15 May 2014

1. Introduction

1.1 This is the Canal & River Trust’s consolidated response to Mr Richards’ requests for information dated 6 November 2013 and 29 April 2014. The Canal & River Trust’s response has been provided previously spread across a number of e-mails and this draws together all of the previous responses into one place. It also answers points raised by Mr Richards in relation to the Trust’s handling of Mr Richards’ requests for information dated 6 November 2013 and 29 April 2014.

1.2 The requests are set out in full (section 2) and the following points are addressed:

- Internal review response – Mr Richards has stated in his e-mail to Kelly Radley dated 13 May that he has not had a response to his request for an internal review. The Trust believes it has provided a response and this is explained in section 3.

- Involvement of the ICO – Mr Richards has made a complaint to the ICO. He has stated in e-mails to the Trust and elsewhere that (1) the ICO required the Trust to respond within 10 working days; and (2) the ICO has stated it will issue a decision notice against the Trust. The Trust does not believe these assertions are correct and a summary of its correspondence with the ICO to date is set out in section 4.

- Format of information provided to date – Mr Richards e-mail of 9 May 2014 has asked that the information provided is re-arranged and presented in the manner and order in which his request was formulated. The information is set out in the manner and order requested in section 5 in respect of information for 2012/13. The information relating to 2013/14 will be set out in section 6 once this information has been collated.

- Availability of information for the current financial year and Publication Data under the Grant Agreement with Defra – The Trust has explained that it does not yet have information relating towpath closures that are attributable to asset failures that have occurred since September 2013 because the analysis has not yet been carried out. Mr Richards has asserted that this information is required to be available under the Grant Agreement between the Trust and Defra. The Trust is fully compliant with its obligation to publish Publication Data under the Grant Agreement because the date by which the Publication Data for the year 2013/14 must be published is 1 July 2014 – see further section 7.
1.3 The Trust has committed to completing its response to Mr Richards on or before 23 May 2014 and this will be provided as an updated version of this document.

2. The Requests

2.1 Mr Richards has submitted two requests for information relating to asset failures; on 6 November 2014 and 29 April 2014.

2.2 Mr Richards’ request dated 6 November 2014 stated as follows:

“Dear Canal & River Trust

I note from the publication data in your first annual report that in the first nine months of the Trust it suffered no less than eight asset / infrastructure failures leading to unscheduled closures of 375 days.

For each of these eight closures please provide the following information –

1. The place.
3. The number of days of navigational closure.
4. The number of days of any towpath closure.
5. The total cost of repair (including any ancillary costs such as craning boats around the stoppage).
6. Any report that contains data as to the cause of the failure.
7. The latest inspection report together with any earlier reports referred to by the latest.

Please can you also provide similar information with regard to this financial year to date. In the case of works as yet uncompleted please provide estimates for 3, 4 and 5.”

2.3 Mr Richards’ request of 29 April 2014 stated:

“Dear Canal & River Trust

I refer to a request for information made on 6th November

https://www.whatdotheyknow.com/request/asset_and_infrastructure_failure

- and note that the Information Commissioner has now requested that you respond within ten working days.

My understanding is that you are only required to provide information as of the date of the request (i.e. up to 6th November.)
However, I am aware of further asset and infrastructure failures since the date of my request.

This request asks that you provide similar information from 6th November 2013 to 31st March 2014 -

For each of closure during the above period please provide the following information -

1. The place.
3. The number of days of navigational closure.
4. The number of days of any towpath closure.
5. The total cost of repair (including any ancillary costs such as craning boats around the stoppage).
6. Any report that contains data as to the cause of the failure.
7. The latest inspection report together with any earlier reports referred to by the latest.

If you wish to combine this request with my previous request such that you provide all information for 2012/13 and 2013/14, I am happy for you to do this provided you respond within the 10 working day time limit set by the Commissioner.

If you wish to treat the requests separately then please respond to this request promptly and, in any case within 20 working days."

2.4 The Trust is treating the two requests separately.

3. Internal Review Response

3.1 Mr Richards sent an e-mail on 5 February 2014 raising various points of complaint regarding the Trust’s dealing of his request. The Trust treated this as a request for an internal review of its handling of Mr Richards’ request for the purposes of the Freedom of Information Act although his e-mail did not expressly ask for one. Mr Richards wrote again on 25 February 2014 asking for the Trust to review why it had taken more than 20 working days to provide the information requested.

