

THE JUST WON'T GO AWAY FLOATER

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The only paper for boaters produced by boaters

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Trust forced to produce an equality policy

by

Peter Underwood



After years of ambivalence about its responsibilities under the Equality Act of 2010 it seems the Canal & River Trust may have finally been forced into adopting proper policies.

The Trust has long been inclined to question just how much it could be held to account under the legislation and, back in March 2014 it was saying: "Whilst the Trust is not a 'public authority' named in Schedule 19 to the Act, for the purposes of the Act and the Specific Duties Regulations which flow from it, the Trust recognises that it does exercise some public functions as a statutory navigation authority including in respect of boating and, when exercising those functions, the Trust is subject to the general Public Sector Equality Duty March 2014.

By April this year The Floater's Allan Richards was using a second Freedom of Information request in an attempt to get them to provide a copy of the policy made by the Canal & River Trust pursuant to the Equality Act 2010.

Its initial response was to refer to a policy document predating the Equality Act. It then failed to answer the Freedom of Information request. It seems to have taken a referral to the Equality and Human Rights Commission (EHRC) which began reviewing whether Canal & River Trust (C&RT) is fully meeting its Equality Act obligations to finally get a response and C&RT announced in mid November that it was "updating our published policies to reflect our obligations and current practices under the Equality Act – this will include how we assess and implement reasonable adjustments for disabled people and how we assess impacts and avoid unlawful discrimination against all protected characteristics – including in respect of pregnant boaters."

It went on to say: "We will be happy to make this document accessible on our website and refer to it in other related documents - so that boaters who are not already aware of our current practices are aware of the updated published policy."

The Trust said its enforcement officers already received training in equality and will continue



One of the families at an NBTA protest and social event in London this summer

to do so and that it would continue to consider equality adjustments where appropriate in line with our obligations under the Equality Act. It becomes clear further down the statement that the announcement had been triggered by the review by the EHRC which took place after the National Barge Travellers Association (NBTA) asked the EHRC to intervene in a case where C&RT started enforcement action against a pregnant Barge Traveller, in violation of her Equality Act rights.

In addition, the EHRC raised the issue that C&RT's enforcement policy is making it increasingly difficult for the children of boater families to attend school. The EHRC was also concerned that 'reasonable adjustments' should be made for an indefinite period if the protected characteristic requires this. The Trust's response is: "We are currently seeking to assist boaters with school aged children establish compliant patterns of movement – any request to relax our requirements

for this group we will be balanced against a number of other legitimate aims, including our duties to manage the waterways, the need to mitigate congestion around certain parts of the network and fairness to other boaters."

Like others, the NBTA has been campaigning since January 2014 for CRT to meet its Equality Act obligations not to discriminate against people on the grounds of disability, age, pregnancy and other protected characteristics.

The organisation says the campaign was triggered because it was getting an increasing number of reports of disabled, elderly and ill Barge Travellers being evicted or threatened with eviction because their age or disability meant that they could not comply with the movement requirements claimed by C&RT to be necessary.

The NBTA says its campaign led to CRT accepting that it had a duty to provide 'reasonable adjustments' to its enforcement procedure for disabled boaters but the Trust did not publicise this widely.

The NBTA claims it found that many boaters who were in enforcement were entitled to such 'reasonable adjustments' but were not aware of their rights.

The NBTA says: "In March 2016 the NBTA held a meeting with C&RT in which C&RT agreed to include information about Equality Act rights in enforcement letters and to do so within one month, but C&RT has reneged on this undertaking.

Pressure has also come as a result of a meeting earlier this year, between Michelle Donelan MP and C&RT after a number of liveboard boater families on the Kennet and Avon Canal contacted her for help because C&RT's current enforcement policy against them has made it increasingly difficult for their children to attend school.

Ms Donelan met with C&RT Chief Executive Richard Parry in June 2016 and sent a proposal to him for reduced movement in term time balanced by greater movement in school holidays.

He has not yet responded to this proposal.

At the same time another NBTA member with school age children has had one-to-one discussions with C&RT about this matter but she has reported that the response from CRT has not been encouraging.

