



Canal &
River Trust

Keeping people, nature & history connected

09 May 2014

Dear Mr Fitzgibbons,

The initial response to your request for information explained why it was outside the scope of the Freedom of Information Act.

On further review the position of Canal & River Trust continues to be that the information you requested is not subject to the Freedom of Information Act. The reasoning is the same as in the initial response but is set out below in fuller form.

1. Canal & River Trust is a charitable company limited by guarantee that is not owned or controlled by any public body. Accordingly it is not a "publicly owned company" within the meaning of s.6 Freedom of Information Act 2000. Furthermore, Canal & River is not a body listed in Schedule 1 of the 2000 Act on an unlimited basis (unlike public authorities) and is therefore not subject to the Freedom of Information Act for the generality of its activities. That includes its general administration and organisational management and the general conduct of its business. Thus in that context Canal & River Trust is in the same position as other charities independent from government.
2. Canal & River Trust is however also a statutory undertaker and for a limited range of its activities it derives its powers from statutory functions transferred to it from the British Waterways Board by the *British Waterways Board (Transfer of Functions) Order 2012*. That Order only transferred a limited range of the statutory functions formerly held by the British Waterways Board. These are described in Article 2 of the 2012 Order and, so far as they derive from public legislation, are set out in Schedule 1 to the Order. The generic constitutional, administrative and organisational management functions of British Waterways that were derived from statute were not transferred to Canal & River Trust¹.
3. As explained in the initial response, it was the decision of government that, subject to any future review of freedom of information legislation generally, Canal & River Trust should be treated by and large in the same way as other charities as far as freedom of information legislation is concerned. Thus for the generality of its activities Canal & River Trust is not subject to freedom of information legislation.
4. Government did however decide that where Canal & River Trust exercised statutory functions previously exercised by the British Waterways Board that were transferred to the Trust under the 2012 Transfer Order, information concerning the exercise of those functions should be subject to the Freedom of Information Act 2000. Accordingly Article 2(3) and Schedule 3 of the 2012 Transfer

¹ For example, the generic corporate powers conferred on the British Waterways Board by sections 1 and 10 to 14; and also the generic reporting and accounting duties in sections 18 to 25 were not transferred to Canal & River Trust. Canal & River Trust derives its generic corporate powers from its constitution as a company limited by guarantee and not from exercising statutory functions transferred to it from the British Waterways Board.

Canal & River Trust First Floor North Station House 500 Elder Gate Milton Keynes MK9 1BB

T 0303 040 4040 E customer.services@canalrivertrust.org.uk www.canalrivertrust.org.uk

Patron: H.R.H. The Prince of Wales. Canal & River Trust, a charitable company limited by guarantee registered in England and Wales with company number 7807276 and registered charity number 1146792, registered office address First Floor North, Station House, 500 Elder Gate, Milton Keynes MK9 1BB

Order amended the Freedom of Information Act 2000 by inserting the following into Part 6 of Schedule 1 of the 2000 Act:

“Canal & River Trust, in respect of information held by it relating to functions exercisable by it by virtue of the British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659).”

5. I reiterate that the functions exercisable by virtue of the Transfer Order are those described in Article 2 of the 2012 Order and set out in Schedule 1 to that Order. Those functions do not include the administration and management of the organisation generally, this includes the details of any of previous and future planned visits made by the various boater representatives. In that, Canal & River Trust is no different to any other charity.

The above numbered paragraphs are the reasons why Canal & River Trust considers your request for information is outside the scope of the Freedom of Information Act. However, and as I mentioned in my first response, the contact details for the boating representatives are all listed on the Boaters' Update article you refer to (<http://canalrivertrust.org.uk/news-and-views/features/boaters-update#anch:future>) and you would be welcome to ask each of them if they have any visits planned. Alternatively you could contact [Damian Kemp](#), our Boating Consultations and Communications Manager.

Yours sincerely,

Sarina Young
Customer Services Co-Ordinator