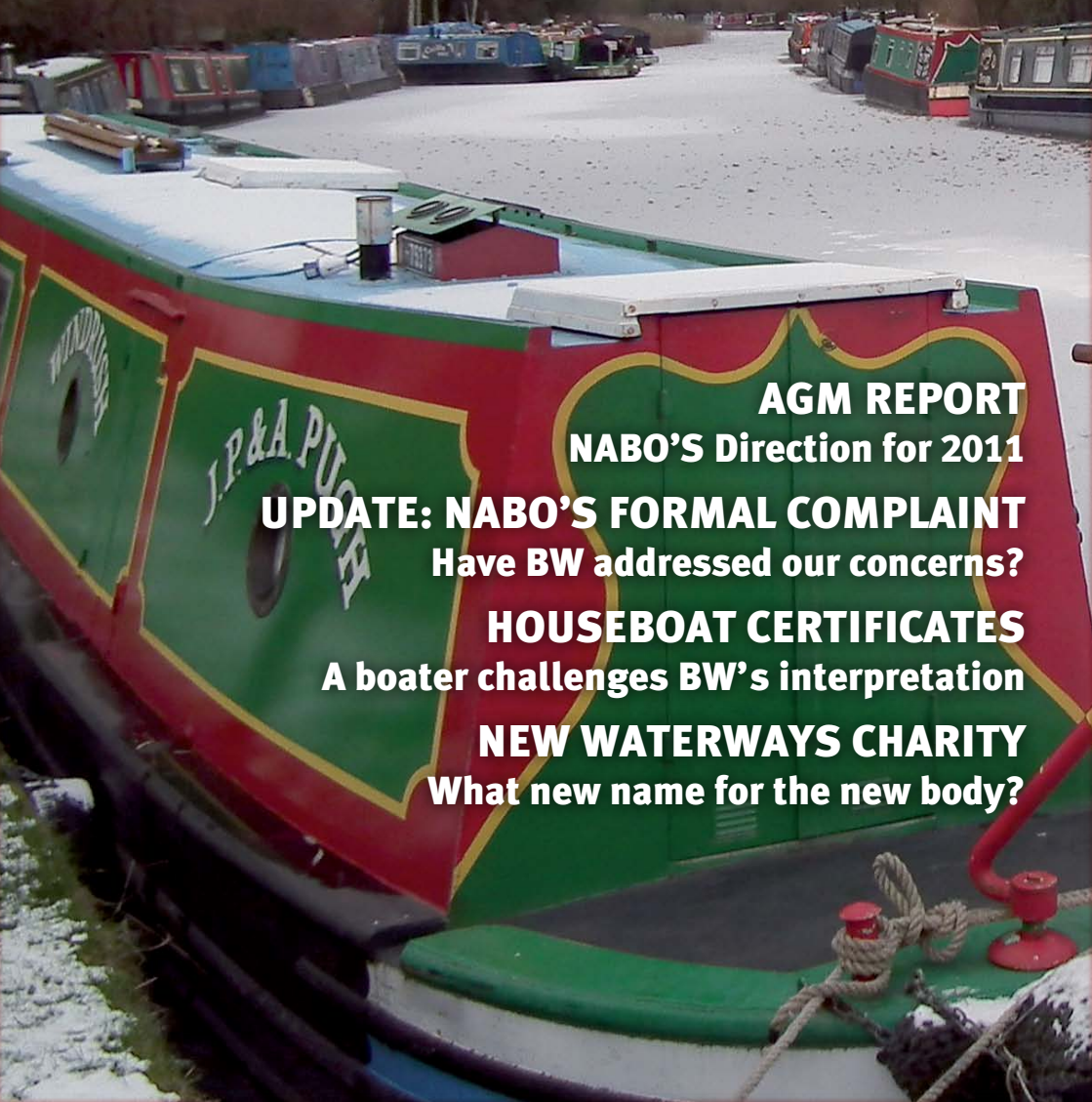




NABO News

The Magazine of the National Association of Boat Owners
Issue 1 – January 2011



AGM REPORT

NABO'S Direction for 2011

UPDATE: NABO'S FORMAL COMPLAINT

Have BW addressed our concerns?

HOUSEBOAT CERTIFICATES

A boater challenges BW's interpretation

NEW WATERWAYS CHARITY

What new name for the new body?

NABO News

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Front Cover Photo Competition

Win yourself a year's free membership by sending us an image for the front cover of the new NABO News! We like the picture to reflect the Inland Waterways, of course, and not just narrow boats!

This month's photo is winter on the South Oxford canal at Thrupp Wide, from Fiona Slee. ©nbepiphany.co.uk

NABO Calendar 2011

Council Meetings 2011

Saturday January 22nd
Saturday March 12th
Saturday April 16th
Saturday June 11th
The Council has agreed a break in the middle of the summer as most members are cruising.
Saturday September 3rd
Saturday October 15th
AGM November 12th (Venue TBA)
New Council meet Saturday November 26th

The venue as usual is the Waggon and Horses at Oldbury. Remember that members are welcome to attend meetings – just let the Secretary or Chairman know in advance, contact details opposite.

NABO News Copy Dates 2011

Please email or post your contributions by:
29th January, 19th March, 23rd April, 18th June, August 13th, December 3rd

Contributions

Articles, letters, cartoons and photos are most welcome. Images and photos in JPEG format please.

Contributions to nabonews@nabo.org.uk



Justin Hansen presents Dr Simon Cabe with a cheque for £21,000 raised by the Gutless Kayaking Challenge, full story page 20.

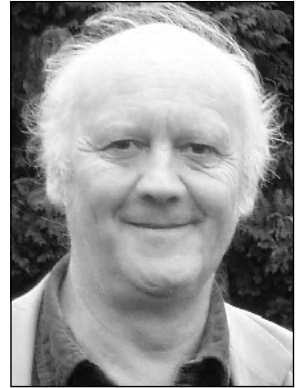
New year, new editor

Peter Fellows

I would like to start by introducing myself as the new editor, working with Richard and Howard on this issue while I learn the ropes. As an ordinary member of NABO of a few years standing, I decided I have some spare time and could volunteer to do a bit more for the Association. I caught the canal bug in the early 1980s, borrowing my sister's 26-foot fibreglass Trentcraft. When the hull creaked alarmingly as we got crunched against Braunston tunnel by an inconsiderate narrowboater, I decided we needed a steel hull, and a few years later we bought our first narrowboat.

