

UPDATING BW'S ONLINE MOORING POLICY (England & Wales) 2009 BRIEFING FOR USER GROUPS APRIL 2009

Pre-consultation draft for WUSIG discussion, 22/4/09

PROPOSALS FOR DISCUSSION, NOT CONFIRMED POLICY

1. CONTEXT AND PURPOSE

The BW network has never been in better shape: its popularity for all manner of recreational uses has grown strongly, particularly between 2004 and 2008. Although boaters quite reasonably continue to press for even better standards and share BW's concerns about future funding sources, investment in infrastructure over the past ten years has brought increased reliability and operational maintenance efficiency has improved. The number of boats on the network is at an all time record.

Such growth brings increasing challenge to BW as manager of the network's water space and towpaths. Demand for moorings is not evenly spread throughout the 3,300 kilometres of navigation, but is clustered, broadly according to population distribution. Some areas are becoming congested with unacceptably high densities of moored boats, many of which are lived on.

Since the publication of our last [online mooring policy briefing in 2006](#), we have seen significant success from our marina development initiative. A total of some 3,700 new offline marina berths were created between 2006 and 2009 by private investors. A further 350 were under construction in March 2009, and capacity of some 1,900 berths has planning consent.

This new capacity is helping to relieve demand pressure on online mooring sites, but there remain gaps in our current policy which we need to address if we are to achieve optimum balance of use of scarce water space along the canals, overcome problems of congestion at casual moorings and lack of provision for residential boaters. Refinement of our current moorings and boating policies and their enforcement to meet today's demands on the network in England and Wales is therefore the focus of this document. Conclusions and actions arising from the debate and consultation must be designed to maximise the effectiveness of what will always be a limited enforcement resource.

Suggested principles

1. Policies and strategies should be designed to align with the following:
2. Boating is at the core of BW's business. We want it to thrive into the future.
3. We must achieve excellent satisfaction levels amongst boaters with the overall experience.
4. Waterways are primarily for navigation. We must have sufficient places for people to tie up during a cruise and plenty of 'breathing spaces' between groups of moored boats.
5. We must seek 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 bankside space, we must have policies to encourage a fair and appropriate mix.
6. Healthy competition between providers for moorings and facilities is desirable as this will encourage good choice for customers.
7. We will not compromise on enforcing compliance with safety and other statutory regulation.
8. BW needs to optimise the financial contribution of its boating business to support waterway maintenance and repair costs.

The Challenges

Avoiding unacceptable densities of long term moored boats and overstayers in busy areas

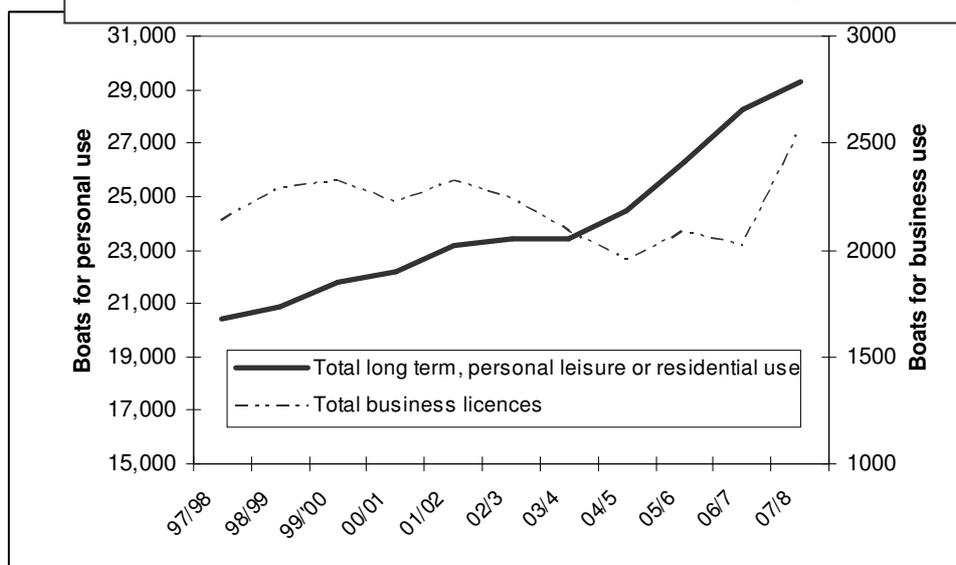
Maintaining availability of casual¹ moorings for cruising boaters

Enforcing compliance with continuous cruiser rules

Meeting demand for residential moorings

Addressing residential use at long-term moorings without the relevant planning permission

Trend in powered boats licensed on BW waterways (England & Wales)



2008

32,000 boats, of which the great majority are privately owned, powered boats requiring moorings

1,400 miscellaneous trading boats

1,000 hire boats & 150 passenger boats – both important stimulators of future demand for private boat ownership.

¹ 'Casual mooring' is the term used in BW's statements of intent etc. made during the passage of the BW Act 1995 through parliament. It conveniently defines both designated visitor moorings and towpaths generally where mooring is permitted for up to 14 days, unless otherwise indicated.

2. DENSITIES OF LONG TERM ONLINE MOORINGS

2.1. Context

Since 2006, supply of moorings has increased, but not yet in sufficient numbers to match growth in demand. Density of online mooring, whether for long or short term use therefore continues to grow with consequent negative impact on boater amenity in some areas.

