



THE WATERWAYS OMBUDSMAN



Annual Reports of

The Waterways Ombudsman Committee

and

The Waterways Ombudsman

2023-2024





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ANNUAL REPORT OF THE WATERWAYS OMBUDSMAN COMMITTEE 2023-24

Chair's Report

The Committee was established in 2005 to oversee the operation of the Waterways Ombudsman scheme (the Scheme) and the independence and accessibility of the Ombudsman. This report covers the period April 2023 to March 2024.

I am pleased to present my first Annual Report as Chair of the committee. Following an open competition, I was appointed to the role in November and Chaired my first meeting in March 2024.

The main roles of the Committee are:

- the appointment (or removal from office) of the Ombudsman;
- keeping the operation of the scheme under review, both to ensure that it meets its purposes and that it is adequately funded;
- to receive reports on the method and adequacy of publicising the scheme;
- to publish an annual report.

Issues relating to the investigation or determination of complaints are matters for the Ombudsman alone, and the Committee has no part to play in those.

There have been four committee meetings in this reporting period, in June, September, December 2023 and March 2024. Three meetings were virtual and the September meeting was in person. The Committee continues to work in a hybrid way as it has proved to be a more efficient and effective way of discharging its duties. The Committee use Diligent Board Books to share information electronically and has built up a library of resources.

The Committee has a responsibility to ensure that the Scheme is effective. This year we have been re-accredited by the CTSI, made some changes to the [Rules](#) to clear up some anomalies and to be clearer about the way awards are made.


I am pleased to report this year no complaints about the service or process followed by the Ombudsman have been received.

The Committee

The new committee members have settled well into their roles and Karen McArthur chaired her last committee meeting in December. I'd like to record my personal thanks to Karen for her assistance in handing over the role and on behalf of the committee for her work over the past five years. She has left the scheme in a strong position to continue its work.

Finances

The Committee appoints the Ombudsman, and the Committee is funded by its waterway members to meet the costs of this service. All expenditure has been



authorised for payment. The Ombudsman charges for services on a time and materials basis and is not an employee of the Committee or the scheme members.

The total cost of the Ombudsman service in 2023-24 was £32,655.77. This is made up of Ombudsman pay, other costs to facilitate home working, and larger expenses such as the payment of annual membership fees for the Ombudsman Association, Chartered Trading Standards Institute, and Information Commissioners Office fees.

There were additional legal costs this year of £2,457 associated with the Judicial Review. The Court made a costs order against the complainant in respect of legal costs incurred by the Ombudsman in defending the unsuccessful application, which we intend to pursue.

Independence

The Scheme continues to be a member of the Ombudsman Association, a requirement of which is that the Committee is independent. The Scheme continues to be approved by the Chartered Trading Standards Institute, this certification means that we meet the requirement of the UK Regulations.

New Business

We continue to seek interest from other waterways which are not part of a statutory Alternative Dispute Resolution Scheme. A larger scheme provides the opportunity to ensure that more waterway users have access to a free user-friendly complaints resolution service. This is a work in progress and will continue over the coming years.

Looking forward

The coming year will bring change to the Ombudsman Scheme. The current Ombudsman, Sarah Daniel, will leave her role in the summer, and a new Ombudsman has been appointed. I would like to thank Sarah for her hard work and dedication in delivering fair outcomes and in supporting the new Ombudsman in embedding into the role.

A change of both the Chair and the Ombudsman will bring the opportunity to review the current strategy. The Committee remains focussed on ensuring that an effective Ombudsman Scheme is made available to those who use the services provided by its members or any of their subsidiaries, or who may be affected by their activities. The strategy will be reviewed to ensure that those central aims remain at the heart of the work of the Ombudsman, as well as providing clarity about the development of the Scheme.

Lesley Horton
Chair Waterways Ombudsman Committee
June 2024



Annex 1

Committee members and their profiles.

The Committee members at 31 March 2023 are:

Independent Members

Karen McArthur [Chair] until 7 January 2024
Lesley Horton (Chair) from 8 January 2024
Alan Collins
Jane Brothwood last meeting June 23
Warren Seddon
Alison Jack

Observers from Canal & River Trust

Tom Deards
Janet Hogben

Observer from Avon Navigation Trust

Geoff Crane

User Representatives from Canal & River Trust

Vacant

Member profiles of the Ombudsman Committee as at 31 March 2023

Independent Chair Lesley Horton



Lesley is a senior leader and Deputy Ombudsman at The Property Ombudsman (TPO). She leads on quality and compliance at TPO, as well as leading in managing the Scheme's approvals. She has a particular passion and interest in promoting equality, diversity, and inclusion, and spent three years chairing a charity promoting multiculturalism in Cumbria.

Lesley has a wealth of compliance and risk management roles within the private and public sector. She also has a strong interest in the justice system and has experience of committee/panel roles in a range of organisations in the legal and criminal justice sector.

Other Independent Members

Alan Collins



Alan is a partner at Hugh James solicitors and is a specialist in complex personal injury and clinical negligence cases, including child abuse cases in the UK and abroad. He has experience of representing interested parties before public inquiries including the Independent Jersey Care Inquiry, and IICSA. He was the advocate to the People's Tribunal (UKCSAPT) which, in 2016, presented its report to the UK Parliament. He is a fellow of APIL, and the treasurer of ACAL. Alan is regularly called upon to comment in the media on legal issues and is also a speaker at conferences:

UNICEF; La Trobe University; University of Wales; Law Society of Scotland; Strathclyde University; and Dyfed-Powys Police.