3.2 Sarina Young sent an e-mail to Mr Richards on 5 March 2014 to say that the Trust was reviewing its request under the Environmental Information Regulations 2004 and hoped to be in a position to respond in a few days.

3.3 The Trust had decided at this point that the information should be released subject only to a consideration as to whether any of the information in the reports should be withheld under the exceptions provided in the Regulations. The Trust accepts that this decision could have been communicated to Mr Richards at this point. Instead, the Trust began collating the information to send to Mr Richards with a view to writing to Mr Richards again as soon as it had the information available to send to him and had considered the application of any exceptions.
3.4 The first internal review response was provided on 9 April. This response provided some of the information requested and clearly indicated that the rest of the information would be sent to Mr Richards as soon as it was available.

3.5 A further response was send by the Trust on 9 May. This e-mail of 9 May stated:

“As I think you are aware we have determined during our internal review that the information you have requested is a request for “environmental information” and the information should accordingly be released and we have been working towards collating this information for you.”

3.6 For the avoidance of doubt the outcome of the internal review is that the Trust wrongly considered Mr Richards’ request under the Freedom of Information Act; that in fact Mr Richards’ request is a request for “environmental information” and the information should be released to him in full on or before 23 May 2014.

3.7 The Trust has not previously responded to Mr Richards’ request for an explanation as to why it took longer than 20 days to provide the information. This is because it was undertaking a full internal review of its overall response to Mr Richards’ request and focus was on that overall review. It will now provide further comment on this specific issue.

3.8 Sarina Young sent her initial response on 28 November 2013 inviting Mr Richards to narrow his request. This response was therefore provided within 20 working days of 6 November 2013. The response stated that Mr Richards’ requests – there were two different requests for information (this one and one relating to a very large number of our assets) – exceeded the time limit for response and invited Mr Richards to reduce the scope of his request.

3.9 Mr Richards replied the same day and suggested that the Trust had wrongly combined his two different requests in its consideration of the time required to respond. He withdrew his larger request and re-stated this request.

3.10 Sarina Young sent a response on 4 February 2014. This response explained that the Trust has considered the two requests separately and still considered that Mr Richards’ request exceeded the prescribed time limit and invited him to narrow his request. Sarina Young also apologised that she had not replied until this date and explained that she had intended to send the e-mail before the Christmas break but had failed to do so and only realised the fact on 4 February.

3.11 Mr Richards replied the following day and it was clear from his e-mail that Mr Richards was very unhappy with the Trust’s handling of his request. The Trust began an internal
review on 5 February following receipt of this e-mail. It was only with the conclusion of this internal review that the Trust determined that the information request was a request for “environmental information” and should be provided to Mr Richards and it began to collate the information.

3.12 The reason why the Trust took more than 20 working days to provide the information was because it did not immediately recognise that the request was one for “environmental information” and mistakenly refused to provide the information under a Freedom of Information Act exemption. It has then taken some time to obtain all the information requested from different parts of the business.

3.13 The Environmental Information Regulations prescribe a time period of 40 working days for a response to an internal review, and then require the Trust to provide a timescale within which the information will be provided. The Regulations do not specify what this timescale should be.

3.14 The Trust’s e-mail of 9 April was sent 45 working days after Mr Richards’ e-mail of 5 February but 31 working days after Mr Richards’ express request for an internal review sent on 25 February. The Trust has committed to provide the outstanding available information on or before 23 May 2014.

4. ICO Involvement

4.1 Mr Richards’ request of 29 April refers to the ICO as having given the Trust 10 days and this assertion has been reported elsewhere.

4.2 The ICO did send an e-mail on 28 April requiring the Trust to respond within 10 working days but this was subsequently withdrawn in a further e-mail from the ICO dated 30 April 2014, in which it stated the intention to issue a notice and said:

“Please be aware that the notice will give a date for a response to the request – within 35 days of the date of the notice – that will override the date I gave you in my previous e-mail (13 May).”

4.3 The ICO then sent a further e-mail dated 6 May 2014 explaining that it was re-considering the complaint under the Environmental Information Regulations 2004 as a complaint regarding failure to provide an internal review, requested by Mr Richards on 25 February 2014.