This was a 1960s wooden-topped 40-footer and we had dozens of memorable cruises over the next 16 years, but eventually I was spending more time repairing it than cruising it and she had to go. We thought about our boat usage and having several thousand pounds worth of boat sitting at its mooring for all but six weeks a year. Wouldn't it be better to share? A note in our village magazine brought replies from six families and, to cut a long story short, we have been part of a shared-boating group for the last eight years.

The number of letters in this edition is a welcome sign of interest in the newsletter and I agree with Howard's view in issue 5 that the newsletter is an important means for NABO members and Council to share views. For some members it is the main benefit of being in the association and I am pleased that Council has agreed to spend a little more money on the newsletter. I hope to include a mixture of the serious stuff together with snippets of interest to boaters, so please let me have your opinions, articles, anecdotes and photos.



Elsewhere in this issue the focus is on legal matters: Simon Robbins writes of his difficulties and frustrations with BW over Terms and Conditions

for Houseboat Certificate holders; and there is a special supplement with an update on legal issues and NABO's formal complaints to BW. Although these may seem complex and perhaps a bit 'dry', they are of real importance for all boaters.

The other 'big story' at the moment is the new waterways charity and there was an interesting question and answer session with Simon Salem, BW's Marketing Director, at the AGM. It was good to see 30 NABO members attending and there is a report of the questions uppermost in peoples' minds with Simon's responses. In his Chairman's column, David gives some more background and the potential involvement of NABO in the new charity and reader Chas Moore has some suggestions for a new name for the charity in his letter.

The last Council meeting report and Chairman's column both emphasise the need for more members to volunteer and help ensure that boaters' views are represented in the forthcoming discussions on the new charity. If you have a few hours to spare and you care about the future of the waterways, please get in touch with one of the Council members to see how you can help.

Finally, a Happy New Year and enjoyable cruising in 2011.

Report from the 2010 AGM

Sue Burchett

The meeting was attended by 30 members and the NABO Council, with apologies from Aileen Butler, Andy Colyer, Louis Jankel, Simon Robbins and Andy Soper.

After the minutes of the 2009 AGM were agreed, the formal part of the meeting was a report from the Chairman David Fletcher, a financial report from the Treasurer Stephen Peters, and an update on recruitment, publicity and merchandising by Richard Carpenter. This was followed by election of the Council and appointment of the auditor.

Chairman's report

David described three main areas of campaign initiative for NABO as **1.** the BW 2020 vision and progress towards the NWC, EA waters, **2.** current moorings consultation by BW, and **3.** legal issues with BW and the Waterways Acts. These would be part of the discussion in sessions after the formal AGM proceedings. He gave his appreciation to NABO Council and members for their support during his second year in the Chair and noted how sharing the workload is a practical and supportive way to work, but there is always a need for more Council members.

Communication with members is an important part of NABO's work and during the last year there has been a major update to the website content and style of use by John (and Fi) Slee, giving us a new and fresh face for members and the public. This change means that e-mail news bulletins are no longer a feature of our communication and instead news items are put on the website, with electronic means of putting them out to members if they wish. The May issue of NABO News was the first not to be edited by Stuart Sampson for many years and Richard

and Howard have alternated editorship and arranged publishing support from Chris Pink. They are now joined by member Peter Fellows who will take on more of the work. The Council wanted to give the magazine a new look, with a mixture of news, views and information, and there has been very positive feedback, and comments, suggestions, photographs and articles are all welcome.

Another facet of communications this year has been two surveys: first the boaters' cost survey has been completed for a second year, and there is now data over three years leading towards possible trends. This is both useful as a guide for members for their own costs and useful for new boat owners to have some clue as to what to expect. A summary of this data has been used at the recruitment events this year, and it is useful to catch the attention of potential new members. There were around 100 responses, or 5% of membership, which is what could normally be expected in a public survey, but a fuller response is needed to be meaningful and members are asked to complete it this year. The second survey was the waterways condition survey, widely publicised in the waterways associations and press, which had a good response from over 300 people. The reports were sent to BW and EA and produced a good dialogue with BW both nationally and in some of the regions, and in user groups around the country. BW has responded with plans for doing most of the high priority work. Thanks to John Slee who led the work on both the surveys and the follow-up dialogue with BW.

There have been several major consultations with navigation authorities during the year: the national and local mooring strategies; Waterways for Tomorrow; BW's 2020;

and the more routine licence increases, winter stoppages, BSS etc.. This is the stuff of Council's work and they are tireless in considering what is best and presenting it. Many NABO submissions are on the website and members are asked to tell Council if they have got it right. There is always a need for more members to cover the consultation meetings. Of course it is difficult to represent NABO without some background knowledge that the association has available, so this is not instant recruitment. But NABO needs more members to come forward and attend some council meetings and share the load so that they can contribute both locally and nationally. Nationally, waterways groups are typically represented by grey-haired men, and for more inclusivity NABO would welcome more women representatives to join Sue Burchett who rejoined Council this year. NABO has actively worked with other waterways user groups this year, particularly similar sized ones like RBOA, TBA, DBA, and also TUGn, IWA and AWCC. This co-operation and avoidance of duplicated effort is important and never more so with the big changes that are being planned.

Richard has led initiatives this year to build NABO's profile, recruit and keep our membership. This is particular critical because if the NWC comes off, the division of influence will be decided in the next year or so - the more members, the more influence. Membership is holding up at the moment, but if NABO doesn't recruit it will wither. NABO went to Crick, Leeds and Skipton, and many members and Council members give out material on the towpath or at festivals, and there are plans for events in boating clubs during the winter. If every member recruits one other boater each year, there will be no problem. The main issue is that boaters have not heard about NABO. Although small, NABO has a wide range of experience, and

this enables it to operate effectively on the national scene. It has a privileged position on many waterways consultation committees by turning up and talking common sense. NABO is the only group specifically dedicated to the wider interests of boat owners.