Alison Jack



Alison works in a management role at the Scottish Public Services Ombudsman (SPSO). Her team independently review welfare benefit applications and promote learning and improvement in decision making. She is also an active member of the organisation's Wellbeing Action Group and Service Improvement Forum.

Prior to joining the SPSO, she worked for a local authority, managing an advice service, and was a trustee for Money Advice Scotland. She has a keen interest in consumer rights and promoting access to justice.

Warren Seddon



in the UK Civil Service.

Warren joined the UK's Information Commissioner's Office in May 2021 where he leads on work related to the Freedom of Information Act and Environmental Information Regulations. This includes oversight of the casework teams that make decisions on complaints about the handling of information requests by public bodies, as well as all related policy, enforcement and upstream regulation work. He joined the ICO from his role as Director of Strategy, Insight and Communications at the Parliamentary and Health Service Ombudsman, where he had been since 2017. Before that he was at the Electoral Commission and held a number of roles

Observers appointed by the Scheme Members

Tom Deards is the Canal & River Trust's Legal & Governance Director and company secretary. He has responsibility for the legal and governance functions of the Trust. He is a qualified solicitor who joined the Trust's legal team in 2007, having trained and qualified into the asset finance team at City law firm Clifford Chance, before going on to complete a Legal Masters at UCL in Environmental Law, whilst gaining experience working as an environment and planning lawyer in local government. Tom is the Trust's Company Secretary and Data Protection Officer.

Janet Hogben was appointed as a Trustee Director of the Canal & River Trust in September 2016 and is Chair of the Trust's Remuneration Committee and is a member of the Infrastructure Committee. Janet was previously the Chief People Officer at EDF Energy, a role she retired from at the end of 2017. Her earlier career spanned many functions and leadership roles in various blue chip companies.

Janet also sits as a Non Executive Advisor on the Heart, Lung & Critical Care Group of Guys and St Thomas' Hospital Trust.

Geoff Crane representing Avon Navigation Trust. Geoff has been a trustee, council member, Reach master, Patrol Officer, Volunteer and member of the Avon Navigation Trust (ANT) since 2018. Before retirement in 2019, he worked for NFU Mutual and, for

many years, was involved in managing Insurance Ombudsman complaints. He believes strongly in the importance of excellence in consumer care and is a firm believer in the principles of equity and natural justice. He is delighted to have the opportunity to contribute to the work of the Waterways Ombudsman Scheme to further ANT's commitment to maintaining high standards for all users of the River Avon.

Attendance at meetings

Member	June 2023	September 2023	December 2023	March 2024
Sarah Daniel	Green	Green	Green	Green
Karen McArthur	Green	Green	Green	Green
Alan Collins	Green	Red	Green	Green
Lesley Horton	White	White	White	Green
Jane Brothwood	Green	White	White	White
Allison Jack	Green	Green	Green	Green
Warren Seddon	Red	Green	Green	Green
Tom Deards	Green	Green	Green	Green
Janet Hogben	Green	Green	Red	Green
Geoff Crane	Red	Green	Green	Green

Key: Green - attended, Red – apologies, White - non member





ANNUAL REPORT THE WATERWAYS OMBUDSMAN 2023-24

Welcome

I am delighted to present my fifth and final annual report as Waterways Ombudsman which covers the period 1 April 2023 to 31 March 2024.

The Waterways Ombudsman is the final stage for complaints about the Canal and River Trust and the Avon Navigation Trust, our Members. We investigate complaints that have been through the Member's full complaints procedure. This gives them the chance to put things right. This year all enquiries and complaints were about The Canal & River Trust so references to 'the Trust' in this report refer to that member.

As I approach my final few months in office I have been reflecting on the last five years. I have completed 40 investigations which I hope made a difference to those involved. Even when the outcome is not what the complainant wanted, they have closure and a better understanding of why a decision has been made. Of those that have been upheld the Trust has learnt lessons and gained a greater appreciation of how its actions can impact on an individual when faced with a large organisation. I have always found the Trust to be an organisation that strives to provide the best service and experience it can, often in difficult circumstances.

The Trust's operations touch so many people's lives, from someone taking a stroll along the towpath or living adjacent to it, to liveaboard boaters who rely on the Trust for the upkeep and safety of their home environment and to those who run businesses on or by the waterways. This is what makes the Ombudsman role so interesting and diverse, each contact can be about something completely different to the last which means I am constantly learning.

The waterways are cherished by many and the passion for their upkeep is clear from complainants and the Trust alike. It is becoming apparent how difficult it is going to be for the Trust to maintain standards and services with dwindling resources and increasing demand and I wish them well in managing this. I would encourage them to be as open and transparent as possible about any necessary changes and to continue to consult their users about changes which may affect them.

As always, I'd like to record my thanks to the staff at the Trust who assist in the provision of information and provide administrative support and to the Committee members for their input, ideas and support.

We continue to be open to the prospect of new Members joining the Scheme. Joining an established Ombudsman scheme shows a commitment to providing a high standard of customer service and a willingness to learn from complaints to improve performance.

I'd like to record my thanks to Jane Brothwood for her work and support over her period of office and to Karen McCarthy for her stewardship as Chair for the last three years. She has ensured we have a strong Committee membership and structure for the future.