4.4 On 7 May the ICO sent an e-mail explaining that it has not yet taken a decision regarding the issue of a decision notice and would not do so until it had received representations from the Trust. The ICO requires these representations to be provided on or before Monday 19 May 2014.
5. **Information relating to April 2012 to April 2013**

5.1 This information has previously been provided to Mr Richards in the form of a spreadsheet for points 1 to 4, costs information provided in e-mails and attached reports but Mr Richards has asked that this be set out for him against each of his numbered points. We have done this in the following paragraphs of this section.

5.2 We have updated a few items of information since our previous responses sent on 9 April and 9 May and have clearly indicated where we have done this.

5.3 The information provided relates to all eight of the sites included in the number of unplanned closures referred to in our annual report. Contrary to the indication in our annual report, not all of these unplanned closures related to asset infrastructure failure but we have included information relating to all eight in our response for completeness.

5.4 **Dutton Breach**

(1) Place

Trent & Mersey Canal, Dutton

(2) A short description of the failure

Breach of the canal.

(3) The number of days of navigation closure

187 (25 September 2012 to 31 March 2013). This is the number of days included in the annual report.

Update: the Canal re-opened on 2 May 2013. Total duration of closure was 218 days.

(4) The number of days of towpath closure

See (3) above.

(5) The total cost of repair

The total project cost was £2,114,200.

(6) Any report that contains data as to the cause of the failure
There are two relevant reports:


This report refers to investigations carried out by Hyder, which were reported on in the reports provided under (6) above.

5.5 Croxton

(1) Place

Croxton on the Trent & Mersey Canal.

(2) A short description of the failure

Overtopping causing embankment erosion.

(3) The number of days of navigation closure

69 days (25 September 2012 to 3 December 2012).

(4) The number of days of towpath closure

See (3) above.

(5) The total cost of repair

The total project cost was £378,117.

(6) Any report that contains data as to the cause of the failure
There is no such report because the causes of failure were considered to be very evident and not to require further investigation.

(7) The latest inspection report together with any earlier reports referred to by the latest

There is no principal inspection report for this site. We have provided a spreadsheet with the latest length inspection information. File ref: TM-022-19-03-14.

5.6 **Aylesbury Arm Lock 12**

(1) Place

Lock 12 on the Aylesbury Arm of the Grand Union Canal.

(2) A short description of the failure

Lock wall collapse

(3) The number of days of navigation closure

3 as at 31 March 2013.

Update: the navigation re-opened on 24 November 2013 making a total of 242 days.

(4) The number of days of towpath closure

See (3) above.

(5) The total cost of repair

The total cost for the project was £800,000.

(6) Any report that contains data as to the cause of the failure


(7) The latest inspection report together with any earlier reports referred to by the latest

Update: See also Technical Services Structure Report dated 17 January 1997 referred to in the Principal Inspection.
File ref: PI-GA-00416-JAN97(GA-005-001)(249309) (pdf)

5.7 **Lock 3E**

(1) Place

Lock 3E on the Huddersfield Narrow Canal

(2) A short description of the failure

Towpath closed for adjacent property works.

(3) The number of days of navigation closure

2 (31 July to 1 August 2012).

(4) The number of days of towpath closure

See (3) above.

(5) The total cost of repair

No cost to the Trust, towpath closed for adjacent property development works.

(6) Any report that contains data as to the cause of the failure

No failure, therefore none exist

(7) The latest inspection report together with any earlier reports referred to by the latest

There is no principal inspection report because this is a new asset. The latest length inspection information is provided as a spreadsheet. File ref: HN-001-11-03-14 (3144512-Monthly).

5.8 **Luddenden Foot**

(1) Place
Luddenden Foot on the Rochdale Canal

(2) A short description of the failure
Safety railing works

(3) The number of days of navigation closure
5 (27 September to 1 October 2012).

(4) The number of days of towpath closure
See (3) above.

(5) The total cost of repair
£11,931.03

(6) Any report that contains data as to the cause of the failure
No failure, therefore no report exists

(7) The latest inspection report together with any earlier reports referred to by the latest
There is no principal inspection report for this site. The latest length inspection information has been provided as a spreadsheet. File reference: RD-001-04-04-14.

5.9 Ashted Tunnel

(1) Place
Ashted Tunnel on the Digbeth Branch Canal

(2) A short description of the failure
Handrail repair works

(3) The number of days of navigation closure
26 (12 November to 7 December 2012).

