claverton (most likely either George Malcolm, Richard Wright, David Batho or Keith Rossiter) who expressed a wish to stop boaters' children from attending local schools (see above, notes of Question and Answer session on canal walk at Bathampton, 17 August 2009) and by the Bathampton resident who made a complaint to BW about "Boaters use of local school preventing tax payers children using it" (Complaint no 4, February 2008 received by BW SW).

This will lead to further demonisation, harassment and attacks on boat dwellers such as the arson attack on a boat at Bathampton on 6 June 2009 where the lives of a 2-year old child and his parents were put in danger and the family lost their home.

The proposed mooring strategies are to be established by a body who know very little about the day to day situation on the canals and who have no expertise or direct experience of the canals. This group will be given powers to enforce a set of rules that are far wider in their scope than the existing rules in the 1995 Act which BW chooses not to enforce. There are, within the proposals, conditions that are intended to explicitly exclude from the process those people affected by the proposed restrictions or people with local expertise of the use of the canal. The only canal users, as opposed to towpath users, that will be included in the proposed steering groups are those with declared vested interest, the leisure industry. The proposed steering group make up is not representative of canal users, it is weighted to non-paying users (not stakeholders in BW terminology) such as nearby residents and parish councils.

The use of volunteers to draw up mooring restrictions which carry fines for overstaying will lead to a situation where members of the public will have to attend court hearings and subject themselves to rigorous examination of their motivations and reasons for undertaking this role. Their accountability will be suspect and no process of appeal is proposed. There is no attempt to establish standards of behaviour or probity. This is not fair on either the volunteers or on boaters.

Agreement with the legal framework BW wishes to promote as a condition of being on a steering group prevents proper representation and is unworkable. How could this be policed? How would BW prove that a member does not agree? It is also discriminatory, and in practice excludes the boaters

which the proposals are targeted at and who would be affected the most. It would contravene Articles 8, 10 and 14 of the Human Rights Act, which BW as a public body is bound by. The legal framework set out in this document is beyond the legal powers BW has to enforce. To insist on agreement with it means that BW will be asking all members of a steering group to condone an unlawful act.

The people most likely to want to join the steering groups are those who dislike boaters and feel that the canal should not have so many boats. Non-boaters who feel positively about the presence of the boats are unlikely to join.

The involvement of canalside residents will mean that biased decisions will be made according to vested interests such as that proposed in the minutes of the meeting between BW and residents of Bathampton on 28 August 2009 (my italics):

“Permanent mooring zone – (currently permanent).

Damian said that this section currently contained 12 permanently licenced boats v. a capacity of 18 boats. BW would not increase this number beyond 12 and – after consultation with boat owners and other interested parties – intend to reduce the length of this permanent mooring stretch by approximately one third at the Kennet Side house end. This section would be converted to 72 hours. Damian thought this would take at least 6 months. *The exception might be the permanent mooring adjacent to Kennet Side house, which could remain in position even if the 72 hour section is extended.*”

5. Are you comfortable with our proposal that where possible the group should be chaired by the local canal society/trust or a local representative from either the IWA or other national boating organisation? If not, who would you suggest?

No. I don't agree with the proposed mooring strategy groups. Any decisions on moorings should be made by boaters. Any such group should be chaired by a boater. Any position of chair should rotate so that no one member has more power than another. It is clear from the minutes of the meeting between Bathampton and Claverton parish councillors and residents and BW on 28 August 2009 that the local canal trust is biased against liveaboard boaters and has an agenda of reducing their numbers. I quote from the minutes:

“Roy Smedley introduced himself as Chairman of the local K&A Branch (Bristol & Bath). He stressed that he was representing the General Manager of the K&A Trust – Mike Rodd - and would be briefing him and local colleagues on issues discussed at these meetings. He was aware of the need for action to regulate mooring on our stretch of the canal and to reduce the number of 'liveaboards' in this area. He said that the Trust's objective in reducing unauthorised long term mooring was to open up the canal to greater leisure cruising.”