Sarah Daniel
Waterways Ombudsman
June 2024

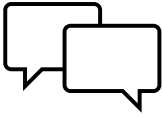


Casework

The majority of the Ombudsman's role is casework. As Ombudsman, I am responsible for all aspects of the work, from the initial enquiry to the final decision. As no complaints were received about the Avon Navigation Trust all references to 'The Trust' are about the Canal & River Trust. The work can be broadly divided into enquiries and investigations.

Enquiries

An enquiry is any kind of approach, regardless of whether it is something which will result in an investigation. Details of how to contact the Ombudsman are provided on the scheme website as well as in the complaints procedure of the member schemes. Details are also readily available via an internet search, which is where the majority of contacts come from.



I accept enquiries by email, phone or letter. This year I received 54 enquiries, 39 by email, 15 by phone and none by post. Of the 54 enquiries received, 13 had not started the complaints process, 20 had not completed the complaints process, 11 were not about the members, 6 were outside jurisdiction and 4 were accepted for investigation.

Who is making enquiries and what are they about?

Everyone who made an enquiry was responded to within five days. Of those that were not about a scheme member, four were about other waterways and four about private marinas. Although not covered by other Ombudsman schemes I redirected them to the appropriate complaints procedures.

60% of the enquiries about the Trust were from boaters. Enquiries ranged from issues with customer service facilities, dredging issues, the condition of the waterways, delays in responses from the Trust and concerns about continuous cruising requirements.

30% of enquiries were from people who either live by or use the waterways. They complained in the main about towpath issues such as overhanging trees and anti-social behaviour or overstaying by boaters.

This year I received a higher number of contacts from complainants who were unhappy with the time taken by the Trust to respond to complaints. There were also more boaters reporting that complaint responses from the Trust were overdue. I am aware it has been difficult for the Trust to allocate managers to deal with second level responses, which are time consuming and have to be completed on top of their own workload. There have been delays in the time taken to provide this response, with extensions to the 15 working day response seen more often.

One role of the Ombudsman is to try and seek a resolution as early as possible for both sides. Complaints are time consuming and difficult for everyone involved and, in my view, this early intervention is a key part of my role.


Early Intervention



As is common with Ombudsman schemes I investigate complaints which have exhausted the Trust's Internal Complaints Process (ICP). Traditionally callers are signposted back to the Business to follow the ICP and come back to the Ombudsman if they remain unhappy with the final response.

The benefit of this approach is that the process is set out and must be followed by all. There is no opportunity to bypass the process and it tests the business is dealing with complaints properly.

Many schemes have introduced early resolution to try and reduce the need for full investigations and provide a better experience for the complainant. However, there is a difference between how schemes do this and how it is recorded. Generally, the complainant will have completed the business' ICP and the scheme will be looking to see if a quick win is possible based on their knowledge of the business and the requested resolution.



My aim is to always look for an opportunity to resolve a complaint as soon as possible. But, if complainants have completed the two stages of the complaints process and remain unhappy, the issues and the people have generally become entrenched and a full investigation will be required. This leaves little opportunity for traditional early resolution.

Many of the enquiries I receive are ones the Trust is either unaware of, but can be easily resolved, or are policy decisions which are outside my remit. In some cases, urgent action is needed if a boater is in distress. The Trust has a two stage ICP, following the initial enquiry where the Trust aims to resolve most issues. This is simply too long a process in some circumstances and a source of frustration for complainants with a simple enquiry.

As the number of enquiries I receive are relatively few I am able to provide a more bespoke service than simply referring the complainants back to the ICP and I record successes here as early intervention. In all cases I explain I can only formally investigate at the end of the complaints process, a copy of which I will send to the complainant along with details of how I deal with complaints and my service standards.

If the issue is one which has not yet been raised with the Trust, but appears to be something which is urgent, easily resolved or has simply fallen by the wayside, and I consider it appropriate, I will gain the enquirer's agreement to send their details to the Trust. I will forward it to the Trust's National Complaints Coordinator and ask her for an initial view or to contact the complainant to provide an update or response.

In the majority of these cases the Trust will do an initial assessment which will result in the complaint being resolved or at the least moved along the process and provide me with details of the action taken.

I have not been recording these as early resolutions as the ICP had not been completed but in future they will be recorded as Early Intervention since the contact with the scheme has accelerated the complaint closure.

Some recent examples include

1. Email about a blocked Elsan, not making any progress with the Trust. Email forwarded to the Trust who passed it to the local officer and someone called the customer.
2. Email about a flooding brook thought to be on Trust land. Forwarded to the Trust who confirmed it was Environment Agency land and signposted the customer correctly.
3. Enquiry about the refusal of a historical mooring site. The Trust said it was a policy decision and provided an update of the actions taken. I provided a detailed response advising it looked like a policy decision and so not in the ICP, but that he could complain about how the process was implemented.
4. Enquiry about a letter received about a cruising pattern, the Trust was able to confirm the letter had been sent in error and apologise so no further action was required.

Recording these wins as early intervention demonstrates the benefits of the scheme and the Trust's proactive response to dealing with complaints. The disadvantage could be that the Trust does not learn from issues raised. However, I would argue that it actually raises awareness of issues that would otherwise be lost if the customers were

referred back to a complaints process which they did not wish to engage with. I also encourage the Trust to check why the complainant did not contact the Trust first or why the complaint had not progressed smoothly through the process.

Enquiries accepted for investigation


Four of the 54 enquiries were eligible for investigation. A further three complainants, who made their initial enquiries in January and February 2022, and went on to complete the ICP, were accepted for investigation later in the year. This year three of the total accepted cases had completed the ICP when they approached me, the others had been referred back to complete it.

