



# THE WATERWAYS OMBUDSMAN



Annual Reports of

**The Waterways Ombudsman Committee**

and

**The Waterways Ombudsman**

**2020-21**



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## ANNUAL REPORT OF THE WATERWAYS OMBUDSMAN COMMITTEE 2020-21

### 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 2020 to March 2021.

In January 2021, I took over the position of Chair from Kevin Fitzgerald, who had completed his three year term of office. We also said goodbye to Steve Harriott, who had served on the committee for six years. The committee and I would like to reiterate our thanks for their many combined years of service.

In October we finalised and published the new Scheme Rules, which ensure we remain fit for purpose and able to respond to changes in Scheme membership. The new rules increased the membership of the committee, and we were pleased to welcome new members who are introduced below. The aim was to increase the breadth of experience and knowledge to maintain effective oversight, to ensure that the meetings are quorate and to improve rotation thus retaining knowledge. We have certainly achieved this by recruiting high calibre members selected from a range of candidates in an open competition.

In the spirit of openness and transparency also joining the committee, and attending their first meeting in June, were two new members, a user representative from the Canal and River Trust and an observer from Avon Navigation Trust. Full details of the Independent Members and Observers of the Committee are available in the annex.


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 2020 and February 2021. Due to the Government restrictions in place this year all meetings were held via Zoom. The Committee embraced technology further by beginning to use Diligent Board Books to share information electronically.





The Committee has a responsibility to ensure that the Scheme is effective. This year we have produced a Risk Register and completed a Quality Assurance Peer Review, both of which Sarah will provide commentary on in her report. The Risk Register allows us to carefully assess and monitor any risks to the work of the Committee or the Ombudsman. The Peer Review's remit was to ensure complaints met the Ombudsman Quality Standards, to identify potential learning points and to further best practice and provide assurance for the Ombudsman in the context of a singleton post.

One of my roles as Chair is to consider complaints about the service or process followed by the Ombudsman. This year I dealt with one complaint. It was a mix of process issues, which I did not uphold, and complaint related issues which are not within my remit to address. Sarah and I conducted a lessons learnt review of the issues to see if there was anything we could do differently or change for the future.

## **Finances**

The Committee appoints the Ombudsman, and the Committee is funded by its waterway members to meet the costs of this service. All expenditure is authorised for payment by the Chair. The Ombudsman charges for services on a time and materials basis and is not an employee of the Committee or the Canal & River Trust.

The total cost of the Ombudsman service in 2020-21 was £34,342.64  
This is made up as:

Ombudsman pay: £32,085  
Ombudsman expenses: £2,257.64

Ombudsman expenses include the costs to facilitate home working and payment of annual membership fees, such as the Ombudsman Association, Chartered Trading Standards Institute, and Information Commissioners Office fees.

## **Independence**

The Scheme continues to be a member of the Ombudsman Association, a requirement of which is that the Committee is independent. During the year we reviewed our status as an unincorporated entity and determined that this remains fit for purpose. The Scheme continues to be approved by the Chartered Trading Standards Institute, this certification means that we meet the requirement of the EU Alternative Dispute Resolution Directive and the related UK Regulations.

## **New appointments**

An open competition was held to recruit new Independent Committee Members, as explained above, and we are pleased to welcome Claire Stokes and Jane Brothwood who bring a broad range of experience and knowledge to the role.

We have also welcomed a user representatives recruited from the Canal and River Trust and an observer appointed by the Avon Navigation Trust.

All appointment were effective from June 2020.



## New Business

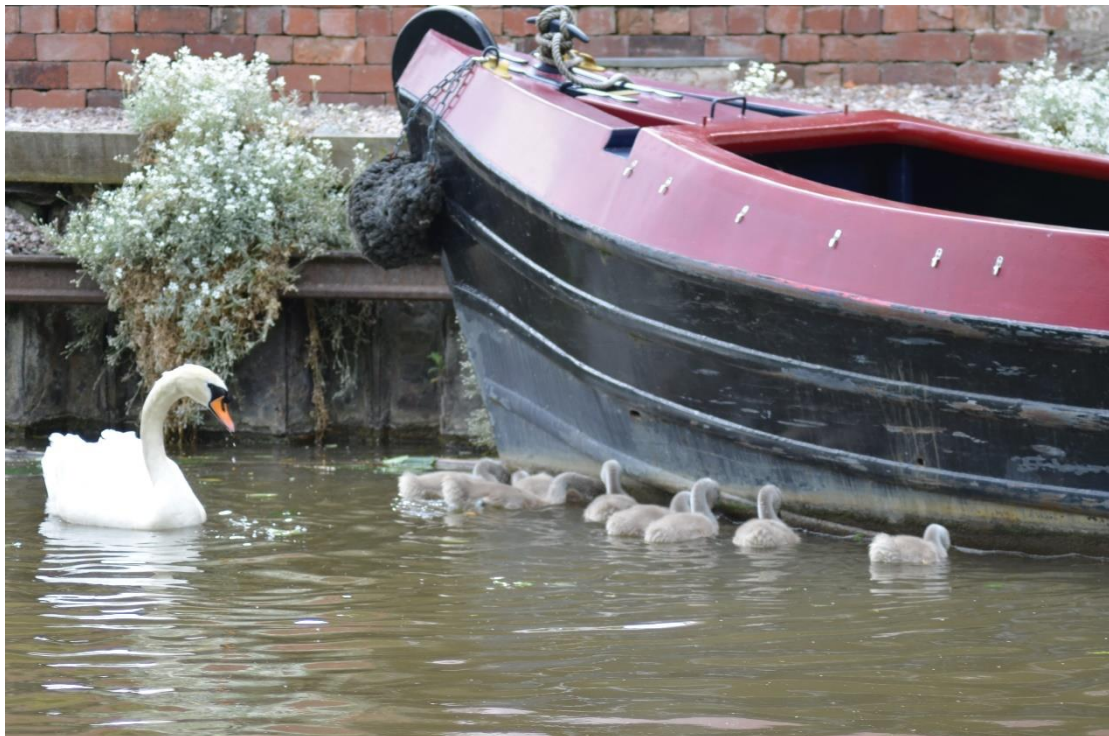
We continue to seek interest from other waterways, which are not part of a statutory Alternative Dispute Resolution Scheme, to join us to help provide a more coherent and user-friendly complaints resolution environment. This is a work in progress and will continue over the next couple of years.

## Looking forward

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.

In 2021 we will establish subject matter leads within the Committee to ensure we are making best use of the members expertise and skills. We plan to continue to meet virtually for half of the meetings next year as it has proved an effective and efficient use of time and resources. The other half will hopefully be face to face at a central location.

Karen McArthur  
Chair  
Waterways Ombudsman Committee



## Committee members and their profiles.

The Committee members at the 31 March 2021 are:

### Independent Members

Karen McArthur [Chair of the Committee Feb 2021]  
Alan Collins  
Lisa Stallwood  
Claire Stokes  
Jane Brothwood

### Observers from Canal & River Trust

Tom Deards  
Janet Hogben  
David Greer (ANT)

### User Representatives

Stella Ridgway (CRT)

## Member profiles of the Ombudsman Committee as at 31 March 2021

### Chair Karen McArthur



Karen is a values driven NED and Chair with experience across a range of sectors, advocating for consumer protection. She is an Independent Commissioner at the Direct Marketing Commission, determining complaints and supporting the organisation as it moves towards a co-regulatory role alongside ASA & ICO. She is also independent Chair of the Stakeholder Group at the Heat Trust which is preparing for regulation.

Among her portfolio are roles as NED at London Travel Watch, Independent Member Nominations Committee at the National Trust and Chair of the group advocating for the interests of vulnerable consumers at Severn Trent as well as serving as a lay member for regulatory bodies.


Previously Karen had leadership roles in Corporate Responsibility/Sustainability for global companies including Vodafone and Thomson Reuters.

