



## APPENDIX 1

To Angela Rawson  
Service Manager – Licensing

### **Pleasure Boat/Vessel& Boatperson Licensing Policy**

#### **Our comments follow in blue**

#### **1. Introduction**

1.1 Under section 94 of the Public Health Acts Amendment Act 1907 (The Act) local authorities may grant licences for pleasure boats and pleasure vessels for hire or to be used for carrying passengers for hire. Licences may also be granted to the Boatperson(s), in charge of or navigating the boats and vessels and may charge for each type of licence such annual fee as appropriate.

1.2 The principal purpose of Pleasure Boats/Vessels & Boatperson licensing is to protect the public and promote public safety. The Council will carry out its licensing function in that context and will expect to see licence holders and applicants continuously demonstrate that they meet or exceed the standards set by the Council.

1.3 All licence holders are expected to comply with the requirements of the Equality Act 2010 in the operation of their business.

We agree that the policy principal purpose is to “protect the public and promote public safety”. We believe that licensing could be better balanced to deliver more effective protection by undertaking a risk management approach.

#### **2. Scope of the policy**

2.1 The purpose of this policy is to provide clear guidance to applicants on how the Council administers its licensing functions under the Act and how decision making will be approached. The Act also allows the local authority to set terms and conditions as appropriate.

2.2 This policy is intended to apply to boats/vessels operating with a boatperson and which is intended or adapted for the carriage of passengers. This policy is not intended to cover canoes, kayaks, white water rafts, bell boats, dragon boats or similar, as these vessels are covered by guidance issued by the National Sports governing bodies.

Section 1 gives the Council the authority to licence boats for hire. In the interests of public safety unlicensed boats could also pose a hazard on the river if they are not riverworthy, or do not have adequate safety provision or are not operated by trained boatmen. There are currently powered boats on the river that seem to be unregulated. The Scope does not limit itself to boats for hire. We therefore agree that all powered boats should be licensed, but believe that the policy wording should be clearer on this point.





### 3. Pleasure Boat/Vessel – Application

#### 3.1 Application Process

3.2 The applicant must complete the application form in full and return it to the licensing team with the relevant documentation from the list below:

- Full survey carried out by a suitable qualified marine surveyor confirming the boat/vessel's suitability for the intended purpose and that the boat/vessel meets the requirements of the Inland Waters Small Passenger Boat Code.
- Signed declaration of compliance with 'Sound Practice, Safe Waters Inland Waters Small Passenger Boat Code

<https://www.gov.uk/government/publications/inland-waters-small-passengerboat-code>

- A recreational craft directive (RCD) for brand new boats or a Boat Safety Scheme Certificate for all other boats
- Public Liability Insurance Certificate (£5 million minimum)
- Plan of the boat (with location of safety equipment and exit routes/ access for disabled persons)
- Confirmation of training/experience level of Boatperson
- Fee

#### Definition of Operator

The provisions for licensing are drawn largely from the Inland Waters Small Passenger Boat Code ("the Code"). There seems to be confusion about the "Operator" as described in the Code and the "Boatperson" described above. Surely the training/experience of the Boatperson should be assessed under section 4 below? Perhaps the requirement should be to specify the "Operator" - the person to whom responsibility is attributed for running a safe operation of the Code?

#### Period of Licence

The requirements of the licence are essentially formulated to check the condition/safety of the boat. Once the proof has been provided in the first year the only renewable items are the Boat Safety Scheme Certificate and annual insurance. Could the boat be licensed for the four years' duration of the BSS. Annual Insurance could be a condition of the validity of licensing and either a copy be required to be submitted upon renewal or simply posted on board. Currently there is no requirement for the insurance provision certificate or the BSS check to be coterminous with the licence, so there is already trust in the operator to ensure these certificates are renewed promptly and without immediate review.

#### Licence Fee





The current licence fee is £286 and has risen by almost 30% over the previous year. The level of fee seems very high both absolutely and in comparison with the previous year. The Council state that this is designed to recover the costs of time expended, but this seems strange when compared to charges of £75 levied by Chesterfield BC for a boat licence.

