



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

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

1. Executive summary

- 1.1 This report contains recommendations for amendments to, and the management of, the Council's visitor moorings.
- 1.2 The report summarises responses and also details issues and options that have been raised by respondents to a recent consultation on the introduction of a management regime for the regulation and enforcement of the City Council moorings based on civil contract law.
- 1.3 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. As a consequence of receiving and considering feedback through the consultation process, Officers' propose changes and new recommendations.
- 1.4 Community Services Scrutiny Committee have previously considered a report on the 8th October 2015 that set out two options to regulate moorings to overcome the current management issues; the civil possession claims for trespass to move on unauthorised boaters, and a contractual approach based on the

Oxford Model¹, which sets out 'licence' terms that are a contract for the non-exclusive use of a space for a period of time.

- 1.5 This report makes recommendations on continued formulation of a regulation policy using contract law principles in addition to the current civil possession claim for trespass.

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 practicable possible, that allows visitor boats to be regulated and enforced within the existing resources of the Council; and
- c) To review the existing River Moorings Policy and report back to Scrutiny Committee in October 2016 further recommendations.

3. Background

- 3.1 The River Moorings policy came into effect on the 1st April 2006 and further adaptations to the policy have been made since that time following periodic reviews.
- 3.2 At present there is no single document that can be called the definitive River Moorings Policy. The policy is a collection of previous Executive Councillor Decisions.
- 3.3 In administering the River Moorings Policy, the City Council meets regularly with a range of stakeholders to discuss issues and concerns such as:-
- Mooring at Riverside;
 - Liaison between river users;
 - Events;
 - Waiting lists.
- 3.4 'Stakeholders' include the Cam Conservators, Camboaters, and river users and residents' groups and people who enjoy the river for its amenity value.

¹ The Oxford Model offers a gratuitous licence to anyone using the land and a 'contract to pay' only applies when set conditions are met

- 3.5 This report details feedback and outcomes to a recent consultation, sets out work to date and is intended to give background to the recommendations as set out in section 2 of this report.
- 3.6 The Executive Councillor for City Centre and Public Places at Community Service Scrutiny Committee on the 8th October 2015 agreed to instructed 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.
- 3.7 Management of the river is largely shared between the Conservators of the River Cam, a statutory body which acts as the Navigation Authority and Cambridge City Council who own stretches of the river inside the city boundary. There are also several private riparian owners. The City Council manages residential and visitor moorings, associated with its land holdings on the Cam through a River Moorings Policy. The Policy licences moorings on designated areas of the riverbank on Council owned land, and also sets out standards that licence holders are required to maintain, dovetailing with the navigation licence required by the Cam Conservators.
- 3.8 Over the years, extensive consultation and engagement has taken place not only with partner bodies but also with licence holders, with other river users and with local residents to try and balance the needs of these different groups. Securing co-operation and resolving issues through consultation and engagement have

therefore been an important feature of the Council's approach to managing differing river interests. Will review and agree the contract T&C, including stay/ return periods in consultation with stakeholders, as part of next phase, if the contract law approach is agreed in principle.

- 3.9 The latest consultation on the introduction of a contract law model ran from the 1st February until the 25th February to which 101 individuals or organisations responded. 38% of River Moorings Licence holders and 27% of Riverside boat owners replied to the consultation. 56 of the 101 respondents are boat owners. These are very good response rates. A copy of the consultation document used is available at Appendix A.
- 3.10 Copies of written representations and Officer replies are detailed in Appendix B.
- 3.11 As a consequence of receiving and considering feedback through the consultation process, Officers' propose changes and new recommendations.
- 3.12 A complaint was received that the recent mooring policy changes consultation period had been too short, according to HM Government's Code of Practice on Consultation.
- 3.13 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.
- 3.14 We are not obliged to consult for a 12 week period; we are obliged to consult over an adequate and proportionate period.

The consultation followed the Gunning² principles is that:

- I. consultation must take place when the proposal is still at a formative stage;
- II. sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response;
- III. adequate time must be given for consideration and response; and
- IV. the product of consultation must be conscientiously taken into account.

² Before 1985 there was little consideration given to consultations until a landmark case in that year (R v London Borough of Brent ex parte Gunning).

