



To: Executive Councillor for City Centre and Public Places (and Deputy Leader): Councillor Carina O'Reilly

Report by: Alistair Wilson - Streets and Open Space Development Manager

Relevant scrutiny committee: COMMUNITY SERVICES SCRUTINY COMMITTEE 17/03/2016

Wards affected: Abbey Arbury East Chesterton Market Newnham West Chesterton

ADDENDUM

River Moorings – An Update on the Contract Law Model Consultation Non Key Decision

1. Executive Summary

- 1.1 This report is an addendum to the Community Services Scrutiny Committee Agenda Item 9.
- 1.2 The report details additional response to the consultation from Conservators of the River Cam, Camboaters and a Private Hire Company with Officer reply.
- 1.3 The report contains a revised Equalities Impact Assessment, as consequence of further consultation feedback.
- 1.4 The report also makes changes to the recommendations for the Executive Councillor for City Centre and Public Places.

2. Recommendations

The Executive Councillor is recommended to instruct Officers:-

- a) To retain the existing provision of a free 48 hour visitor mooring period, with no return for 7 days on designated moorings owned by Cambridge City Council;

- b) To establish and implement a management regime based on civil 'contract law' as soon as practicably possible, that allows visitor boats to be regulated within the existing resources of the Council;
- c) To work with Cam Boaters and the Cam Conservators on the process and procedures required to support a Contract Law Model; and
- d) To review the existing River Moorings Policy and report back to Scrutiny Committee in October 2016 with further recommendations.

3. Background

The following paragraphs and inserts are the changes made by this Addendum.

9. Implications

(c) Equality and Poverty Implications

An Equalities Impact Assessment (EQIA) had been completed on the principle of a Contract Law Model and this has been updated as a consequence of consultation. This is a 'living document' and will be updated as we implement the recommendations and consider issues as they arise.

The decision on introducing a Contract Law Model for moorings enforcement should not have disproportionate impact on any groups with protected characteristics above any more than anyone having those characteristics.

The findings from the consultation are considered and formulate a detailed EQIA in appendix C.

The main impact of implementing (or not implementing) any scheme will be on boaters and the Officers who will be involved in managing the moorings.

It is recommended that Officers work with the Conservators of the River Cam and Cam Boaters to monitor equality impacts as the development, implementation and management phases of the proposed model form and emerge.

The Contract Law Model and the recommended review of the River Moorings Policy will consider the objectives and key issues of the Anti-Poverty Strategy 2014 – 2017. The Anti-Poverty Strategy can be found using this link.

<https://www.cambridge.gov.uk/sites/default/files/documents/draft-anti-poverty-strategy-2014.pdf>

Further work will be completed as the model is developed and as we understand the likely impact on people with low income.

The Review of the River Moorings Policy will have to consider and respond to the increased use of boats as dwellings by those of a working age. There has been a considerable increase in the demand for moorings in the last 10 years which we believe has a direct link or correlation to people on low income and the increased need for affordable housing.

11. Appendices

- Appendix B – Additional Feedback with Officer reply;
- Appendix C – An amended Equalities Impact Assessment.

12 Enquires

If you have queries on the report please contact:

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Appendix B – Feedback with Officer reply

B1 Camboaters Response - Mooring Consultation with Officer reply in italics

B1.1 The council is changing the mooring and enforcement policy. This will affect everyone who lives on the river. A consultation on “Enforcement of Cambridge City Council’s River Moorings Policy” has gone out to the following groups: the waiting list; registered license holders and regulated moorings. This is our response.

The consultation considered the introduction of a Contract Law Model to manage visitor moorings. A contract law model cannot be applied retrospectively and therefore the current enforcement policy remains unchanged.

What will change is the issuing of a gratuitous licence to anyone visiting by boat using the land and a contract to pay applies when set conditions are met.

The consultation was undertaken to gather a broad range of views and public opinion on the proposed introduction of a Contract Law Model.

An explanation of a Contract Law Model was set out in the questionnaire preamble.

B2 Why does it matter?

B2.1 The council proposes a contract based penalty charge system, just like the one used in car parks! This is proposed to apply to all parts of the river, including residential moorings and River Side moorings and not just the 48h moorings. The questions in the consultation also cover mooring policy and facilities.

B2.2 Camboater cares about the affect the proposed changes will have on our community. Introduced on visitor moorings else ware, contact based enforcement has never been enforced on residential moorings, we do not want to be Guinea pigs for an untried system! We fundamentally oppose “Parking” type rules being applied to our homes.

B3 Our Position

At an open meeting, Camboaters members agreed the following:

- B3.1 Enforcement requires big threatening signs; these signs will spoil the view of the commons, both for us and for other people.
- B3.2 Effective enforcement of rules is better done through partnership with communities, rather than recourse to law.
- B3.3 Any system must be workable in law and not dependent upon assumed powers and empty threats.
- B3.4 We oppose any parking type system on residential and regulated moorings (River Side) and do not support a no returns policy.
- B3.5 Any increases in powers of enforcement needs to be matched by clear and unambiguous safeguards for boaters, which must be agreed with the community.
- B3.6 New contract system rules should not be applied retrospectively.
- B3.7 The parking based system is open to indiscriminate use by the council or private contractors.
- B3.8 Miss ticketing of boats will generate additional administration and cost to the council.
- B3.9 We oppose the 6-hour mooring proposal as it has safety implications, and is unworkable in practice.
- B3.10 The 48h moorings should be extended in the winter to 14 days.
- B3.11 If the existing facilities are well maintained, we are happy with what we have on the river and do not want possible increased facilities to be used to justify an increase in mooring fees.