Furthermore, the rate charged by Derby City for a taxi licence is similar at £361, but this is for a three year licence.

We feel that the cost of licencing for pleasure boats is excessive in comparison, but this could be remedied by moving to a four year licence renewal period to coincide with BSS renewal.

#### **4. Boatperson - Application**

##### 4.1 Guidance

##### 4.2 An applicant must be:

- 18 years of age or over
- Not suffer from any illness or disability which could affect his/her fitness to assist in the charge of the pleasure boat/vessel for hire.
- Hold a relevant qualification that confirms the individual's levels of competency in operating a vehicle within the designated waters

##### 4.3 Application Process

4.4 The applicant must complete the application form in full and return it to the licensing team with the relevant documentation from the list below:

- Evidence of a relevant vessel handling certificate (see INSERT for criteria)
- Basic Disclosure from the Disclosure Barring Service (within 1 month of issue)
- Medical Certificate (see INSERT for criteria) • Signed declaration – Inland Waters Small Passenger Boat Codes • Passport sized photograph

- Fee

##### 4.5 Acceptable training certification:

- MCA Boatmaster's Licence for a local passenger vessel (BML) grade 3 or 2 for the appropriate area;
- British Waterways Boatmanship Licence;
- National Community Boats Association Certificate in Community Boat Management;
- Waterman's Licence issued by a competent authority for the appropriate area, where available;
- Royal Yachting Association (RYA) Powerboat (level 2) with 12 months relevant experience;
- RYA Inland Helmsman's certificate with 12 months relevant experience.

##### 4.6 Acceptable medical certification:

- Group 2 standard
- ENG1 – set maritime and coastguard agency for sea going vessel
- ML5 – seafarer
- CAA - commercial pilots licence medical certificate
- HSE - diving medical certificate.





We agree that the Boatman – the person in charge of the boat – must be able and suitably qualified/experienced.

### **Medical Examination**

The Code has been adopted to define how a boat should be operated to achieve these objectives. It provides that the Operator should undertake a risk assessment approach to managing safety. As a result of this approach (which perhaps should be added as part of the Boat licencing assessment and approval process) it also provides that within this risk assessment approach and as an alternative to a medical examination

*the skipper (Boatman) should provide his or her employer (the Operator) with a self-declaration of fitness for the operation confirming that he or she suffers from none of the conditions listed in Annexe 11.*

Our risk assessments provide that at any time there will be at least one other member of the crew who is trained to take over the boat should the Boatman be taken ill. Our risk assessment takes into account the facts that

- We operate only in daylight and when the flow and river levels are moderate
- The boat travels at a maximum speed of 4 mph
- The boat is built of 6mm thick steel plate capable of withstanding collision without damage
- It is a maximum of 10m to travel to the safety of a bank.

No provision is made in the licensing policy to follow the Code guidance option outlined above. This gives rise to unnecessary use of NHS services and additional cost and time for all concerned. Our operation is staffed by volunteers and when people are giving up their time to help a Charity it becomes difficult to ask them to subject themselves to an intrusive annual medical examination.

The self certification model is currently used by the Chesterfield Canal Trust who are licenced by the local Borough Council. We believe it should be adopted in Derby.

### **DBS checks**

Our boats are crewed by a Boatman and cabin staff. It is a condition of travel for passengers (as shown on the Derby Live booking website) that any vulnerable person is accompanied at all times by a carer or responsible adult. Any passenger is visible to others at all times on the boat. We therefore believe that the procedures to protect vulnerable people is already stronger than a DBS check and that this requirement is therefore unnecessary. We note that the Code does not require DBS protection.

### **Period of Renewal**

As for the Boat Licencing above we believe the licensing of Boatmen should be for longer than 12 months. The certification of competence continues without a need for renewal; the DBS and medical provisions outlined above should not be necessary on an annual basis, particularly as the medical certification for those





under 65 lasts for 5 years. The licence should cover a longer period of 5 years with medicals at that point and self certification in the interim.