Boaters have told us in independent surveys that there are too many boats moored along the towpath or offside of the canal in some areas – they feel for example that the natural and unpopulated character of rural waterway landscapes - one of the most popular attractions of canal cruising – is diminished.

Our 2006 policy for offline and online long term moorings continues to work quite well. Within the powers available to us, we have prevented large scale expansion in authorised online long term moorings. Using natural wastage at our own mooring sites, we have reduced a total of over 200 berths in the vicinity of new marinas.

2.2. Provisional Policy

- (a) We recognise customer dissatisfaction with high densities of online moorings in some areas.
- (b) We will continue to encourage investment in offline moorings through our dedicated unit. The remit of the team will expand to encourage small as well as large schemes and to encourage investment in residential moorings.
- (c) We will continue to apply section 3 of our 2006 policy relating to offline and online long term moorings (controlling expansion of online moorings)
- (d) We will modify section 4 of the policy (procedure for reducing existing online moorings) to ensure that profitability of BW's long term moorings is not prejudiced by berth closures. (Profit from these moorings is an important contributor to waterway maintenance costs).
- (e) We seek to work with interested parties to develop long term mooring strategies for those areas of the network subject to greatest demand pressure. These will determine acceptable density limits for online moorings and devise practical mechanisms for enforcing them.

2.3. Implementation

- (a) Proposed revision to section 4 of Policy relating to offline and online moorings (2006)

We will update the statistics at the beginning of this section.

Our targets for reducing berths will not change for the time being (i.e. 1 online berth cut for each 10 offline berths created). However, this target will be replaced locally by the prescription of the local mooring strategy as it becomes available. In the meantime, instead of targeting individual mooring sites for wholesale closure, we will continue to reduce the capacity of our directly managed sites in the vicinity of newly opening marinas, where it is possible to do so without significant detriment to the profitability of individual mooring sites. We need the flexibility to retrospectively shift capacity between our sites for this purpose. We will report twice yearly on berth closures (March and October).

We will reserve the right to refuse renewals of permission for private offside canal moorings on expiry of leases where linear mooring density is in excess of x^2 berths per km and where offline capacity is available in the area. We would not apply this to individual end-of-garden moorings³.

² We will refer to the independent research conducted in 2006 as a starting point for consultation on the value of 'x'.

³ One mooring is generally permitted under the 2006 policy per residential property (para 3.3 (iv))

- (b) We will develop and publish guidelines for approvals of applications for new offside moorings which fulfil the criteria contained in the 2006 policy.
- (c) The purpose of local long-term mooring strategies will be to:
 - map out the future picture of different types of mooring provision within a regional grouping of BW waterways
 - show areas where there is scope for expansion in boat numbers and areas where growth will need to be restricted

The strategies will be written to guide BW management, developers, planners and boating customers. They will cover all types of mooring and all providers (not only BW directly managed). They are seen as particularly important for aiding understanding of moorings issues by local planning authorities, particularly in the context of planning applications. They will define broad zones where in future, moorings of all types should and should not be permitted, taking account of, amongst other things, likely capacity constraints (water resource, congestion etc).

The strategies must be written with close involvement of local waterway user representative bodies. We will seek input to the exercise from suitable interested groups and volunteers.

3. AVAILABILITY OF CASUAL MOORINGS FOR CRUISING BOATERS

3.1. Context and main issues

Overstaying at a casual mooring means that space is not available for navigating boaters. This reduces the enjoyment of boating trips and reduces the likelihood of repeat visits.

Apart from the undertakings associated with the British Waterways Act 1995, there are no special public law provisions concerning moorings along BW's canals. This is a matter for management by BW as property owners.

Moorings along the towpath, other than those designated for use by long term permit holders only, are available for boaters to use subject to conditions. As a land owner, BW may impose further conditions over and above those within the licence conditions.

General Licence Condition 2.1 (Mooring) explains that the maximum period that boaters can moor in any one place away from their home moorings is 14 days. Where notices indicate a shorter period boaters must comply with these local restrictions.

BW's current policy for enforcing time limits is to use its powers under S8(5) of the 1983 BW Act that permits it to move boats that are causing an obstruction. A boat is causing an obstruction at a mooring by preventing other boaters from tying up. In practice this is cumbersome and expensive to enforce and we need to establish additional methods to reduce overstaying at casual moorings.

3.2. Provisional Policy

- (a) The term "BW visitor mooring" is a signed section of towpath designated for short stops. The designation will have been made because of the specific location at a popular destination or access point. Passing boaters therefore need to be reasonably confident that space will be available when they arrive. If the time limit is set at 14 days, it is likely that many boaters will be unable to find a space for a short stop. **The term 'visitor mooring' therefore is to be defined as a site carrying a time limit of less than 14 days.**

- (b) We will consult with local and national boater representatives with a view to establishing appropriate time limits for all of our visitor moorings. Decisions on time limits will reflect the needs of genuine cruising boaters.
- (c) Space at the extremities of visitor mooring sites may be let for longer term mooring during the winter, subject to permit. Local consultation will inform the decision on the appropriate percentage of the overall length of mooring site that may be let in this way.
- (d) Time limits will be clearly signed at all **visitor** moorings along with details of sanctions for overstaying. If there is no sign, the time limit is 14 days.
- (e) Enforcement of time limits at sites where overstaying has become a problem will require daily site visits and we will explore options for appointing local agents or wardens to do this.

3.3. Implementation

The following work programme will be required and we will seek the help of boating user groups nationally and locally to help us to deliver this.