4 Summary of consultation responses

- 4.1 71% of respondents to the consultation do not consider the Council's enforcement action to be effective; with 20% rating it as 1 on a scale of 1 to 10 with 1 being the lowest and 10 the highest.
- 4.2 Officers recognise that regulation of and the enforcement of the moorings policy is essential to reduce the number of complaints to meet the expectations of boaters, support the City's economy, and to meet our legal responsibilities as a landowner.
- 4.3 The Council does not have Byelaws it can use to regulate the use of its moorings; so the enforcement options available to it are limited.
- 4.4 Through the consultation, respondents identified the following alternatives to a contract law model for consideration:-
- Let people moor as long as they want;
 - Enforce the current mooring policy and evict boaters who live in houses or rent their houseboats out;
 - Allow 14 day mooring;
 - The council should adopt the 14 day maximum stay policy to adopt to the way boating on most of British inland waterways is regulated;
 - New arrangements at Ely seem to be working very well ie free for 48hrs the £100/day thereafter; and
 - 48 hours could be free but if you could pay per day perhaps £10 with a maximum of another 5 days stay.
- 4.5 All comments received with an Officer reply are detailed at Appendix B.
- 4.6 In summary and in response to the consultation 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.
- 4.7 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 propose is

intended to provide an effective remedy without having to resort to Court action.

- 4.8 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.
- 4.6 64% of respondents did not agree that the visitor 48 hour moorings arrangements worked.

The following are common recurring themes:-

- People often seem to stay for longer than 48 hours and most definitely return within a day or so;
- There should be more, as it is often over capacity, particularly over holidays and in summer;
- People would like more than 48 hours to visit Cambridge;
- With a 7-day mooring I could come down one weekend and leave the next;
- Not enough space;
- Too many boat owners appear to occupy visitor berths on a permanent basis;
- Boats overstaying, not enforced. Not enough moorings in summer; and
- Frequent over-stayers with a perceived lack of enforcement.

- 4.7 There are currently approximately 8-9 visitor moorings at Jesus Green and Midsummer Common. Visitor moorings are free of charge, and are meant to be used by visiting boaters to the city.
- 4.8 Boats are allowed to stay at any given visitor mooring for up to 48 hours, and after that may not return to that visitor mooring within 7 days.
- 4.9 However, issues surrounding the use of the 48 hour visitor moorings remain with regular reports of the rules surrounding the use of these areas being flouted, both by local and visiting craft. Many boats stay longer than 48 hours on the visitor moorings, or shuttle between different visitor moorings in the city. There are regular reports of boats over staying 48 hours or returning to the same visitor mooring within 7 days.
- 4.10 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.

- 4.13 Of those that responded to the questionnaire 60% are permanently moored in Cambridge and 31% visit occasionally (the mean is 14 days per year).

5 Contract law model

- 5.1 Based on the consultation responses and an assessment of the associated alternative approaches identified, the contract law model is identified as the preferred approach for managing abuse of the Council's River Moorings Policy.
- 5.2 The 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.
- 5.3 This approach requires the moorings to be monitored consistently and regularly to establish who is not complying with the terms specified for mooring, and enable pro-active, timely enforcement action to be taken. Failure to provide sufficient monitoring evidence that a boater has overstayed would mean that the County Court would not award judgement to the City Council, and would mean that the unpaid debt cannot be pursued.
- 5.4 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. The terms would need to include for example; the duration of the visitor moorings; the charge payable if the boater chooses to moor in excess of the 48 hours of free mooring (or chooses to return sooner than 7 days); the fact that any debt recovery action will be added to the charge and are payable on an indemnity basis; and provide for a contracted right to remove a vessel and in the event of a non-payment of fees, the sale of the vessel. It is essential that the Council charges boaters to moor after a period of free mooring, as the ability for the Council to recover debt is the mechanism for enforcing the 'contract law' management regime, and is therefore the only deterrent for boaters not to overstay.

- 5.5 If the Council wishes to set a mooring condition that allows the first 48 hours of mooring to be free, the enforcement process would have to be undertaken in-house, as there would be no income generated from charging immediately upon arrival to offset the costs of outsourcing the enforcement of the scheme.
- 5.6 Evidence from the East Cambridgeshire District Council introduction of a contract law approach suggests that the number of boaters breaching the moorings conditions is likely to be low. However, the officer time required to process a charge notice will be significant and if the charge is not paid, there will be court fees at the point a claim is submitted to the County Court, for enforcement of the judgement, for example, by instructing bailiffs to recover our losses if the court issues a judgement in our favour.
- 5.7 The costs to issuing a charge notice and pursuing non-payment is significantly less than the cost of pursuing a County Court possession order.
- 5.8 The introduction of a contract law approach will impact as follows:-
- Licence Holders, Regulated Moorings – None.
 - Visiting Boats that stay for up to 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.