### **Fees charged**

Currently the annual licensing fee is set at £296 per Boatman. This has also increased by around 30% from last year. Comparisons with local competitors show that Derbyshire County Council make no charge to the Cromford Canal Trust and Chesterfield Borough Council charge £20 for a 4 year licence to the Chesterfield Canal Trust. By providing a longer licence the effective cost and time expended could be much reduced.

### **5 Renewal Process**

5.1 Applicants will be sent a renewal reminder approximately three months before the licence expires. However, the responsibility for renewal remains with the licence holder and no further reminder will be sent.

5.2 Renewal applications can take up to 10 working days to be processed. It is the responsibility of the licence holder to apply in plenty of time to renew the licence.

5.3 If a licence lapses the holder cannot operate, navigate or use a vessel until the relevant licence has been issued.

We have no concerns with this clause. Licencing has been very efficient and prompt.

### **6 Determination**

6.1 Each application will be considered on its merit and may be referred to the Licensing Committee where necessary.

6.2 As part of the determination process, conditions will be specified and attached to a licence.

6.3 If approved, licences will be granted for a period of 12 months.

6.4 If an application is refused, an appeal may be submitted to Southern Derbyshire Magistrates' Court, 27 St Mary's Gate, Derby, DE1 3JR in accordance with Section 94(7) of the Act.

Again we ask that the standard annual renewal provision is reviewed as detailed above.

### **7 Compliance & Enforcement**

7.1 The Licensing Team will have primary responsibility for monitoring that operators and boatpersons comply with the terms and conditions of the relevant licences.

7.2 Any complaint lodged by members of the public, businesses, customers or other operators will be investigated by the Licensing Team. Where breaches





may have the potential for causing serious harm, prosecution may be an option.

7.3 A licence may be suspended or revoked by the local authority in the interests of the public safety.

7.4 When considering whether a licence should be suspended or revoked, the delegated officer/sub committee will take into account:

- the 1907 Act
- this policy and the Communities, Environment and Regulatory Services Enforcement Policy
- the evidence available
- the interests of the public, in particular any public safety issues
- representations and representations of operators and boatperson
- any relevant history.

7.5 The operator / boatperson will be provided with a written copy of the delegated officer/sub committee decision, facts and reasons together with the licence holders right of appeal contained in Section 94(7) of the Act.

Please note earlier comments around definition of the Operator, otherwise we have no further comment.

## 8 Offences

8.1 Every person who acts in contravention the provisions of Section 94 of the Act shall be liable to a penalty not exceeding level three on the standard scale (£1000).

8.2 The licence holder shall not be guilty of an offence by reason of their failure to comply with such conditions in Section 94(3)(b) if it is shown that there is reasonable excuse for the failure.

We believe that in assessing responsibility for acting contrary to laws should rest with the Operator, who has overall control.

## 9. Review of Policy

9.1 This policy will be reviewed every three years or more frequently if appropriate.

## General Comments

We are an organisation that is endeavouring to provide an attraction to the city centre in support of the Council's stated aims. We are already seeing that we can work with other Council supported attractions such as the Silk Mill to provide a day out in Derby.

The current regime for licensing is very expensive compared to nearby competitors and onerous for volunteers to comply with. We have invested substantial time and money into a boat design that is safe for passengers and into our training and safety processes. If safety is the prime concern of licensing should we not review risk





assessments carefully to tackle the actual operation? Certification of health or DBS gives a point in time assessment – surely, we should look at the effectiveness of operational procedures for daily control over safety, etc.

We are a charity and rely on the goodwill of volunteers, who give up their time. An operation using volunteers inevitably looks to call on many people each giving a little time rather than one or two employed full time. This means we will inevitably want to license more volunteers at greater licensing cost. Volunteers will soon tire of supporting the project if we continue to operate at low levels of profit. We will find ourselves in a position where we cannot improve the service and will need to look to move the boat to another location.

I hope that a two way dialogue can find a good solution to give a safer way forward that is also economic.

Kind regards

C W J Madge  
Chairman  
The Derby and Sandiacre Canal Trust Ltd