The EHRC met with CRT on 4th October 2016 and will continue to review CRT's progress regarding compliance with the Equality Act.

Out of court deal - but C&RT insists 'we do not accept any liability'

According to a boater who took to the internet to complain it took four years for the Canal & River Trust to settle out of court a claim for damages for the sinking of his boat in lock 40 at Bank Newton on the Leeds and Liverpool Canal. Kenneth Churchill wrote a long explanation of the sinking for the Narrowboat World website. He is quoted by the website as saying: "After four years of litigation I am now free to describe how our boat hung-up and sank in less than two minutes and warn boaters of the hidden protrusions below water level which

remain today. The Canal & River Trust have not carried out any Lock 40 remedial work." Despite settling out of court to avoid a legal judgement being made against them in a case Mr Churchill estimates has cost them £500,000, the lawyers at C&RT don't accept Mr Churchill's view of events. When asked if they accepted that the Narrowboat World report was a true and fair summary of events the Trust issued a statement. It says: "The Trust received a claim for damages following an incident in 2012 at Bank Newton Lock on the Leeds & Liverpool Canal

in which a boat sank.

"Whilst we will be installing some new signage at the lock, it simply reiterates some of the advice already contained in the Boaters Handbook i.e. to keep boats parallel to the lock wall, ahead of the cill and off the front gate.

"We do not consider the lock to be unsafe and the Health and Safety Executive (HSE) has accepted that there are no defects.

"Therefore, we do not accept any liability for the incident."

In some contrast Mr Churchill is reported as saying his research shows at least six previous

Lock 40 chamber wall hang ups.

It seems the culture of secrecy and denial is alive and well in C&RT if Mr Churchill's experiences are anything to go by. He says he was promised sight of monthly asset reports on the lock but has never seen them and that he had to get a court order to get disclosure of documents that should have been given over voluntarily.

The Floater has asked C&RT how many cases its lawyers settle out of court in this way and what the cost is in legal time and fees as well as payments to people like Mr Churchill. The response has been silence.

Who's talking to who in C&RT - EA - Defra triangle?