### 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.

**Lisa Stallwood**



Lisa works at the Royal Institution of Chartered Surveyors ('RICS'). Through respected global standards, leading professional progression and trusted data and insight, RICS promotes and enforces the highest professional standards in the development and management of land, real estate, construction and infrastructure.

Lisa is a Lead Investigator with the Institution's regulation team. She investigates high risk and high-profile cases of alleged misconduct within the surveying industry in order to uphold public confidence and professional standards. Lisa's professional experience working within regulation also includes as an investigator at the Financial Ombudsman Service and an Ombudsman at the Legal Ombudsman.

**Claire Stokes**



As a partner and Head of Risk Management for PricewaterhouseCoopers in the UK, Claire led the business risk function. Formerly Deputy Chair of PwC's Supervisory Board, Claire was involved in providing governance challenge across all areas of the business. Claire was also a member of the Management Consulting Leadership Team.

Claire's portfolio now includes membership of Cranfield University Council and she is an independent member of the UK Government's Security Vetting Appeals Panel. Claire works independently as an advisor and consultant on risk management. She is also a trustee of the Friends of Chichester Harbour focusing on education and conservancy issues.

**Jane Brothwood**



Jane held a range of senior leadership roles in HM Revenue and Customs. Most recently, as Head of the Adjudicator's Office, investigating complaints about HM Revenue & Customs, the Valuation Office Agency and Home Office Windrush Compensation Scheme and promoting a culture of learning from complaints. In addition, Jane was also chair of the Ombudsman Association Casework Interest Group, sharing best practice and learning from Ombudsman schemes.

She is an Independent Observer for the Chartered Institute of Taxation Council and is a Foundation Governor for a local Church of England primary school federation.





**Kevin Fitzgerald CMG** (retired Feb 2021)



Kevin is *Directeur du Cabinet* at the United Nations World Intellectual Property Organisation, Geneva where he recently published a good practice toolkit of legislative and regulatory best practice for collective management organisations.

Previously he was Chief Executive of the UK's copyright agency where, inter alia, he led the setting up of regulation for the copyright industry. His other roles have included being The Independent Member of the Public Diplomacy Committee and a member of the Consular Services Board at The Foreign and Commonwealth Office, and Independent Non-Executive Director of the East of England Tourist Board. He was awarded a CMG in the Queen's Birthday Honours 2013.

**Steve Harriott** (retired Feb 2021)



Steve is an independent member and works as the Chief Executive of The Dispute Service which operates tenancy deposit protection schemes across the UK. These schemes all operate under government contracts. In addition to protecting deposits it also provides free alternative dispute resolution services in relation to tenancy deposit disputes and deals with c.20,000 disputes a year.


Steve's professional background is in the area of social housing where he has worked as chief executive of a number of housing associations in England. He also serves as an independent member on the Boards of Chatham Maritime Trust, Home Connection Ltd (as Chair) and of Gravesend Churches Housing Association in Kent (as Chair). He writes widely on tenancy deposit issues and is keen to see the wider use of alternative dispute resolution to resolve consumer disputes.

**Observers appointed by the Scheme Members**

**Tom Deards** is the head of the Canal & River Trust's legal & governance services, 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 a member of the Trust's Remuneration 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. In December 2018 she was appointed to the Royal Brompton & Harefield Hospital Trust Board.





**David Greer** representing Avon Navigation Trust. David’s connection with Britain’s inland waterways began in 1972 when he joined the Waterway Recovery Group undertaking restoration work on the Stratford upon Avon Canal. He has been a trustee, council member and legal director of the Avon Navigation Trust (ANT) since March 2015. Before retirement in 2018, he had acted as ANT’s solicitor for over 10 years.

As managing partner of his legal practice, he believed strongly in the importance of excellence in consumer care. He was therefore very pleased when ANT decided to join the Waterways Ombudsman Scheme to further its commitment to maintaining high standards for all users of the River Avon.

**User representatives appointed by Scheme members**

**Stella Ridgway** representing Canal and River Trust User groups. Stella was a continuous cruiser mostly on the northern canals. She is now living in the High Peak, having to give up the boat due to her and her husband's illnesses. She and her husband became Friends of the Trust as well as boaters because, as the great granddaughter of a fly boatman out of Middlewich, she believes that this way of life should be preserved, along with the Inland Waterways for now and future generations. She was a previous Council member representing private boaters, and previously worked in the public, hospitality sectors and finance sectors.

**Attendance at meetings**

Member	June 2020	September 2020	December 2020	February 2021
Sarah Daniel Ombudsman	Green	Green	Green	Green
Kevin Fitzgerald	Green	Green	Green	Black
Steve Harriott	Green	Green	Green	Green
Karen McArthur	Green	Green	Green	Green
Alan Collins	Green	Green	Red	Green
Lisa Stallwood	Green	Green	Green	Green
Claire Stokes	Green	Green	Green	Green
Jane Brothwood	Green	Green	Green	Green
Tom Deards	Green	Green	Green	Green
Janet Hogben	Green	Green	Green	Green
David Greer	Green	Green	Red	Green
Stella Ridgway	Green	Green	Red	Green

Key: Green attended  
 Red not attended  
 Black retired/resigned



# ANNUAL REPORT THE WATERWAYS OMBUDSMAN 2020-21

## Welcome



This is my second annual report as Waterways Ombudsman and covers the period 1 April 2020 to 31 March 2021.

It has certainly been an unusual year for the whole world and one which we hope will not be repeated. As a home based worker Covid 19 has not impacted my work in a practical sense. However, I am aware of the enormous effect it has had on those who live and work on the waterways and those who use them for leisure and relaxation. We have probably never appreciated how much being by water can lift the mood and help our mental health.

Having completed my second year in office I have continued to learn a great deal about the waterways, their structure, how they are used and managed. I remain impressed with the knowledge and dedication of the teams at the Member schemes who have provided information when requested.



## Numbers at a glance – 2021-21

### Total initial contacts

**77**

### How these contacts get in touch

**2% Postal**

**26% Telephone**

**72% Email**

### Complaints resolved

**8**

**43%** of contacts were not in jurisdiction

**44%** of contacts were in jurisdiction but premature

**13%** of contacts were in jurisdiction

### Of the complaints resolved

#### **1 Upheld**

The complaint was upheld and the member was required to take some action to put things right.

#### **3 Partially Upheld**

The complaint was justified in part and the member was required to take some action to put things right.

#### **4 Not upheld**

The complaint had been investigated and the member had treated the complaint fairly. Process and procedures had been followed and there was no remedy or award was required.

### Key performance indicators (KPIs)

**100%** of correspondences actioned within 7 days

**40%** complaints resolved in under 8 weeks

**20%** complaints resolved in 8 to 12 weeks

**40%** complaints resolved in over 12 weeks

THE WATERWAYS  
**OMBUDSMAN**



## Casework

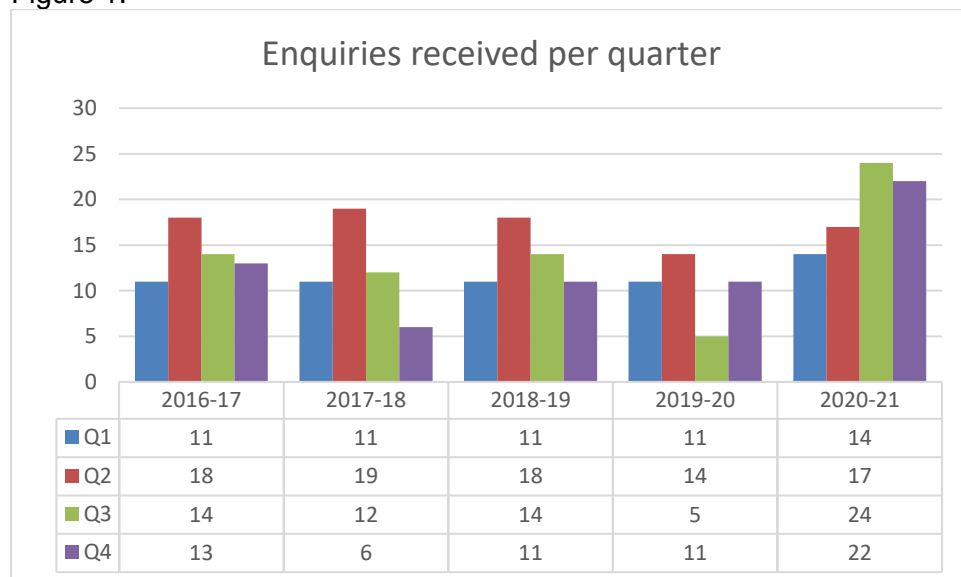
The major part of the Ombudsman’s role is casework. As Ombudsman, I am responsible for all aspects of the work, from the initial enquiry to the final decision. The work can be broadly divided into enquiries and investigations.