- Development of a brief for a national survey of all visitor mooring sites and criteria for determining appropriate maximum stay times. Commissioning and completion of the survey and recommendations.
- Identify a number of the visitor mooring sites where overstaying is currently causing the most inconvenience to cruising boaters.
- At these sites, pilot the use of charges for stays in excess of the signed free period. See appendix 1 for discussion of this option.

4. NON-COMPLIANT CONTINUOUS CRUISERS

4.1. Context

BW currently licenses some 3,600 boats which have no home mooring. The condition upon which this licence is issued is set by the British Waterways Act 1995, namely that the boat must be '*used bona fide for navigation throughout the period of the licence*'. The Act also says that when navigating, the boat must not stop '*in any one place*' for more than 14 days. 'Place' was not defined, but BW developed guidelines in 2004⁴

Non compliant continuous cruisers are people who tend to linger in a particular area and usually live on their boat. Another group displays these characteristics but declare a home mooring at a distant location which they rarely, if ever visit (a 'home mooring of convenience'). Whilst not a continuous cruiser, the problems they cause are similar and are covered by the discussion in section 3.

Analysis of our boat sighting data between October 2008 and March 2009 provides some evidence that as many as 70% of registered continuous cruisers may not be complying with the mooring guidelines since they were consistently observed within a relatively small geographic area.

4.2. Why this represents a problem

- Non-compliant continuous cruisers tend to overstay at casual moorings and cause higher densities of moorings, as described in the context of section 2 and 3, and make it more likely that passing boaters will have difficulty finding a place to moor.
- Many boaters who pay for a home mooring feel that it's unfair that some boaters are 'allowed to break the rules' and enjoy cheaper boating / living costs.

⁴ published at www.britishwaterways.co.uk/mooringsguidance

4.3. Provisional Policy

- (a) We recognise that there is demand for 'footloose living' on the waterways and we are pleased to accommodate it, provided there is compliance with the Continuous Cruiser movement rules.
- (b) We will take measures to limit the non-compliance of continuous cruiser rules. Bona fide Continuous Cruisers should not be penalised by these measures.
- (c) We will provide clear information to customers about the Continuous Cruiser licence terms, options for mooring and living on their boat.

4.4. Options for implementation

We see the need for a mix of strategies to tackle the non-compliance and over-staying / lingering challenges. These are discussed and evaluated in Appendix 1 under the following headings:

- (a) Improved communication of the rules
- (b) Application of existing enforcement procedures
- (c) Introduction of one or more new types of mooring permit on a trial basis

We will review progress after 12 months.

4.5. Comparing the different options for implementation

The following table summarises a simple assessment of the effectiveness of the different options described in appendix against four criteria:

	Addresses 'unfairness'	Releases casual mooring space	Cost to implement	Generates income
a. Improving communications	Minimal	Minimal	Very low	No
b. Apply existing enforcement procedures	Yes	Yes – but space likely to be taken by new cases	Very high	No (ultimately loses licence income as boaters are removed)
c. Short term mooring permits (per day)	Yes	Should be effective at releasing space at popular spots	Moderately high (cost of agents/wardens)	Yes, via many small payments
d. Roving mooring permits (per year)	Yes, but legitimises lingerers	No, although may have some effect if numbers of RMP's are limited	Relatively low	Yes – via smaller number of larger payments
e. Annual mooring supplement	Yes	No	Relatively low	Yes

It is impossible to predict the likely take-up of each option and hence the impact on addressing unfairness or the remaining numbers who will still persist in not complying

All options involving charges will release space to the extent that pricing deters adoption of the lifestyle.

All options involving charges will raise income which could be spent on enforcement

5. PROVISION OF BERTHS FOR RESIDENTIAL USE

5.1. Context and main issues

There is very strong demand from people wanting to live afloat, but long-term mooring sites where residency is permitted (i.e. with local authority consent for residential use) are relatively scarce (for example 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 sites have few or no facilities.

Different levels of facilities appeal to different customers for economic, lifestyle and social reasons. Whilst some sites with more facilities will appeal to those customers who consider them essential, there is also demand for the provision of sites with fewer facilities.

The main constraint to increasing supply is planning control. Residential boaters are a specific household group recognised by Government but, unlike some other minority household groups, there is no national planning policy or procedural guidance, and they are therefore treated as dwellings and subject to local housing policy. Much of our network is in areas where residential development is constrained or excluded.

BW does not have a responsibility to provide housing but it provides residential moorings as part of its commercial moorings business and must charge market rates. Fees at residential sites tend to be higher, which reflects demand for a berth which can legitimately be used as a person's main residence, and sometimes higher operational costs.

The problems that could be posed by residential moorings include visual, amenity and environmental impact, plus constraints on BW's operations. However it should be possible to avoid these issues by locating sites in suitable locations and managing them effectively.

Residential boaters have, in the past, raised issues with BW and other mooring providers such as security of tenure and assignment of the mooring.

5.2. Provisional Policy and Implementation

- (a) In principle, BW welcomes residential boats on its waterways. They add life and vibrancy to the waterway scene, provide a sense of security and generate an important contribution to waterway upkeep and the local economy.
- (b) Residential mooring sites must be suitably located and properly managed.
- (c) We are developing guidance for local authorities, developers and moorings operators, to include advice on suitable locations, facility provision, site management, demand and supply for residential moorings on our network, and other issues relating to residential use on water.
- (d) We seek better recognition of residential boaters as a specific household group in the planning regime and encourage more informed consideration by local authorities.
- (e) We encourage creation of residential moorings by others. We will also seek to increase BW's stock of residential moorings by developing new locations and seeking residential status for those of our leisure moorings we consider to be suitable for the purpose. In order to meet the diverse demand, we will encourage a broad range of supply from simple low-impact sites to fully-serviced moorings.
- (f) We will review our standard long term mooring agreement, taking into account issues raised by residential boaters and our own operational needs. Resident boaters must understand and accept

that the operation of our network takes precedence, although we will consider and endeavour to respect their needs at designated residential sites.