Officer reply:-

- 1. There is a need to display the terms of the contract and therefore signs will be needed. These will be placed so that they either replace existing signage or in positions with least visual intrusion.*
- 2. Agreed, however there are a number of practical reasons for introducing mooring regulation but primary amongst these are the need to ensure that the moorings are being used fairly by all boaters. Inconsiderate and sometimes dangerous mooring has caused a number of issues with other river users. Polite notices on vessels have been ignored, so we have needed to employ better mooring regulation.*

3. *Binding legal precedents, and indeed the change in the law, establish parking charges as legally enforceable charges. Parking charges are a core term of the contract formed between the boater owner and Cambridge City Council. They are not unfair, nor are they voided by any Consumer Protection legislation. These points have been tested at length by the Courts and found not to succeed. The principle is the same with regards to moorings. The landowners have a right to manage their land and impose such conditions they see fit.*
4. *The contract law model is intended to manage visitor moorings and will have no direct impact on licensed or regulated boats. It may even have a positive impact on Licensed and Regulated Moorings in that visitor moorings will be effectively and efficiently managed.*
5. *Agreed. And it is recommended that Officers' work with Cam Boaters and Cam Conservators on those safeguards in the context of process and procedure relating the development of a Contract Law Model.*
6. *The Contract Law model cannot be applied retrospectively.*
7. *The public can only use the riverbanks by an agreement with or a grant from the owner of the riverbank.*

A contractual approach based on the Oxford Model, will set out 'licence' terms that are a contract for the non-exclusive use of a space for a period of time.

A Moorings Charge Notice will only be issued if there is a breach the conditions displayed on the signs.

It is our intention to offer the right of appeal to anyone wrongly issued with a Moorings Charge Notice. This is working practice with all other Contract Law Models.

As landowners we have a right to manage land and impose such conditions for its use as we consider to be appropriate.

The boat owner does not have a right to be on Council owned land.

8. *A Moorings Charge Notice will only be issued if there is a breach the conditions displayed on the signs.*
9. *Agreed, and this change no longer forms part of the current recommendations*

10 *44 respondents believe that a maximum period of 48 hours for visitor moorings with no return in 7 days is still the most appropriate length of stay to ensure we maximise the opportunities for boaters to visit Cambridge. 48 Respondents did not agree, offering a range of options.*

11 *Noted.*

B4 Form of Consultation

B4.1 Camboaters is a community organisation who's member will be directly affected by the consultation, it is regrettable that NO approach was made to discuss this with us our ask or views on the form, timing, duration or content of the consultation. It is clear that this consultation has not been fully thought through. We have the following comments regarding how the consultation has been carried out.

B4.2 Who was it sent to? The consultation went only in digital form, digitally to the following groups: the waiting list; registered license holders; regulated mooring; via twitter account; via web site; to mailing list for consultations. It did not go to any national and regional organizations that represent boater who use the 48h moorings GOBA and NBTA for example. Nor did it go to companies who hire boats that make up the majority of visitors to the 48h moorings.

B4.3 How was it sent: Digitally only. This discriminates against licence holders and those on river the river who do not have access to internet. The council gets weekly list of all the boats on the river and therefore knows which ones it has no email contact for Alistair said at our meeting he would have paper copies sent out.

We have email accounts for all boats on City Council Moorings. 300 individual points of contact where made (not including the Councils consultee online registrations) as follows:-

- *Current Licence holders;*
- *Narrow beam waiting list;*
- *Wide beam waiting list;*
- *Pre-registered on Riverside;*
- *Those moored without permission;*
- *Members of the Public;*
- *CamConservators;*
- *CamBoaters; and*
- *National Bargee Travellers Association.*

The consultation spread was targeted, extensive and set in the context that there is no effect on Licensed or Regulated Boats. Officers are therefore content that we reached a large proportion of those that a Contract Law Model may impact on, namely those on our waiting lists who may use the visitor moorings periodically.

B4.5 The structure: Sections 1, 3, 4 in the consultation are intended for residential boaters owners who moor on the cam. We would expect the information in section 1 to be verified before information in section 3 is included in the survey, any one filling in these sections who is not a boater aggregated out.

Boaters where asked to give the month and year they first moored on the river, this was the check for section 3 & 4.

B4.6 The questions: many of the questions are leading and don't explain why there are being asked, some are repeated (Q.5 & Q.15) and others have no apparent relevance, Q.11.

There is background section to the consultation that explains the context. Question 5 and Question 15 allowed both visitors Q5 and Licensed Boaters Q15 to give a rather of alternatives to a Contract Law Model to be considered.

B4.7 Open to misuse: multiply copies could easily be submitted.

We had an IP address identification check switched on, We received 6 paper copies and three written representations.

B4.8 Time scale: we do not think 25 days is long enough to form a balanced and intelligent response to the issues raised, most recommendations are for either 12 or 6 weeks. Although as an individual, it is possible to response in a short time, as an voluntary organization wheels and communications take longer and 25 days is to short.

The Council has judged the length of the consultation on the basis of previous knowledge and taking into account the nature and impact of the proposal. Consulting for too long was considered to unnecessarily delay policy development.