By Allan Richards

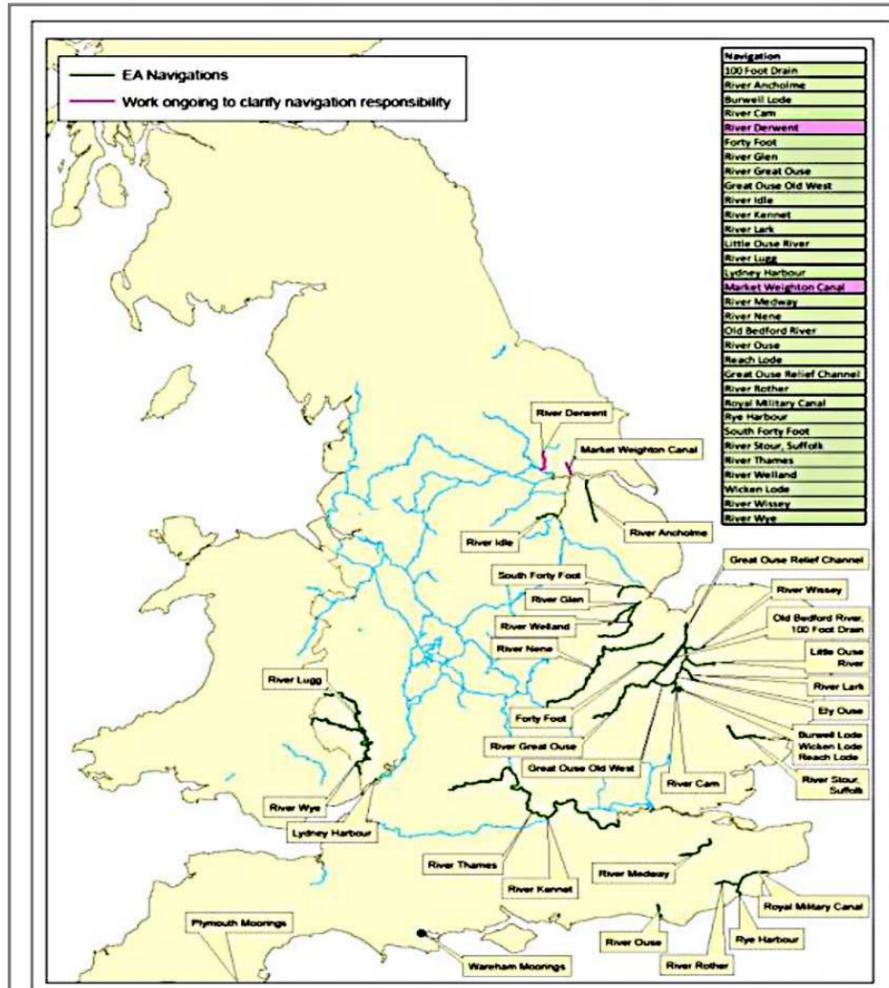


Just what are the Environment Agency and Canal and River Trust up to in their discussions over merging the navigations of the two bodies – and have they told the Government? The question arises after the Environment Agency apologised for delay in providing information relating to a joint project with C&RT on the transfer of its navigation functions to the Trust (see November Floater 'EA unwilling to provide information on merger'). It admits that the request was received on 1 August but it did not provide a substantive reply until almost three months later. By law it should have replied promptly and, in any case, within 20 days.

An internal review carried out by David Bliss, EA's Environment and Business Manager, found that a substantive response was not provided within the statutory timescales. Contributory factors were:

1. Delays and omissions in the initial processing of the request as a result of temporary staffing difficulties in our customer contact centre.
2. Failing to take the earliest opportunity to suggest that the scope of the request was narrowed.
3. Needing to check with the Canal and River Trust (CRT) over some of the information falling within the terms of the request on the basis that it was material provided in confidence to the Environment Agency's Chief Executive, and was not intended for publication.
4. Senior management involvement in a government national emergency response exercise.

In responding to the request, EA provided minutes of three project meetings with C&RT but refused to provide any documents mentioned in those minutes. Another part of the request referred to an EA press release last August. It asked for any recorded information that justified the statement - 'Both Boards believe the move, subject to agreement, has the potential to create a more integrated national inland waterway network, and a sustainable future for the river navigations, to the benefit of the people who use and enjoy them'. Unfortunately, to date, EA have provided no information which justifies that statement. Furthermore, when asked in a separate request to 'Please provide a copy of any communication between the Waterways Minister and EA related to the project', they eventually confirmed that no such communication had taken place!



Having carried out a review to determine the causes of delay in responding, EA states that it intends to carry out a further review to determine if it complied fully with Environmental Information Regulations when responding. On 14 October 2010, government announced its intention to transfer BW's waterways in England and Wales to a new charity. A few months later, Waterways Minister, Richard Benyon, issued a ministerial statement expressing governments additional intention to transfer EA Navigations as well. However, it was decided that a phased approach would be taken with the BW's waterways transferring in 2012 and EA in 2014 subject to government review to assess the progress and achievements of the new charity and options for transfer. The transfer would only take place with the agreement of the new charity's trustees.

As a prelude to transfer, in 2013, C&RT initiated a project for EA Navigations integration. (the map shown is taken from this project). However, they were told stop because Defra had again postponed transfer for an indefinite period due to insufficient finances to support it. In May 2015, Richard Benyon was replaced by Rory Stewart as Waterways Minister. In October, the National Association of Boat Owners (NABO) wrote to Mr Stewart expressing concern that a transfer should take place in the near future.

His response was that, in July 2013, a previous Waterways Minister had announced that the project to review the options for a transfer was being postponed until there was a realistic prospect of such a transfer being affordable. He added that the position remained unchanged.

However, this did not appear to have prevented EA and C&RT forming a joint working party in February this year, thus initiating the project. Perhaps it is just as well that Rory Stewart did not last long enough to find out that the postponed project was underway.