## 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.

This year a total of 77 enquiries were received, 55 by email, 20 by telephone and 2 by post. Despite the low usage and the relatively high cost of providing the PO Box, in the interests of accessibility, it remains in place. No enquiries were received about the Avon Navigation Trust.

Figure 1.



This is a significant increase on last year, which were particularly low, and is the highest number of enquiries in the last eight years.

Figure 2 shows that number started from a low point in April 2020 of just 1 enquiry, which was not about the Trust, to a peak in March 2021 at 14, of which 4 were not about the Trust. A total of six enquiries this year were directly related to the effects of the Coronavirus, cancelled holidays, closed facilities and requests for reduced fees.



Figure 2

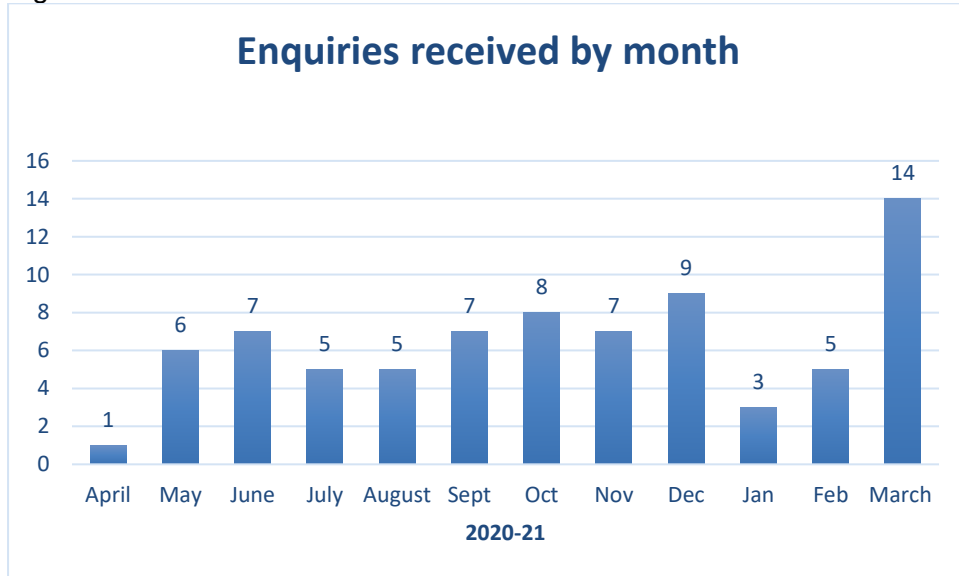
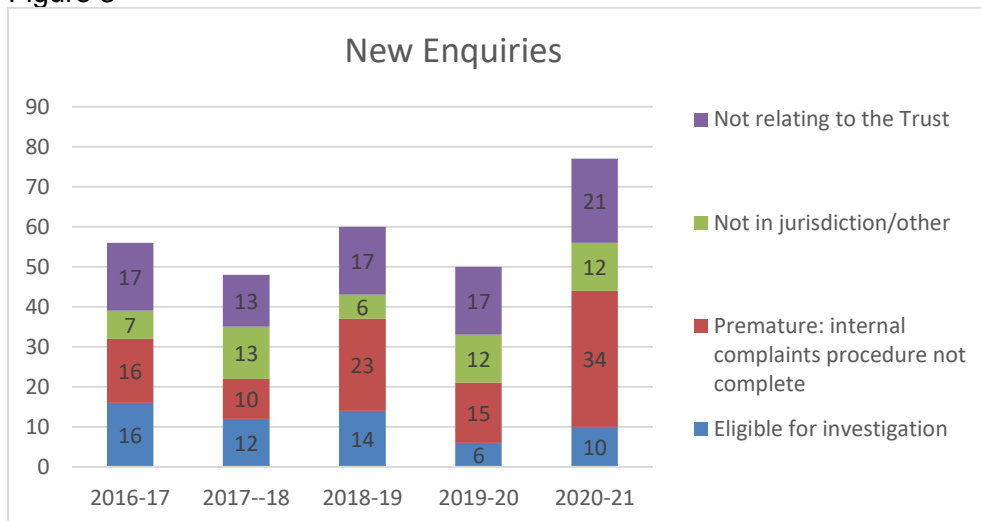



Figure 3 shows that enquiries fall into four groups. The first, shown in blue, is those enquiries where the Trust’s internal complaints process (“ICP”) has been completed and the matter falls within jurisdiction. The second, shown in red, is those which would be likely to fall within jurisdiction, and where an investigation could be opened if the ICP had been completed. The third, shown in green, is those which are in some way about the Trust or the Waterways Ombudsman Scheme, but which are outside jurisdiction, for example about an employee or a legal issue. The final group, shown in purple, is those which are not about the Trust.

Figure 3



Ten of the 41 enquiries were eligible for investigation. This group includes any complainants who, having first come prematurely, have subsequently returned before the end of the year and where an investigation has been opened. In six of the cases which resulted in an investigation the complainant had been referred back to the ICP



having approached the Ombudsman early. The remaining four contacted the Ombudsman having completed the full complaints process.

The biggest increase in enquiries is in the second group, premature complainants, 34 of the 77 enquiries fall into this category. These complainants were referred to the ICP, explaining that they can come back to the Ombudsman if they remain dissatisfied at the end of the process. The majority of these complainants were already known to the Trust and were part way through the complaints procedure. Some wanted more immediate action to be taken because they were about other boaters or boats causing a nuisance. There was a noticeable increase in repeat contacts from these complainants as they pushed for speedier resolution to their complaints.

Enquiries not in jurisdiction totalled 12. These are in some way about the Trust or the Waterways Ombudsman Scheme, but which are outside jurisdiction, for example about an employee, a legal issue or Trust policy.

The final group are complaints not about the Trust. These cover a range of issues such as four complaints about holidays cancelled because of the Coronavirus, nine about domestic water bills from a range of companies as far afield as Australia and two about flooding on non-Trust land.

Everyone who made an enquiry was responded to within five days and, where possible, signposted to the best place to help them. The straightforward examples, where they are not related to the Trust or have not completed the complaints process, are quick to deal with. Others take longer, particularly those about policy decisions or those seeking to reopen previously considered complaints. In redrafting the Scheme rules we sought to make it clearer that policy decisions are outside the remit of the scheme as they do not fall within the Trust's complaints process and that the Ombudsman can refuse to reconsider complaints.

The Trust has provided in Figure 4, details of the number of complaints it has dealt with through the formal complaints procedure. The difference in numbers of cases to Ombudsman Investigation between my reported figure of ten and the Trust's as eight is down to time reporting difference. I include all cases which were opened this year, the Trust has counted all closed cases in the year.

Figure 4

Year	CRT 1 <sup>st</sup> Level	CRT 2 <sup>nd</sup> level	Ombudsman investigation
2017-18	252	39	15
2018-19	124	35	15
2019-20	110	31	7
2020-21	109	28	8

Figures are very similar to last year which demonstrates the success of the improved processes the Trust put in place last year. The majority of issues are resolved after the first level response. In examples I have seen these letters aim to address all the issues raised and provide a detailed explanation of the Trust's actions. It shows that time invested early in complaint handling is time well spent.