- (g) We will provide clear information to customers about living on their boat, particularly at BW moorings.

6. UNAUTHORISED RESIDENCY AT LEISURE MOORINGS

6.1. Context

A leisure mooring used as someone's primary residence would generally constitute unauthorised residential use since it normally requires planning consent.

Our local staff going about their normal duties notice over time the differing patterns of use of boats on moorings. We asked them to make a guesstimate of how many boats on our directly managed sites they suspected were being used as a primary residence. The response showed around 1 in 4, giving a total in the order of c.1,000. In London and the South East, it was significantly higher.

As land-owner of the waterway, LPAs consider BW to have an interest in privately-operated as well as its own directly-managed sites when they consider planning enforcement action. We have not however attempted to estimate the incidence of unauthorised residential use at privately-operated sites.

These people have taken a risk living on their boat when it's not permitted. But due to the complexities of the issue, and the need to give priority to licence evasion, BW has so far tended to leave the local planning authorities to raise concerns as and when they felt it necessary.

There are relatively few cases of enforcement action by local planning authorities – we estimate between 10 and 20 in the last few years, some of which did not progress beyond initial enquiries. Most of these resulted in improvements to the site in question, although some required other forms of resolution.

6.2. Why unauthorised residency represents a problem

- The opinion of those who know it happens (e.g. neighbours, customers at legitimate residential sites and also our staff) is that it's breaking the rules, potentially a breach of planning, is avoiding council tax and is unfair.
- BW's apparent intransigence damages our reputation for enforcing the rules – we suspect or know it's happening but don't act.
- It risks our relationship with local planning authorities since it's a potential breach of planning regulations and we are expected to control activity at our sites.
- Residential boaters may be making higher bids for vacancies at BW's leisure moorings, thereby disadvantaging the genuine leisure boater.

...BUT...

- Since unauthorised residential use is a potential breach of planning regulations, the matter could be more efficiently dealt with by the LPA which has the necessary expertise and powers.
- Enforcement brings with it a significant risk of exacerbating the non-compliant Continuous Cruiser problem. Some boaters evicted from a leisure mooring site would be likely to take the continuous cruiser option, but would be unable to comply with the movement requirements.

6.3. Provisional Policy

- (a) We wish to halt any increase in unauthorised residential use on our leisure moorings and phase out the existing residential use.

- (b) Whilst we accept that it is contrary to planning, in many cases it would be difficult and impractical for BW to establish sufficient evidence in order to determine a breach of our mooring conditions. However, we will cooperate fully with any LPA in respect of a particular site or boat.
- (c) We will assess our leisure sites for their suitability for residential use. Where appropriate we will seek to formalise the residential use via planning permission or certification of established use.
- (d) If we assess any site as unsuitable for residential use (e.g. unsuitable location, environmental impact or safety grounds) or a site fails planning consent (or an appeal) we will take measures to stop the residential use at the site, for example by relocating the boats, engaging the LPA enforcement officers or other means.
- (e) We will review the issue of unauthorised residential use at mooring sites not directly managed by us.

6.4. Options for implementation

BW's mooring agreement states⁵ that all relevant laws must be complied with. Therefore using a leisure mooring as a primary residence may require planning permission and would render the moorer in breach of their mooring agreement. BW needs to consider how to establish evidence of this breach and which sites/customers require action. The solution must:

- be proportionate to the scale of the problem (c.1000 people out of c.4000 BW leisure mooring customers)
- allow a reasonable timescale – the current level of unauthorised residential use has developed over some time and change will affect people's homes
- protect or minimise loss of revenue to BW
- be cost effective in its implementation
- minimise the risk of boaters responding by becoming a non-compliant continuous cruiser
- be easily understood and workable for staff and customers

Appendix 2 describes and evaluates the following options.

- a) Check evidence of home address as a condition of the BW mooring agreement for leisure moorings
- b) BW to establish that the boater is living at a leisure mooring site and hence in breach of their mooring agreement
- c) Ask the Planning Authority (LPA) to take enforcement action
- d) Introduce changes to mooring site management to make residency difficult or unattractive.

Our preference is option a). In appendix 2 we also consider which group of customers this option should apply to. Our preference is for it to apply to new leisure mooring customers only (i.e. those securing the vacancy through the auction system).

⁵ *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.*

7. CONCLUSION

7.1. Objectives for online moorings

Drawing together the issues and policies outlined in this paper, our objectives for the management of moorings on our network can be summarised as:

To encourage and facilitate growth in supply (by the private sector and BW) to meet the diverse demand for moorings, both leisure and residential.