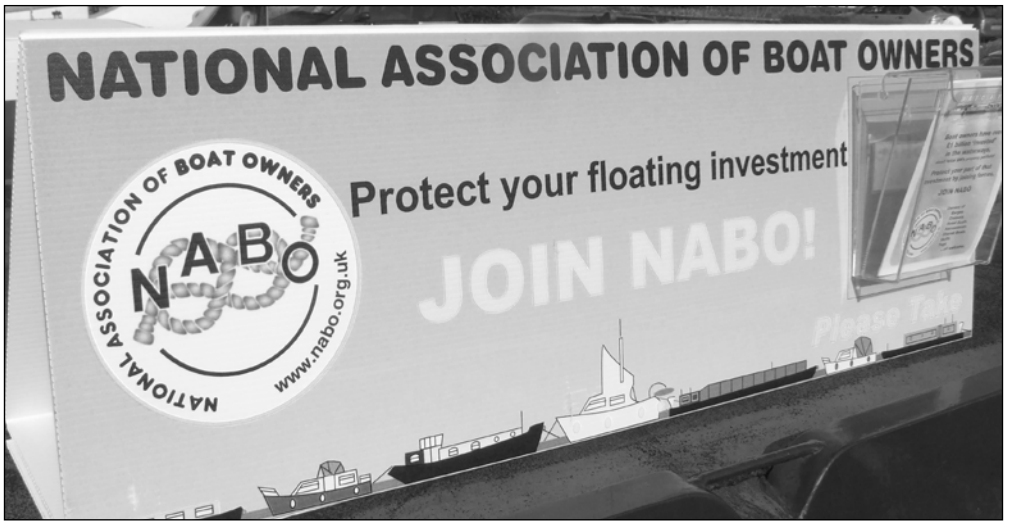
Finally, the legal issues: NABO has spent some serious money on legal advice this year, with thanks to Geoffrey and Simon for taking on the many issues. The engagement with BW has not been very fruitful in that they simply stonewall many of the detailed issues with blanket reliance on the early BW Act. NABO has pressed BW in writing, in meetings and informally to get more representative cases to court for rulings, particularly on definitions of continuous cruising, because at present they rely too much on their own legal interpretation to write terms and conditions. In January BW said that going to court was unnecessary. Now there is some movement. This is not the final answer, but it is a step in the right direction.

David finished his report by saying "I am very grateful to members who have given NABO an insight into their legal cases, legal processes, ombudsmen and the like. Only in this way can we build a picture of what is going on. May I express my own thanks to Council and NABO members for their support and input during the year. There are many issues for the new Council to deal with, and it has to set priorities and focus efforts. We cannot do it all. Council member have lives and boats too. Sub-committees handle issues to make things more efficient but we need more members to come forward to help and give their time and expertise."

Treasurer's report

The main points of the Treasurer's financial report were:

Income has decreased during the year due



to a slight fall in membership caused by members retiring and reduction in deposit interest. Advertising revenue should increase as it has been decided to accept some adverts in NABO News to meet the increased costs of the magazine. NABO expenditure increased due mainly to the cost of obtaining Legal Opinion (see page 13). In future, there will be no storage costs as NABO has given up the store and there will be no costs for the House of Commons bulletin. Stephen proposed keeping the annual subscription fees at the same level, increasing membership, and matching Council expenditure to income, which was agreed.

Recruitment, publicity and merchandising

Richard described efforts to increase recruitment and reported on the success of NABO's attendance at events such as Crick, using the new display materials that had improved NABO's profile. The new format for NABO News has received favourable feedback and the magazine is important to members who do not have regular access to the website. It is intended to have 'Boaters'

Question Time' events at boat clubs through the winter, and Richard asked for suggestion on places to do these (Pewsey Wharf Boat Club and Byfleet Boat Club have already booked some dates to be published on line after Xmas – Ed). Merchandise is now sold by Smudgeonline, which is more convenient because Council members are not involved but NABO receives a profit.

The Council members were re-elected for the year 2010-2011 without changes to their posts. Alan Davis was re-appointed as auditor. The formal part of the meeting ended at 11.30am. There then followed an open discussion before Simon Salem, BW Marketing Director, addressed the meeting. David explained Simon Salem's role and outlined the upcoming Defra consultation on the future of BW:- the choice is to stay as it is or to become a 'third sector' organisation. David sought views on NABO's stance on the third sector proposals, which was followed by a discussion broadly in favour of the new organisation. It was noted that Land & Water have been awarded a dredging contract worth £5m a year for 5years. NABO's 20-page Legal Opinion is available to assist members should

they need it. Stephen proposed publishing it to disclose BW's actions, but Geoffrey noted the constraints on publishing and David thought that if it was published it would be of no further use to NABO. A show of hands revealed divided opinions of those at the meeting.



NABO Chairman David Fletcher introduces BW Marketing Director Simon Salem.

Guest speaker: Simon Salem, BW Marketing Director

After lunch, David welcomed Simon who outlined some of the advantages of the third sector organisation and charitable status. For example: the problems of the present grant system will be addressed by a new 10-year contract that will give greater stability for planning; BW property will be locked into the charity and so cannot be sold; there are tax advantages in new ways of being able to earn money; and there will be new ways of governance with each waterway having its own board.

Simon then opened up the discussion in a question and answer session. Issues raised included: **licence enforcement** - Simon replied that this is much improved with

figures going down for non-payment; the effect of the third sector organisation on the **BW Acts** – there would be a Statutory Transfer under the Public Bodies Reform Act, which would largely consist of the new name being inserted into the existing Acts, although there would be a few changes to the wording because IWAC had been disbanded; the **Ombudsman** - Simon hoped the job would continue; **combined EA and BW waterways** would be a decision for the incoming trustees; the large scale **withdrawal of mooring wardens** prompted a lengthy discussion. Simon wanted continuous mooring to be self-policing, but many members considered volunteer mooring wardens to be a step too far. There could be conflicts with local mooring strategies and there were questions over how an idea by a pilot group to restrict the number of boats would work legally. The proposed **funding for the new charity** is likely to meet only half of the shortfall, but Simon is optimistic that reducing costs will help. There were questions about **using volunteers instead of BW staff** and Simon said that there were no plans to make staff redundant but volunteers have a role and would have the same health and safety rights and must be trained to the same level as BW staff. When asked **'Should continuous cruisers be able to send their children to school?'** Simon replied that there are no plans to stop them. A question about **BW working with boat builders** to better inform buyers about legalities led into a discussion of how few boaters knew of the existence of user groups such as NABO and it was suggested that BW could help NABO with publicity. Simon asked how many members would pay extra for **gift aid on the licence fee** and there was one positive response, but this prompted a discussion on gift aid which Simon said was useful. A suggestion was made to add rod fees to boat licences with a roving rod licence

for boaters, and reallocate some of the fees that EA presently get from rod licences. In response to a question about **BW Property**, Simon said it would be held by a subsidiary company and that the new organisation would be able to borrow against these assets. A question about the **role of BW directors** in the new charity drew the response that DEFRA will appoint the trustees and it is likely that a small number will be existing

BW directors, probably for 12 months. The trustees will then decide on the executive directors.