I do not believe that a chair drawn from these organisations would be impartial, demonstrated by Roy Smedley's belief that there is unauthorised mooring by liveaboard boaters. Mooring by liveaboard boaters is authorised by the 1995 British Waterways Act which allows boats to moor in one place for up to 14 days. There is a clear agenda against liveaboard boaters in all these proposals.

6. Do you think that a national nominations panel would be a sensible approach for ensuring chairing and membership of the groups is appropriate?

No. I don't agree with the proposed mooring strategy groups. It is not a sensible approach and will lead to further conflict between BW and its customers. Nominations to any such group should not be controlled by BW.

7. How many members should the nominations panel have and which established national bodies should be included?

I don't support the proposed mooring strategy groups. Any decisions on moorings should be made by boaters.

8. What would be an appropriate mechanism for appointing unaffiliated individuals to the group? Should there be a maximum number?

I don't support the proposed mooring strategy groups. Any decisions on moorings should be made by boaters. There should be no limit on the number of unaffiliated members of any group making decisions on moorings, as this is the only way for boaters to be adequately represented. Individual, unaffiliated boaters should be the majority on any group making decisions about moorings since they are the most directly affected and have the greatest experience of the situation.

9. If you reject the options we have outlined, what alternative would you prefer?

BW should use the powers it already has, that is, the 1995 British Waterways Act. It should enforce the 14-day rule consistently and fairly. Section 17 (3) of the 1995 British Waterways Act provides for all that BW wish to achieve. This legislation took 7 years to debate and become law. To ask for more draconian powers because BW is unwilling to enforce this legislation (perhaps because it does not generate income) could only emerge from a corporate mindset which disregards its legal responsibilities. If BW concentrated on enforcing those powers it does have, which are extensive, then it would gain much more widespread support, especially from those groups of boaters on whom it is currently trying to impose unworkable solutions. Without the support of these boaters these proposals are doomed to failure and if implemented in spite of these objections will cause much larger problems than they are intended to solve.

BW should carry out proper dredging, bank maintenance, vegetation management and control of reed growth to increase the mooring space available. This would increase the amount of available mooring space on the canal system by at least 50%.

As long as a boat is licensed, boaters do not need to have a long-term mooring - this is a statutory right under the 1995 British Waterways Act which enshrines the principle of a universal licence for unlimited private navigation regardless of whether or not a boat has a long-term mooring. BW have a duty to make sure that there is enough 14-day mooring space through dredging, vegetation control and bank maintenance so that people can continue to exercise those rights. The proposals will reduce the total amount of 14-day mooring space and thus create problems mooring scarcity, not solve them.

All current visitor and time limited moorings and 'no return within' restrictions that have been imposed over the last 10 years that were not subject to consultation before being changed from 14-day moorings should be opened to consultation before any other changes in mooring are proposed. This should also include designation of winter moorings and changes to leisure and residential moorings which have not been subject to consultation.

Steering group tasks

10. Are you content with the role outlined for BW in the proposals? (see e.g. paras 4.5, 4.10, 4.14)

No. All of these decisions should be made by boaters and BW licence holders as these are the people who are affected. In any case, what is the point of having a local group to make decisions if BW can veto their decisions? The proposed decision-making structure is unworkable.

11. Would you prefer it if the draft strategy was also reviewed by another party before public consultation? If so, who?

I do not support local mooring strategies. Any changes to moorings should be reviewed by boaters and by groups representing travelling boat dwellers such as Friends, Families and Travellers, the National Bargee Traveller Association, and the Traveller Liaison Officers of local authorities.

12. Do you agree with the method of arbitration in para 4.15? If not how would you resolve disagreements between BW and the steering group?

I do not support any of the proposals listed. Decisions on moorings are nobody's business except boaters. The proposals are unworkable. They will result in unnecessary conflict between BW and other parties.