The Trust has also advised that at the beginning of 2020, they implemented the creation and distribution of a monthly customer contact report which, they say, has significantly improved the local recording and management of customer interactions. This resulted in a far greater volume of informal customer dissatisfaction



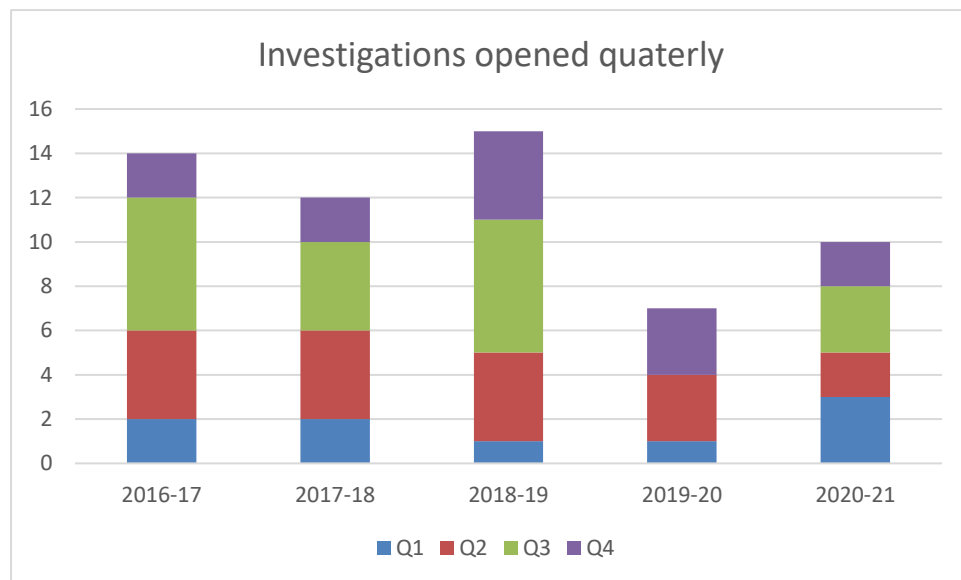
being identified, recorded and analysed. However, this type of customer dissatisfaction is predominantly resolved at the first point of contact, often with a more positive outcome, and has therefore not impacted on the overall volume of formal complaints investigated through the complaint procedure.

## Investigations

This year I opened ten new investigations and closed eight. There was one investigation open at the start of the year, which was completed in April. Of the three that remained open at the end of the year two were closed the following month and one was placed on hold awaiting further information.

The chart below, Figure 5, shows the breakdown by quarter of when investigations were opened for the past five years.

Figure 5



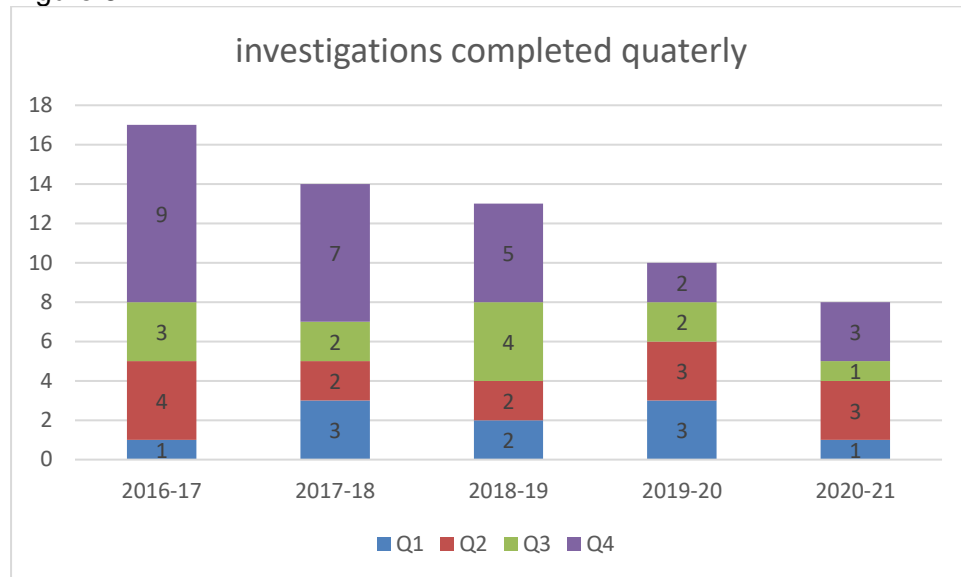
Overall, 10 investigations were opened in the year and eight were closed. The only specific issue which featured more than once was the time taken to repair a part of the network. Two concerned the condition and provision of facilities at Trust Moorings. The rest were about different topics. Six of the cases were from people who were boaters, one was from someone who lives beside the canal and the other was a business operating on the canal.

Of the eight cases resolved three of the complaints were partially upheld, one was upheld and the other four were not upheld. This reflects an increase in the number of cases where the Trust was found to have been lacking. In all four cases which were upheld or partially upheld the criticism of the Trust was about the way they communicated or failed to communicate with the complainants.

The chart below shows the number of investigations completed by quarter, for the last five years.



Figure 6



### Time taken to complete investigations


Under the ADR Regulations<sup>1</sup> 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 time line 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 expected to resolve. This year two cases exceeded the 90 day deadline, one was a business customer and the other was because the complainant requested more time to respond to the draft report.

The remaining six cases were closed in a range of days from 30 to 86 with the average being 58 days from CCF to final decision. I had aimed to improve the timescales this year but often this is not within my gift, as customer's request extensions, or it becomes apparent that more information is required. I work on the basis that the important thing is to make sure all information has been considered and both sides have had an opportunity to present all their evidence. It remains true that the time it takes to get the correct information dictates the time taken to complete an investigation.

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.

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



This year's cases covered a wide variety of topics but a common theme once again was problems at moorings, their upkeep, facilities, planned works, position of boats and other boaters. The Trust's Mooring Agreement Terms and Conditions set out the legal relationship between the Boater and the Trust. Most boaters who have a mooring probably have no reason to regularly refer to this document, but it does set out the responsibilities of both sides. In the event of any dispute my advice would be to check the rules first and then consider if they have been applied in a fair and reasonable way.

## **Eligible cases for investigation which were completed during the year 2020-21**

I publish the summaries on the website, so they are usually available shortly after the investigation is completed.

The list below provides a headline description of the complaint. They are available to view on the website, [here](#).

### **List of investigated cases**

**Case no 1085** - complaint about the consequences of an aborted trip caused by the narrowing of a Lock.

**Case No 1114-** how the Trust dealt with a complaint about providing a boat licence to a convicted offender and if it should have taken more punitive action against the offender.

**Case No 1111** - complaint about the refusal to clear debris in the canal which was unsightly and causing an unpleasant smell.

**Case no 1118** - complaint about the Trust's ability to manage the assets in its care, following the long-term closure of a lock, leaving the complainant stranded.

**Case No 1112** - complaint about facilities at a mooring and upcoming work.

**Case No 1069** - complaint about the position of a boat in a mooring and anti-social behaviour.

**Case No 1123** complaint about the loss of facilities at a mooring site.

**Case No 1127-** complaint about the repairs to the towpath and leased buildings.

## **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,
- investigations completed within 90 days of the Ombudsman receiving the complete complaint file (except for cases of a highly complex nature).





## Fulfilment by the Trust of remedies

Of the three complaints which were partially upheld, one required improved communication between the parties, another an apology and the third an apology, a goodwill payment and consideration to be given to improved signage. In the upheld complaint the Trust was required to make a goodwill payment. All the remedies were fulfilled in the permitted timeframe.

## Contacts with stakeholders

Contacts have obviously been adversely affected by the events of the year and any contacts have been virtual. Staff at the Trust have kept me updated on their actions during lockdown to support boaters and staff. They also advised me about the development of their new case management system, which they hope will improve their overall visibility of customers interactions with the Trust.



I continue to attend Ombudsman Association Policy Network and Data protection groups. They help to keep me informed and up to date with alternative dispute resolution policies and any upcoming changes.