(4) The number of days of towpath closure
See (3) above.

(5) The total cost of repair
Total cost £15908.98.

(6) Any report that contains data as to the cause of the failure

No failure, therefore no report exists.


Update: this report refers to the following report, which is also provided: Previous principal inspection undertaken on 18 October 2006 (file ref: Ashted P.I. Report 2006, word document).

The 2011 report refers to a below water level inspection undertaken on 7 January 2007. There is no separate report relating to this inspection. It also refers to an additional detailed survey in 1984. There was is not report available relating to this survey, the results of which were recorded in a series of drawings.

5.10 Between Bridge 62 (Church Bridge) and Bridge 63

(1) Place

Between Bridge 62 (Church Bridge) and Bridge 63 on the Grand Union Canal.

(2) A short description of the failure

A slip causing trees to fall across the towpath and navigation.

(3) The number of days of navigation closure

8 (11 February 2013 to 18 February 2013).

(4) The number of days of towpath closure

See (3) above.

(5) The total cost of repair

The total cost was £33,346.

(6) Any report that contains data as to the cause of the failure
Memo re Grand Union Canal Cutting Failures – 9 March 2013 Site Reviews.


This refers to the following report which is also provided: British Waterways Cutting Principal Inspection Cuttings 22 and 23, April 2001. File ref: “2001 Principal Inspection” (pdf file).

5.11 **The Canal between Tuel Lane Lock (Sowerby Bridge) and Lock 5 (Brearley)**

(1) Place

Between Tuel Lane Lock and Lock 5 on the Rochdale Canal.

(2) A short description of the failure

Leak repair works on Hollins Mill embankment.

(3) The number of days of navigation closure

75 (13 December 2012 to 25 February 2013).

(4) The number of days of towpath closure

See (3) above.

(5) The total cost of repair

The total cost of repair was £75,605.82.

(6) Any report that contains data as to the cause of the failure

There is no relevant report available.

6. **Information relating to period April 2013 to 27 September 2013**

6.1 This information was requested on 6 November and will be provided on or before 23 May 2014 by updating this response.

6.2 We will be providing the information in relation to unplanned towpath closures, which were caused by asset failure. The closures at Dutton and Aylesbury Lock 12 both extended past 31 March 2013 and complete information for these is provided in section 5.

7. **Information relating to period 28 September 2013 to 29 April 2014**

7.1 This information was requested in part on 6 November (28 September to 6 November) and in part on 29 April 2014 (from 7 November to 29 April 2014).

7.2 The Trust responded to these requests on 9 May 2014. We explained that we produced the information in the annual report to which Mr Richards’ request of 6 November refers by analysing stoppage notices. We explained that we have not yet analysed stoppage notices for this period and are therefore unable to identify links between stoppages and asset failures but that the stoppage notices were available on our website. In order to avoid Mr Richards having to locate these on our website we also provided him with a spreadsheet of the information. We also said we would be very happy to hold Mr Richards’ request on file and to respond to it as soon as we had completed the analysis.

7.3 Mr Richards has asked in his e-mail of 11 May 2014 for a link to stoppage information on our website. A link is provided here ([http://canalrivertrust.org.uk/notices](http://canalrivertrust.org.uk/notices)) and the website includes a search facility on the right-hand-side. The website only has notices which are still in effect and therefore the information on it will be less complete than the information provided in the spreadsheet. We have updated the spreadsheet to cover the full period 7 November to 29 April and this is attached with this response.

7.4 Mr Richards sent an e-mail on 12 May stating that he believed the Trust should have the information because it is required by its Grant Agreement with Defra to publish Publication Data by 1 July of each year and the Publication Data includes the number and duration of unplanned closures.

7.5 The Trust is required to publish the Publication Data on 1 July for the financial year which has just ended. The Trust published the information in respect of the period July 2012 to March 13 in its annual report for October 2011 to March 2013.

7.6 The Trust will publish the Publication Data for the period for 2013/14 in its Annual Report for the period April 2013 to March 2014 to be published on or before 1 July 2014.
as it is required to do under the Grant Agreement. The Trust is therefore fully compliant with its obligations to publish the Publication Data.

7.7 Clearly the Trust will have to analyse the information relating to stoppages 2013/14 shortly in order to prepare the Publication Data and when this is done it will be in a position to respond fully to Mr Richards request for information made on 29 April 2014.