- 5.9 River Moorings Licence holders have raised concerns about the introduction of a free 6 hour mooring period, with no overnight stay or return for 7 days on all moorings (including Riverside). Their concerns related to the loss of moorings whilst they are refuelling, refilling water or pumping out. It is therefore recommended that a charge per hour with no overnight stay is introduced to discourage visitor use of land designated for licence holders only, and encourage use of the visitor moorings.

6 Management of the Waiting List

- 6.1 There are currently 141 applicants waiting for a narrow beam position (with 24 month wait for offer) and 53 waiting for a wide beam position (with 8+ year wait).

- 6.2 Our waiting lists are currently closed to new applications. A closed waiting list has the advantage of highlighting that the River moorings have reached capacity and that there are no more currently available. It also discourages some boats and their owners from entering onto the River Cam, and using the visitor moorings and other third party moorings as permanent locations.
- 6.3 Closing the waiting list means that the list is closed to new applicants, but officers continue to issue available licences in chronological order as spaces become available on the river.
- 6.4 There were until recently 3 boats moored on Council property, not on the waiting list. Officers are currently progressing civil possession claims for trespass to move on unauthorised boaters. These unauthorised boats are taking up space that could be let to applicants from the waiting list. The Council is also losing income as a consequence of their unauthorised mooring.
- 6.5 A civil possession claim option requires evidence gathering (monitoring) over a consistent period of time to establish that the boater has been trespassing, as the boater has not been mooring in compliance with the mooring periods and that the court action is proportionate.
- 6.6 The amount of time spent managing unauthorised mooring is disproportionate to the time spent managing those holding a River Moorings Licence. The time spent managing unauthorised moorings could be used to support the River Moorings Policy more effectively.
- 6.7 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.
- 6.8 The contract law model cannot be applied retrospectively and therefore only boats that moor after the date of introduction will be subject to the contract terms.

7 Management of Regulated Moorings at Riverside

- 7.1 In July 2014 the Executive Councillor approved that the regulation of moorings be introduced at Riverside by 1st October 2014, and that the current River Moorings Waiting List remains closed to allow incorporation in chronological order
- 7.2 Regulation of moorings at Riverside takes the form of a registration to enter the Waiting List which sets out new terms and conditions to allow temporary mooring at Riverside.
- 7.3 There are 15 Boats not registered that are no longer eligible to enter the River Moorings Licence scheme if after further feasibility and at a later date mooring is incorporated into the current River Moorings Policy.
- 7.4 The Council is currently following the process of enforcing at Riverside by civil possession claim for trespass to move on unauthorised boaters.
- 7.5 This option requires evidence gathering (monitoring) over a consistent period of time to establish that the boater has been trespassing, as the boater has not been mooring in compliance with the mooring periods and that the court action is proportionate.
- 7.6 The amount of time spent managing unauthorised mooring is disproportionate to the time spent managing those holding a River Moorings Licence. There is considerable cost to the Council in pursuing a civil action with no cost born by the trespassing boat until a Court decision has been determined.
- 7.7 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 an effective future method of regulation to aid the management of visitor moorings at Riverside.
- 7.8 The contract law model cannot be applied retrospectively and therefore only boats that moor after the date of introduction will be subject to the contract terms.

8 Making improvements to our Mooring offer.

8.1 The following section summarises consultee responses to the question, what facilities would make boating life in Cambridge better in the future. Numbers in brackets correspond to the number of responses received relating to each particular facility.

- Disabled access for moorings (12);
- Re-fuelling site (20);
- Boatyard for repairs (16);
- Mooring noticeboard/information point (18);
- Additional fresh water supplies (19);
- Additional paid toilet/shower provisions (21);
- Additional dog fouling bins (5); and
- Large locked bin for rubbish disposal (18)

8.2 The questionnaire allowed the opportunity for free text and the following additional request were received

- Decent pump out;
- Mooring rings / posts;
- Rubbish disposal;
- Prioritising families/key workers/those who work in the city centre for moorings and enforcing mooring policy so only those whose boat is their sole residence are allowed council moorings;
- More live a boards along the Cam;
- More 7-14 day moorings;
- Washing facilities
- More water;
- 48 visitor moorings;
- An Elsan disposal point;
- Shared garage space for storage of logs, coal etc;
- Showers;
- Speed restrictions for rowers; and
- Electric hookup.

8.3 Officers can work with organisations such as Cam Boaters and Cam Conservators to work up a range of projects. These projects can be considered in the Council's Capital Programme.

8.4 It was recommended at Environment Scrutiny Committee in 2014 that Officers review the Mooring Licence Fee pricing structure,

fees and charges and to consider introducing a market place rent. The recommendation was to include a review of the discounts offered for sole occupancy and student status (but not the discounts offered for those receiving means tested benefits or pension credits).