After just 14 months in office he was replaced by Theresa Coffey in July as part of the reshuffle when Theresa May became Prime Minister. Bizarrely, whilst EA state that they have had no contact with the Waterways Minister regarding the project, C&RT claim the exact opposite. Chief Executive, Richard Parry is on record as saying he expects a decision from government on the transfer before Christmas.

The Environment Agency navigations under debate, left, and C&RT's original plan for the takeover talks, below.

Canal & River Trust Keeping people, nature & history connected		Environment Agency Navigations Transfer Project	
Phase 1 – Initial Due Diligence – 04/13 to 03/14			
Activity	Start	Finish	
Site visits to Waterways and selected sites	27/05/13	30/08/13	
Financial modelling and develop operating models	02/09/13	25/10/13	
CRT & EA agree model outputs	08/11/13		
Present Outline Business Case & Costing to CRT Directors & Trustees for endorsement	28/11/13		
Reach agreement of initial funding contract with Defra & HMT	10/03/14		
Formal Consultation	08/04/14	30/06/14	
BW Act 1983 s10 Order in place	16/02/15		
Final contract agreement	15/01/15		

Our man was 'misinformed' - or was that C&RT?

In November Floater, C&RT's asset inspection regime was put under the microscope by examining an emergency closure of a lock on Health & Safety grounds due to a top gate failure.

Under the headline 'Failed lock gate not inspected in 20 years', it was revealed that, contrary to its own standards, C&RT had failed to carry out lock gate inspections (LGI's) on the failed gate. What is missing from the article is comment from C&RT. Although the Trust were asked to comment on its failure to carry out LGI's for this particular gate, a final response was not provided until 10 November, sometime after the article had been published. Bizarrely, a first response from C&RT National Press Officer, Fran Read, stated "I'm afraid to say (or rather relieved actually!) that your correspondent [Allan Richards] has been misinformed." It went on to add "...the top gate of Factory Lock 2 was specifically inspected by a Lock Gate Technician in April 2016 ..." No doubt she was a little less relieved when she found out that that it is a matter of public record that C&RT had previously stated on 28 September "There are no Lock Gate Inspection Reports

held for this Lock". Furthermore, it is also a matter of public record that Allan Richards checked the Trust's statement the same day "I am astonished that there are no lock gate inspection (LGI) reports for the 20 year old bottom gate at this lock despite a Principal Asset Inspection finding that the gate was bowed and your standards suggesting three inspections should have taken place. Can you please confirm your statement 'There are no Lock Gate Inspection Reports held for this Lock.'" The Trust replied, after some three weeks consideration "Thank you for your request for clarification. Further to our acknowledgement email of 29th September I can confirm that there are no Lock Gate Inspection Reports held for this Lock as stated in our initial response." Needless, to say C&RT's final response did not repeat the claim of an LGI being carried out in April 2016. It did not apologise for its failed attempt to mislead Floater's editor or its suggestion that his correspondent was misinformed. Worse still, it provided no explanation as to why lock gate inspections were not carried out at lock 3. Finally, it gave no assurance that lock gate inspections were being carried out at more than 1,500 other locks.



The lock gate that subsequently failed

The Floater

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Keeping warm also means keeping safe

By Peter Underwood



Winter is well and truly upon us and this can be great on a boat - as warm as toast if you have a solid fuel stove - but remember that the boat must be adequately prepared for the winter to serve the occupants safely.

Just a week or two ago a boater on the Leeds and Liverpool Canal had a lucky escape when her carbon monoxide alarm woke her in the early hours and she was feeling ill. She survived thanks to calling the emergency services and being treated with oxygen for several hours.

Others are not so lucky and the last few years we have seen an increase in the number of people who have suffered because of their lack of planning and maintenance.

The Managing Director of Norbury Wharf on the Shropshire Union Canal, Simon Jenkins, has years of experience on boats and warns: "Carbon Monoxide is the silent killer!"

"Although there are no industry standards regarding the fitting of a Carbon Monoxide detector on to boats it is a very good idea to have one, even if you are comfortable in your own mind that the boat is totally safe.

