

## **REVIEW OF CRAFT LICENSING SUPPLEMENTARY CONSULTATION ON BOATS WITHOUT PERMANENT MOORINGS**

This paper results from analysis of feedback from the public during the licence review period between May and November 2002. It was informed by helpful meetings with user groups and follows careful consideration of all relevant issues by a team of BW managers including local operational managers.

The problems that give rise to the need for the consultation are:

- boats staying for extended periods at locations designated as visitor or temporary moorings or as unsuitable for mooring
- a sense of injustice amongst many boaters who perceive that, through their compliance with the legal requirement to have a permanent, home mooring, they are 'subsidising' some who 'find ways around' this requirement.

We have concluded that a set of clear guidelines – a Moorings Code – which will have authority through our licence contract terms, offers the best prospect of overcoming these problems. The case outlined in the paper hinges on Section 17.3 (c) of the British Waterways Act 1995, which contains three 'limbs':

1. The boat is being used bona fide for navigation throughout the period of the licence
2. The boat must not stay in the same place for more than 14 days
3. That it is the responsibility of the licence holder to satisfy British Waterways regarding compliance with these conditions.

Ultimately it will be for the courts to interpret the relevant words in the 1995 Act, but in the meantime, clear benchmark guidance is necessary for waterway management. We have therefore drafted a Moorings Code that we propose should define the standards that our staff will apply and that boaters should follow.

We hope we have risen to the challenge of defining rules which are simple and clear, and which describe the combination of cruising frequency and distance which are consistent with what the parliamentary draughtsmen had in mind when writing the statute. We believe that they intended 'bona fide for navigation' to imply some sense of progressive travel around the network. This does not rule out 'meandering' slowly, and does not carry a requirement to cover all 2000 miles over any period. It does however rule out repetitive 'to-ing' and 'fro-ing' within the same geographic area.

We have drafted the Code for continuous cruising to apply to any boat which is cruising away from its home mooring for any period of more than 42 days. Without this, an obvious loophole exists for people to rent a home mooring in an area of the country where moorings are less expensive, but to spend most of their time in an area where moorings are more expensive.

### **Consultation process and timetable**

It has taken us longer than we hoped to prepare this report. We need to publish the licence terms and conditions that reflect the other changes resulting from the licence review, so for the sake of completeness and to be clear about our intentions, we propose publishing the proposed Moorings Code as part of the conditions. It will however have 'trial' status, pending both final feedback from users who wish to comment and practical experience from implementation on the waterways. We will review the feedback and experience during autumn 2003, and confirm or amend the Code with effect from April 2004. We will distribute the attached feedback questionnaire through the same channels that we used for the main licence review, and send it to each licence holder who is recorded on the licensing system as having no home mooring.

We would like to thank everyone who has contributed to the previous discussions on this subject.



## DRAFT MOORINGS CODE

Just as highways need parking regulations to ensure orderly use of scarce road space, some rules about mooring on the waterways are necessary. Problems of congestion, undue strain on local facilities and fairness to other boaters can result when individual boats stay for long periods on temporary moorings without our consent.

We aim to avoid unnecessarily bureaucratic regulations, and given the much slower pace of life on the waterways, restrictions are usually measured in days rather than hours.

Our powers to regulate moorings lie in the British Waterways Act, 1995 which requires that a boat must have a permanent home mooring unless it is being used for navigation throughout the period of its licence.

The guidelines do not apply when your boat is on its home mooring.

### 1) Standards for all boats

Reference to "moor" and "mooring" refers to the place where you moor overnight.

- a) You may moor at the same place for no more than 14 days in any 42 day period. You will be deemed to have moved to a different place if you have travelled at least ten lock miles in any direction. (A lock mile is the number of miles cruised plus the number of locks negotiated over a given stretch.). In other words, you must always be 10 lock miles away from where you were 15 days ago.
- b) You must obey local signs and regulations restricting mooring at particular locations. These take precedence over the entitlement mentioned in 1(a) above.
- c) You should advise our licensing department if you change your home mooring. A winter mooring is also a home mooring for the period you occupy it.