## Customer Surveys

For a number of years the Scheme has used Survey Monkey to conduct customer surveys to record complainants' experiences of using the Scheme where the complaint has been accepted for investigation. The aim is to gather intelligence on ease of access and use of the scheme. Complainants are asked to complete the survey before the draft report is issued, as the intention is to measure their experience of the service without being influenced by the outcome of their complaints.


We generally get very few responses and as such have taken the decision that it is not cost effective to continue to use this method. We are currently exploring other types of survey.

This year I issued five surveys and got two responses, which were positive and would recommend the scheme. We trailed a survey of people who had made enquiries to try and improve our knowledge of how customers come to us and what happens to them afterwards. I contacted five people of whom only one responded and that was because they wished to escalate their complaint which remained unresolved.

## Peer Review

One of the roles of the Waterways Ombudsman Committee is, to keep the operation of the Scheme under review to ensure it meets its purpose, to receive and investigate complaints of injustice that arise from maladministration or unfair treatment by a scheme member. To do this the committee regularly reviews the work of the ombudsman. The Ombudsman Association also requires that, *'The Ombudsman should have in place a quality assurance mechanism for its complaint handling and should conduct regular auditing of outcomes.'*

In the autumn two independent committee members conducted a Quality Assurance Peer review. This consisted of a review of three complaints, post investigation, to provide assurance to the Ombudsman, the Committee and the Trust's those investigations were carried out in line with the quality standards. Their remit was to review all activity relating to the lifetime of the complaint to assess whether the quality



standards and guidance have been correctly applied during the investigation against a set of essential criteria and recording feedback to an agreed format. I provided a complete casefile to the reviewer, including all correspondence with the customer and the Trust, copies of all evidence provided and copies of the draft and final report. The information gathered was used to provide feedback to me and to provide learning to the wider committee.

The overall findings and observations were positive concluding that I had met all objectives outlined in the peer review quality assurance document. The reviewed reported complaints were defined in an accurate, clear, concise and when required, sensitive manner. A range of evidence was reviewed including, where appropriate, site visits. Further enquiries were made of the Trust and with customers as necessary. All relevant evidence was appropriately considered. Evidence indicated that I had investigated all three complaints at the relevant stage.

The reviewers made some suggestions and recommendations about process. They included the adoption of a standard document naming convention, the use of investigation plans, clarity of remit, and more specific referencing of evidence. A redress framework matrix or policy to outline the purpose and scale of redress was also suggested and the formalisation of the sharing of insight and observations by including wider learning points in my reports to the Committee and for wider learning to be shared with all scheme members.

Full details of the review are on the website, [here](#)

## **Risk Register**

At the request of the Committee, I worked with a committee member to produce a Risk Register. The aim was to allow the committee to be aware of, assess the impact of, and plan to mitigate risk to the committee and myself. The risks have been categorised into seven areas; Strategic; Compliance/governance; Operational; Financial; Reputational; Environmental, and Technical. Individual risks were identified and described, their impact assessed and scored to give an overall RAG rating (red, amber, green). Mitigation actions were recorded alongside a mitigation and risk owner.

The register will be reviewed regularly, and the highest scoring risks will be examined in detail to ensure the impact is fully understood and any actions required to mitigate them are in place.

## **Reflections**

This is my second annual report as Ombudsman. It has been an unprecedented year for all in terms of external world events. Although I am grateful to technology, enabling me to continue to work uninterrupted, I have missed face to face contacts and the opportunity to meet more stakeholders and boaters. I hope that next year, as the country emerges from Lockdown, I will be able to take a trip on the waterways and experience the joys it brings to so many.

The rise in enquiries this year has increased the range of subjects covered and it remains clear that the callers and complainants are deeply passionate about their own issue and the waterways in general. A number of enquiries were about the increased use of the towpaths by all and the associated problems this brings. As more people

seek to enjoy the space around the waterways the Trusts have to continue to work hard to make that possible.




Complaint numbers appear to have stabilised and although relatively few, compared with other larger schemes, the importance of having an independent reviewer is not diminished. I have remained impressed with the high level of investigation conducted by the Trust at the first and second level of their process and by the work of the National Complaints Coordinator who keeps the complaints flowing and quality checked. Complainants may not always agree with the decisions I make but I hope they feel they have had their complaint heard and have a better understanding of the actions of the Trust.

This year we welcomed new independent members to the Committee, who bring with them a wide breath of experience and knowledge from different areas. We are already seeing some of the benefits this brings with the completion of the risk register and the peer review. Next year as they develop their areas of specialisms we will continue to build on the improvements.

We also welcomed a new observer to the committee. David Greer, a user rep from the Avon Navigation Trust, who dealt with complaints in his professional capacity, reminded me that the best advice for *'service organisations and their people is simply to just put themselves in the shoes of the clients / customers they are serving, and just ask themselves, "Am I providing the kind of service that I would like to receive?"*. This is a question the Members and I should keep asking ourselves as we strive to improve.

Stella Ridgway, user rep from the Canal and River Trust, believes a member with boating experience is invaluable to give their perspective. She stresses the need to





ensure that feedback on issues raised by complainants is provided to the members to complete the learning loop. This is one of the key features of an Ombudsman Scheme which I do by regular catch ups and reporting. Once I have notified the member of an issue it is generally resolved quickly and not repeated.

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 Kevin Fitzgerald and Steve Harriott who welcomed and supported me as a new Ombudsman and have given many years of service to the Scheme.



Sarah Daniel  
Waterways Ombudsman  
July 2021







## Case Summaries

Available to view on the website at,

[2020-21 case summaries | The Waterways Ombudsman \(waterways-ombudsman.org\)](https://www.waterways-ombudsman.org/2020-21-case-summaries)

### **Case No – 1127 Complaint about the repairs to the towpath and leased buildings.**

Mr R has a long lease with the Trust for a boatyard business and its surrounding area. In September 2019, a sink hole appeared next to the tow path, investigations revealed that some pipework had collapsed causing the sink hole and the issue had caused a further problem with the corner pillar of the building, leading to fears that the canopy of the dry dock may be undermined. The result was that the dry dock had to cease operating while repairs were undertaken to the culvert and the dry dock. It was then found that one of the dry dock gates needed to be replaced. The Trust completed all the works in October 2020.


Mr R complains the Trust is deliberately attempting to destroy his boatyard business. He believes the Trust need to demonstrate a boatyard business is unviable at his historic canal site to continue with their surrounding property development. Mr R says that as a tenant of the Trust he has been subjected to on-going unfair treatment, harassment, and intimidation. He says the Trust is a registered charity but completely disregards its own published charitable aims. At the conclusion of the work Mr R argued that, as a result of the way the repair was done, he is unable to operate his business safely and declined to re-open. Mr R wants the Trust to put the culvert back to the way it was prior to the repair and to pay him business losses as he has not been able to fully operate for over a year.

The investigation concentrated on the way the Trust had organised the repair, the time taken to complete the work and communication issues.

The repairs took a considerable time because of issues with the project and the impact of coronavirus on the Trust's ability to complete the work. The Trust has accepted there were delays in completing the repair work at the dry dock and has apologised for this. I concluded the delays were not, as suggested by Mr R, a deliberate move to make the business unviable, but were the result of a series of unfortunate events, predominately, but not completely outside the control of the Trust.

The Trust is satisfied the dry dock can be safely used and is fully functional as it is now and says it has no intention of redeveloping the land as it is a site of historical importance and the lease has over 30 years to run.

The Trust has confirmed that the work completed allows for the operation of the dry dock and has been carried out using sound engineering principles and with regard to the heritage of the area. It is confident that the business can now fully reopen and operate in the same way it did previously. Mr R has argued the repair is unsafe because a pressure chamber has been created, the Trust, using its technical expertise has explained this is not the case. I am satisfied that the manner of repair and the way it has been conducted has been with due diligence and expertise.



Regarding the compensation claim for lost business, I have no doubt that the business has lost money. The Trust is willing to consider compensation, upon the production of evidence to substantiate the loss. I regard this as perfectly acceptable; it is normal practice to request evidence of loss before making any payment and I urge Mr R to engage with the Trust to provide the information required.

