

How to object to an organisation becoming a charity (mainly for liveboard boaters).

The Trustees of the Canal and River Trust plan to register the new charity in November or December 2011. If you will be **directly affected** by this you have the right to object to the registration of the charity. Objections should be sent to the Charity Commission. The Bill that will allow BW to be transferred to a charity has passed through the Committee stage in Parliament without much change. Now is the time to object to it being registered with the Charity Commission.

Section 4(2) of the Charities Act 1993 permits "any person who is or may be affected by registration" to object to an institution being entered on the register of charities. "Person" includes an organisation as well as an individual. More information, the email and postal address, and an example letter are below.

Brief guide to objecting to the registration of a charity

Where the Charity Commission receives an objection to registration, the first thing it considers is whether the objector has standing to raise an objection. This means you need to explain that you hold a BW boat licence, that your boat is your only (or main) home and if applicable, that you do not have a permanent mooring. You could also say how many adults and children live on your boat, state the ages of your children and if anyone is over 60. Give other relevant personal details such as where your children attend school, where you work, your income etc if you want to.

Next, the Charity Commission needs to be clear why you are or may be affected by the registration of the Canal and River Trust as a charity. You need to explain why you will be affected by BW's move to charity status. For example, BW's move to charity status will put you at increased risk of homelessness.

Then you need to say how you will be affected. In other words, the protection you have from the ability to bring Judicial Review; from the Human Rights Act, the Equality Act and the Freedom of Information Act that exists because of BW's status as a public body will be significantly reduced. These laws are the only protection you have from homelessness because there is no legal recognition or protection for the homes of boat dwellers along the lines of the protection enjoyed by the tenants of houses. In addition the Trustees of the Canal and River Trust have stated that they want "enabling powers" which is the power to pass new laws.

You can then explain how you will be affected in more detail. If you live on your boat and you do have a mooring, much of this will apply to you, apart from the specific points about Section 17 3 c ii of the 1995 Act.

Email and postal address of the Charity Commission

By email: enquiries@charitycommission.gsi.gov.uk If you are unable to use email, write

to:

Charity Commission Direct
PO Box 1227
Liverpool
L69 3UG. Tel 0845 300 0218

or you can use the web contact form:

<http://www.charitycommission.gov.uk/sendmailCRM.aspx>

You can attach documents to this web contact form.

Example letter - it's always better to use your own words though

Dear Sir or Madam,

I object to the Canal and River Trust being registered as a charity.

I live on a boat on British Waterways canals and rivers and hold a BW boat licence. My boat is my only home and I do not have a permanent mooring. I am a single parent aged 38 and my annual income is less than £10,000. The transfer of BW to a charity will put me at increased risk of homelessness. As a single parent on a low income I am already disadvantaged in the housing market. My son is 7 and goes to school in Bradford on Avon. I work part-time in the same town.

The protection I enjoy from the ability to bring Judicial Review and from the Human Rights Act, the Equality Act and the Freedom of Information Act that derives from BW's status as a public body will be significantly reduced. These laws are the only protection my son and I have from homelessness because there is no legal recognition of the homes of boat dwellers, nor protection from harassment and illegal eviction, compared to the protection enjoyed by the tenants of houses.

The legal remedy of Judicial Review will no longer be available to me to challenge maladministration or if the Canal and River Trust acts outside its legal powers.

The protection my son and I have for our home, private and family life and correspondence under Article 8 of the Human Rights Act will be reduced because although Article 8 still applies to us as individuals, the Canal and River Trust will no longer be bound by it as an organisation, so it will be harder for us to exercise our Article 8 rights. The same applies to our rights to due process under Article 6, in other words the Canal and River Trust may have greater powers to terminate my boat licence and seize my boat without going through a Court. The same applies to other rights we have under the Human Rights Act, such as the right to peaceful enjoyment of my possessions - including my home - under Protocol 1 Article 1; my son's right to education under Protocol 2 Article 1, and my right to vote in elections by declaring a local connection under Protocol 3 Article 1.

The Public Sector Equality Duty will no longer apply, and so the Canal and River Trust will no longer be obliged to carry out equality impact assessments on its policies such as local mooring strategies, which are targeted at and have a disproportionate adverse impact on people like me who live on boats without permanent moorings. Currently BW can be challenged by Judicial Review if it adopts a policy that has been shown to have a disproportionate adverse impact on a particular group following an equality impact assessment, but it will not be possible to challenge the Canal and River Trust if it adopts policies that adversely affect my family.

If the Freedom of Information Act is no longer applicable, the Canal and River Trust will be able to bring in draconian new mooring restrictions without any form of scrutiny. Currently boat dwellers like me have been able to challenge and reduce the impact of such restrictions following research using the Freedom of Information Act.