Simon was presented with an offering of wine and a Dunton Double windlass and thanked for his talk. David summed up and the meeting ended at 3pm. Our thanks to members of at Wolverhampton Boat Club for their hospitality

Winter work

Peter Fellows

As a careful owner you will by now have already winterised your boat, but if you haven't got round to it yet, then read on. If you are not a continuous cruiser or liveaboard, the amount of work you do now will determine how successful the first cruise is when the weather improves. Done properly, all you will need to do when there's an unexpected warm spell in the spring is fill up with water, a few turns on the stern gland greaser and off you go. Those boaters who are not so careful with their winter work may find that they are removing dead batteries, or locating and fixing burst water pipes before drying out and cleaning up the mildewed mess that was the cabin contents. When their engines eventually splutter into life, a thick cloud of black smoke shows that diesel bugs have been growing happily in unchanged fuel filters

for months. Winterisation should protect your engine and electrics from damp, corrosion and frost damage. As a minimum the engine should have its normal service, changing oil and fuel filters when it is winterised. This will prevent the water and acids dissolved in old muddy black oil eating their way into bearings and the sump. Sprayed oil fed into the air intake while the engine is running helps to prevent corrosion of the valves and exhaust. Also check the gearbox oil for water that would cause expensive corrosion of the gears. Engine control systems need lubricating with grease or oil to



prevent cables and linkages becoming stiff. The fuel tank should be filled to the top of the filler pipe to reduce condensation by water when the air temperatures fluctuate through the winter months, and ideally the fuel should be treated with a stabiliser to stop corrosion and gumming and/or a diesel biocide to kill off the dreaded diesel bug. The engine cooling systems should be drained and refilled with anti-freeze/water mixture to prevent them freezing. Domestic hot and cold water and foul water systems should be drained from the lowest point in the boat so that the water tank and pipework are completely empty. If necessary undo water pumps to make sure water is not trapped inside. Generators should be serviced, and domestic electrical connections given a coat of protective oil such as WD-40, or Vaseline or grease. If batteries are left flat over the winter it is likely that they will suffer internal damage and will not hold enough charge to start the engine. Either keep them charged on board, using a charger powered by landline, wind or solar power, or remove them to a dry, frost-free store for the winter.

The times they are a'changing

David Fletcher

Firstly, all the new Council have to thank for the membership for their continued support for the work that NABO undertakes. Please do continue to give us feedback, and don't hesitate to come to Council meetings to contribute and help. Just let us know you are coming beforehand. I have agreed to take the role of Chairman for a further year, but this will be my third and last. I think it is healthy for an organisation to change leadership from time to time providing a new style, ideas and energy. There is room at the Council table this year, and we need newcomers.

New Waterways Charity

The politics of the canals continue to move on. A year ago the picture was of great uncertainty, it being unclear as to whether the 2020 vision would gain support with the political parties as we moved towards the election. Now we are told that the legacy of the property portfolio and the principle of a long term deal for the grant have been agreed with DEFRA and others. The discussions have moved to the next level of detail and NABO, together with many other canal user groups and businesses, can expect to be involved in a mass of meetings in 2011, not least the degree of representation of boaters in the new waterways charity (NWC). The principle of the NWC will be the subject of a formal public consultation by DEFRA, and this can be expected to revisit some of the issues already heard in 2010. There will be the need for legislation in Parliament, firstly in 2011 to cover the wider issues of changes to public bodies, and then, we understand in 2012, something specific for BW. All this is frustratingly slow, and for me there is a real need for urgency to keep the momentum going to this timetable. We have to make the

most of this period of political goodwill. If the Coalition Government should fail, then much will have to be restarted. We have a golden moment now.

Boater take risks

Of course the day to day problems of underfunding and maintenance backlogs have not gone away just because they are not top of the agenda for these months. BW will no doubt continue to make further hard earned internal savings; we can already see from the consultation that the intent is for licence fee rises of more than inflation for next year. We did suggest a link to RPI in last year's consultation and it is good to see that this transparency has been taken up. What is missing is the commitment over several years. Boaters make a choice, indeed take a risk, when they go afloat and make a long term commitment. Businesses do the same. The canals will not fail because of a smaller increase in the licence recovery, but they will fail if confidence is not maintained in the market. If there are no new boaters, there will be no businesses, no resale value for boats and declining canal usage. The cost and risk of making this longer term commitment to the best customers is small. It is important that the boating market is kept buoyant.

Representation

So how will boaters be represented in the NWC? Details are sketchy and subject to consultation, but I could imagine that there will be representation on the 50-strong charity Council, both as a result of user groups, and also by election from the general charity membership. There will be smaller group of Trustees initially advertised and

then appointed by the Waterways Minister. These roles are parallel to the current non-executive Board of BW and will have to bring the professional skills needed to run the business. And then there is a proposal for local committees to support the waterways managers to give focus to the importance of local conditions. This is much more than the familiar user group challenge to the operations and maintenance. It could be real involvement in budget setting, local priorities, and promoting the involvement of the local community and fundraising. What will happen in your area? Who amongst boaters has time, the skills and the standing to take on those roles? This is one of the real challenges to boaters in the next year. If we fail to come forward to take up the positions, then we have only ourselves to blame for the future if it is not to our liking.

Legal stuff

This issue of NABO News contains an explanation of the legal issues that we have been considering this year. A good deal of money has been spent on legal Counsel's advice and members are entitled to see how it has been spent. There was a good debate in the AGM about how we should handle access to this information and I welcome this. This also has implications for the mooring strategy work that continues both nationally and on the K & A, because this resolves around the issues of residential moorings, visitor moorings, overstaying and bridge-hopping. The discussions there are so problematic, that I suspect other areas may take the first steps to working arrangements before the K & A. My hope is that the local community can think the unthinkable and come up with a solution that solves the local problems in a pragmatic and cost effective way. I suspect that the real issue is that there is no agreement in defining the problem, so there can never be agreement

on the solution. There is some way to go here, but do not underestimate the importance. We may not like the 1995 Act and the blanket use of the 1962 powers, but it is not going to go away soon. The most constructive thing we can do to get it changed is to find a workable solution before we try going back to the courts and Parliament.

As I write we are in the grip of the first part of the winter's freeze up, and there is no chance of moving the boat. Here are opportunities to make new acquaintances, and recruit new members. These enforced hardships bring out the best side in all of us, in helping others. Do please use the opportunities to spread the word and importance of NABO membership. Val and I wish you all a safe winter and good cruising in the New Year



Notes from the Council Meeting

Pseudonym

Despite the cold and snow only two members of Council failed to make the meeting and one of them had a sick baby. All the Council members agreed to continue in their current jobs for another year but agreed that more help would be welcome. Using the BW buzzword – how about VOLUNTEERING?

This council finds it impossible to keep to an agenda and hops around as the word association creeps in, but when the meeting ended all items had been discussed in a satisfactory manner. I just feel sorry for the Minutes Secretary.