Since the introduction of a new customer records management system (CRM) the Trust has provided details of the number of complaints it has dealt with through its formal complaints procedure over the last three years. Level 0 complaints are the customer’s initial expression of dissatisfaction, which the Trust’s frontline customer service teams are empowered to resolve at that first point of contact. Level 1 are escalated to a local manager to review and respond and if the complainant remains dissatisfied, they go to a level 2 manager, from outside the locality to complete a full review. To put these figures into perspective the Trust’s recorded customer contacts last year were 151,702.

	21/22	22/23	23/24
Level 0 Initial Contact	2,207	1,928	1,822
Level 1 Local Manager	54	97	118
Level 2 Reviewing Manager	30	21	15
Waterways Ombudsman	8	8	8

The percentage of complaints escalating to level one has increased slightly, but at 6.5% is very low. It is welcoming to see the number of cases resolved at the level 1 is increasing indicating a more robust view is being taken of the complaint at that stage. The Trust credits the impact of its CRM system, where they continue to build on good quality template responses and sharing best practice between teams. They also report an improved ownership of the customer enquiry by the frontline teams, with fewer instances of ‘handing off’ the interaction to colleagues in specialist team. They believe this retains their oversight of the contact, meaning they can monitor timescales and commitments.

The Trust report the percentage of cases that were resolved within its service standard (5 working days) is now 80.6%, an increase of 11.78% since 2021/22 which it credits to a result of greater rigour and oversight of case management and a focus internally on better collaboration and communication between teams.



The CRM system has proved to be very helpful in the early intervention cases referred to earlier. The facility to see at a glance the number and type of contacts made by an individual allows for an earlier assessment of the complaint and how to deal with it.

It remains important that the front-line staff recognise that a complaint is, any expression of dissatisfaction, and does not have to be made in writing or expressed as a 'formal' complaint. It is the early identification of such complaints that helps reach a resolution sooner.

Investigations

Investigations are conducted when the complainant is unhappy with the Trust's final response. Complainants have 12 months to bring the complaint to me but generally they do so within a month or two.

Once accepted for investigation, I gather evidence from both sides, produce an initial report, which both parties can comment on, before producing a final report. If the complainant accepts the final report any recommendations are binding on the Trust.

This year I opened seven Investigations and closed eight. There was one investigation open at the start of the year, which was completed in May. All other complaints were closed within the year.

Opened Investigations

Year starting 1 April	2019-20	2020-21	2021-22	2022-2023	2023-2024
Opened investigations	7	10	12	5	7

This year 4 of the investigations were complaints from boaters, one from a resident about an overstayer, one from a business owner affected by the Trust closing bridges and one from a landowner who has Trust equipment on her land.


This increase in boater complaints reflects the increase in enquiries from boaters and goes against last year's trend. At the heart of all these complaints was a lack of responsiveness from the Trust to complaints made.

Of the eight concluded complaints, three were upheld, one was partially upheld and all of these were accepted by the complainant. Three were not upheld, one of which was accepted and two were declined by the complainant. One of the investigations was closed without being completed as the parties decided that mediation was a better vehicle to resolve their issues. The Trust was required to take some further action in the accepted complaints and all the remedies were fulfilled in the permitted timeframe.

Recommendations to the Trust

As a result of my investigations, I made a number of recommendations to the Trust which have resulted in it looking at its processes or procedures to consider if a change is required.

Following case 1295, which concerned a resident complaining about the anti-social behaviour of a nearby unlicensed boater, the Trust sought legal advice about its



processing of personal data in the context of dealing with complaints received from customers and other stakeholders. The Trust wanted clarity as to the extent and scope of any personal data it may share with third parties as part of its complaints process. The investigation had highlighted the difference between the information the Trust was prepared to share when compared with that other public bodies were willing to share. As a result of the advice the Trust has agreed it will, on a case by case basis, consider the requests of the complainant for more information to demonstrate the enforcement actions it may be taking.

I also recommended that the Trust reinforce the message that a complaint is any expression of dissatisfaction and although the advisors may be aware there is no further action that can be taken at the time that does not negate the complaint element of a contact being taken forward.

In addition, I suggested the Trust consider producing a fact sheet which sets out what it can and cannot do in circumstances where it is dealing with complaints of anti-social behaviour by liveaboard boaters. As this is often a multi-agency function it would be useful to explain what the roles of other agencies are and the likely timescales. Residents are often frustrated and feel they are not being listened to or their concerns taken seriously. A clear explanation provided early on may alleviate some of these feelings.

In case **1307**, I recommended that the Trust take the opportunity to review what has happened in this case to prevent future occurrences, not only for the complainant, but also for other customers. It appeared there was no coordination of the range of issues which led to delays and frustrations for both parties. In such circumstances the appointment of a project manager may help to provide a smooth journey for all and would inevitably be more cost effective and less time consuming in the long run.

Case **1308** concerned complaints from boaters and Trust staff about the cleanliness of the customer service facility. During the investigation it became apparent the information the Trust had access to from its contractors was not sufficiently robust to allow accurate monitoring. Following the investigation the Trust confirmed they now have access to more accurate and reliable information and data to aid the robust management of the performance of the cleaning contract. Alongside the already existing regular meetings with the supplier, they are now confident that the information they have access to will help them and the contractor proactively identify any gaps in performance or inaccurate information about cleaning attendance.