We are not obliged to consult for a 12 week period; we are obliged to consult over an adequate and proportionate period.

The consultation was undertaken to gather a broad range of views and public opinion on the proposed introduction of a Contract Law Model.

An explanation of a Contract Law Model was set out in the questionnaire preamble.

The additional information/ data collected helps us understand the likely impact of the introduction of a Contract Law Model.

B4.9 Scope of questions: Whilst we would welcome a broader strategic review of the moorings locations and facilities on the Cam we do not think it is within the scope of this consultation. Questions – question 9 regarding what facilities would make things better on the river would seem to be outside the scope of the consultation ‘This consultation is being undertaken to gather a broad range of views and public opinion on Cambridge City Council’s proposal to introduce a civil contract law approach to the management of boats mooring on City Council land.’

These questions were included as we felt it was appropriate to see what facilities are required. The Review of the River Moorings Policy will explore these facilities further and a future date in time.

The additional information helps us make judgements on what are reasonable adjustments in the terms of the Equalities Act and these adjustments can be considered in the EQIA to mitigate any disproportionate impacts.

B4.10 Formative? The consultation seems to be offering only the contract law approach but ‘to be proper, consultation must be undertaken at a time when proposals are still at a formative stage;’ we think it fails.

The Contract Law Model is in a formative stage. The Executive Councillor for City Centre and Public Places at Community Service Scrutiny Committee on the 8th October 2015 agreed to instruct Officers to:-

i. Consult on the following proposals:

a. To introduce a management regime for the regulation and enforcement of the City Council moorings based on civil contract law.

b. To retain the existing provision of a free 48 hour visitor mooring period, with no return for 7 days on designated moorings owned by Cambridge City Council;

c. To introduce a free 6 hour mooring period, with no overnight stay or return for 7 days on all moorings owned by Cambridge City Council except the 48 hours visitor moorings.

d. Levy a charge for overstaying/ or for mooring without a licence.

ii. Report the outcomes of the consultation, and to make further recommendations with regard to the management and enforcement of the City Council moorings taking into account the consultation responses

B4.11 The legibility, the structure, the distribution of the document and the timing and period of the consultation are unsatisfactory and open to challenge. We would like to see the process extended to allow us to look at alternatives to the proposals and to ensure all relevant consultees are informed and have time to respond intelligently, this is also a concern raised by the Cam Conservators River Manager.

The Council has judged the length of the consultation on the basis of previous knowledge and taking into account the nature and impact of the proposal. We believe the period is adequate and proportionate.

These points are also responded to earlier in this report.

An Appendix is attached to this document with a more detailed critique of the documents by one of our members.

B5 Drivers for Change

B5.1 As with all sections of Local Government savings need to be made and we understand that the additional revenue being sought by the council can only be seen to be done fairly if the existing policy is seen to be effectively and fairly managed.

B5.2 We understand that a review of fees would take place once, the current management and enforcement issues are resolved. The council, we understand, wants to raise an additional £36K year on year from the moorings fees.

A review of fees has been delayed because the inequality of non-payment vs payment had to be resolved. The introduction of a Contract Law Model is a step to overcoming this inequality.

B5.3 This is equivalent to around £500/boat on top of the existing mooring fee. Possibly double fees for wide beams.

No fees or charges have been formulated. The fees and charges will be considered in the Review of the River Moorings Policy and a benchmarking exercise will be completed to inform any subsequent level of fees and charges.

B5.4 This will eventually affect those moored on riverside as well as existing residential moorings.

We do not fully understand this point so cannot offer a reply.

B5.6 Any improved facilities would be great but for now, will be resisted. This is due to the concern that they would be used as a justification to increase residential mooring fees and for many of our community this would mean they would be priced off the river.

This will be explored further during the Review of the River Moorings Policy.

B5.7 Currently what the current licence fees are spent on is not transparent.

This information is freely available on request.

B5.8 There is a feeling that the money is used on expensive legal battles and desk jobs rather than working with boaters to resolve issues and maintain existing facilities.

The fees are used to support arrange of costs associated with managing the Moorings. These costs include water, electricity, refuse, repairs, professional fees and other supplies and services. The current practice of possession orders and injunctions for enforcement are also paid for from fees collected. The budget for 15/16 is £47,790

The income budget is £66,180.

The Council applies a 100% Council Tax Discount for Licensed boat owners. Licensed Boats are liable for Council Tax; and a Council decision in March 2006 established the discount.

The Licence fee in 2006 was set at a rate equivalent to Council Tax Band A. (This is no longer the case) This decision allowed all fees collected to be managed and used by the City Council to support the River Moorings Policy rather than being proportioned and used to fund other Councils and Services.

This discount will be subject to consideration in the Review of the Moorings Policy.

B6 Contract Based Enforcement

B6.1 Cambridge City Council intends to introduce a "Parking" type penalty charge system. This proposal applies to all parts of the river, including residential mooring and River Side not just the 48h Moorings. We do not want to be Guinea pigs for an untried system, and frankly do not think it is enforceable against people's homes.

Binding legal precedents, and indeed the change in the law, establish parking charges as legally enforceable charges. Parking charges are a core term of the contract formed between the boater owner and Cambridge City Council. They are not unfair, nor are they voided by any Consumer Protection legislation. These points have been tested at length by the Courts and found not to succeed. The principle is the same with regards to moorings. The landowners have a right to manage their land and impose such conditions they see fit.