Licensing and moorings took up a fair amount of time. There is a new licence consultation that requires replies in 41 days (less time than required by law). The question being asked – Why did the licence system need changing when it was only set up a year ago? There are proposals to increase the price of short-term licences and the real crippler – to change the prompt payment to early payment and make the date 14 days before payment is due. How

many boaters will notice that before it is £150 too late?

Both Local Mooring and National Mooring changes are afoot but they seem to be working independently of each other. We feel that the 1995 Act needs amending as it has outlived its purpose. In 1995 there were very few continuous cruisers but now too many are buying boats with no intention of moving or getting a mooring and there is a problem.

Stephen reported that our finances are in a healthy state even though the newsletter is costing more. As it is the one thing all members receive, hopefully it is seen as good value.

John has a winter project of sorting out Paypal for new members. This would be a great help in recruiting, as this is where delays occur. People download the membership form then forget to post it.

I hope you aren't iced in for too long.

Etruria Museum to close

Richard Hall (from www.narrowboatworld.com)

Many boaters passing through Stoke Flight on the Trent & Mersey Canal have visited the Etruria Industrial Museum by the side of the locks but not for much longer. The museum, like many others, is facing closure because the owner, Stoke City Council, is having to make savings of £33 millions next year. The museum is thought to house one of the oldest working steam engines in the country, which is fired up several times a year to drive the steam-powered potters' mill in public demonstrations. Fred Hughes, a local Stoke-on-Trent historian, is campaigning for the museum to remain open, as it is part of the Potteries' history, remarking

“The Council should look elsewhere to make the savings. I understand that cuts have to be made, but really we shouldn't be losing our heritage like this”.



Update on NABO's formal complaint to BW

Geoffrey Rogerson

In 2009 NABO wrote to BW as part of the complaints procedure about a number of the long standing issues know to boaters surrounding the BW Acts. Since then there have been a number of letters, one meeting in Watford, and numerous opportunist discussions with BW Directors and staff. In order to update you, I will now comment on

the issues of the complaint. In the early days of the discussions, BW asked us not to publish further legal opinion, pending resolution of the complaint.

I no longer feel bound by this as BW have failed to engage on the matter for more than six months and failed to respond to correspondence.

Complaint 1

British Waterways may not legally deny or withhold a licence if a boater breaches the continuous cruising guidelines which do not have the force of law but are stated as a requirement in the Terms and Conditions.



a) BW has stated that cruising guidelines are based upon the Acts and BW's own interpretation of the Acts. I understand that there have been very few cases on the critical 1995 Act and none have gone to appeal. There is no "case law" from higher courts.

b) The practical application of the 95 Act is that if BW judges that a boat is not conforming to it's own interpretation of the Acts, and/or interpretation of the guidelines, they remove or refuse to renew the pleasure boat licence. Then follows a prosecution under 1983 Act section 8 and 1971 Act section 13 for not having a licence. This methodology has been long-standing and is relevant for a current court case which BW is hoping will be to some degree a test case. The results of this case should be known in early 2011 and it will hopefully clarify the basis of the action.

c) The use of section 13 which covers houseboats would seem surprising as out of say 35,000 boats there are less than 90 houseboat certificates in existence. I believe it

is many, many years since one was issued. The question of houseboat definition is already the subject of separate discussions. It is slightly surprising for a boater to face a prosecution for not having a houseboat licence, which is something that he might not even have heard of, much less be able to buy. It is one of the quirks of the law.

d) Live-aboard boaters in this situation are always taken to court by BW as part of its working practice. This is an important protection for boaters and I support BW in doing this, because it provides the opportunity for the boater's side of the story to be stated. Unfortunately legal aid is often unavailable, and I know of cases that have been undefended. This has not helped in producing any useful legal case law. All these cases are complex and involve often a tragic situation for the boater and significant cost to BW.

e) This is a matter where BW has not responded to our correspondence.

Complaint 2

Boats with a permanent mooring under British Waterways Act 1995 s 17 (c)(ii) contrary to the wording of the Terms and Conditions are not bound by or subject to the 14 day rule.



BW claims that under section 43 of the 1962 Act it is able to apply this rule as it sees fit, whilst our legal opinion indicates otherwise. The 1962 Act was an enabling Act and has been supplemented by subsequent Acts, particularly the 1995 Act, which lays down precise requirements for continuous cruisers but is silent on boats with a home mooring.

BW has not been able to produce data to demonstrate that this issue contributes significantly to misbehaviour on the towpath and the proportional use of the 1962 Act. BW has recently introduced yet another argument to justify this rule and I will have to consider this further in the new year.

Complaint 3

BW does not have general authority to remove boats overstaying mooring time limits under the British Waterways Act 1983 s8(5) nor can such boats be regarded as an obstruction to navigation.



BW has satisfied NABO re the interpretation, understanding and intentions regarding obstruction, and NABO accept that BW may move a boat and not remove as we incorrectly claimed. We have seen the details of a court case some years ago (used by BW to justify other actions), where BW lost a counterclaim for expenses under s.8(5) because the Judge said that they are not permitted. Not case law of course, but an indication. Our legal advice

confirms that costs under s.8(2) for removal are allowed for under the Act. I have seen just in the last month that BW has proposed in the latest consultation to introduce into the terms and conditions a clause that allows for costs to be recovered for moving under s.8(5). This would appear to exceed their powers under the 83 Act. I have no doubt they will justify this under the 1962 Act. We shall object of course.

Complaint 4

BW does not have general powers to interpret the law and specifically not in the case of the British Waterways Act 1995 s 17 (c)(ii) to define navigation.



NABO accept BW's right to interpret the law but not to continue to manage the waterways without bringing court cases to justify their interpretation. The interpretation we have would indicate that BW is exceeding its

powers and needs to be challenged. I hope that the test case will clarify some of these issues. This is a matter where BW has not responded to our correspondence

Summary of the events of this year

Geoffrey Rogerson

NABO met with BW directors in Watford in early 2010. At the meeting, BW complained that we had not given the legal basis for our complaint and justified their broad brush reply because of lack of detail. Accordingly in two subsequent letters, we provided extracts from our advice applicable to the issues involved. Only one of those letters has been replied to. BW has not acknowledged or replied to our second letter.

On a number of occasions we have sought a reply to our second letter. Finally in July BW Directors have indicated that they wish to wait for the outcome of a relevant test court case later in 2010 before further engagement. We have been pressing BW to obtain a ruling in court clarifying the legality or otherwise of their actions and it now seems that this court case may help in this regard. The case was concluded on 25th September and the judge has deferred judgement for between 1 and 3 months while he examines all the documents and the Acts in question in more detail. As soon as we hear of his judgements I will update you accordingly in NABO News.