Case **1292** concerned the effect on a business because of Trust contractors closing a bridge for repairs. The complainant argued the signage had been inadequate to advise his customers of the road closures or diversions. I concluded, as had the second level reviewing manager, that the Trust and its contractors could have done more at the initial stages to identify and engage with local residents and businesses who could be directly impacted by the bridge closures. Had someone taken the time to speak to the limited number of properties on the affected roads, before the bridge work started, they would have been better prepared to put contingency plans in place. Early engagement with the complainant could have identified if the signage was present and may have resulted in better signage, especially about local businesses being open, and he could have been better prepared to update his customers on the diversion and let them know his business remained open.



Eligible cases for investigation which were completed during the year 2023-24

The case summaries for all investigations are published on the scheme website when the complaint process is complete. The aim is to provide examples of the types of complaint which can be investigated, to aid an understanding of how they might be investigated and highlight areas where changes have been made.

The list below provides a headline description of the complaint. The full summaries are available to read in the report appendix or on the websites, [here](#).

List of investigated cases

- Case 1298 – a complaint about a change to mooring status.
- Case 1295 – a complaint about an overstayer
- Case 1308 - a complaint about customer service facility.
- Case 1292 – a complaint about business losses
- Case 1285 – a complaint about customer service facility
- Case 1262 – a complaint about speeding boats
- Case 1307 – a complaint about land access

Timescales and Key Performance Indicators.

I met all the timescales and key performance indicators set by the Committee for responding to correspondence and dealing with complaints. They are,

- acknowledgement or response to initial letter, email or telephone call within a week of contact in 90% of cases;
- confirmation of whether the complaint is within jurisdiction and has fully completed the complaints process of the organisation complained about within a week of contact in 90% of cases; and
- investigations completed within 90 days of the Ombudsman receiving the complete complaint file (except for cases of a highly complex nature).

Time taken to complete investigations.

Under the ADR Regulations¹ the Ombudsman is required to complete cases within 90 days except where they are complex. The Regulations apply only to consumer complaints, and not those made by businesses. That period starts from the date on which the Complete Case File (CCF) is received, which is the evidence from the parties, as well as any third party reports or expert input, needed to complete the investigation. It ends on the date on which the final report is issued, having in most cases previously issued a draft report on which both parties had the opportunity to comment. The timeline includes response times from both sides.

At the outset of the investigation, it is not always clear what information is required and as the investigation progresses sometimes more information is needed. This can sometimes mean that complaints take longer than initially expected to resolve.

This year three cases were closed in 42 days or less, two under 90 days and two were categorised as complex and closed in 93 and 102 days.

¹ <http://www.legislation.gov.uk/ukxi/2015/542/contents/made>



Case Summaries

Available to view on the website at, [2023-24 case summaries | The Waterways Ombudsman \(waterways-ombudsman.org\)](https://www.waterways-ombudsman.org/2023-24-case-summaries)

1307 A complaint about a landowner's interactions with the Trust in relation to her land and access agreement.

Ms S thought her complaint was initially resolved in July 2023, when the Trust set out a number of actions it would take to resolve the dispute. However, there were excessive delays in completing the actions and communication with the Trust remained difficult.


Ms S owns a piece of wet woodland between two reservoirs which has a Trust Valve House on it and she complained about the contractors employed by the Trust who had worked there. Ms S explained there were a number of points she was unhappy with going back a few years and although she said the Trust had apologised, she did not believe they have been held accountable for their actions. She complained the Trust had chopped down bushes, accessed her land via an embankment, left scaffolding behind, not finished the work they started and not returned to put things right. She said they did not keep to their side of the contractual agreement which was drawn up. She said she had tried to make a formal complaint but had been fobbed off. Ms S was unhappy with the customer service she had received from the Trust and felt that her wishes and instructions had been disregarded over the years, with the Trust appearing to do as it wished and saying sorry afterwards.

The Trust accepted it had not managed the situation well and there were delays and missed opportunities to resolve the matters sooner. I upheld the complaint. The Trust had already agreed to pay the complainant's legal costs in respect of the access agreement. I found this a reasonable recompense to recognise the ongoing delays. In addition to this I required the Trust to make an additional direct payment as a goodwill gesture to recognise the additional time and inconvenience this matter has caused Ms S. I also required the Trust to nominate an individual person or job role to oversee any outstanding actions and be a contact for the complainant, in the first instance until all promised actions are complete and for the future relationship act as a conduit to coordinate any issues.

1262 a complaint about speeding boats and hire boat operators on the Kennet & Avon.

Mr R complained about a variety of issues in his locality, particularly speeding boats owned by hire boat companies causing a nuisance and danger to other canal user and moored boats. He did not accept that the Trust had done enough to monitor this and to enforce the speed limit and the recommendation to reduce to a ticking over speed when passing moored boats. He has also raised the matter with the hire boat companies directly but did not consider they took the issue seriously enough.

Speeding boats are a serious issue, it can be dangerous to other boaters and the excessive wash can cause damage to the waterway. The Trust said it takes the issue seriously and will act when it has evidence of an offender. The Trust does not have the resources to police the whole of the navigation and this is why it asks for evidence



when members of the public report speeding craft. It asks for the basic details of the boat, the date and time and, if possible, photographic evidence of the wash caused by the boat.

