



Readability of Trust Licensing documents

NABO has already submitted its response to the Canal and River Trust's (CRT) consultation into its proposed changes to private boat licensing terms and conditions. Here, we make reference to our concerns over CRT's approach to ease of reading within its licensing documentation.

We believe that none of the current documents, or the changes proposed, meet a simple test for ease of reading.

There are five primary Trust documents that make up the licensing documentation:

- Boat licence application form, dated May 2018
- General Terms and Conditions for Boat Licences, dated February 2020
- Your Boat Licence Terms & Conditions, issued in 2020 and containing the proposed changes
- Privacy Policy, dated September 2020
- Privacy Schedule for Customers, undated.

We are concerned about the wording of the documents provided by the Trust to define the boat licence agreement, specifically the General Terms and Conditions, the Privacy Policy and the Privacy Schedule for Customers.

In 2015, we drew the Trust's attention to the readability of the Terms document. We said: "*The actual Terms and Conditions should be written in words that users can understand, otherwise it is an unfair contract and self-defeating.*" It was not the first time that we have drawn the Trust's attention to the matter. In 2015, the Trust chose to take no action over our complaint. NABO believes that no organisation should create a fog of complicated documents written by lawyers, which customers cannot understand.

Since the 2015 terms were drafted, the Data Protection Act 2018 has come in to force. Under this Act, the Trust chooses to operate under the consent principle of 'public task'. In NABO's view, this gives licence holders the expectation that the Trust will operate to the highest standards, including the wording of its Terms and Conditions.

The Data Protection Act requires, under data protection principles, that information is used fairly, lawfully and transparently. It also requires, under the 'right to be informed', that information which the Trust provides (to people) must be concise, transparent, intelligible and easily accessible. It must use clear and plain language. NABO is of the view that these principles must apply to all documents.

NABO has examined three current documents and the proposed new text using a proofing tool in the Microsoft Word programme. This tool provides common indices, such as sentence counts, Flesch Ease of Reading and Flesch Kincaid Grade scores. This review concerns English language only and we comment elsewhere on the meaning of the wording.

Our findings are summarised in the tables below.

Item	Sentences	Word per Sentence (Target below 20)	Flesch Reading Ease (Target above 60)	Flesch Kincaid Grade (Target below 9)
Current Terms	102	25.9	50.8	12.6
Proposed new Terms, 2020	70	24.1	50.0	12.1
Privacy Policy, 2020	43	24.8	37.3	14.2
Schedule for Customers, undated.	36	27.2	28.9	15.9

As can be seen, none of the three original documents score readability levels that can be understood by the general public. NABO therefore considers the documents are not fit for purpose and are not compliant with the Data Protection Act.

How we reviewed the documents

The text was transferred into Microsoft Word, both as a complete document and as individual paragraphs. Paragraph references were removed and punctuation was checked to ensure that sentences were complete. The layout was checked so that the Word document had the same layout as the original document. Scores from the proofing tools were recorded. The Word proofing tools give a variety of measures. These are set out below and for each measure there is a commentary on how the scores were judged. These are taken from generally available sources and they are not unreasonably severe.

Sentence word count. Target below 20. Sentence length affects the quality of understanding. More shorter sentences are better than a few long complex sentences. An average of 15 to 20 words is effective for most technical communications. We observed that the Trust frequently uses sentences with word counts in the 20s and 30s. This is a significant barrier to readability.

Flesch Reading Ease. A higher score is more readable and score between 60 and 70 is considered acceptable. The best text should contain shorter sentences and words.

Flesch Reading ease scores for these documents are commonly interpreted as:

- 70-80 fairly easy to read
- 60-70 easily understood by 13 – 15 year old students
- 30-50 difficult to read, best understood by college graduates
- 0-30 very difficult to read, best understood by university graduates

None of the Trust’s wording meets this score. The recorded scores imply that users need a tertiary education to understand the text. In NABO’s view this is totally unacceptable.

Flesch-Kincaid Grade Level. This is equivalent to the US grade level of education. It shows the required level of education to be able to understand a text. A lower number is more readable. Target below 9. Text intended for general public readership should aim for a grade level of around 8, schooling age 13 to 14.

None of the Trust’s wording meets this. All of the Trust’s clauses have a level higher than this, with most in the 11 to 14 range. This is a barrier to readability.

NABO also notes that the proposed new wording for the 2020 Terms is not an improvement. This is very disappointing, given the number of times that the Trust has been made aware of this problem.