Perhaps the lack of response to our legal advice would indicate that BW is not prepared to answer it with its own arguments. BW has its opinions, we have ours. They need to be tested in court – one of the main reasons for our complaint.

Interpretation of 'place'

NABO has always accepted BW's interpretation of place and the X,Y, Z part of the guidelines. The latest offering from BW defines place as a village or hamlet (i.e. Bathampton being a different place from Claverton). I mention these places particularly as BW's pilot on mooring strategies is taking

place on the west end of the Kennet and Avon between Devizes and Bath. Following completion of this pilot it will then be applied nationally, and the result of what happens on the K & A has far reaching implications and therefore is of great significance for the entire 2,000 miles of canal.

Roving mooring permits

Roving mooring permits (RMP) have raised their head again but this time are called Transitory Mooring Permits (what's in a name?). This issue was looming in 2008, and our legal advice from 2003/4 spelt out a view that this was not within BW's powers. The issue had been discussed in BWAf in 2008, and NABO's concerns were presented then. BW at Board level was talking of trialing this on the K & A as a possible solution to the overstaying problems. NABO was reluctant to launch into legal costs at that time, so we wrote to BW to reiterate the old issues. BW rejected this advice. So we went to legal counsel and, based on the advice received, made our complaint. By early 2010 the RMP issue had gone quiet, and Simon Salem and Nigel Johnson told us in the meeting in early 2010 that RMP had been dropped. We always doubted this and suddenly, up it pops again. The RMP /TMP does have wide support in waterways circles, because there is a belief that the issue of overstaying moorers is unsolvable: at least the approach of creating some differential charging system against continuous moorers has the potential to raise funds that can be used to ensure enforcement. BW has said for some time that enforcement of the 14-day rule is not economic.

It is NABO's view that RMPs will not work anyway because nobody will buy them. They

will not have general support from boaters, because they are endorsing the continuous mooring behavior that blocks visitor moorings and canalside residential living.

Quis custodiet ipsos custodes?

To clarify NABO's legal position: BW can introduce whatever it likes so long as it is legally within their powers. NABO as a body can protest, lobby, petition, join with other users, and generally jump up and down.

However, if it is not within BW powers, i.e. illegal or 'ultra vires', then we have a duty to contest it and support members with our legal advice if and when they are in need of it.

We are very aware of the money that we have spent on legal advice. However the funds we have are more than adequate, and have been saved in years past specifically to enable NABO to challenge BW when needed. We do seem to be the only national user group prepared to do this.

Appendix

British Waterways, 64 Clarendon Road, Watford. Herts. WS17 1DA
18th May 2010

Attention: Ms Ash

Dear Ms Ash,

Further to our letter of complaint of the 15th September 2009, your response of 7th October 2009 and our meeting on 21st January 2010 we now write specifically about points 1 and 4 of our original letter in relation to the BW Act 1995 and the applicable wording in the Boat Licence Terms and Conditions.

We attach hereto as an appendix our legal opinion in relation to points 1 and 4 for your consideration. These extracts are disclosed to you on a confidential basis.

Our concern is the wording of the current General Terms and Conditions page 2 para 4 4.1 where continuous cruising guidance is explained. In addition there are two terms included in the wording on page 10 being 'progressive journey', and 'significant part of the system'. These are terms not defined in the BW Act 1995 or any other legislation, but have been introduced by BW. Boaters have difficulty in interpreting these terms as they are not specific. 'Progressive' or 'sufficient movement' does not seem to have any basis as to what a sufficient movement would be and is a generality that is hopelessly vague. Similarly a requirement to demonstrate 'bona fide navigation' is without a clear statement as to what bona fide navigation entails. Our legal advice states that these terms exceed the requirements of the 1995 Act. We also note that these terms are frequently (and variably) used by patrol officers during enforcement, and are frequently interpreted by BW staff using different time and distance criteria in different parts of the network. Boaters cannot reasonably work with this situation. In short there is no consistent application or interpretation of these undefined terms which leads to confusion, inconsistency, and the system, as it is, lacking credibility. NABO would like to see the 14 day rule being enforced and acceptance of the X Y and Z rule, both of which are clear. NABO has learned that since the introduction of the 1995 Act

there have been very few court cases resulting in boaters losing licences due to failure to comply with the Continuous Cruising Guidelines. We also understand these cases were as a result of little or no movement by the boater. NABO supports BW in such cases. Boats over-staying 24/48 hour visitor moorings or 14 day limits are already covered by existing legislation and merely require adequate enforcement. NABO fully support BW in enforcing action against illegal over-staying.

BW's interpretation of the Act has not been tested in a representative way in Court. NABO finds it unsatisfactory that some 15 years after the Act was enabled BW are operating an enforcement system based on their own interpretation of the law, routinely threatening enforcement action, and failing to bring any representative cases to court to support their position. This is why NABO is unhappy that BW makes no effort to remedy the situation.

In addition it is clearly stated that the Guidelines "do not have the force of law" but following amendments to the licence Terms and Conditions these have become "must". This is not acceptable and is a contradiction in terms. The existing words 'progressive journey' and 'significant part of the system' are vague and confusing to boaters yet they are penalised by the removal of licences.

NABO is aware of the difficulties in making blanket rules under an Act which requires an individual's circumstances to be taken into consideration and would welcome an opportunity to discuss new wording giving clear guidelines to continuous cruisers.

NABO is concerned about the extent of the continuous mooring problem but in the absence of any meaningful court cases it could be concluded that the problem is being exaggerated. NABO recognises widespread overstaying of the general 14 day requirement, and on restricted visitor moorings, and would urge intensified enforcement.

In summary NABO would like to see:

- Users involved in defining bona fide navigation guidelines acceptable to boaters, enforcement officers and eventually consideration by the courts.
- Strict enforcement of the 14 day and visitor mooring time limits.

At our last meeting Simon Salem expressed hope that a consensus of user groups etc. could come up with 'guidelines' which a court could look at sympathetically. Nigel Johnson suggested a sort of Highway Code of the Waterways. We are very happy to explore these ideas with you.

We look forward to your response within 21 days, following which, with our legal advisor in attendance, we look forward to our next meeting and trust that we can produce something positive, clear, and legally viable to assist in the management of the Waterways.

Yours sincerely,

Geoffrey Rogerson, NABO Council Member.

CC: Mark Beesley, Shakespeare Putsmann.

BW Residential Moorings Customers, please note!