It is clear there have been communication issues for some time preceding this issue and throughout it. Both sides need to commit to an open and honest relationship where issues are aired fully and discussed to work towards solution.

Mr R has a fifty-year lease with nearly 40 years remaining on it, which indicates that there is no plan by the Trust to redevelop the land within the future of the lease period. In addition, the site is of significant historical importance so redevelopment or sale would be very unlikely. Obviously, no one can see into the future or comment on plans in 40 years time, but for now I have seen nothing to suggest that any delays with repairs or other issues have been motivated by the Trust wanting to end Mr R's occupation of the site. In fact, the expensive repairs to the Dry Dock and the lock gates would suggest otherwise.

**Case No 1123 complaint about the loss of facilities at a mooring.**

The complaint was raised by a group of boaters who were unhappy that waste facilities and a water point were no longer available at a mooring point. They argued the Trust had made commitments in 2019 to reinstate both the water supply and the rubbish bins and then reneged on these commitments. They did not accept the explanations provided by the Trust which they said were not reasonable excuses for not reinstating the facility. The group argued the lack of a water supply at the mooring has meant that some boaters have had to travel an extra four hours to an alternative water point and back. They were concerned about boaters having to turn round many times who may be penalised by the Trust. They also complained about a lack of communication regarding Trust's decisions regarding these facilities. The group wanted the facilities reinstating.

The Trust says that taking all the circumstances into account it was unable to comply with the previous agreement. The group are also generally unhappy with the level of provision of facilities on the canal, arguing that the high number of users should be taken into account when deciding on the level of provision on the canal and the loss of facilities across the whole region. They feel the Trust should be reacting to the demand and not relying on general policy.

The Trust is not obliged to provide water or sanitation facilities, the decision to do so is discretionary. The Trust says it is committed to operating and maintaining a significant number of boaters facilities across its network for the benefit of its boating customers and is intending to undertake a strategic review on the effective and efficient provision of services to improve the overall offering to its customers. On this basis, I was unable to require the Trust to re-provide the bins and water supply at the mooring as requested.


I concluded that since both sides were led to believe that re-instatement was likely the issue was prolonged, which added to frustration for all. She considered the concern that boaters will be penalised by Trust enforcers because of the need to complete many turnarounds and seemingly returning to the same location many times to collect water or deposit rubbish. The Trust says it unable to provide a blanket assurance that boaters will not be penalised for travelling to and from these facilities. It says it generally reviews and considers 12 months of cruising behaviour, including overall

range, turns and overstay, before any decision is made about whether the boater has met their licence obligations. The Trust says that solely moving to-and-fro between a couple-or-few facilities points over a licence period would likely not meet those obligations. Including visits to facilities in a planned, genuine journey that expands beyond a small part of the network, likely, could.

The Trust says that each case is unique, but they believe that the information already published provides the desired clarity to allow boaters to create a satisfactory cruising pattern. In addition, it says as the published guidance also says, if an individual boater has any concerns or difficulties then they would always urge them to get in touch with their local Licence Support Officer at the earliest opportunity and they can provide additional, personal guidance. I recommended that the local Licence Support Officer should take account of any issues faced by boaters without a home mooring because of travelling to and from facilities before considering any enforcement action regarding the continuous cruising rules.

About better communication, I concluded that the Trust should ensure that its website is kept updated to reflect whether the water supply has been reinstated at the mooring. I also found that the reference to Basic mooring on the website was misleading as it said, *Customers at these sites are required to cruise to the nearest sanitary facilities, which can be up to 30 minutes away.* This has now been removed since the distance is greater than this.





## **1069 – complaint about the position of a boat in a mooring and anti-social behaviour**

The complaint was raised when the mooring manager asked Ms N to reposition her boat to the furthest point back within its berth. Ms N was concerned that this would reduce the passing gap of the canal and result in increased collisions with her boat. Ms N said that the canal was very busy at this point with pleasure craft and working boats travelling too fast and felt she was being put in a dangerous position. Ms N said she had been told by previous mooring managers to moor at the other end of the berth.

Ms N also complained that her complaint had been blocked by the mooring manager and she had been the subject of some anti-social behaviour from other moorers. She felt the mooring manager had not handled the situation well.

The dispute is essentially about health and safety. The Trust believed that being too close to the neighbouring boat is a safety issue and Ms N believed that moving her boat is a bigger safety issue to her own boat and other canal users. It is the role of the Mooring Manager to manage the available space at the mooring to ensure the safety of all boaters, moored or moving. In this case the moorers at adjacent berths have swapped their boats for bigger ones and this has created a problem. The Trust has asked Ms N to move her boat to the furthest easterly position of her berth to allow a safe distance between her boat and the neighbouring boat. The Trust says this allows a safe passing gap for other users of the waterways and they do not consider that will pose a safety threat to her or others.

The mooring rules that Ms N has agreed to, allow the Trust to dictate where the boat should be placed. On that basis, I must conclude that the Trust has the right to request Ms N to move her boat to a position of its choosing. Any email from a previous Mooring Manager would not alter this. It was clear this is a busy part of the waterway and I recommended the Trust should give consideration to providing better signage or other visible queues near the entrance to the moorings.


Ms N complains that because her complaint issues were not addressed at the time further problems arose. Ms N feels that anti-social behaviour towards her from other moorers was a result of the Mooring Manager, telling them she would not move her boat and they felt this meant she was blocking their craft replacements. Ms N said it took many months for her complaint to be taken through the complaints process, she believes it was blocked by the Mooring Manager and the complaints team.

I found there were failings in dealing with the issue effectively and the Trust says it has learnt lessons from this. The Trust has apologised for delays in dealing with the complaint but in view of the additional distress and inconvenience this caused Ms N I considered a small goodwill gesture should be made to recognise this.

Ms N says she has been given conflicting information about whether the Trust has an ASB policy. She believes it should have a policy and it should have used it to help her when she faced threatening behaviour from other moorers. She believes that the Mooring Manager did not follow guidelines when he chose not to follow up on her complaint of threatening behaviour on site. She says she has since found that the Trust does not have an ASB policy which she says must mean that no guidelines were followed when the mooring manager chose to do no follow up about her complaint of threatening behaviour on site.

The Trust does not have a specific ASB policy, their moorings team manages Anti-Social behaviour at its mooring sites, between customers or customers and staff/other individuals, under the Terms and conditions of the mooring agreement, namely sections:





8.3 You must not do or carelessly fail to do anything at the Mooring Site or in the vicinity of the Mooring Site which will: (a) pose any risk to the health and safety to individuals; (b) pose a risk to the environment; (c) cause damage or nuisance to any other person or their property.

8.4 Anti-social behaviour or abuse, verbal or physical shall not be tolerated towards customers, staff or any other individuals. A failure to comply with this condition 8.4 may result in termination of the Agreement in accordance with condition 14 and/or criminal prosecution.

I am satisfied the Trust has within its Terms and Conditions the ability to tackle instances of anti-social behaviour and its managers are best placed to deal with allegations of such behaviour. It is not clear if the Trust did take any action in this case with the individual concerned as confidences have to be maintained. However, it is disappointing that clear next steps were not set out to Ms N so there could be no confusion. I recommend that in any future cases like this the Trust clearly advise the complainant what next steps are and what action will be taken, if any. These situations can become emotive and it is important that there is clarity for all parties.

#### **Case No 1112 – complaint about facilities at a mooring and upcoming work**


This complaint started in May 2020, when the residents wrote to the Trust highlighting a number of issues with the mooring. They reported a long history with the Trust completing repairs in a piecemeal way and saying that major repairs will take place and then nothing happens. In November 2017, there was a meeting between the Trust and residents where the Trust explained the need to ensure that all water and electricity connections were compliant and a survey would be completed to assess the work needed and work, which would include the provision of these services and a new footpath, would be completed by April 2018. Although the survey was done the work did not start. The Trust had not done anything since then until this new complaint was made.