- (a) Encourage the provision of offline moorings and limit or reduce online moorings in places where they detract from the use and enjoyment of the waterways and/or where demand falls as a result of increased offline provision.
- (b) Improve information for customers about their licence and mooring options for boating on our waterways and particularly for living afloat.
- (c) Continuous cruiser rules and the conditions of use of casual mooring sites must become better understood and respected by boat owners. Where this fails, we must use stronger incentives and more credible sanctions.
- (d) Achieve better recognition of residential boaters as a specific household group in national and local government policies and frameworks so that planning consent is more readily secured.
- (e) Halt the growth in unauthorised residential use of BW's leisure moorings; phase out existing unauthorised use and review how operators of other online leisure moorings can be encouraged to do the same.

7.2. 2012 Targets

1. Mooring strategies in place for our most intensively boated waterways
2. An additional xxx offline berths created by third parties (developers, cooperatives, clubs etc), including some in small residential boat harbours
3. Credible enforcement of time limits at casual moorings
4. An end to 'continuous mooring' by non compliant continuous cruisers
5. A more receptive planning regime in which obstacles to obtaining local authority consent for residential use of moorings are reduced.
6. A substantially increased supply of authorised residential moorings, comprising a mixture of new sites and change of use of some existing leisure moorings.
7. Diminished levels of unauthorised residential use at leisure moorings

Initial priorities for achieving these would be:

- Customer communications for improved understanding of their options and the rules
- Continuing use of our current enforcement procedures in targeted cases
- Trial roving and short term mooring permits at selected 'hot-spots' or stretches. Review the outcomes after 12 months to inform subsequent strategy. Evaluation would assess the extent to which the options had been successful in addressing the problems associated with non compliant continuous cruisers noted in the body of this paper. Notably: had they led to improved access to casual moorings for genuine

cruising boaters? and had they reduced the total population of non compliant CCs in the areas where they had operated? What was the cost of implementation and what was the income generated?

- 'Launch' our new pro-active approach to residential moorings, produce guidance and engage with LPA's and DCLG
- Start assessing BW leisure sites and new locations suitable for residential use and submit planning applications

8. INVITING YOUR COMMENTS

We hope this paper has helped understanding of the full range of management challenges relating to the mooring of boats along the banks of our waterways. We are inviting views on both our analysis of the problems and suggested solutions in the form of policies and implementation detail.

Please structure your response under the following headings:

8.1. Suggested principles (page 1)

Do you agree with these principles? How would you change them?

8.2. Summary of challenges (page 2)

Do you agree that these are the most significant challenges? How would you change the list?

8.3. Densities of online moorings (section 2)

Do you agree with our analysis of this issue? (2.1)

What comments do you have on the policies? (2.2)

What comments do you have on the implementation options? 2.3)

Are there ways in which volunteers could help with this challenge?

8.4. Availability of casual moorings for cruising boaters (section 3)

Do you agree with our analysis of this issue? (3.1)

What comments do you have on the policies? (3.2)

What comments do you have on the implementation options (3.3 and appendix 1)

Are there ways in which volunteers could help with this challenge?

8.5. Non-compliant continuous cruisers (section 4)

Do you agree with our analysis of this issue? (4.1 and 4.2)

What comments do you have on the policies? (4.3)

What comments do you have on the implementation options? (4.4, appendix 1 and 4.5)

Are there ways in which volunteers could help with this challenge?

8.6. Provision of berths for residential use (section 5)

Do you agree with our analysis of this issue? (5.1)

What comments do you have on the policies? (5.2)

8.7. Unauthorised residency at leisure moorings (section 6)

Do you agree with our analysis of this issue? (6.1 and 6.2)

What comments do you have on the policies? (6.3)

What comments do you have on the implementation options? (6.4 and appendix 2)

About the consultation process

This is the first time that we have invited views on the broad spectrum of online moorings issues. The development of the document has been triggered partly by pressure from different sectors within the boating community, each with different perspectives. The issues that we have raised under the separate headings are distinct, but the solutions are interdependent. Much has already been written and debated on some aspects within waterways media. By bringing the various themes together, we are aiming for a well informed, and we hope conclusive debate to inform BW's future strategy. Debating and consulting is time consuming but important, and we hope that once this particular exercise is complete we can draw a line and get down to work implementing solutions that will have broad support. We hope also that we will find new ways of harnessing boaters' enthusiasm in helping us to deliver some of the solutions.

The paper's focus is on mooring along waterway banks. It does not aim to be a complete blueprint for boating management.

Consultation programme (provisional timetable)

22 April	Discussion of draft paper by Waterway Users Special Interest Group meeting and ? BWA
Mid May	Revised paper considered by BW Directors
End June	Consultation paper published on website and emailed to national boating groups. Consultation opportunity publicised in the Waterways online and offline media and in inserts in boat licence renewal mailings.
July-August	BW Directors public meetings at regional locations. Opportunities for questions, discussion and logging your views.

Note: It will not be desirable for the consultation process to delay development of some of the work described in this paper. We will take a steer from national boating group representatives during the early phase of consultation on which elements they feel should not be progressed until the consultation responses have been analysed.

APPENDIX 1

Options for increasing compliance with continuous cruising rules

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 i.e. making a journey. A “cruise” is a journey or series of journeys “making for no particular place or calling at a series of places”.

Therefore, subject to stops of permitted duration, those using a boat licensed for continuous cruising must genuinely be engaged on a journey or series of journeys. Such journey or cruise must take place “throughout the period of [the licence]” and therefore requires progression around the network, or at least a significant part of it.

Thus short trips within the same area, “bridge hopping” and shuttling backwards and forwards along a smaller part of the network does NOT meet the legal requirement for continuous cruising. The law requires a genuine progressive journey (a cruise) around the network or significant part of it.