Mr R offered to gather evidence if the Trust provided him with the necessary equipment, for example a speed gun or video camera. The Trust has rejected this idea because of the inherent risk of conflict with other customers. I agreed this was a sensible decision by the Trust as it would be unfair to put Mr R in that position.

The Trust confirmed it works with hire boat operators and their trade body, British Marine, to ensure that they make hirers aware of the rules of the waterways before they start their journeys. The handover procedures are vigorous, and they aim to ensure responsible and considerate behaviour before customers take control of the boat. However, despite all that, an individual who hires a boat may still make a conscious decision not to abide by the etiquette of passing moored boats or stay below the speed limit of the canal – but that is a matter of personal responsibility. Where the operator has evidence of that behaviour, they can take action against the individual/crew of the boat and where the Trust has evidence to support a concerning trend with an operator then the Business Boating Manager can pursue this directly with the operator.

The Trust said they have had very few complaints about speeding hire boats throughout the summer for this particular region. Based on the evidence provided I was satisfied that the Trust has taken action to try and reduce the frequency of speeding boats in the area. It has taken the reports made by Mr R seriously but without evidence to identify the culprits and substantiate the facts I accepted it could not take any further action.


Mr R was also unhappy with the Trust's response to his complaints about the Hire boat company. He has raised a number of issues about the operation and how it is affecting other boaters. These were addressed in the second level response, but Mr R remained unhappy and said the business continued to cause a nuisance.

To ensure a business is operating legitimately and safely the Trust has specific terms and conditions which must be adhered to and Business Boating Managers throughout the network to ensure compliance. The Trust has confirmed that the local Business Boating Manager is aware of the issues raised by Mr R and has raised them with the business. As explained in the second level response the Trust monitored the situation and worked closely with the business to ensure all parties could use the facilities and mooring fairly and safely. This is what I would expect to happen. I do appreciate that there will inevitably be instances where hirers do not act as expected or requested and Mr R will no doubt witness those. However, I was satisfied the Trust was following its policies and procedures properly in dealing with the business.

As a resolution to his complaint Mr R wanted the Trust to provide assurances they will take action to properly manage the hire boat companies operating in the area and to ensure they adhere to health and safety requirements for their customers and other canal users. I was satisfied the Trust had demonstrated they were already doing that so I saw no reason why they should not confirm they will continue to do so.

1308 A complaint about how the Trust handled complaints made about customer service facilities (CSF) at one of its moorings.

Mr T, a liveaboard boater, complained about the way the Trust responded to his repeated reports about the poor standard of cleanliness and upkeep of customer



facilities at his mooring. He asked several specific questions which were not answered to his satisfaction.

He said there had been a sudden drop in standards and asked why, when he reported this to the Trust, it took no action. The Trust said there was no alteration in the methodology or frequency of the cleaning schedule, but it did change the cleaning contract supplier at that time. It accepted there were some localised issues and said the Trust's operational property team addressed the challenges with the new supplier under the terms of their contract, working together to improve the service they provided to overcome these teething issues.

Mr T did not agree with this response and provided photos of the facilities to demonstrate the lack of cleaning and noted the dates and times of the contractor's visits. The Trust accepted the facilities needed some updating which, they argued, made cleaning more difficult. There followed a series of meetings with the contractors and the Trust which eventually resulted in the Trust gaining access to the historical data about the cleaning regime on site. This revealed missed visits and poor record keeping as well as poor cleaning. As a result, there was a change in personal and a more stringent approach to record keeping was employed. The Trust explained how the contract was managed and confirmed it had mechanisms in place to follow up on reports of any issues.

Overall, I concluded this matter has not been well handled by the Trust and it should have acted sooner to remedy the situation. It appeared to me that rather than investigating what was happening at the site, checking the cleaning schedule was being adhered to, that the cleaners knew what was expected of them, actually managing the cleaning contract, that the Trust dismissed the matter as teething troubles due to the change of contractor.

The photographs taken by Mr T showed a CSF which was not fit to be used. They should have alerted the Trust to take action. It was obvious it was not just a poor job being done, but that either nothing was being done by the cleaner or no visits were being made. The Trust cited examples of some work, light bulbs being changed or the door hinges fixed. These are not cleaning issues but maintenance ones. The Trust said it was satisfied the visits were being made, as they were logged as such, and it provided evidence to support this. However, the standard of the cleaning was often not good enough and this should have been picked up sooner. The Trust has provided details of how it monitors the contract and the requirement to log visits and to photograph the facilities as the cleaner leaves. However, these job cards were completed by the cleaner and there was the possibility for discrepancies which the Trust and its contractors should have been alert to and should have tried to eradicate by improving the monitoring process.

During the investigation it became clear that other boaters and staff at the site were complaining about the facilities. The Trust should have linked up the information and dealt with the matter much sooner.

I recommended the Trust take action to prevent a repeat of this complaint, including confirming they now have access to the contractor's record keeping and can use it to effectively monitor the work performed and investigate what changes can be made to eradicate the possibility of inaccurate information being provided; link up its enquiries/complaint reports to recognise when multiple people complain about the same place and that the Trust then conducts its own inspection before engaging with

the Contractors on a plan of improvement and actively listen to staff and customers who use their sites and make sure that the basics are done to the required standards and hold the contractors to account for work done.

As to how the complaint was handled, I was satisfied the reason for the initial delays were identified and action taken. However, there were short comings in the amount of detail provided in the level one and two complaints which meant more time and effort had to be spent by Mr T in pursuing this. To recognise the time spent and inconvenience caused to Mr T for having to make repeated complaints I required the Trust to make a small goodwill payment to Mr T.