NABO has considered some parts of the text in the documents and we offer alternative wording for four items. These are by way of example only. They are:

- The sections on insurance taken from the current terms (5.2 &5.3), the new proposals (B1 through B6) and NABO’s alternative below.
- The section 7: ‘Your other obligations’ from the current Terms, and NABO’s alternative. There are no proposed changes in 2020.
- Privacy Policy: ‘International transfers of personal data’. There are no proposed changes in 2020.
- The last bullet point from the Privacy Schedule for Customers. NABO notes that this paragraph has 77 words, and doesn’t make sense. NABO’s view is that it is not fit for purpose. There are no proposed changes in 2020.

Examples of text:

1. Insurance, taken from the current Terms and conditions, the new proposed text and NABO’s alternative

Item	Sentences	Word per Sentence (Target below 20)	Flesch Reading Ease (Target above 60)	Flesch Kincaid Grade (Target below 9)
2015	4	23.2	36.7	13.9
Proposed 2020	13	35	30.2	17.7
Alternative	19	10.6	55.2	8.1

<p>Insurance You must have in force an insurance policy for the Boat, provided by a company that is authorised and regulated by the UK Financial Conduct Authority, which covers third-party liabilities of at least two million pounds per event. The insurance cover must:</p> <ul style="list-style-type: none"> • be maintained for the full duration of the Licence; • be appropriate for the intended use of the Boat; • insure the licence applicant, the owner of the [vessel/ boat] and such other person, persons or classes of persons (if any) as is or as authorised by the owner [and or licence applicant] to have control of the vessel, in respect of any liability which may be incurred by the owner or any such other person resulting from the presence of the vessel on any inland waterway in respect of the death of or bodily injury to any person 	<p>Insurance You must have valid boat insurance. The insurance must:</p> <ul style="list-style-type: none"> • Cover the Licence holder, boat owner and all people allowed to helm the Boat. • Be suitable for the intended use of the Boat. • Be in place for the full period of the Licence when the Boat is on any inland waterway. • Cover any liability, which results in damage to any property or the death or injury of any person. • Cover third party liability of at least £2 million per event. • Be provided by a company authorised and regulated by the UK Financial Conduct Authority.
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<p>or any damage to property.</p> <p>When applying for the Licence, you are asked to declare the following details of the Boat's insurance:</p> <ul style="list-style-type: none"> • the name of your insurance provider; • the policy number; • the expiry date of the policy. <p>You must provide a copy of your insurance certificate and/or policy Schedule to Us at the point of licensing via our online portal or by sending a copy by post within 14 days of licensing your boat. You agree to provide a copy of your insurance certificate, policy terms and conditions and policy Schedule upon request.</p> <p>You agree that we may contact your insurer and/or broker to check the validity of your policy, and you consent to the insurer and/or broker giving us such information as we may reasonably require.</p> <p>You agree to us providing information that we hold about the use, apparent structure and construction of your boat to your insurer and/ or broker.</p> <p>If your current insurance certificate expires during the Licence (including any renewal), you must provide evidence of the renewed (or new) insurance and the Conditions of B.1, B.2, B.3, B.4, B.5 and B.6 apply.</p>	<p>When you apply for a Licence you must provide:</p> <ul style="list-style-type: none"> • The name of your insurance company. • The policy number. • The expiry date of the policy. • a copy of your insurance certificate or policy schedule. This must be within 14 days of Licensing your Boat. It can be sent via our online portal or by post. <p>We may:</p> <ul style="list-style-type: none"> • Check with your insurance company that the policy is valid. • Give information we hold about your Boat to your insurance company. • Obtain from your insurance company any information we may require. <p>You will give us a new insurance if your insurance period runs out during the Licence period. This must meet the same requirements.</p>
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2. Section 7. Your other obligations taken from the current Terms and conditions and NABO's alternative

Item	Sentences	Word per Sentence Target below 20	Flesch reading ease Target above 60	Flesch Kincaid Grade Target below 9
2015	23	29.5	45.3	14.2
our 2020	27	15.2	65	7.9