The introduction of a contract law approach will impact as follows:-

- *Licence Holders, Regulated Moorings – None.*
- *Visiting Boats that stay for upto 48 hours – None;*
- *Visiting Boats with an overnight stay, not using the visitor moorings – Fee payable.*

A contract law model cannot be applied retrospectively and therefore only visitor boats that moor after the date of introduction will not be subject to the contract terms.

B6.2 The Signage: The signage required to enforce the proposed system are large and typically go in every 100m, this will not be acceptable on the commons, either to the boaters or other users.

There is a need to display the terms of the contract and therefore signs will be needed. These will be placed so that they either replace existing signage or in positions with least visual intrusion.

B6.3 The system: If a boat is in the wrong place or does not have a current licence a penalty charge notice would be stuck on the boat like a parking fine. £100 or £50 if paid within 14 days type of thing. If not paid then the threat from the council is that the bailiffs would move in and the final sanction is to impound the boat. We think this is not enforceable for boats which are lived in or that are not the sole ownership of the boater, ie any boat that has a mortgage on it.

A Moorings Charge Notice will only be issued if there is a breach the conditions displayed on the signs.

It is our intention to offer the right of appeal to anyone wrongly issued with a Moorings Charge Notice. This is working practice with all other Contract Law Models.

A County Court would have to consider and issue a possession order to allow the City Council any right remove a boat.

- B6.4 Who Enforces: The council intends to enforce this Parking Notice System themselves but did not rule out a private parking company in the future that this could be enforced by. We do not want a system that can be used in an arbitrary way as it is at the moment, but call for a firm set of rules and safeguards that can be consistently applied.

It is our default position to manage this model in house.

- B6.5 Concerns: There has been a concern raised that any Parking type system carried with it the risk of miss ticketing of boats and that could generate additional administration for the council.

A Moorings Charge Notice will only be issued if there is a breach the conditions displayed on the signs.

It is our intention to offer the right of appeal to anyone wrongly issued with a Moorings Charge Notice. This is working practice with all other Contract Law Models.

- B6.6 Powers and Safeguards: Any increases in the powers of enforcement needs to be matched by clear and unambiguous safeguards for boaters.

Agreed. And it is recommended that Officers' work with Cam Baoters and Cam Conservators on those safeguards in the context of process and procedure.

- B6.7 Retrospective use of powers: Alistair stated at our meeting that it is not possible for the system to be applied retrospectively to any boats currently moored on council land. This would include the 48h moorings, the residential moorings and the regulated mooring list on riverside. We welcome this but would like the council to confirm that it indeed will not be applied retrospectively.

This correct. The Contract Law Model cannot be applied retrospectively.

- B6.8 Safeguarding: We want to see safeguards for vulnerable boaters under any system. These include: people with Kids, People with

health issues (mental and physical), people who are going through break ups bereavement and so forth.

Agreed, and it is recommended that Officers' work with Cam Boaters and Cam Conservators on those safeguards in the context of process and procedure

B6.9 Clarity: We want a system which is straight forward for Council officers to enforce, possible for the community to support and easy and unambiguous for river users to understand.

Agreed

B6.10 Robust: To be acceptable, any system must have safeguards and work even if applied in the most draconian way possible, as the current 'nice' council might not always be in power to ensure fair play. To put it bluntly we do not want to have to rely on the largess of individual officers for a civilized outcome, as this is open to favoritism, victimization, and possible allegations of corruption.

Agreed

B6.11 Thinking ahead: We think that it is better to make rules before they are needed, rather putting individual officers in difficult positions that than rely on subjective decisions.

Agreed, however the rules are simple and will form the basis of the Contract Law Model. What are required are the safeguards to balance the effective and efficient application of the model.

B6.12 Partnership: Cam boaters offered to work with the council to resolve the detail on any safe guarding policy. Alastair agreed in principle to this.

Agreed

B6.13 Communication: We ask that any disagreement between the council and a boater be brought to Camboater's attention. Camboaters often is able to mediate between council and individual boaters when communication or understanding breakdown. Alastair said he would consider this but thought it could happen.

Agreed

B6.14 The proposed system without safe guards will strongly opposed by our organisation.

Noted

B7 Mooring Policy

B7.1 No: We oppose 6-hour moorings or any other short-term mooring on residential moorings.

Agreed, and this no longer forms part of the current recommendations

B7.2 Safety: The proposed 6-hour mooring policy has safety implications on the river, as it may not be safe to leave the mooring when the 6 hours is up.

Alternative: Alistair Wilson said at our meeting that he was considering reducing the 6 hrs to 1 or 2 hours we do not think this is not enforceable and is outside the scope of the consultation.

Agreed, and this no longer forms part of the current recommendations.

B7.3 Relax Visitor moorings: 48h moorings should be relaxed in the winter to 14 days.

44 respondents believe that a maximum period of 48 hours for visitor moorings with no return in 7 days is still the most appropriate length of stay to ensure we maximise the opportunities for boaters to visit Cambridge. 48 Respondents did not agree.

B7.4 Although outside of the scope of this consultation, we would welcome a broader conversation regarding how we, as a community organisation, can collaborate with the council to develop the river assets in relation to residential moorings, with the aim to meet the need for increased revenue without an undue burden falling upon licence fees.