Simon Robbins

I have been at personal loggerheads (again!) with BW over Houseboat Certificates. Matters have recently been clarified thanks to the Ombudsman's good offices. The two key points that arise, which I would like to alert you to, are as follows:

BW has admitted that some of the October 2008 Terms and Conditions are at odds with statute - result: BW now admit that boats which can move under their own power are entitled to Houseboat Certificates.

Why is this significant?

The 1995 Act intends that residential boaters on long-term BW moorings should have extra rights to other BW Moorings customers. Parliament recognised that where someone has made their legitimate home with BW's agreement, better protection should be enshrined in the law. This includes:

- A right to be offered another reasonable mooring if BW closes your existing site.
- The right to in effect sell your boat on it's mooring by assigning your Houseboat Certificate.
- A right to take BW to a County Court over disputes, in particular in the event that BW try to evict you from the mooring. (Previously you would have had to go to the High Court and start a much more difficult and expensive Judicial Review)

I would therefore encourage all NABO members and others who keep their boats on long-term BW Moorings who have not got a Houseboat Certificate to apply for one now!

The story (abridged!)

For many years I have felt BW has attempted to apply a selective interpretation of the

legislation around residential moorings. I personally reached a truce with BW a few years ago (though only after two complaints through the Ombudsman's good offices) where they agreed that my narrowboat (where I live) could retain it's Houseboat Certificate (the one BW said I had to have to come here in the first place!). There were a few other personal assurances thrown in. However BW subsequently poured petrol on that fire in October 2008 with their revised terms and conditions.

The petrol on the fire was specifically where they claimed of Houseboat Certificate holders: "*1.4 'Houseboat' means a boat which is **not used for navigation** and is kept on a British Waterways long term mooring with planning consent for residential use.*"

www.britishwaterways.co.uk/media/documents/bl_Licence_terms_and_conditions_from_October_2008.pdf

The other bit I took exception to was a further direct denial of the wording of part of the 1995 Waterways Act: BW claimed that: *If you use the boat for navigation, you should purchase a Standard Boat Licence.*

The 1995 Act makes it clear that your Houseboat Licence also entitles you to cruise without buying another or different licence.

After a slightly protracted dialogue via the BW Complaints Process (in part because BW could not find their papers and the records of the Waterways Bill that became the 95 Act !), BW admitted they had got it wrong and proposed consulting on revised wording to correct matters. The last draft I have received proposes:

"Houseboat means a boat whose predominant use is for a purpose other than navigation and

which, if required for the purpose, has planning permission, for the site where it is moored. A houseboat may be used for navigation from time to time provided it does not become its predominant use”.

I will say it directly: the wording BW published in the 2008 Terms and Conditions seemed to me like a blatant attempt by BW to perpetuate a lie in order to deny a residential boater on properly constituted long-term residential moorings their correct legal rights. Council have therefore kindly indulged me to tell a little of all this here.

The other point that will not be lost on members and other readers is that this example rather tends to provide prima facie evidence of the merits of NABO's legal complaint, which complains more generally that BW is attempting some interesting and creative interpretations of its statutory powers, which need challenging!

BW has, as part of the settlement of my complaint, agreed that they will shortly do a separate consultation on proposed changes to Terms and Conditions for all Houseboat Certificate holders. They have yet to confirm what that means in detail but I am giving you the heads up.

However one of the things they seem to be about to attempt is to deny any of you who may apply for a Houseboat Certificate now the right to buy or sell your boat on its mooring. In other words they propose that you will get less rights than me for the same thing - a Houseboat Certificate.

If anyone is concerned about that, please contact me directly as this point needs more explaining than we have space for here. However many people have in the recent past bought and paid a premium for what they believe are houseboats, often with BW's full knowledge and agreement, with



the reasonable expectation that you can sell-on in the future. It seems to me that BW is about to try to remove those rights from any of you who aren't fully aware of this. If you would like to see your equity stolen by BW, sit around and say nothing!

What I urge all boaters living on long-term BW residential moorings to do is:

1. Apply for Houseboat Certificates now if you think you might be entitled to one and
2. Keep your eyes open for the consultation that is supposed to be coming in the New Year. Get get involved, personally, through me and/or NABO, RBOA or however you wish. Please don't ignore it!

For the avoidance of doubt, this matter has been pursued as a personal complaint and not on NABO's behalf. The fact that I was pursuing a similar point to the NABO complaint, i.e. that aspects of the revised Terms and Conditions appear to be unlawful, is of course no coincidence whatsoever!

For me this is about getting a fair and open deal for all BW long-term residential moorings customers. But the principle applies equally to all BW boating customers. If we could at least get as far as BW fully honouring and observing the existing legislation instead of making up and attempting to perpetuate untruths, that would be progress in my view!

Gutless Kayaking 2010

Richard Carpenter



Justin Hansen our gutless kayaker has asked us to thank all those who helped with his challenge and all those who donated along the towpath and at locks on the way. Justin with his consultant Simon Cabe at St Marks Hospital, Harrow handed over a cheque for £20,294.12. Simon who took care of him during his nearly four year confinement was naturally delighted that St Marks Foundation received the money for continued research into Crohn's and Intestinal Diseases. Simon also said, "The efforts by everyone involved, and in particular Justin's determination, helps us greatly to show fellow sufferers that they are



able to have a varied and exciting life and not spend it being confined to permanent care." Justin, who set himself the task of kayaking from Castlefield in Manchester down the country to Greenford on the Paddington Arm of the Grand Union, chose the route as Hope Hospital in Manchester is the other main centre in the UK for this type of treatment.



Justin hands Dr Simon Cabe a cheque for £20,294.12 for research into intestinal disease.

Many people were involved in helping, including some of Justin's friends and family who flew from all over the world to spend time in the support kayaks. NABO helped back the logistical effort with General Secretary



Richard Carpenter providing his own boat as the base for Justin and his large volume of medical equipment, as did Trevor Roberts Chair of the Community Boat Association who helped coordinate back up vessels for the support crew all along the route. (Full details of the trip and Justin and Richard's blogs can be found at www.gutlesskayaking.com.)

Richard said, "The logistics and timings for the trip proved quite challenging as Justin had strict limits on his stamina and the need for special daily deliveries of the intravenous feed

he requires. However we had a firm date for arrival which we met to the minute.

He continued, "The help, encouragement and assistance we had from so many people made it all possible and at the same time I was able to talk with many NABO members and boaters in general to pick up the feelings on the issues that face the Waterways for the future! I must admit though I hadn't really thought through the single handed return trip – but again another challenge met!"



Daily intravenous feed delivery



The first week's crew



The middle week's crew at Tamworth



Celebration at the finish

Your letters

Opinions expressed here are independent of NABO policy and statements made have not been verified as true.