The issues all stem from the same point, that the mooring needs some considerable work to bring it up to proper standard in terms of health and safety and regulatory requirements. The clash between Trust and residents is about how this is done and how much input the residents will have into the changes and the process of change. For some residents they will view the work as an improvement, for others as an inconvenience and unnecessary and as taking away their choice of utility supplier.

As the landlord the Trust will have to make some decisions which some residents will not be happy with. However, it has a duty of care to put the safety of the residents first and to ensure its resources are used to best effect. During the complaint the Trust made improvements to the rubbish facilities and work started on clearing the towpath. Issues remain in relation to the supply of electricity and water connections. As there are strict regulations in respect of these utilities the Trust has a duty to ensure installations and connections are compliant.

To achieve the best outcome for all it is imperative that the Trust and residents work together and cooperatively so the mooring improvements can be done with as little disruption as possible. There will need to be changes and some residents may have to change the way they store equipment, such as gas bottles, and use the outside space. The Trust needs to ensure all residents understand why they are being asked to change and what needs to be done.

My overall recommendation was that the Trust and the residents work together to improve the facilities at the mooring. The Trust are the landlords who issue the mooring permits and so it falls to them to have the final say in any works to be completed and



how the work will be carried out. However, it is vital the Trust remain mindful that the mooring is home to the residents, who should be kept informed of plans and progress. If it is necessary for any residents to take some action to allow the work to be completed, they should be given time to do that and the reason for the action should be explained. Communication should be open, transparent, clear and two way. There will not always be consensus but hopefully this will improve understanding and cooperation. The Trust should provide the name of a contact for any issues with the redevelopment and details of the water bill for the site.

**Case no 1118 – complaint about the Trust’s ability to manage the assets in its care, following the long-term closure of a lock, leaving the complainant stranded.**

The complaint was prompted by the closure of the lock, in which Mr M was moored. He says he has been unable to use his boat in any way as there are no facilities for sanitation, refuelling and water. Mr M believes the issue was foreseeable and could have been avoided by early intervention when the problem first occurred some years earlier.


Mr M does not accept that the Trust has acted in accordance with its obligations to maintain the waterways. He says it has failed in its duty of care and has not followed rigorous procedures which could have prevented the problem occurring. He argues the problem was foreseeable and the time the lock was out of action does not fall in the bounds of ‘time to time’. On that basis he believes the Trust has not kept its side of the licence agreement and so the fair and reasonable resolution would be allow his licence to start from the date the lock opens and he has use of the waterways.

The Trust has refused as the Licence issued to boaters is Trust permission (granted by a permit with a fee and associated terms and conditions) for them to put and keep their boat on Trust water, the fee is not calculated on the basis of availability of the network to cruise. The network is 200 years old and subject to repair work, both planned and unplanned, that would potentially impact the enjoyment of any number of boating customers at any time. These network closures are referenced specifically in the boat licence terms and conditions.

In considering the complaint I looked to see if the issue was foreseeable and if the time taken to complete the work was reasonable. Based on the information provided it did appear that the problem with the towpath was foreseeable. The issue had been reported some years ago and the Trust had completed a short-term repair in 2018, knowing a more permanent fix was required. The time taken to repair the issue was nine months, a portion of this was due to the Government lockdown because of the Coronavirus pandemic. However, there was a period of 25 weeks prior to this when the work could have been completed. Both parties accept the issue should have been resolved in 5-6 weeks.

There were various delays, the Trust citing poor service from its contracto. establishing where the liability lay for undertaking the repairs, accessing the site due to the presence of a gas main, plus the need to prop the roof of the dry dock once they had ascertained the size and extent of the void, all finally rounded off by the Covid delays. The Trust accepts it did take a lot longer than expected to complete this project despite the huge amount of effort to manage the Trust’s internal processes, its contractor and the dry dock lessee.

In addressing whether there has been any maladministration by the Trust in its handling of this repair I considered if, had the project been better handled, the work



could have been completed before the lockdown commenced. It seemed to me, it is more likely than not, that the work could have been completed before lockdown, had the contractors been better managed, which the Trust must accept some responsibility for. On that basis, I agreed that Mr M was inconvenienced by the delays in completing the repairs and that the lockdown was not the cause of most of that time.

Considering how the complaint was handled the Trust recognised there were delays in dealing with it and the overall time to resolve the issue was protracted and offered a goodwill gesture to recognise this. Mr M refused as it was not the resolution he had requested.

I concluded that the problem which resulted in the closure of the lock was foreseeable by the Trust, the project to complete the repair was beset with problems and the complaints process was not strictly adhered to. On that basis I upheld Mr M's complaint. I did not agree to the requested resolution, either for Mr M's licence to begin when he was able to use his boat or for a refund of his licence to cover the months he has not been able to use his boat. This was because this is a breach of contract claim, which would be for the legal process not the complaints process. If Mr M wished to pursue this, he should seek legal advice on his next steps.


Regarding the complaints process I did consider Mr M had been adversely affected by maladministration on the part of the Trust and recommended an award to acknowledge that. This was set at a level to appropriately compensate Mr M for distress and inconvenience suffered, by reason of the acts or omissions of the Trust. Both sides accepted the decision.

**Case No 1111 – complaint about the refusal to clear debris in the canal which was unsightly and causing an unpleasant smell.**

This complaint stems from an issue with the canal which runs along the bottom of Mr and Mrs L's garden. The complaint issues were exacerbated by their timing. The problem was first reported to the Trust at the start of a National Lockdown because of the Coronavirus pandemic. Mr L has COPD, which meant he was shielding, and unable to leave his house, making the garden his only available outdoor space. It was also the start of an unusually prolonged period of hot and sunny weather. These circumstances undoubtedly had an influence on the actions and behaviours of both parties to the complaint.

Mrs L was very distressed by the issue, she felt the Trust did not treat the problem with sufficient seriousness, in terms of the effect on themselves and the canal. She feels they were not taken seriously, and their concerns were dismissed. She would like the Trust to apologise for this and acknowledge the effect this had on them.

All parties agree there was a problem with the canal, although the extent and the severity of the problem is disputed. The complainant felt the issue was caused by debris, particularly large tree branches, which was causing a damming effect. They report this caused a build-up of algae and a thick green slime which caused a putrid smell. They were concerned the water would rise and cover their garden with debris and that the smell was damaging to their health. The Trust describe the canal as having a build-up of vegetation, they say a smell could not be detected, that it would clear itself and that it was not a danger to health or to the garden. They considered that clearing the vegetation was non-essential maintenance and planned to clear it in the autumn, circumstances permitting.



The problem was solved when a gentleman entered the water and using a heavy duty garden rake cleared the canal. Because of the safety and environmental issues, although understandable this action is not condoned. The apparent ease with which the problem was solved would undoubtedly only add to the frustrations felt by the complainant's, who considered it the responsibility of the Trust to carry out this action.

The complaint is about how the issue was handled. The Trust has an internal complaints process, the aim of which is to resolve issues as soon as they are reported. If that cannot be done, then a formal response is given and if the complainant remains unhappy a senior manager investigates and responds. The first and second level responses were completed on time and contain all the necessary explanations and next steps, they also apologise that the customer has had cause to complain and say they empathise with them about any distress caused. However, in my opinion, they could have been avoided. Mrs L said on a number of occasions that she did not want to escalate the complaint, she wanted action to be taken. Had the local operational team taken the opportunity, when visiting the site, to call the complainant and provide an explanation and reassurance about the canal it is likely the numerous contacts to the Trust and other bodies may have been avoided.

The couple were distressed by the situation, they felt the Trust was not listening to them or taking their concerns seriously. They say that calls and emails were not responded to and this forced them to contact other agencies to get a response. Time invested by the Trust at the beginning of the issue would have avoided further distress and reduced time later spent by Trust staff dealing with the numerous calls and emails. While the Trust's advice may not have changed and they would not have been able to clear the canal, a better explanation of this and reassurance as to the safety of the couple's property and health would have showed real empathy to an elderly vulnerable couple in a distressed state.