Agreed

B8 General

B8.1 Poorly structured and confusing. Why have the sections ONLY applicable to boat owners scattered about? More sensible to have general ones first, THEN specifics.

We sought the widest range of views possible and did not want respondents to feel that they could not express a view.

B8.2 Not very secure- can be filled in multiple times online, IP address checking not foolproof

We had an IP address identification check switched on.

B8.3 Very badly disseminated. Lack of hard copies available to boaters; lack of physical notifications to boaters. CANNOT assume all have email addresses! Shows council lack of understanding of differences in way of life.

We have email accounts for all boats on City Council Moorings. 300 individual points of contact were made (not including the Councils consultee online registrations) as follows:-

- *Current Licence holders;*
- *Narrow beam waiting list;*
- *Wide beam waiting list;*
- *Pre-registered on Riverside;*
- *Those moored without permission;*
- *Members of the Public;*
- *CamConservators;*
- *CamBoaters; and*
- *National Bargee Travellers Association.*

The consultation spread was targeted, extensive and set in the context that there is no effect on Licensed or Regulated Boats. Officers are therefore content that we reached a large proportion of those that a Contract Law Model may impact on, namely those on our waiting lists who may use the visitor moorings periodically.

38% of River Moorings Licence holders and 27% of Riverside boat owners replied to the consultation. 56 of the 101 respondents are boat owners.

B8.4 Could have been included in licence packs with Cam Con stuff-guaranteed to get to every boater!

The timescales are different and therefore proved to be impractical.

B9 Introduction

B9.1 "gather a broad range of views" - yet NOT widely disseminated Not sent to GOBA. Not sent to CMBC (as far as I know). Many outside of Cambridge only found out by chance- or from promotion online by members of Camboaters committee.

The consultation was sent out electronically to the waiting lists, license holders, the regulated Riverside boats and those signed up to receive Council consultations. A news release was circulated to the local media; the Council website hosted the questionnaire.

B9.2 "Report the outcomes" - How will this be done, to ensure it gets to EVERY boater affected?

If the recommendations in the report are approved, the Contract Law Model will be developed and a communications plan will accompany the implementation.

B10 City Council River Moorings Policy

"over the years, extensive consultation" - Many previous consultations have been more disseminated and fairly administered than the current one- yet this one is about the biggest changes to date since the introduction of the policy.

This consultation is formative and considered one change to the Moorings Policy. We consulted on the principle of introducing a Contract Law Model. There are many wider issues and agendas that a full Review of the River Moorings Policy will address.

B11 Regulation and Enforcement

"thriving local economy" - Visiting boats make a tiny, almost negligible contribution in terms of numbers of visitors- even 100 visiting boats over a year is only a couple of coach loads. Surely a longer stay, particularly in the off season, would help increase this.

Noted, however this is best considered in the Review of the River Moorings Policy.

"the Council does not have byelaws to regulate the use of its moorings" - But these can be made. A better approach for some areas, e.g. the commons, and for dealing with residential boats?

This is not correct. The Council has no statutory powers to create byelaws for the management of moorings.

B12 Proposed Civil Contract Approach

Not used to enforce on residential moorings anywhere else- only visitor moorings.

Agreed

Harshest sanction- seizing boats- NOT used elsewhere; no existing case studies for this. Legally dubious too: against CamCon Byelaw 6.9; can seizure of chattels (not property) result from just a sign?

The Council would need a County Court Possession Order to seize a boat.

B13 Implementation of the Contractual Approach

"Better understand who is on the river"- poorly worded at best. List of names of mooring licence holders. Licensing data sent EVERY WEEK by CamCon. City Councillors appointed to Cam Conservators- but if they don't attend the meetings..... City Council should know who is on the river!

We do not know the visitor detail or leisure cruisers therefore the question was asked.

"signs along the river" - Likely to be strongly opposed by Friends of Midsummer Common, Friends of Stourbridge Common, Jesus Green Association. Where will the Council stand if the signs are removed or damaged, like the one at the Fort St George? Not legally enforceable if no sign.

See earlier comments

"contracted right to remove a vessel in the event of a non-payment of fees" - As above, NOT done elsewhere, and possibly legally dubious. Looking for legal counsel on that.

The Council would need a Court Court Possession Order to seize a boat.

B14 SECTION 1

"If you are a boat owner/moor on the River Cam" Not open to hire boaters? Unfair. Large number of visitors in the summer period, using visitor moorings.

Officers disagree with this point.

Question 1a - Hard to accurately complete- we moored on the visitor moorings, often, before getting our licence. Poorly designed question.

Question 2- Very poorly designed and worded. "Current" or "most often" location of your boat- LICENCE HOLDERS CAN MOVE AROUND. And not really applicable to visitors.

There was scope to enter any other location.

Question 5 - "to cover the costs of a civil 'contract law' enforcement- VERY poorly worded. Stated like it's already a certainty- when the consultation is establishing whether to implement it. Misleading question.

Question 5 reads as follows If you have any alternative proposals that the Council could consider to regulate the 48 hours moorings and to cover the costs of a civil 'contract law' enforcement, please describe it below:

This question is asking for alternatives that could cover the costs of enforcement.

B15 SECTION 3

Question 10- "Mooring noticeboard/information point" We already have one- Camboaters supplied, installed, update and maintain one in the pumpout room! The facilities suggested are not very relevant- dog fouling bins?! Missing off second chem toilet disposal point/second pumpout, etc. - which would actually be USEFUL facilities. Shows lack of awareness of river life.