"To achieve a safe boat it is imperative to carry out some very simple steps: Make sure the solid fuel stove is serviced and in good working order, all door seals



Nothing like a fire on a boat in winter - but keeping it safe is even more important than keeping warm.

must be in good condition, locks and latches again the same; Flue pipes must be sealed top and bottom, the flue itself must be kept swept;

And the boat must have adequate ventilation, something that gets overlooked or indeed the vents get blocked to stop a draft.

"The other causes of the deadly gas are using engines or generators without the correct exhaust, or within the confines of the boat.

"Gas appliances also all need to be checked. If in any doubt then ask your local fire station for advice. But whatever you do this winter stay warm, and stay safe!"

But not too warm ...

Each year boat fires are caused by solid fuel stoves 'over-firing', when the fire intensity picks up and races away.

As the fire roars, the flue gasses gain heat and then speed as they go up the chimney.

The heat builds until the fire glows red and either the build-up of soot and tar in the chimney catches fire, or the super-hot stove or chimney can set light to furnishings, fabrics or other objects nearby.

Simon says: "You need to get used to how your stove and the fuel behaves, and until you do be cautious about air control, or using an unfamiliar fuel and don't bank up your stove with fuel and leave it.

"Stormy or gusty weather, with winds whipping across the chimney top mean flue gases being sucked out with a draw two or three times the normal strength.

"Only use the fuels recommended by the manufacturer. Smokeless fuels, or dry wood are the best ones.

"Be very cautious about banking up the stove when it's windy outside or strong winds are forecast. If in doubt, feed the fire little and often."

Broads Authority opt to charge boats on area not length



A majority of Broads Authority members have given the green light to a new licensing system that brings them into line with the Environment Agency by charging based on the area of the craft.

Boats are placed in 14 categories - either private or commercial - to determine how much they are charged per square metre.

The authority claims it will be simpler and fairer and will encourage more small boats, but some boaters fear they have not been listened to.

The local newspaper, the Eastern Daily Press quotes Brian Wilkins, chairman of the Norfolk and Suffolk Boating

Moorings above Rockland Broad.

Fee list for moorings above Rockland Broad - 812300g, Moorings above Rockland Broad - 812300g, fee list for moorings above Rockland Broad

Association, as saying: "First of all, the authority does need to raise its revenues and roughly 50pc of those come from boat tolls.

"We have had a long review process, which started in September last year, but it was not until June that the NSBA was invited to a stakeholder meeting. We want to see as much openness as possible and we have not felt very engaged. There has not been enough consultation with us, and next to nothing with toll payers."

He said the NSBA believed the previous format, which is used by the Canal and River Trust (C&RT), was fairer.

There is some speculation that C&RT will follow a similar path if and when it takes on the Environment Agency navigations and will also find some boaters complaining as the formula means either big savings or big increases depending on if they have a small or big boat.

The newspaper also quotes Chris Moffatt, from Hoveton, who co-owns a houseboat, and said the changes were "deeply unfair".

"It was unjust. It wasn't reasonably thought out and discussed with a proper cross section of the Broads community," he added.

Now you see it - now you don't

The legal machinations of the Canal & River Trust in its assorted conflicts with boaters can have some interesting echoes outside the court room, writes Allan Richards.

Eagle-eyed boaters may have spotted a recent change made to C&RT's 'licence it or lose it' webpage.

On this page you can see the 'before' and 'after' paragraph. It is the five words highlighted in yellow that have been removed.

The five words read 'to recover outstanding fees and'.

The reason for the change lies in the case brought against C&RT by Leigh Ravenscroft in the High Court.

On 26th January 2015 his boat was seized by the CRT on the basis that it did not have a Pleasure Boat Certificate (PBC) allowing use of the River Trent. It was also seized on the basis that there were arrears of PBC fees which were due. Mr Ravenscroft is asking the court to make a number of declarations and also award damages of over £8,000, this being the amount that C&RT demanded from him before returning his boat.

The main issue to be decided will be if he was required to have a PBC. A PBC is only required for use of the 'main navigable channel' of the river. However, there are also two subsidiary issues. One is 'are C&RT under a duty to act proportionately and to pursue remedies other than seizure where they are available?' The other subsidiary issue relates to Section 8 of the British Waterways Act 1983 (sometimes called 'Section 8' or just 's8'). Does this allow C&RT seize and keep a boat as security for outstanding fees which are due?