### 2) Additional standards for boats without a home mooring or cruising for extended periods away from a home mooring

You must follow these standards if you leave your home mooring for any continuous period of 42 days or more

- a) You may moor at the same place for up to 14 days in any 42 day period. You will be deemed to have moved to a different place if you have travelled at least ten lock miles in any direction. (A lock mile is the number of miles cruised plus the number of locks negotiated over a given stretch.), **and**
- b) You must also travel:
  - at least 20 (different) lock miles every 15 days (ie you can't normally count the same stretch more than once), **and**
  - at least 40 (different) lock miles every 30 days, **and**
  - at least 120 (different) lock miles every 3 months

### 3) Evidence of cruising

It is the boat licence holder's responsibility to satisfy British Waterways that the boat has moved in line with these rules. To help you do this, we can supply a cruising diary free of charge. Alternatively you may like to keep your own diary. For added confidence, our local staff will endorse diary entries on request. We will only ask you for evidence if we have reason to believe that your boat may not be moving in accordance with the Code.

### 4) Non-compliance and dispute procedure

This Code sets out the standards that we believe need to be followed to comply with s.17 of the British Waterways Act 1995 and the Licence Conditions. We will apply the Code in a pragmatic way and recognise that sometimes special circumstances can occur when it is reasonable to moor for longer periods. These may include illness, mechanical breakdown or waterway stoppages. If any of these circumstances arise, please ensure local BW staff are aware of your difficulties.

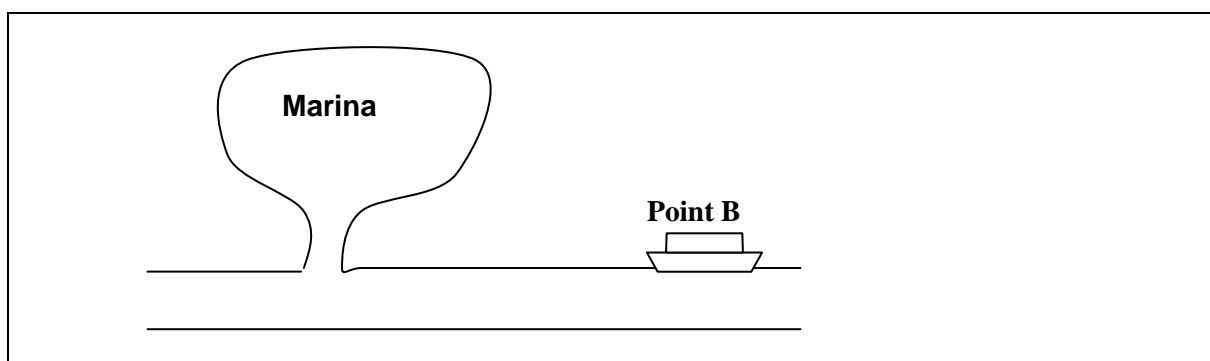
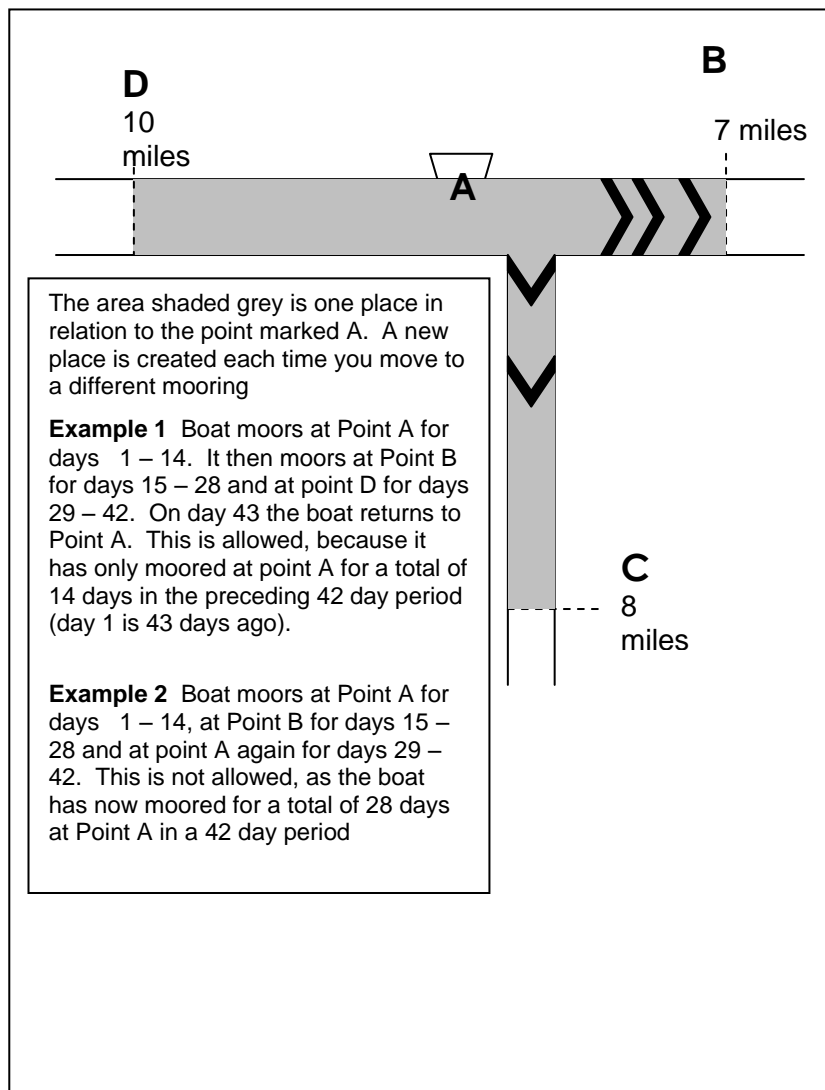
It will nevertheless be necessary to take steps where there is unreasonable and persistent failure to comply with the Code. Even then it will be our preference to resolve problems without recourse to legal action.