The Trustees of the Canal and River Trust stated on 2 September 2011 in a meeting of the British Waterways Advisory Foundation that they want enabling powers. This is contrary to the assurances given by the Waterways Minister Richard Benyon, who said that BW was not seeking any new enforcement powers, in response to the concerns of boat dwellers who wrote to their MPs about the increased risk of homelessness for them of moving BW to charity status.

BW Legal Director Nigel Johnson proposed to the January 2011 BW Board meeting that BW should obtain extra enforcement powers through the Public Bodies Bill. Mr Johnson has since stated that BW would not seek any extra enforcement powers. However, BW has drafted byelaws which it intends to pass after the move to charity status has been completed. These draft byelaws include provisions to create criminal offences of disobeying signs or instructions stating where and how long boats should moor - powers that Parliament did not consider appropriate for BW to have in 1995.

Since the staff and particularly the Senior Managers and Directors of the Canal and River Trust will be the same as those of BW I have no confidence that the Canal and River Trust will be any different in its policy towards boat dwellers without moorings but will continue the same policy of attempting to enforce movement rules that are beyond its legal powers to enforce and not what Parliament intended when it passed Section 17 3 c ii of the 1995 British Waterways Act. For example, in a meeting of the Kennet and Avon canal Local Mooring Strategy on 11 October 2011, BW Enforcement Operations Manager Paul Griffin stated that "you can't continuously cruise [ie live on a boat without a mooring] and have a job or send your children to school

In addition, the first report of the Canal and River Trust's Transition Trustees dated September 2011 states that "We are acutely conscious that there is a danger that government may intentionally or otherwise try and create CRT as a shadow statutory organisation. In other words, it has the outward appearance of a charity but through statute and funding agreements it is made to operate as a public body. This cannot happen because we need CRT to operate freely, openly and on a level playing field with all other organisations in the charitable sector. So we are particularly vigilant about being

independent from government and we will resist being singled out unfairly."

The implications of this statement and the Trustees' decision to seek enabling powers are very worrying. It confirms my fear that the Trustees wish to dismantle the statutory duties and public functions including the minimal protection that my son and I as boat dwellers have for our home that currently derives from BW's status as a public body. This is another reason why the registration of the Canal and River Trust as a charity will have an adverse impact on us and will increase the risk that we will be made homeless.

Since my son and I started living on my boat in 2004 BW has threatened to seize the boat four times: twice in 2007 and twice in 2009. On all four of those occasions I was complying with Section 17 3 c ii of the 1995 British Waterways Act and yet BW's communications to me stated "You are at risk of losing your boat"; "We may remove and demolish your boat" and "it is likely that you will need to make arrangements for alternative accommodation. Please contact your local Council's Benefit and Housing department as they may be able to help you find another place to live".

My family will have significantly less protection against unlawful enforcement of this nature if the Canal and River Trust is registered as a charity.

Yours faithfully,

Harassed Boater

In detail, below are some of the ways the transfer of BW to a charity may affect you (this is similar to the content of the example letter):

The legal remedy of Judicial Review will no longer be available to you to challenge maladministration or if the Canal and River Trust acts outside its legal powers.

The protection you have for your home, private and family life under Article 8 of the Human Rights Act will be reduced because although Article 8 still applies to you as an individual, the Canal and River Trust will no longer be bound by it as an organisation, so it will be harder for you to exercise your Article 8 rights. The same applies to your right to "due process" you have under Article 6, in other words the Canal and River Trust may have greater powers to terminate your licence and seize your boat without going through the County Court. The same applies to other rights you have under the Human Rights Act, such as the right to peaceful enjoyment of your possessions under Protocol 1 Article 1; your right (or your children's) to education under Protocol 2 Article 1, and your right to vote in elections under Protocol 3 Article 1.

The Public Sector Equality Duty will no longer apply, and so the Canal and River Trust will no longer be obliged to carry out equality impact assessments on its policies such as local mooring strategies, which are targeted at and have a disproportionate adverse impact on people living on boats without permanent moorings. Currently BW can be

challenged by Judicial Review if it adopts a policy that has been shown to have a disproportionate adverse impact on a particular group through an equality impact assessment.

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The implications of this statement, combined with the Trustees' decision to seek enabling powers, are very worrying. It confirms our fear that the Trustees wish to dismantle the statutory duties and public functions including the minimal protection boat dwellers have for our homes that currently derives from BW's status as a public body. This is another reason why the registration of the Canal and River Trust as a charity will have an adverse impact on you and increase the risk that you will be made homeless.

You should then include any more details about your personal circumstances you feel are relevant, such as examples of BW sending you letters which threaten you with homelessness when your boat movements have complied with the law ie you have moved to a different place every 14 days.

The Charity Commission may ask for your permission to copy your objection to BW and DEFRA in order to learn their response to the concerns which you have expressed.