Re: “Mugs for Sale” in November’s NABO News

Some thoughts on the subject of “*Opportunities to Volunteer*”. Have the Boy Scouts been contacted to see if they would be interested in volunteering “*BoB a JoB!*” What about TV Companies? They could have shows like “*Strictly Change Lock Gates*”. Or sponsored dredges – teams with old chip pans tied to the ends of poles gaining points for how much is dredged – add a celebrity coming along to help and get me out of here?

I know it’s a bit cynical but I’ve been a sort of volunteer for years: I’m what may be called an unpaid lengthsman, reporting regularly on matters relating to safety and maintenance along the canal. Unfortunately it has not always been appreciated – and now that’s what they want from us all!

It has been a long time since I got a Xmas cards from the Canal Manager! I keep at it but so far BW has not refused my licence fee as an sort of thank you – but I live in hope!

Alan Holden n.b “Anna”

Manage It Yourself Groups

Howard Anguish’s Talking Points on shared ownership in the November issue prompted me to share our experiences as a MIY (manage it yourself) group. The Bonsall Boat Club was established in 2003 by ten families who purchased a six berth semi-trad narrowboat “Burland”. There are eight shares in the boat with a minimum half-share giving two weeks boating. The current cost of a half-share is £2500. This means we have only a 4-month winter mooring cost and the BW licence can be private licence. The group’s informal

agreement defines buying and selling shares, allocation of weeks afloat, apportioning costs and responsibilities while cruising. We have an annual meeting to determine the general area we will cruise without returning to base for the coming year (e.g. north: Chesterfield, Trent, Rochdale, Leeds and Liverpool; south: Thames, K&A, Avon, Oxford etc), and the allocation of which weeks afloat each shareholder will have. Burland is averaging over 2000 lock/miles pa, all recorded in logbooks for entertainment and advice. The annual costs are about £300 per two weeks boating, diesel and pumpout whilst on board, and share of the annual maintenance work.

So why have we survived for 7 years? The group has coherence, which has endured changes in shareholders, and each family has goodwill towards all the other group members. There is a range of enthusiasm, knowledge and experience in the group and a willingness to share this with newcomers. It is important to spread the responsibilities among individuals, such as identifying maintenance required (which does not mean that these members do all the repairs), and identified people to do communications, finance, liaison with official bodies etc. The existence of email makes this all possible.

What are the advantages? Minimal capital outlay; significantly lower annual costs than hiring; a favourable trade-off of time and money (we could pay a management company to do everything for us but for us time-rich, money-poor people, we use our time to do the things a management company would do); cruising different parts of the network that would be difficult to reach from a permanent mooring; and the sense of ownership and camaraderie.

And the disadvantages? Not knowing precisely here the boat will be requires good planning and communication for handovers, although this adds to the sense of adventure, and not being able to use the boat 'on-spec' on fine weekends. So to summarise what makes MIY work is a compatible group of people with a common interest and enthusiasm for cruising, and the flexibility to accommodate each other's idiosyncrasies. If you would like further information on how the group operates, please get in touch with me at brendapeter2001@yahoo.co.uk.

Peter Greaves

Satellite TV in France

With reference to Stephen's article on the satellite TV kit, I have also used this kit with some success in France, as far south as the Canal Digoin à Roanne. If you imagine the main French system as a letter 'g' with the Rhone and Canal du Midi as the tail and the main canals in the loop of the 'g', we were getting stable reception as far south as you can go without using the tail, i.e. almost as far south as Lyon. However I should add that Stephen has a non-ferrous boat, and that, as a seafarer he has a properly set up compass to determine the direction of the

Astra 28 UK TV satellite. For us mortals who always boat within sight of land and have magnetic boats I recommend walking away from the boat with a hand held compass and sighting on a landmark to preset the dish. We also have much less opportunity to set the dish up inside a steel cabin so the dish is exposed to the elements, one of which - wind - it doesn't like, which means de-rigging it frequently. However 'F' connectors are not easy to undo so we take the dish off and leave the rest out in a protective bag. We have

plenty of cable loose so we have a choice of where to clamp the rig to the boat to get best line of sight to the satellite.

Of course this is the only way to get UK TV in France, but we also have to remember the time difference if there is a particular programme we want to watch!

Stuart Sampson

m.v. Sulaskar Canal Lateral à la Loire

The Third Way

One issue that has yet to be resolved in BW's move to charitable status is the name of the new organisation. I have been giving it some thought and have come up with a list of possible names for the new waterway authority (not all 'tongue in cheek'):

Waterways Charity (WC) - Perhaps not!
Navigation Charity (NC)
Waterways Trust (WT)
The Waterways Trust (TWT)
Inland Waterways Trust (IWT)
The Inland Waterways Trust (TIWT)
The Waterways Inland Trust (TWIT) - Not really!
Navigation Trust (NT)
The Navigation Trust (TNT) - Too dangerous?
National Inland Waterways Conservatory (NIWC)
National Inland Waterways Trust (NIWT)
National Waterways (NW)
National Waterways Trust (NWT)
Inland Navigation Trust (INT)
British Waterways Trust (BWT) - I don't think so!
British Navigation Trust (BNT)
British Navigations (BN)

Chas Moore

Black oil everywhere? Engine on the blink?

Help is at hand, and cheaper, with this exclusive deal for NABO members.

River Canal Rescue are offering NABO members

20% off joining fee*
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5% off Bronze £76
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10% off Silver £94.50
Was £105, you save £10.50

15% off Gold £136
Was £160, you save £24
(More than your membership subscription!)

* on all levels except the £55 Retainer level.

When applying, write 'NABO offer' and your membership number in the white box on the back of the application form or online application.

Benefits include

Bronze – Breakdown assistance & recovery for vessel and member only. (Maximum 4 call-outs per year). Outboard motor loan.

Silver – As Bronze *plus* Homestart for registered vessel for member and one other user. (Maximum 7 call-outs per year). Conveyance of crew to home address or marina. (Maximum of two relays per year)

Gold – As Silver *plus* your vessel covered for any user and you are covered on any other vessel. (Unlimited call-outs for member or vessel). Annual inspection of registered vessel, engine and electrical system.

For full details and terms and conditions of this offer visit the RCR website or phone on 0870 2008021 (geographic number 01785 785680).

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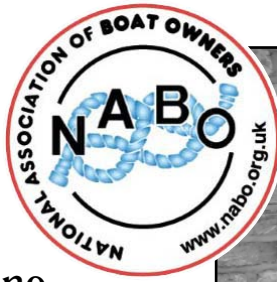
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