Question 9 allowed for these items to be raised.

B16 SECTION 4

Question 11- "How often does your boat move position along the river?" Poorly worded; poor choice of answers. We move bi-weekly, or more often; what does "occasionally" mean? Do they mean move to a new place, or go to the pump out and return? Not relevant to visitors.

Noted

B17 SECTION 5

Question 15- "to cover the costs of a civil 'contract law' enforcement- again, stating it like it's already been decided. Also Repeat of question 5

This is a repeat of Q5 and Q15 which was to be completed by River Boat owners only, as Q5 was for visitor moorings.

B18 Response from Hire Boat Company

B18.1 We are a holiday boat hire company based in Ely. We send a good many boats to Cambridge as we have done for the last 40 years, so hopefully you will be aware of us.

B18.2 I write regarding the consultation regarding the new mooring proposals. The changes I think will be of great benefit to my customers, giving on the whole a better chance of finding a mooring. However, I have a couple of questions.

B18.3 My main concern was, unlike other boat users, a hire boat may have two totally separate parties wishing to visit Cambridge in the same week. We also do not know where people are heading when they leave here, but would hate to tell an Australian who had travelled around the world they could not visit Cambridge because previous customer had.

This issue needs to be considered in the process and procedure development. This does pose a risk of wrongly issued tickets.

B18.4 Also not quite sure where you mean by other moorings with 6 hour limit. Presumably this was considered as time to get provisions but to disallow overnight stays. Is that correct and how would night time be policed?

This was the intention however the consultation feedback overwhelmingly does not support this change. The revised recommendations reflect this feedback.

B19 CONSERVATORS OF THE RIVER CAM

Response to Contract-Law Consultation

The Conservators of the River Cam are the Navigation Authority for the River Cam through Cambridge. We have responsibility to ensure the navigation is kept in good order and we work to balance the needs of all river users. We have byelaws that regulate mooring on the Cam and also manage visitor moorings within our ownership.

We work closely with the City Council to manage the River Cam and welcome the work to improve the management of the Council moorings.

There are three key areas that we see as being important to us:

1. Improvements to visitor moorings

The steps outlined in the consultation should bring a noticeable change in the use of visitor moorings. We are aware that visitors to Cambridge by boat often are led to believe that visitor moorings are either not available or full. This reduces the level of boats that visit Cambridge. We would welcome improvements to the management of visitor moorings to ensure that they are made as available as possible to visitors to the city.

2. Use of a Charging Scheme Approach

The concept of a charging approach to managing moorings is one that has been successfully trialled by other navigation authorities such as the Environment Agency.

It is particularly effective for visitor moorings where the traditional methods of enforcement do not make economic sense. Due to the reputation of car park charging companies the mere presence of similar style signs can prove sufficient a deterrent to prevent overstay on moorings.

We would welcome a move to adopt this style of enforcement for overstaying on City Council moorings.

3. Management of mooring on Riverside

The current situation on Riverside is a source of significant resource expenditure for the Conservators. We are responsible for ensuring all craft on the River Cam are registered. The registration process requires each powered boat to hold third party insurance and also a boat safety certificate. The majority of boats that are not registered are along Riverside and these results in prosecutions. The prosecutions have financial cost associated with them for us and there is still the residual risk associated with boats that lack safety certificates or insurance.

The proposed move to a greater level of management of the mooring along Riverside would be welcomed by us as we would expect this to also be tied to boats registering with us (similar to the normal City mooring license).

There are also concerns that the current arrangement of boats along Riverside is not ideal due to the narrow width, on what is a very busy section of river. A reduced number of boats moored along there would allow for the narrowest sections to be clearer than they currently are which would bring an improvement for other river users.

Appendix C - Equalities Impact Assessment

Cambridge City Council Equality Impact Assessment



Completing an Equality Impact Assessment will help you to think about what impact your strategy, policy, plan, project, contract or major change to your service may have on people that live in, work in or visit Cambridge, as well as on City Council staff.

The template is easy to use. You do not need to have specialist equalities knowledge to complete it. It asks you to make judgements based on evidence and experience. There are guidance notes on the intranet to help you. You can also get advice from Suzanne Goff, Strategy Officer on 01223 457174 or email suzanne.goff@cambridge.gov.uk or from any member of the Joint Equalities Group.

1. Title of strategy, policy, plan, project, contract or major change to your service:

Contract Law Model for River Mooring Management

2. What is the objective or purpose of your strategy, policy, plan, project, contract or major change to your service?

A lot of space along the banks of the River Cam is dedicated to boat mooring, for both residents and visitors. There is space for 70 residential boats to moor, and 8 visitors' boats. The [boat mooring map](#) shows the location of the designated mooring areas. All moorings are subject to our [rules and regulations](#).