8.5 Officers revisited the review fees and charges in the report to Community Services Scrutiny Committee on the 8th October 2015. At the time there was limited justification for changes to fees and charges when there are some boaters that pay nothing.

8.6 It is recommended that Officers review the River Moorings Policy to include consideration of investment in a range of mooring facilities, informed by the consultation responses above, together with a market test of comparable fees and charges.

9. Implications

(a) Financial Implications

Any pricing, fees and charges as a consequence of the contract law approach will be set within the context of the findings of an equality impact assessment. This to ensure that the City Council applies a consistent principle of fairness related to evidenced need and ability to pay, whilst at the same time applying a cost effective and prudent approach to maximising revenue income from the policy.

(b) Staffing Implications

The Streets and Open Space – Operations Manager – Community Engagement and Enforcement, has been consulted on the report recommendations and has confirmed that she is content that her team has resources to support the implementation and long term management of the contract law approach.

There also benefits from using in-house resources that have existing specialist knowledge of both enforcement and moorings administration, and have an extensive knowledge to the background and detail of the City Councils Moorings Policy.

(c) Equality and Poverty Implications

An equalities impact assessment has been completed and no negative impacts have been identified.

The decision on introducing a contract law model for moorings enforcement should not have an impact on any groups with protected characteristics 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.

The recommended review of the River Moorings Policy will consider the objectives and key issues of the Anti- Poverty Strategy 2014 – 2017.

(d) **Environmental Implications**

This proposal has no direct climate change impact. The Terms and Conditions of any River Moorings Licence have an indirect impact, setting requirements for Licence holders in connection to environmental considerations.

(e) **Procurement**

There are no procurement implications identified in this report.

(f) **Consultation and communication**

Responses and feedback have been used to consider and formulate the recommended contract law approach.

(g) **Community Safety**

The recommendations in this report have no foreseen direct impact on Community Safety.

10. Background papers

These background papers were used in the preparation of this report:

- An Update Report on Riverside Moorings – 11th July 2014
- Changes to the Moorings Policy – 16th January 2014.
- Progress on the Review of the River Moorings Policy – 8th October 2015

11. Appendices

- Appendix A – Consultation Questionnaire;
- Appendix B – Feedback with Officer reply;
- Appendix C – Equalities Impact Assessment.

12 Inspection of papers

To inspect the background papers or if you have a query on the report please contact:

Author's Name: Alistair Wilson
Author's Phone Number: 01223 - 458514
Author's Email: alistair.wilson@cambridge.gov.uk

Appendix A – Consultation Questionnaire see over page



Introduction

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. A contract law model is explained in detail later in this consultation document. The decision to undertake this consultation into the proposed approach was approved by the City Council's Executive Councillor for City Centre and Public Places at the Council's Community Service Scrutiny Committee on 8 October 2015. A copy of the resolution passed at that committee is included below:

- "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.
- e. 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."

1. Background

The River Cam is an important asset to Cambridge. It runs through the city centre and has historically provided an important waterway access for commerce into the city; in more recent years, this traffic has been replaced by recreational and residential craft for which the Cam provides valuable moorings both for short-term visitors and for longer-term stays. The Cam also provides recreational facilities for other groups of people including rowers, who use the river for recreation, practice and competitive events; for anglers, who fish from its banks; for residents and visitors for whom it provides a pleasant riverside walk in amenable surroundings; and for a residual commercial traffic in the form of riverboat trips and the classic Cambridge punts. These activities co-exist to a greater or lesser degree but require management to ensure that conflict between different users is minimised and to protect the biodiversity and natural beauty of the river and its surroundings.

2. City Council River Moorings Policy

Management of the river is largely shared between the Conservators of the River Cam, a statutory body which acts as the Navigation Authority and Cambridge City Council, the local authority who own stretches of the river inside the city boundaries. This is known as riparian ownership. There are also several private riparian owners. The City Council manages residential and visitor mooring on the Cam through a River Moorings Policy (www.cambridge.gov.uk/) which licences moorings on designated areas of the riverbank, and also sets out standards that licence holders are required to maintain, dovetailing with the navigation licence required by the Cam Conservators.

Over the years, extensive consultation and engagement has taken place not only with partner bodies but also with licence holders, with other river users and with local residents to try and balance the needs of these different groups. Securing co-operation and resolving issues through consultation, engagement has therefore been an important feature of the City's approach to managing differing river interests.

3. Regulation and enforcement

The Council recognises that regulation and enforcement of the River Moorings Policy is also essential for it to be an effective management tool to meet the needs and expectations of boaters, other river users, local residents and visitors; to protect and support the City's high quality environment and a thriving local economy; and to meet our responsibilities as a riparian landowner.