(Extract from licence terms, schedule 2)

a) Improving communications

We have tended to assume that all continuous cruisers have conscientiously read and understood the mooring guidance when they sign up for the licence. We need to do more to explain the rules and will give high priority to developing more accessible material. Given the sensitivity of many bona fide cruisers, we will take care to ensure that the material is non-threatening and doesn't assume non compliance. Information will be posted to all continuous cruiser licence-holders, handed out on the towpath by our boat checkers and widely distributed amongst people enquiring about boat ownership.

We will consult boating user groups on the content and hope to obtain explicit endorsements and supporting statements from RBOA, IWA and NABO along with a willingness to communicate the information through their own channels.

During 2008 we greatly increased our regular sightings of boat movement as part of our normal licence enforcement activity. This gives us robust records of non compliance which we should also communicate as it can be expected to act as a deterrent in some cases.

We believe improved communications to be a sensible action although it will be unlikely to reverse the behaviour of significant numbers of non-compliant continuous cruisers. It may help to stem the further proliferation of the behaviour.

b) Application of existing standard enforcement process

Our current priority for enforcement staff is to reduce the number of unlicensed boats. Our definition of non-compliant continuous cruisers excludes unlicensed boats since these will already be subject to enforcement.

Locally, we identify specific stretches or locations where we believe non compliance to be causing the greatest inconvenience to other waterway users. Where non-compliance is coupled with suspected breach of other licence conditions, we will tackle these first and gather the necessary evidence to conclude the enforcement process. The result is either licence termination and removal of the boat, or the boater adjusts behaviour to become compliant. To achieve a conclusive result of compliance with the movement rules is rare: the boater may correct the behaviour for the purposes of satisfying the enforcement officer for the time being, but once observation has diverted to other cases, there is strong temptation to revert to non compliance.

In summary, enforcement of boat movement rules amongst continuous cruisers can never be expected to eliminate non compliance and it's doubtful whether, even with significantly increased resource, it could make a significant impact on the problem in the most difficult areas.

The ultimate removal of a non-compliant continuous cruiser is a significant cost and will result in lost licence revenue for BW.

Alternative approaches

We have outlined above one 'soft' and one 'hard' approach using our current systems, both of which we will deploy to the best of our ability and resource. However, we believe that a more effective strategy would be one that forces a re-think of lifestyle by the offending boaters. Use of charges would address the issue of unfairness (since the boaters avoid paying for a home mooring and are living 'cheaply') and aims to deter the use. We will call these targeted, charges-based approaches. Targeted because they are designed to affect non compliant continuous cruisers, not those who follow the movement rules.

So far we have defined three options – essentially all are variants of the principle of charging for time spent on casual moorings beyond the minimum free period. They range from highly localised charges at specific mooring sites through to a national annual charge collected at the same time as the licence fee.

These approaches all have the advantage of being enforceable through simple credit control methods, rather than the more onerous exercise of BW's statutory powers. In evaluating the different options, we must be mindful of the need for monitoring and enforcement effort to be proportionate: we have no desire to move to a 'surveillance' culture. Yet, we have to make the system effective. The balance will not necessarily be easy to strike for all boaters.

c) Short term mooring permits

This would involve a refinement of our national moorings policy as articulated in the '95 Act Statement of Intent in respect of moorings. This says that BW will allow mooring against the towpath free of charge for casual use up to 14 days (or less where indicated locally). While this commitment would remain, we would add the following definitions and conditions:

- Casual use definition: stops ancillary to bona fide cruising.
- Limits to individual visitor mooring sites would be marked on the towpath. They would also be zoned as described below for Roving Mooring Permits.
- Policy would permit free mooring up to 14 days in any place (or less where indicated). Thereafter any boater wishing to stay longer would have the option of purchasing a short term mooring permit at a premium price: The price would be sufficient to provide an effective deterrent to longer term stays at the site. Permits could be weekly or monthly – priced somewhat higher than pro rata to the cost of a typical local mooring to achieve a deterrent.
- Suggested daily permit fees would range from around £5 per day at quiet rural access points to (say) £40 per day in central London
- Permit charges would be clearly signed at the site.
- There would be a 'no return within xx days' restriction.
- Locally appointed agents/wardens would carry out daily (or more frequent) checks and record boats present at the site. When the free period is passed, they would offer a variety of easy payment methods (such as invoicing the licence holder and pre-payment cards - like phone top up cards available at post offices etc) for sale of permits. We would aim to avoid the need for cash handling on site.
- This could be interpreted as an overstay penalty, but we would propose marketing it more positively as a permit.

Short term mooring permits (cont)

Pros	Cons
<p>Simplicity of principle – “pay as you go/moor”</p> <p>Potentially effective deterrent to overstaying at particularly popular spots</p> <p>Would apply to all boaters regardless of whether they have a home mooring or not. (i.e. addresses ‘home mooring of convenience’ issue)</p> <p>Enables genuine cruisers to stay longer in an area if they wish.</p> <p>Generates income.</p>	<p>Still requires vigilant enforcement and regular recorded boat sightings to ensure no overstaying on visitor moorings.</p> <p>We would need daily on-site monitoring and the need to set up local agents/wardens and associated procedures</p> <p>Unlikely to be practical at sufficient sites to constitute a complete solution on its own</p> <p>Would need to support with prompt action to move boats where boater refuses to purchase.</p> <p>Not fully compatible with use of S8(5) (obstruction) powers to move boats on when overstaying.</p>

d) Roving Mooring Permit (RMP)

The RMP would be a new option for those boaters wanting to stay in a specific area. The benefits of purchasing would be that they would avoid enforcement action, although its cost would be designed as an incentive to arrange a proper long term mooring instead.