The Moorings Policy came into effect in 2006 and is periodically reviewed and updated. In 2010 - the council undertook a review of certain aspects of the mooring policy. The officer's report and background papers are available to download:

- [Officer's report \[PDF\]](#)
- [Background research: 'Tales from the Riverbank' \[PDF\]](#)
- [Analysis of consultation \[PDF\]](#)

The Council is now looking at a very specific aspect of moorings as detailed in the [Committee Report](#) from the Community Services Scrutiny Committee that was held on the 8th of October. The report sets out the scope of the review

Officers were instructed to consult on the following proposals:

- To introduce a management regime for the regulation and enforcement of the City Council moorings based on civil contract law.
- To retain the existing provision of a free 48 hour visitor mooring period, with no return for 7 days on designated moorings owned by Cambridge City Council;

2. What is the objective or purpose of your strategy, policy, plan, project, contract or major change to your service?

- To introduce a free 6 hour mooring period, with no overnight stay or return for 7 days on all moorings owned by Cambridge City Council except the 48 hours visitor moorings.
- Levy a charge for overstaying/ or for mooring without a license.
- Report the outcomes of the consultation, and to make further recommendations with regard to the management and enforcement of the City Council moorings taking into account the consultation responses.

The Council carried out a consultation on the introduction of a contract law model ran from the 1st February until the 25th February. The Open Spaces Team made over 300 contacts with those likely to be directly affected and 101 individuals or organisations responded.

- 38% of River Moorings License holders and 27% of Riverside boat owners replied to the consultation.
- 56 of the 101 respondents are boat owners.
- The results on this consultation have formed the basis to the recommendations in this EQIA and have been helpful in understanding if the Councils recommended Contract Law Model is disproportionate. Further details from the survey can be found in the [Committee Report](#) for the Community Services Scrutiny Committee on the 17th March 2016

The proposed Contract Law Model is based on setting out 'licence' terms that represent a contract for the non-exclusive use of a space for a period of time. This approach has been successfully introduced by the Environment Agency in Oxford, Spelthorne District Council and East Cambridgeshire District Council, using a specialist Mooring Enforcement Company to enforce the contract.

Under contract law, the Council would be required to publish its terms, both on its website and on signs along the stretch of its moorings. The signs would set out the contract or 'offer' which the boater accepts upon mooring.

There are a number of practical reasons for introducing mooring regulation but primary amongst these is the need to ensure that the moorings are being used fairly by all boaters. Inconsiderate and sometimes dangerous mooring has caused a number of issues with other river users. Polite notices on vessels have been ignored, so we have needed to employ better mooring regulation

A range of options have been considered to fill the gap between self-help remedies and statutory legislation. We feel that adopting an approach similar to that used in the Parking Management Industry could be of benefit to all. The approach we have taken is intended to provide an effective remedy without having to resort to fines issued under statutory legislation.

2. What is the objective or purpose of your strategy, policy, plan, project, contract or major change to your service?

It is our intention to offer the right of appeal to any issued Moorings Charge Notice.

The appeal will be linked to the reasonableness of the length of each stay depends on factors such as ill health, welfare need or the circumstances of each boat and on river and weather conditions.

Officer will continue to work with the Conservators of the River Cam and Cam Boaters to monitor the equality impacts as the development, implementation and management phases of the proposed model emerge.

3. Who will be affected by this strategy, policy, plan, project, contract or major change to your service? (Please tick those that apply)

- Residents
- Visitors
- Staff

A specific client group or groups (please state):
River

4. What type of strategy, policy, plan, project, contract or major change to your service is this? (Please tick)

- New
- Revised
- Existing

5. Responsible directorate and service

Directorate: Environment

Service: Streets and Open Space

6. Are other departments or partners involved in delivering this strategy, policy, plan, project, contract or major change to your service?

- No
- Yes (please give details):

7. Potential impact

Please list and explain how this strategy, policy, plan, project, contract or major change to your service could **positively** or **negatively** affect individuals from the following equalities groups.

The consultation feedback received through responses to the consultation supports the need for an effective enforcement policy for the efficient management of the City Council's River Moorings.

To understand the impact of a Contract Law Model, respondents were asked a series of questions on their mooring to help Officers' understand patterns of use.

The introduction of the Contract Law approach which sets out 'licence' terms that are a contract for the non-exclusive use of a space for a period of time are considered to be an effective future method of regulation to aid the management of the waiting list and the subsequent allocation of available licences, by Officers.

The Public Sector Equality Duty was developed in order to harmonise the equality duties and to extend it across the protected characteristics. It consists of a general equality duty, supported by specific duties which are imposed by secondary legislation. In summary, those subject to the equality duty must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The Council is mindful of its safeguarding duties to vulnerable people and children and work closely with the [Cambridgeshire Local Safeguarding Children Board](#) and other agencies. It also considers the needs of those who identify as having one or more of the protected characteristics as define by the [Equalities Act 2010](#) and can carry out welfare assessments and consider what reasonable adjustments could be made if required on a case by case basis.

(a) Age (any group of people of a particular age, including younger and older people – in particular, please consider any safeguarding issues for children and vulnerable adults)

A survey <https://canalrivertrust.org.uk/media/library/1902.pdf> by the Canal & River Trust identified that two thirds of boaters were aged 55 or over.

Our consultation shows the age make up of those living on the River Cam to be as follows:-

Under 16 – 3
16 to 25 – 0
26 to 35 – 17
36 to 45 – 16
46 to 55 – 15
56 to 65 – 10
65 + - 4

This demonstrates a significantly different age profile to that of the Canal & River Trust.

Further work will be completed as the model is developed and as we understand the likely impact on age and family units.

(b) Disability (including people with a physical impairment, sensory impairment, learning disability, mental health problem or other condition which has an impact on their daily life)

The Council carries out welfare assessments prior to taking enforcement action, to ensure that the action is proportionate and to meet its equality duties. This can mean making reasonable adjustments or referring people to our Housing Needs Services.