<p>Your other obligations 2015</p> <p>You must display the Boat's name, index number and the Licence on both sides of the Boat so that they are always easily visible by our employees on the towpath or on the Waterway.</p> <p>If you do not, we may place a sticker on the Boat or on any cover on the Boat showing the number, which must not be removed unless the number is displayed in some other way. Any Tender must be marked with 'Tender to' (name and index number of the Boat).</p> <p>You must comply with relevant legislation, bye-laws, and the navigation rules identified in Schedule 5, and follow our lawful directions, spoken or written (including signs). This includes signs that prohibit mooring or limit the period you may moor the Boat at specific locations.</p>	<p>Your other obligations</p> <p>You must display the Boat's name, index number and Licence on both sides, so they can be seen from both the towpath and the waterway.</p> <p>If you do not we may place a sticker on the Boat (or on any cover) showing the index number which must not be removed unless you display the number in some other way. If you have a tender, it must be marked with 'Tender to' (name and index number of the Boat).</p> <p>You must comply with laws, bye-laws and navigation rules (see Schedule 5). You must follow our instructions both spoken or written. This includes signs that stop mooring or limit the length of mooring at places on the waterway.</p>
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<p>The Boat must be fit for navigation on any Waterway where it is intended to be used.</p> <p>You must ensure that when the Boat is navigating there is always a competent person in charge of the Boat.</p> <p>You may give permission to any other person to use the Boat provided you do not do so for reward or promise of payment as this would require the Boat to have a business boat licence.</p> <p>You must ensure that any other person using the Boat is aware and agrees to comply with these Conditions and is covered by an appropriate insurance policy.</p> <p>Whilst the Boat is on the Waterway you must not do (or carelessly fail to do) or permit anything which will cause damage or nuisance to us or any person or their property.</p> <p>You accept responsibility for any such damage or nuisance caused or permitted by you, other occupants of the Boat or your visitors. You will not be held responsible for events that are outside your control provided you have taken all reasonable steps to prevent such damage or nuisance.</p> <p>You agree that:</p> <p>(i) we can board the Boat, and/or enter any land you own or occupy which is adjacent to the Boat, in order to affix or place on the Boat, correspondence, contractual or statutory notices or court papers; and</p> <p>(ii) we can come on board the Boat to inspect it where we need to check you meet these Conditions and we can cross the Boat for the purpose of accessing any adjacent boat that cannot reasonably be accessed from the bank. We will give you reasonable notice if we consider it is practical to do so.</p> <p>In the event of an incident or alleged incident involving the Boat/ Business which has resulted in personal injury or damage to property, we may provide your relevant personal details such as your name and address to the other parties insurers, legal advisors or a third party with a legitimate interest.</p> <p>You agree that we may provide your relevant personal details including your contact details such as your name and address to any person (or the insurer of any person) who we believe has a legitimate interest in an incident or alleged incident involving the Boat which will generally be the case where for example personal injury or damage to property may have occurred.</p> <p>You agree that where we believe you have failed to comply with the Conditions, we may exchange information relating to you and/ or the Boat with third parties who are assisting us in managing the</p>	<p>The Boat must be suitable for use on all waterways you use.</p> <p>You must make sure there is a competent person in charge of the Boat at all times when moving.</p> <p>Other people may use the Boat so long as they agree to comply with these Conditions and are covered by your insurance policy.</p> <p>You must not allow use for payment or a promise of payment. This requires a business boat licence and other requirements.</p> <p>Whilst navigating, the occupants of the Boat must not:</p> <ul style="list-style-type: none"> • Do anything which causes damage or nuisance to us or any other person or property. • Carelessly fail to do anything which causes damage or nuisance to us or any other person or property. <p>You accept full responsibility if this should happen. You will not be held responsible for events outside your control provided you have taken steps to avoid them and acted reasonably.</p> <p>You agree that we can go onboard the Boat and/or the land adjacent to it to:</p> <ul style="list-style-type: none"> • deliver correspondence, letters about your licence or statutory notices or court papers • inspect the Boat if we need to check you meet these Conditions • reach an adjacent boat which cannot be accessed from the bank <p>We will give you reasonable notice if possible.</p> <p>If an event happens, or is reported to us, involving the Boat which causes personal injury or damage to property, you agree that we may give your name and address to:</p> <ul style="list-style-type: none"> • the insurance company of the other involved people • legal advisors • anyone else with a legitimate reason. <p>If we think you have not followed the Conditions, we may give information about you and your Boat to anyone who is helping us to manage the situation.</p>
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<p>situation such as contractors, mooring providers, individuals or organisations with a legitimate interest or duty in exchanging information about you. In addition to Condition 7.8 and 7.9 above, we will use your personal information as set out in our Privacy Policy here: https://canalrivertrust.org.uk/cookie-and-privacy-policy</p> <p>You must notify us via the online portal or in writing within 14 days when you sell the Boat or transfer ownership to another person. You must tell us to whom you have sold or transferred the Boat. If you do not let us know the details of the new owner or keeper, the Boat will remain registered in your name and you will continue to be responsible for it (including payment of future Licence fees, sums payable under Conditions 6.4 and 6.5, and the costs of any related legal action). The Licence is personal to you in respect of the Boat. Except in the case of a Gold Licence (see Schedule 3) you cannot transfer the Licence to any person in any circumstances or to another boat you may acquire. Accordingly, the Licence cannot be sold, given to anyone or be inherited by anyone.</p>	<p>These are:</p> <ul style="list-style-type: none"> • contractors • mooring providers • other individuals and organisations with a legitimate interest or duty. <p>In addition to Condition 7.8 and 7.9 above we will use your personal information as set out in our Privacy Policy here https://canalrivertrust.org.uk/cookie-and-privacy-policy</p> <p>If you sell the Boat or transfer ownership, you must give us details of the new owner/keeper within 14 days, via the online portal or in writing. If you do not, the Boat will remain registered in your name and you will continue to be responsible for it. This includes payment of:</p> <ul style="list-style-type: none"> • future Licence fees, • sums payable under Conditions 6.4 and 6.5 • the costs of any related legal action. <p>Your Boat Licence is issued to you. It cannot be transfer it to anyone else or to another boat. The Licence cannot be sold, or given to, or be inherited by, anyone else. There are exceptions for a Gold Licence (see Schedule 3).</p>
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3. Privacy Policy “Where your information is stored and for how long” third paragraph and NABO’s alternative