Permits would be available for 6 or 12 month periods with following provisions:

- Permission (but not obligation of course) to confine cruising within a designated stretch of waterway. This could be defined by the boater, but would need to be sufficiently long to maintain the incentive to move and not stay for more than 14 days in any one place. So, we would have to set a minimum stretch length. Alternatively, it might be better for BW to define stretches which would be the same for each boater.
- Compliance with existing licence terms that prevent staying in the same place for 14 days or less where signed.
- ‘Place’ would be (exceptionally) defined as +/- ??10km – i.e. once they’d spent 14 days (or less where signed) at the same spot, they must move at least 1km in either direction.
- Visitor moorings would be zoned with ‘inner’ and ‘outer’ sections. Time limits on inner sections to be reduced to 48 hours (or less at particularly popular locations). Zone limits to be marked on the towpath with labelled posts. It would be a breach of the RMP terms if the boat was sighted by boat checkers on the inner section of the same visitor mooring on more than (say) two visits out of four.
- It may be necessary to set a limit to the number of available permits available within a defined areas (e.g. River Lee; Kennet & Avon Canal west of Devizes) in order to achieve the reduction we seek in boats moored along the bank.

- Income raised would be used to fund sustained enforcement of CC requirements against the boaters on the stretch who do not have the permit.
- The price of the permit would be set at the lower end of the range of fees for simple online moorings in the area- perhaps around £60 per metre per year in the Midlands (more in London, SE & SW).

Roving Mooring Permit (continued)

Pros	Cons
<ul style="list-style-type: none"> – Increases choice for customers – fulfils a clear demand for ‘footloose’ boating in a limited area. – Targets specific hot-spots – Could possibly help to control numbers within a specific stretch (and hence help the density issue) if the numbers of RMP’s are limited – Generates income – If popular, and demand greater than the fixed number offered, could use auctions to allocate permits 	<ul style="list-style-type: none"> – Still requires vigilant enforcement and regular recorded boat sightings to ensure no overstaying on visitor moorings by permit holders – Challenge of setting the fixed number to offer (via mooring strategies or developing density thresholds – Legitimises ‘lingering’ Would constitute increase in permitted online mooring contrary to current BW policy of reducing online moorings. [It would however be a time-limited scheme which would prevent continued increases in unauthorised long term towpath mooring.] – Risk of it providing an incentive for some boaters with a home mooring deciding to switch to an RMP instead

e) Annual mooring supplement

Readers will recognise this as a reincarnation of former proposals to increase the boat licence fee for boats without a home mooring, but it differs in a very important way. The supplement would not apply to genuine continuous cruisers. Application of the supplement would be on the basis of self declaration. Those found through boat sightings to have made a false declaration would be subject to a larger supplement (say + 25%). Effectively this would be a simple instrument to increase the cost of boating for non compliant continuous cruisers. To be effective the charge would be regional, set at a little below the typical cost of a simple mooring for 12 months. It would be phased in over a period of years starting in year 1 at around £150, or (say) £10 per metre per year. It should be applied equally to boats with no home mooring, and to those claiming to have, but rarely visiting, a home mooring.

Pros	Cons
<ul style="list-style-type: none"> – Simple concept that would quickly generate income – Simple to administer under our current procedures – Simple for BW to enforce using evidence of boat sightings records. 	<ul style="list-style-type: none"> – Relies on self-declaration – temptation to wrongly declare. However BW will have sufficient evidence through boat sightings records to challenge. – Relies solely on a financial disincentive to deter non-compliance rather than target localised problems.

APPENDIX 2

Implementation options for unauthorised residency at leisure moorings

BW's mooring agreement states⁶ that all relevant laws must be complied with. Therefore using a leisure mooring as a primary residence may require planning permission and would render the moorer in breach of their mooring agreement. BW needs to consider how to establish evidence of this breach and which sites/customers require action. The solution must:

- be proportionate to the scale of the problem (c.1000 people out of c.4000 BW leisure mooring customers)
- allow a reasonable timescale – the current level of unauthorised residential use has developed over some time and change will affect people's homes
- protect or minimise loss of revenue to BW
- be cost effective in its implementation
- minimise the risk of boaters responding by becoming a non-compliant continuous cruiser
- be easily understood and workable for staff and customers

Options

1. Check evidence of home address as a condition of the BW mooring agreement for leisure moorings

This is comparable with the requirement for a BSS and insurance for boat licence.

Initial thoughts: BW could check the electoral register and possibly ask for sight of other documents; this address must be the same as bank account / card billing address for paying BW (further work and advice is required re 'evidence'). Additional criteria will need to be developed for other cases e.g. boater lives at home of partner, recently moved, change of address etc. Where we have doubts, we may visit the home address, and take other actions as required.

Instead of placing the onus on BW to determine they are resident at the site, this option places the onus on the boater to show they are not resident. This option is simplest to implement, and so is the evidence required. It also avoids the need to monitor sites and therefore costs less to implement.

2. BW to establish that the boater is living at a leisure mooring site and hence a breach of the mooring agreement

This would require significant monitoring over a long period to gather sufficient evidence, a task for which BW has limited expertise. Staff will need to look for signs e.g. regular overnight parking at sites. The evidence would be open to challenge, or our suspicion may be wrong, resulting in complaints and delays. Some staff may feel uncomfortable about implementing this option.