Once we've removed the boat we can either sell it or, if it is of little value, we may destroy it. We have first claim on any sale proceeds which we use to recover outstanding fees and to cover our costs of taking enforcement action.

Once we've removed the boat we can either sell it or, if it is of little value, we may destroy it. We have first claim on any sale proceeds which we use to recover our costs of taking enforcement action.

Before and after - above but the internet record, below, tells the truth



C&RT has already admitted in documents filed with court that Section 8 does not allow this.

It claims that such demands made of Mr Ravenscroft were inadvertent. To put it another way they are saying that refusing to return the boat unless PBC arrears and other fees were paid was a 'mistake' rather than an act of policy. Of course, to get away with this there must be no evidence that C&RT has a policy of using Section 8 to recover outstanding fees. Hence the quiet removal of five words!

Unfortunately for C&RT, it can be difficult to remove all traces of a changed webpage on the internet. Some 27 instances (26 BW and one C&RT), dating back to 2008, can be found of the 'licence it or lose it' webpage. For eight years BW and then C&RT had a policy of using Section 8 to recover outstanding fees.

Of course this is not the only evidence that gives lie to C&RT's suggestion that to

recover outstanding fees under Section 8 was a 'mistake' rather than 'policy'. Boater Nigel Moore, who is assisting Mr Ravenscroft with the permission of the court, has found other documents demonstrating C&RT's policy. The Trust have attempted to have this case dismissed. This failed. They have also attempted to deny Mr Ravenscroft adequate legal representation. This also failed. It would now appear that they are attempting to suppress evidence which shows that they have a policy of fee recovery which is contrary to law. The case will be heard in about six months and is subject to appeal. As such, it will probably be more than three years until Leigh Ravenscroft gets justice. Also having a long wait for justice is boater Tony Dunkley on a similar main issue. Having decided to take legal action against him, C&RT have now asked the court that the action be delayed pending the outcome of the Ravenscroft case.

Boaters will need legal eagles as much as anyone

The Floater takes a look at canal traders – people creating businesses on our canals and rivers. Their numbers are increasing almost daily and the chances are you will see a floating market or a sole trader on the canal at most times of the year. Our latest trader is a boater who plans to bring the law to the towpath

By Peter Underwood

Lawyers and boaters are not a pairing that springs to mind, the laid back lifestyle of boaters and the legal niceties of contracts and wills seem miles apart.

Yet one boater thinks life aboard would be even less stressful if her fellow boaters paid a bit of attention to some simple legal documents.

Louise Haycock, a live aboard boater without a home mooring, has been afloat for over 15 years, currently on board nb Saurman, where she has a roving traders license.

Her working life has been intimately tied up with helping people with over 25 years of working within the private and third sector in the fields of H.I.V, Child care, youth offending, probation, mental health, domestic abuse, homelessness, Sex workers, ex-service personal, alcohol and drug misuse. She is the CEO of a not for profit organisation providing legal advice, representation, advocacy and mediation and has worked within the private and voluntary sectors specialising in areas of housing, welfare benefit and debt law.

Louise told The Floater: "People on boats don't have any fewer problems than those on the land, even if they think they do. "Lots of boaters develop relationships with other boaters, for instance, but what happens if the relationship breaks down after they have moved onto a single vessel? A simple agreement before they pool their resources will make their lives much simpler if there is a break up. "And everybody needs a will so there is no doubt what happens if one partner dies and the boat is in the other partner's name. The law is there to make things easier but you have to think ahead.

The other half of her onboard business – Wyldewood Legal



Louise Haycock and brother Phillip at the launch of Wyldewood Legal Services at the Tipton festival this Autumn. The plan to service the legal needs of boaters across the country.