Responses to the survey show those with a:-

Mental Health disability - 4
Disability affecting mobility - 4
Disability affecting hearing - 3
Disability affecting vision – 1
Learning difficulty - 3

Further work will be completed as the model is developed and as we understand the likely impact on people with disabilities.

(c) Gender

None currently identified from the consultation. However it is recommended that Officers continue to work with the Conservators of the River Cam and Cam Boaters to monitor equality impacts as the development, implementation and management phases of the proposed model emerge.

(d) Pregnancy and maternity

No pregnant women were directly identified from the consultation responses. However it is recommended that Officers work with the Conservators of the River Cam and Cam Boaters to monitor quality impacts as the development, implementation and management phases of the proposed model emerge.

(e) Transgender (including gender re-assignment)

There were respondents who identified as being from the transgender communities. It is recommended that Officers work with the Cam Boaters to consider the Contract Law Model impact on those individual(s).

(f) Marriage and Civil Partnership

Joint to Sole Mooring Licence Policy. This is available on request from Streets and Open Spaces. The Joint and Sole Licence terms are also set out in the current River Moorings Policy.

- An existing sole licence holder can request a joint licence holder be added to their Licence Agreement in the following circumstances:
- Where the proposed joint licence holder is married to or is a civil partner of the existing licence holder: or
- Where the proposed joint licence holders live together and the relationship is an established one i.e. evidence is produced showing they have lived together for at least 12 months prior to the application.
- The Contract Law Model has is unlikely to have a negative impact on this group.

(g) Race or Ethnicity

Groups with recognised ethnic status under the current Equalities legislation.

The following are groups who are currently recognised as a distinct ethnic group in UK law.

English Gypsies/ Romanichals, Travellers of Irish Heritage, European Roma

Gypsies and Travellers who are currently not recognised as ethnic groups

The following are groups who are currently not recognised as distinct ethnic groups in UK law. Some are arguably ethnic groups, and may receive legal recognition as such in due course. Others are groups who are categorised by occupation or lifestyle choice, without having a common ethnic background. In either case, they may share similar needs (particularly with regards to accommodation need) to those ethnically recognised groups.

- *Scottish Gypsies/ Travellers*
- *Welsh Gypsies*
- *Show people*
- *New Travellers*
- *River Travellers or 'Bargees'*

River Travellers traditionally lived and worked on barges on the canal systems throughout the UK. This is the smallest of the Travelling communities in the UK. There is also a small population of families that live on sea-going coastal boats that travel between the small harbours and ports of the south coast during the summer months. Many River Travellers live this lifestyle for similar reasons to New Travellers. [Source](#)

Nationally there has been no comprehensive survey undertaken of the number of residential boaters as a household group, so we cannot establish the actual percentage of the total housing accommodation in England and Wales that this household group represents. Findings from the Inland Navigation Authorities do suggest that there are 88,267 boats. However, only a small proportion of these boats are used as primary places of residence. This clearly not the case in Cambridge, with almost 95% of boats as places of residence.

13 respondents to our consultation state Traveller or Bargee Traveller as their ethnic origin. Officer will continue to work with the Conservators of the River Cam and Cam Boaters to monitor quality impacts as the development, implementation and management phases of the proposed model emerge.

(h) Religion or Belief

None identified from the consultation. However it is recommended that Officers work with the Conservators of the River Cam and Cam Boaters to monitor quality impacts as the development, implementation and management phases of the proposed model emerge

(i) Sexual Orientation

None identified from the consultation. However it is recommended that Officers work with the Conservators of the River Cam and Cam Boaters to monitor quality impacts as the development, implementation and management phases of the proposed model emerge

(j) Other factors that may lead to inequality – in particular – please consider the impact of any changes on low income groups or those experiencing the impacts of poverty (please state):

Can you add something about the next stages after committee if your recommendations are approved – more consultation – more development work –more liason with stakeholder etc?

8. If you have any additional comments please add them here

The decision on introducing a Contract Law Model for moorings enforcement should not have an impact on any groups defined above any more than anyone having those characteristics.

The main impact of implementing (or not implementing) any scheme, will be on boaters and the Council Officers who will be involved in managing the moorings.

It is recommended that Officers work with the Conservators of the River Cam and Cam Boaters to monitor quality impacts as the development, implementation and management phases of the proposed model emerge.

9. Conclusions and Next Steps

No disproportionate negative impacts have been identified at the principle stage. Further consideration to equalities issues can be given during the development, implementation and delivery stages. The next step is to convene a scoping meeting with stakeholders to discuss the proposed methodologies. We can do this by the end of April, and after the first meeting we can propose a timetable for implementation. This timetable will be made freely available and sent directly to the Streets and Open Space database.

All completed Equality Impact Assessments must be emailed to Suzanne Goff, Strategy Officer, who will arrange for it to be published on the City Council's website.
Email suzanne.goff@cambridge.gov.uk

10. Sign off

Alistair Wilson – Streets and Open Space Development Manager:

Names and job titles of other assessment team members and people consulted:

Anthony French – Streets and Open Space – Senior Asset Development Officer

Sarah Tovell – Streets and Open Space – Programmes and Projects Officer

Date of completion: 15th March 2016

Date of next review of the assessment:

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