Timescale

13. Are any of the stages too short/too long? Which ones?

BW has not followed its own procedures for direct consultation with stakeholders. BW states that these procedures follow the Government's Code of Practice on Consultation issued by the Better Regulation Executive in the Department for Business, Enterprise and Regulatory Reform. Section 2.1

of this Code of Practice states that “Under normal circumstances, consultations should last for a minimum of 12 weeks”. This paper was released on November 17 2009 with an original deadline for responses of 11 January 2010, recently extended to 31 January. The consultation period is below the minimum period in the Code of Practice. This consultation is not valid or genuine.

The fact that this consultation is taking place at the same time as the “constructive debate on the right policy framework for achieving a fair balance between competing demands on towpath space for short term mooring”, that is, the concurrent consultation on national moorings policy, proves that this consultation is a sham. The concurrent consultation proposes to discuss the merits of imposing the local mooring strategies, however the consultation of how those strategies might be deployed will already have taken place. This demonstrates that BW will simply announce its intentions, veiled as a consultation, and proceed without consideration of parties other than those that, whatever their motives, have already lobbied BW for change.

Since BW states that it intends to use the western Kennet and Avon canal as a pilot for the rest of the local moorings strategies, this proves that the results of the consultation have been pre-judged. Additional proof that the results have been pre-judged is that the proposals already have a timetable in which there is not enough time for a proper analysis of the consultation response, indicating that the proposals will be implemented no matter what the response to the consultation is, and that the steering group will be pushed strongly in the direction of the proposals put forward in the concurrent consultation document on national moorings policy.

In addition, the results of the consultation have also been pre-judged because the local mooring strategy for one part of the Kennet and Avon canal was drawn up by BW, Bath and NE Somerset Council and Bathampton and Claverton Parish Councils, without consultation with boaters, in meetings which took place on 15 June 2009, 10, 17 and 28 August 2009, and 10 September 2009.

Minutes of the meeting held at Bathampton Village Hall held on 10 and 28 August 2009 imply that local residents believe that mooring zones are already decided and further demonstrates that the “debate” is a pretence, as opposed to facilitating any involvement in the apparently completed decision making process by the people who will be most affected by these proposals, boaters. For example I quote from the minutes of the meeting between Bathampton Parish Council and BW on 28 August 2009:

“ Ian Dewey (Chairman) welcomed Ian Muir, David Batho and Roy Smedley to their first meeting of this group. Ian D. anticipated that this meeting would focus principally on ‘technical’ issues concerning:-

- BW's draft zoning plans for mooring on the K&A canal between Folly Foot & Dundas, resulting from the walk undertaken by Damian together with Richard, David, George and Keith on Monday, 17th August.”

I am very concerned that the proposed zoning strategy is a considerable way toward implementation before either the national or local consultations have ended.

14. Are any stages missing? If so, which ones?

Some 3,500 or 10% of BW's customers will be directly affected by these proposals. None of those boaters have been involved in drawing up the proposals, in fact those boaters were deliberately excluded from the meetings between BW and Bathampton Parish Council which these proposals are based on.

No independent study has been made of whether there has been an increase in boats on mooring space at popular visitor attractions or the impact of an increase if it exists.

No investigation has been made by BW of the impact on the indigenous community of boats, many of whom have been living on the canals for up to 25 years.

No assessment has been made of the human rights acts implications of changes in moorings policy, particularly with respect of access to health services, education and employment.

No credit is given to the benefits to the canal environment and surrounding towns and villages that liveaboard boaters bring, such as profits for local shops and businesses, support for rural post offices, and the creation of an atmosphere of safety and security on the towpath which benefits joggers, walkers and cyclists.

Any other comments?

These proposals are more about generating income than managing visitor moorings more fairly and effectively. They would increase unfairness, not reduce it, and would be ineffective due to being unworkable. There is a clear agenda against liveaboard boaters in all of these proposals.