1285 a complaint about the standard of provision of customer service facilities

Mr Q has been complaining for a number of years about the standard of maintenance and cleaning at one of the Trust's London customer service facility as well as other similar facilities in the London area. The Trust accepted that the standard had not been what it would have liked but says there is a high level of vandalism, abuse and misuse which makes it very difficult and costly to provide the standard it would like. At the time of the decision the facility was closed and there was a general review of facilities underway.

Mr Q alleged he suffered indirect discrimination because as a disabled person, the poor standard of cleaning and the closures affected him more than able bodied users. I was not persuaded this was the case, but a definitive answer would be a legal decision and a matter for the courts.

Mr Q complained that his complaint was not dealt with in a timely manner as his boat was unlicensed at the time. I found no evidence to support this.

I appreciated that Mr Q had been inconvenienced by the lack of facilities in his neighbourhood and that this has added to his stress. However, I found no evidence of



maladministration by the Trust in dealing with the facilities or his complaint and therefore I did not uphold his complaint. The Trust has limited resources and the cost in terms of the money and time needed to maintain the facilities, which are heavily used and mis-used, has proved to be prohibitive. Unfortunately, this is likely to result in the permanent closure of some facilities which will be a loss to all waterways users.

As a resolution to his complaint Mr Q wanted the Trust to provide useable and accessible customer service facilities. He appreciated the facilities may be closed permanently but while they were open, he argued they should be useable. At the time of the decision the facilities were closed as they need costly repairs and are the subject of an Executive decision about whether they reopen. Clearly, if they do re-open the Trust should endeavour to ensure they are useable and that the maintenance and cleaning contract is adhered to when possible.

1298 a complaint about the status of a Home Mooring.

Ms M purchased her boat in situ and was told by the seller she could continue to moor at the location free of charge, as he had since 2009. Ms M accepted this information in good faith and applied for and was granted her boat licence declaring herself as having a Home Mooring.


Nearly two years later Ms M received a request for payment for the mooring from someone who claimed to be its owner. As she was unsure if this was a legitimate request Ms M sought advice from the Trust about whether to make payment to a private bank account with no agreed contract. She was advised against this.

The Trust later confirmed the previous owner had been a business tenant of the Trust's. As part of the lease agreement, he had exclusivity of the mooring that the boat had occupied for many years. The Trust says the situation came to its attention when the lease for the Dock transferred to the new tenant, who wished to have access to the mooring as it forms part of the agreement with the Trust. He complained to the Trust that he did not have full use of the facilities he was paying for because Ms M's boat was moored there. The Trust checked its records and as it was already aware the boat did not have the mooring operator's permission to remain there it contacted Ms M, through its Mooring Awaiting Confirmation process, and asked her to provide evidence of a valid home mooring or to continuously cruise. Ms M was unhappy with this and made her complaint.

The Trust's definition of a home mooring is, '*a mooring or other place that will be available for the Boat throughout the period of the Licence. We must be satisfied that the Boat can be reasonably and lawfully kept there when not being used for cruising.*' The Trust explained it owns the canal bed and its permission is required for the exclusive right to occupy the water space. As the dock, which was being used as the home mooring forms part of the business tenancy agreement it is for the business to agree to allow Ms M to use the mooring, as they had for two years, at no charge. In May 2022, the business operator requested that she remove her boat from the mooring. As Ms M cannot provide evidence that she has an agreement with the business operator to remain moored at the dock she has been asked to move away. The Trust has refused to accept her licence application as a home mooring.

I was satisfied that Ms M had no valid agreement with the mooring operator to moor at the location. It followed she cannot declare the location as a home mooring on her boat licence and therefore must be classified as a continuous cruiser.

Ms M says the Trust did not take into account that her boat was too big to continuously cruise and the engine was not in working order. She asked if the Trust could have tried to understand her situation and advise on realistic solutions. I concluded it is the



responsibility of the boat owner to maintain their boat and to ensure it has a valid licence and the responsibility of the Trust to enforce the regulations.

Ms M also complained that the Trust had provided information to the business operator about her licence status. This was based on information in a letter she had received from him which alluded to information provided by the Trust. Ms M says she has contacted the Information Commissioner's Office in relation to this and as they are best placed to respond to this, I made no comment.

The Trust has provided links to its General Terms and Conditions for Boat Licences and has quoted the relevant legislation in response to the complaint and for the purposes of this investigation. I was satisfied the Trust had acted in line with its policies.

Although I had some sympathy for Ms M, as she acted in good faith based on the information provided to her when she purchased the boat, it transpired that information was incorrect. It seems that the seller of the boat was not completely transparent with her and Ms M did not seek any clarification on the mooring status from the Trust. Had she done so she would have been advised the mooring forms part of a tenancy for the dry dock and it would be a decision for the tenants whether to allow her to use the mooring on a permanent basis. The Trust does have warnings on its website advising that mooring agreements are personal to the individual boat owner and that they are rarely assignable from one boat owner to another. They advise *'If someone offers you a boat with a mooring, be very sceptical and demand legal evidence they have the right to pass on the mooring agreement when selling the boat.'*

I was satisfied that the disputed home mooring is genuinely invalid. Ms M requested that any realistic alternatives to the change of licence be discussed and the termination of her licence be reversed. There are only two alternatives with the long term licence, a valid home mooring or continuously cruising. The Trust confirmed that termination of her licence would only be reversed if she could demonstrate adherence to either option.