Services – is her brother, Phillip Haycock, a land-based lawyer and a non-boater. Phillip is the principal solicitor at Phillip Haycock solicitors, based in Birmingham. He has run the firm for over 20 years and specialises in criminal law, will making, probate and powers of attorney. Prior to setting up the firm he was a senior legal advisor at Solihull magistrates' court responsible for clerking courts and training magistrates on areas of law. Louise explains: "As Wyldewood legal services do not have a home mooring we

are working in association with Phillip Haycock Solicitors we will provide a variety of legal services to the boating fraternity. "We provide advice and assistance for clients involved in various aspects of law such as wills, probate, name change documents, crime, and power of attorney. "We talk with clients in person, via email, social media, Skype, telephone or at neutral locations, convenient to the client. "It is very much a personal service and we operate a no nonsense, straight-talking

approach." Phillip and Louise have set up Wyldewood to combine their varying skills and provide a holistic and overarching service to the boating community. Although Louise is currently boating in the West Midlands the service will be national. She added: "Boaters like a straightforward honest approach and we are aiming to be as transparent as possible, including setting out our fees in advance and being truly flexible to take into account the needs of boaters. Wyldewood is offering to pre-

pare a single will for £40 and a joint will for £ 60. Powers of attorney cost £290 and name change declarations £40 Louise said: "Wills can be prepared and sent to a client via email, as we appreciate clients can't easily attend an office for appointment. "These prices are vat included, but there would be an additional cost for travelling to a client to carry out these services, depending on client location. "We intend to provide a personal and confidential service to our clients, focusing on their particular needs, and we will be

attending special events and floating markets to advertise our services, but would expect to provide advice and assistance to clients in a confidential manner on a separate occasion as suits the client's needs. **For further information please contact: Wyldewood Legal Services C/O Phillip Haycock solicitors, 89 The Parade, Kingshurst, Birmingham, B37 6BB. Tel no 0121 788 1234. 24/7 mob 07956 892507.**

Sue Cawson, a lifetime boater, liveaboard and owner of an historic boat, as well as a member of C&RT's Navigation Committee and a stalwart of the Historic Narrowboat Owners Club reckons she knows a thing or two about boating and argues that traditional techniques can be adapted for modern boating. So we have challenged her to produce some bite sized bits of advice. This month - avoiding lock queues

Boaters are the cause of lock queues

Has this happened to you? You been boating for an hour or so and not seen anyone ahead of you, then you arrive at the lock or lock flight and there is a queue of five or six boats?

Where have they come from?

Most of the queues are caused by the boaters themselves, a boat arrives at the lock landing one of the crew ties up, oh and then someone goes to set the lock.

Be ready as soon as the boat is by the lock landing send one of the crew immediately to set the lock while someone else manages the boat or better still if there is a bridge shortly before the lock drop one of your crew off in the bridge hole to go ahead and set the lock, then the boat can go straight into the lock.

A queue of five or six boats will add at least an hour to your day, this may mean that you don't make your planned destination or you have to boat longer than planned.

I am not saying you need to rush and run round locks, running round locks is a definite no there is always the danger of tripping.

When you arrive in the queue, let one of your crew go and assist at the lock. This is a great way of meeting other boaters and sharing experiences, do remember that the skipper is in charge of their boat in the lock, check how and when they want the paddles drawn.

If you are at the start of a flight of locks and the crews from the queue of boats are helping each other, it is worth working together, as the gates are opening and before the boat exits it is worth the crew of the boat in the lock walking ahead to set the next lock.

In a flight of locks with short pounds you should never have a boat waiting in the pound and by walking ahead to set the next lock you can avoid the next lock being turned around on you.

Water is a precious commodity don't waste it, don't turn a lock if there is a boat in sight. When you get to the front of the queue and you are next for the lock, try and stop as close as possible on the lock landing to the lock so you can enter the lock quickly and efficiently, be ready to start going towards the lock as soon as the gates start opening.

If there is a boat exiting the lock and you are waiting to go in, you don't have to wait until the boat has completely gone past you, your bow can almost be entering the lock as his stern comes out.

I have seen boats take a good five minutes to untie from the lock landing and get into the lock, if each boat in a queue of six takes this long that's half an hour plus the time it takes them to work the lock.

Many boaters will tell you we are not in a hurry, that's fine just be efficient, none of us enjoy hanging around in a queue.