I recommended that The Trust should formally apologise to the couple for the way they handled their complaint. This should include an acknowledgment that the way the Trust dealt with the situation exacerbated the issue and caused further distress.


**Case No 1114 how the Trust dealt with a complaint about providing a boat licence to a convicted offender and if it should have taken more punitive action against the offender.**

Mrs M contacted the Trust to say that she had found out that her neighbour was a convicted sex offender and was concerned that he was moored in an area with lots of children visiting. The Trust explained its position and offered to move Mrs M and her husband to another location. The following day the offender contacted the Trust to say he had been threatened by other boaters and had left the mooring.

Mrs M subsequently made a written complaint to the Trust. She explained the impact of discovering she had been living next door to a convicted paedophile had had on her. She found the situation extremely distressing and asked for a refund of her winter mooring fees, as she felt she should not have to pay to live next door to an offender.

The Trust responded and apologised for the delay in doing so. The Trust's view of the issue was explained, and they said that had the Trust been made aware of her concerns with the offender's behaviour towards her earlier they could have assisted. The Trust was not prepared to refund her fees as they had not been in a position to do





anything other than offer her a move of location. That offer remained open to her although the offender had since moved.

Mrs M was unhappy with this response, asked the complaint to be escalated and for a refund of six weeks mooring fees, which equated to the time she was moored next to the offender.


A senior manager at the Trust responded, setting out the Trust's position and saying that a refund would not be made as the Trust had acted appropriately in the circumstances and could not have lawfully informed her about the offender's criminal record. Section 17 of the British Waterways Act 1995 (the "BW Act") sets out the circumstances in which the Trust may refuse to grant a licence. These are, where the applicant does not have a Boat Safety Certificate or valid insurance in place, and the boat either has a mooring or will genuinely navigate the network on a continuous basis. The Trust is legally obliged to grant licence applications unless one of the prescribed exceptions under section 17 of the BW Act applies. The boat licence is for the boat and apart from the individual's contact details all information requested on the licence form are in relation to the boat, its insurance, its boat safety certificate and where it will be moored. This is because the information is relevant to the boat and not to character of the individual. The Trust has no need and no rights to ask questions about the individual applicant.

The Trust has no lawful basis on which to require all boating customers to provide it with criminal record data or undergo a Disclosure and Barring Service Check. If the Trust is informed about an individual's criminal record by the police, or other relevant agency, it is not permitted to share this information with members of the public (including other boating customers). Doing so would breach data protection laws. It could also disrupt official processes and pose significant risks to the safety of individuals. It is the role of the police or probation service to assess if an individual poses a risk to others around them, it is for those authorities to pass on information to the relevant individuals.

There are no rules or regulations in place which mean that the Trust are automatically made aware by the police, the probation services, or an individual boater about an entry on the sex offender's register. If they do become aware, they have legal restrictions in place to prohibit them sharing the information with its customers or the public. The police have a statutory responsibility to manage registered sex offenders. All registered sex offenders are subject to Multi Agency Public Protection Arrangements (MAPPA) procedures which aim to reduce the risk posed by offenders to the community. MAPPA is the process through which the police, probation and prison services work together with other agencies to manage the risks posed by sex offenders, and violent offenders living in the community in order to protect the public.

The Trust has explained that it fully cooperates with the police and local authority requests for assistance to keep track of certain boats, and to provide any information requested for investigations or safeguarding actions. In this case, when they became aware of the relevant issue, they made contact with the police to ensure they are aware of the boat's location, so that they were able to take any steps deemed appropriate to safeguard the community around them.

I was satisfied that the Trust had acted correctly in this case, it is not equipped to monitor compliance and it must leave that role to the relevant authorities. It was correct to advise Mrs M of this. The Trust could not have done what Mrs M wanted, because of its legal confines, and I did not criticise it for that. It explained its actions and as the



offender had already moved away from the area, and indeed the canal network, the delayed responses, while frustrating to Mrs M were not the cause of any further detriment.

Mrs M has outlined how distressing she found the experience of discovering that she was moored and living alongside a convicted sex offender. It is clear that what Mrs M wants to achieve is a change in the law. The Trust and I are bound by the current legislation and must act within the boundaries set. On that basis, I was satisfied that the Trust acted correctly in its dealings with the offender and it cooperated with MAPPA to ensure the correct authorities were aware of his location.

In considering how the Trust dealt with Mrs M when the complaint was raised I noted Mrs M did not make a complaint about the offender's behaviour until the day before he left the dock, which was too late for the Trust to take any action. In handling the complaint, the Trust was slow to respond to her letters which is disappointing, especially as Mrs M was clearly in a heightened emotional state. However, the Trust has apologised for this and explained the delay in the second response was due to the reduced staffing due to the coronavirus pandemic. I was satisfied the Trust had fully explained its position and that it is not within its gift to do the things she requests.

In regard to the request for payment towards the cost of the medical fees Mrs M incurred I concluded that the Trust should not make any contribution. The Trust has acted in accordance with the law. It cannot deny a boat licence to anyone because of their past history and it has no rights to tell others about an individual's history.

**Case no 1085 – complaint about the consequences of an aborted trip caused by the narrowing of a lock.**

Mr K complains that due to the narrowing of a Lock he is unable to navigate his Houseboat to a boatyard for its 10 year survey. Consequently, his barge cannot be surveyed and therefore he cannot get full insurance and peace of mind that the barge is structurally sound. Mr K attempted the trip in 2016 and since then has been trying to get a resolution or workable solution from the Trust.

Mr K says the barge had been a working vessel and had travelled the route for over 80 years. He wants the Trust to take some action to enable safe passage through the lock. Although the Trust has offered to help he does not consider the options given offer real solutions and says he feels he has not been treated fairly. He pays a yearly fee to use the waterways and to moor his boat and he does not feel he is getting value for money.

As a resolution Mr K would like the Trust to complete work on the Lock to restore it to its original width to enable his barge to pass through. He estimates this to be about an inch and a half. He also wants to be compensated for the time taken to resolve the issue as he feels the Trust has allowed him to spend four years waiting for action when none was taken.

The Trust accepts there has been a narrowing of the lock width but considers the lock to be stable, the bowing of the lock is not listed as an active defect and so it is not scheduled for repair of any sort. The Trust believe they have proposed different viable solutions to Mr K which would assist him to transport the barge and complete the survey. He has rejected all of them and the Trust says the only solutions that seem to be acceptable to Mr K are those where the Trust carries the sole financial cost and responsibility (i.e. widening of the Lock to enable his passage).

The Trust does not accept that it has a statutory duty to enable the barge to travel through the network. The Trust quote section 105 of the Transport Act 1968 (appendix 1) and The Fraenkel Report 1975, to substantiate this. The relevant point is that that the Trust has a duty to maintain the cruising waterways in a suitable condition for the type of cruising craft that used the waterways in the nine months prior to December 1967. The Transport Act sets out the obligations on the Trust and defines the particular canal as a cruising waterway. Mr K's barge is wider than the required size and so I accepted there was no statutory duty to widen the lock.

I found that the Trust was aware of the narrowing of the Lock prior to the aborted journey and had noted its website of the restricted size. Had the website been checked before the journey the trip could have been avoided. On that basis I did not consider it was fair and reasonable to compensate Mr K for the cost of the aborted trip or any other costs claimed.

In regards to the way the complaint was handled, I found the advice from the Trust had initially been that it would investigate and measure the lock. Once it had done this it advised Mr K it would not be completing any work on the lock and it accepted no responsibility for the costs involved in him transporting his barge.

I did not uphold Mr K's complaint. The Trust is under no statutory obligation to provide passage of his barge through the particular lock. The dimensions of the barge are over the statutory capacity of the lock. I accepted the Trust's view that the cost of completing the work required to facilitate the passage was prohibitive, since this was the only vessel which had reported a problem and the Trust had to take an economic view of where best to spend its money for all users. I concluded that the Trust had acted in a way that is fair and reasonable to all its users.