Once BW has improved the appearance of some of its sites (e.g. removing greenhouses and reducing items stored on adjacent land), there will be less obvious signs of unauthorised residential use, and this option becomes more difficult.

Ultimately, the LPA may need to confirm there is a breach of planning (based on fact and degree of a material change of use) so that BW can establish a breach of condition 8 of the mooring agreement. We would need to involve the Local Planning Authority (LPA) enforcement team who have the necessary powers and expertise, but this has its drawbacks – see option 3.

Option 2 is much more onerous for BW to implement, will require the most staff resources and could lead to difficulties and complaints

⁶ *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.*

3. Ask the Local Planning Authority (LPA) to enforce

Where we suspect unauthorised residential use, we could inform the LPA and suggest they consider investigating and undertaking enforcement action.

If the LPA doesn't act, the unauthorised residential use will continue and the issue remains unresolved. Alternatively the LPA may ultimately place a requirement on BW to enforce, and the issue rebounds back to us. They may also investigate other sites where we may wish to change the status from leisure to residential. Furthermore, our suspicions of unauthorised residential use may be wrong, which wastes the LPA's resources and could lead to customer complaints.

Whilst this option may initially appear the least onerous for BW, it is likely to have very random and variable results depending on the resources and inclination of the LPA, and could cause customer complaints.

4. Making residency difficult / unattractive

This would be done by, for example, implementing strict site rules e.g. charge for regular overnight parking, excluding TV aerials, storage on land etc.

This option tackles the 'signs' of unauthorised residential use, rather than the principle of it. Customers may still be able to comply with the new terms and remain living on their boat, albeit more discreetly, but the issue is unresolved. It will require regular monitoring of sites and hence more staff resources than option 1 and 3.

From the evaluations above, **option 1 (requiring evidence of a home address as a condition of the BW mooring agreement)** is a strong preference for BW:

Options for implementing option 1,

We need to consider to whom the new rule "evidence of home address" would apply:

- a. new BW leisure mooring site customers only (i.e. those securing the vacancy through the auction system)
- b. as a. plus the 1000 existing customers suspected of unauthorised residential use
- c. as a. plus all existing customers on BW's directly managed leisure mooring sites
- d. As c. plus those on private sites where an individual permit is payable to BW (e.g. end of garden)

Evaluation of the option to whom the new rule should apply

All options:

For tendered/auctioned vacancies, there would be a new step in the bidding process to explain the requirements and the bidder to tick their consent. Evidence must be checked before contract completion deadline. Evidence may be required again in 3 years upon contract renewal or possibly earlier, or simply 'as and when' BW requests it (within a reasonable timescale). Therefore the increase in unauthorised residential use by people tendering for a leisure mooring but intending to live on it would be halted.

Option a

This option won't address the existing unauthorised use and the problems identified earlier. It effectively allows boaters to live at BW leisure moorings until they leave the site, although they will still be risking LPA enforcement action. However, over time the unauthorised use would be gradually phased out because the new customer of the auctioned vacancy would be subject to the new rule.

Whilst this is a longer-term approach, it is a pragmatic one that has minimal impact on the lives of existing customers and, importantly, will not cause an increase in the number of non-compliant continuous cruisers. It also costs BW the least to implement.

Options b, c and d

For all three options we would have to provide sufficient notice of the new rule, at the end of which the customers must either comply (provide evidence of home address) or face enforcement action / leave. Under option b, we target the sites where we suspect there is unauthorised residential use. Whilst this costs us less, it may not be entirely fair and is open to some level of subjectivity. Under option c we make it a requirement for all c. 4000 leisure mooring customers – this ensures a consistent approach across the board but costs more and could be a wasted exercise in say c. 3,000 cases. Option d. costs the most but ensures all customers with BW mooring permits are considered.

During the notice period we would in any case be reviewing some of our leisure mooring sites for their potential to be changed to legitimate residential use (via the planning process). This process will take some time and will require staff to update customers as sites progress through the stages of assessments and applications. This would create uncertainty for the customers until the process concludes. We would anticipate that, where successful, this would accommodate some of the customers concerned.

However, after the notice period, these options are still likely to result in some people having to face enforcement or leave some sites.

Options b, c and d therefore will have an impact on the numbers of non-compliant continuous cruisers.

BW's preference is for option a, evaluated below

Advantages	Disadvantages
Lowest cost to implement	Long-term approach means a long time to phase out unauthorised use and address the problems identified earlier in section 6.2 (fairness to the public / others, BW reputation...)
Simple to understand by staff and customers	May be unsatisfactory to some LPA's, but we will engage with them whenever they raise concerns
It won't cause an increase in the number of non-compliant continuous cruisers Puts the onus on the customer to provide evidence, rather than BW	Requires clear, water-tight admissible evidence. Likely to be some unclear cases but BW can make judgements, seek legal advice and the boater can make a formal complaint.
BW's need for 'investigation' is limited to the few cases where the boater can't provide evidence of home address / where we have doubts.	Requires change to BW mooring agreement
Evidence of home address is simpler to establish than evidence of residency on site, and easier to check/validate.	Requires clear procedures for further investigations when we have doubts – BW mustn't 'overstep the mark'.
Minimal impact on the lives of existing customers suspected of unauthorised residential use	
Doesn't require continual site monitoring	
Stops the flow of people taking auctioned vacancies for unauthorised use	