Item	Sentences	Word per Sentence (Target below 20)	Flesch reading ease (Target above 60)	Flesch Kincaid Grade (Target below 9)
CRT Privacy Policy 2020	4	31.7	35.3	16.2
NABO 2020	6	11.1	57.8	7.9

<p>International transfers of personal data</p> <p>From time to time, the people or organisations with whom we share personal data may request that we transfer personal data to their operations outside the UK. On a case-by-case basis, we may agree to such transfer of personal data to operations in other EU countries and/or to countries which have data protection laws deemed acceptable by the EU. For other countries, we will only agree to such transfers of personal data where we are satisfied that the personal data will be sufficiently protected through measures such as the EU approved standard contractual clauses in place between the data exporter and the data importer. Any standard</p>	<p>Transferring personal data overseas</p> <p>We may be asked by partner organisations to share personal information with their operations outside the UK.</p> <p>We may do so if:</p> <ul style="list-style-type: none"> • The country is in EU. • The country has data protection laws acceptable to the EU. • We are satisfied, in the case of other countries, that the personal data will be protected. An example of this would be by EU approved standard contractual clauses. These clauses will be provided on request.
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contractual clauses which we put in place of export of the personal data will be available from us on request.	
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4. Privacy schedule for customers last paragraph and NABO’s alternative

Item	Sentences	Word per Sentence (Target below 20)	Flesch reading ease (Target above 60)	Flesch Kincaid Grade (Target below 9)
Privacy Schedule undated	1	77	0	38.3
NABO 2020	8	15	50.6	9.9

<p>Privacy schedule Police, local authorities and other law enforcement and regulatory and safeguarding agencies where we are satisfied that the relevant agency has demonstrated a proper legal basis for requesting personal information (e.g. prevention and detection of crime, apprehension and prosecution of offenders, administration of justice or collection of taxes) unless there is an overriding and urgent safeguarding concern where non-disclosure would harm the vital interest of any party when disclosure may take place without a request in writing.</p>	<p>Privacy schedule Agencies such as:</p> <ul style="list-style-type: none"> • Law enforcement agencies • Other justice agencies • Local authorities • Regulatory agencies • Safeguarding agencies • Those involved with collection of taxes <p>We must be satisfied that they have a legal reason for asking for personal information.</p>
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In conclusion, NABO has highlighted several areas that need urgent action and we believe that significant improvements in readability can be made with very limited effort, and without impact on legal meaning.

In our view, CRT should take immediate steps to ensure that all its licensing documentation is presented in a way that the general public can understand. NABO takes the view that the current licence documents are not fit for purpose and requests that the Trust rewords all the key documents involved in licensing. NABO would be happy to assist in reviewing the changed documents.

It may be sensible to halt the current consultation on the proposed terms and conditions pending these changes.

We hope to hear from you shortly on the actions that CRT is proposing to take and trust it will not be necessary for us to forward this document to the Information Commissioner.

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