- a) As a first step we will contact you to establish the relevant facts and check that you understand this Moorings Code. We may ask you for evidence of your recent cruising patterns. Our aim at this stage is to do all we can to help you to comply with the rules. This might include helping you to arrange an available home mooring.
- b) If, after a period of at least 28 days, we continue to have reason to believe that the boat is not moving in accordance with the Code, we will, as a second step, issue a formal warning. This will specify a period during which you must demonstrate to us that you are complying with the Code. This will be between 30 days and 3 months depending on the circumstances. The main method of demonstrating compliance is the maintenance of a cruising diary.  
If you believe we have issued the warning unfairly, you will be able to appeal. To help with this, we intend to establish a special appeal panel that will include experts drawn from waterway user groups and other interested parties. In the meantime, you should follow our normal complaints procedure. This Code will be updated with the details as soon as they are confirmed.
- c) As a final step, if failure to comply continues we may exercise our powers under s.17(5) of the British Waterways Act 1995 to revoke your licence.

### 5) Finding a home mooring

You may find it difficult to follow the rules because you are unable to secure a home mooring in the area where you wish to base your boat. While we are working hard to increase long term mooring provision, this is often beyond our control. Neither we nor private sector mooring operators can guarantee to meet demand for moorings everywhere, and you may need to consider altering your cruising patterns or accept a permanent mooring in a different region in order to comply with the rules. Our duties do not include those of a housing authority.

## 6) Examples of general rules for all boaters



**Example 3.** The boater has a mooring in the Marina. The licence holder likes to spend the week-end at point B, travelling to it on Saturday morning, and returning to the marina on Sunday evening. The boat makes this return trip every weekend for 6 weeks. This is allowed because this will add up to only 12 days in the 42 day period.

**Example 4** The Boater likes to visit point B for long week-ends, cruising up on a Friday and returning on the following Sunday. Over a 6 week period the boat does this trip 4 times. This is allowed as this will add up to 12 days over a 42 day period.

## CONSULTATION ON MOORINGS GUIDELINES

### FEEDBACK QUESTIONNAIRE

1. Please tick boxes to summarise your view

	Agree strongly	Agree	Disagree	Disagree strongly	No view
I understand the need for mooring guidelines					
The proposed general rule for all boaters is reasonable					
The proposed general rule for all boaters is easy to understand					
The proposed additional rules for boats without a home mooring or cruising for extended periods away from the home mooring are reasonable					
These proposed additional rules are easy to understand					
The suggested method for compiling evidence of cruising is reasonable					
The proposed non-compliance and dispute procedure is reasonable					
I would support the proposed introduction of a panel of experts to assist in resolving disputes					

2. Any other views or comments?

3. I am responding in the following capacity:

- ☐ As a private boater with a home mooring
- ☐ As a private boater with no home mooring
- ☐ As a representative of a boating user group
- ☐ Other (please indicate) \_\_\_\_\_

Thank you for your help. Please return this form to Helen Webb, British Waterways, Willow Grange, Church Road, Watford, WD17 4QA by 31 October 2003.