1295 - a complaint about a nuisance overstaying boater.

Mr N lives adjacent to a canal and complained about a boat dweller moored opposite his flat. He explained the boat was unlicensed and had no engine, so a diesel generator was running from morning to night which had a detrimental impact on his mental health and well-being. He complained to the Trust which he felt had not managed the situation well, he believed that, as the area is a 14-day mooring only, the boat should have moved on once it had overstayed that time. The Trust has accepted there have been delays in responding to the issues raised but says that it was hampered by the need to follow due process when potentially making someone homeless. As the boat is unlicensed it cannot pursue the occupant by enforcing its licence conditions and instead, as the boat is being used as a home has to take a legal route to remove the boat.

The investigation focused on whether the Trust has followed the procedures for dealing with Liveaboard boaters.

The boat at the centre of the complaint was 'unidentified', which means that it had no boat index number or name. The Trust therefore has no record of it, its sale, or details of the current owner/lawful keeper. As the boat is unlicensed there is no existing agreement with the boater about how they will behave so there are no conditions of the licence to abide by.

The Trust is bound by its processes and procedures because the outcome of its action could result in making someone homeless. It has to follow a legal route to remove the



individual from the waterways. This takes time, effort and constant monitoring and interaction. When there are complaints about anti-social behaviour and noise or smoke pollution it also involves other agencies.

The Trust did not have the necessary resources in place to deal with the situation in a timely manner and begin the Liveaboard process. This extended the time that Mr N was inconvenienced by the boater. The Trust did not recognise a complaint had been made and begin the complaints process in a timely manner, for which the Trust had already apologised. Mr N felt complaint responses lacked detail and were not clear on what, if any action was being taken, as the Trust was concerned to protect the identity of the boater. The Local Authority and the Police were able to provide more detail, which added to the frustration of Mr N.

It was apparent there was a lack of knowledge between agencies of the possible actions that each could take and an expectation that the Trust could do more than it was able to. As the complaint progressed a working relationship was established between the LA and the Trust which should lead to future improvements.

I concluded that the Trust did not have the necessary resources in place to deal with the situation in a timely manner and begin the Liveaboard process. This extended the time that Mr N was inconvenienced by the boater.

I recommended that the Trust should reinforce the message that a complaint is any expression of dissatisfaction and although the advisors may be aware there is no further action that can be taken at the time, that does not negate the complaint element of a contact. That the Trust may wish to consider producing a fact sheet which sets out what it can and cannot do in these circumstances and what the roles of other agencies are, and that the Trust's legal team should reconsider what information it can share with third parties and if necessary, ensure staff and advisors are made aware of any changes to protocol. I also required a small goodwill gesture to recognise the stress and inconvenience caused by the delays in starting the Liveaboard and the complaints process.

1292 a complaint about bridge closures and the effect on a business

Mr P complained about the Trust's management of canal bridge closures, the lack of signage about the diversion and businesses remaining open and that his business was severely affected by the bridge closure. He also explained the bridge closures caused him and his family stress and inconvenience as he cares for his 86 year old mother who has dementia and she lives on the other side of the canal to him. The bridge closures meant he was unable to use the quickest route to get to her and check on her welfare and added time to the journey in the event of an emergency or urgent need.

Mr P says the problem was compounded when the bridge had been shut for 9 weeks, meaning he had to travel to a second bridge to get to his mum, the second bridge was then shut for repairs and he was having to travel to a third bridge, extending the trip to 10 miles. He was then advised the third bridge was due to shut for 24 hours. Mr P also found his interactions with the Trust difficult and frustrating as he felt the Trust did not fully appreciate the effect the situation was having on him and his family.

The Trust said there was one day during this period when all three bridges were closed. It acknowledged the disruption and apologised. It added at no time was there not an alternative means of access, albeit of a slightly protracted nature to the existing options. The Trust says the closure of the third bridge was caused by issues outside of its control and was unforeseen.

The crux of this complaint was whether the Trust had acted reasonably in closing bridge two and three, when the first bridge remained closed and whether it had

adequately considered the impact on individuals and businesses affected by the closures. The Trust was able to demonstrate it had followed all the necessary processes and procedures around road closures with the local council. Had everything gone to plan the bridges would not have been shut at the same time. However, in my view, the Trust and its contractors could have done more at the initial stages to identify and engage with local residents and businesses who could be directly impacted by the bridge closures. Early engagement with Mr P could have identified if the signage was present and may have resulted in better signage, especially about local businesses being open, and he could have been better prepared to update his customers on the diversion and let them know the business remained open.

Mr P wished to claim business losses as he said the bridge closure had a severe effect on his ability to trade, as customers did not know how to get to his shop. Mr P would need to demonstrate the lost business was a direct result of the Trust or its contractor's negligence. This is a matter for the Trust's Loss Adjustors and Mr P was advised to make a claim.

Mr P wanted compensation for the stress and inconvenience caused to him and his family. I concluded that had the Trust spoken to Mr P before the bridge work started, he would have been better prepared for dealing with his mother and may have put alternative arrangements in place. I appreciated that the frustration at the lack of early communication and then, what he viewed as lack of engagement, as the bridges remained closed was a source of stress and inconvenience for Mr P and his family. On the basis of this and increased costs as his distance to reach his mother increased during the extended period of the closure of bridge 1 and 2, I awarded a small goodwill gesture.