The Council does not have bylaws to regulate the use of its moorings, so the regulatory and associated enforcement options available to it are limited. The alternative to regulation through bylaws (ie. a 'criminal' law based approach) is for the Council to adopt a civil contract law-based approach. Under the latter civil approach, the Council has two options open to it:

- (i) to bring civil possession claims for trespass to move on unauthorised boaters;
- (ii) to bring civil action for breach of contract terms.

The first option requires the Council to gather evidence (monitoring) over a consistent period of time to establish that the boater has been 'trespassing' (ie. not mooring in compliance with the River Mooring Policy and associated specified periods), and that pursuing the associated court action is proportionate. The Council has already successfully used this approach against boaters who have been taken to court on grounds of trespass and will continue to do so.

4. Proposed civil contract approach

The second option uses a civil contract approach, which sets out 'licence' terms that are a contract for the non-exclusive use of a defined mooring space for a fixed period of time. This approach has been successfully trialled by the Environment Agency in Oxford and has now been adopted by Spelthorne Borough Council and East Cambridgeshire District Council.

5. Implementation of contractual approach

The City Councils river moorings policy was implemented in 2006 and has been amended and changed over time. During this period many of the people and the boats have also changed. With this consultation we hope to better understand who is on the river, why they are on the river, what needs are not currently met, and what respondents would like to see in the future from Moorings.

If, following consultation, the Council agrees to introduce the civil contract law approach, the Council is required to publish its terms, both on its website and on signs along the designated stretch of its moorings. These signs would set out the contract or 'offer' which the boater accepts upon mooring. The terms would need to include for example; the permitted duration of the visitor moorings; the charge payable if the boater chooses to moor in excess of the period of mooring (or chooses to return sooner than permitted); the fact that any debt recovery action will be added to the charge and are payable on an indemnity basis; and provide for a contracted right to remove a vessel and in the event of a non-payment of fees, the sale of the vessel.

6. Further information

Should you have any queries or would like further information on the Council's moorings policy and its current management arrangements please contact: Alistair Wilson, Streets and Open Spaces Manager:

Email: Alistair.Wilson@cambridge.gov.uk

Tel: 01223 458520

Consultation questionnaire

Please take a few minutes to complete the following questionnaire. Your response is anonymous and will be treated confidentially.

Please submit your completed questionnaire either by email to: cerise.bradford@cambridge.gov.uk, via this web link: <https://www.cambridge.gov.uk/consultations/have-your-say-about-proposed-changes-to-our-boat-mooring-policy> or via post to:

Cerise Bradford, Streets and Open Spaces, Cambridge City Council, Mill Road, Cambridge, CB1 2AZ.
The submission deadline for completed questionnaires is **25 February 2016**.

Please answer each question by placing an 'X' in the corresponding response box, unless instructed otherwise.

SECTION 1

Only complete Section 1 if you are a boat owner/moor on the River Cam

Duration of Moorings

QUESTION 1

What period(s) of time are you moored at Cambridge?

- All year round / Permanent
- Usually between 1 April to 30 September
- Summer only
- Winter only
- Occasionally - please enter the estimated number of days in a calendar year

QUESTION 1a

If you answered 'All year round/Permanent', please state the length of time you have been moored at Cambridge ie May 2014

- Month
- Year

QUESTION 2

What is the location of your boat?

- Jesus Green area
- Midsummer Common
- Riverside Railings
- Stourbridge Common
- Visitor 48 hour moorings
- Other (please specify)

SECTION 2

Visitor Moorings

QUESTION 3

Do you think the current arrangements for 'Visitor 48 Hour' moorings work?

- Yes
- No

QUESTION 3a

If you answered 'no' why do you think they do not work?

Please state your reason(s) why

QUESTION 4

Visitor mooring is currently available for 48 hours at part of Jubilee Gardens and part of Midsummer common with no return in 7 days. Is a maximum period of 48 hours for visitor moorings with no return in 7 days still the most appropriate length of stay to ensure we maximise the opportunities for boaters to visit Cambridge?

- Yes
- No

QUESTION 4a

If you answered 'No' please state your reason(s) why

QUESTION 5

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:

SECTION 3

Only complete Section 3 if you are a boat owner/moor on the River Cam

Use of Moorings in Cambridge

QUESTION 6

Please tell us why you moor in Cambridge

QUESTION 7

Do any of the categories below apply to your reason(s) for being on the river?

- Residential
- Vacation
- Event stay
- Shopping
- Tourism
- Socialising
- Day trip
- Weekend break
- Other (please specify)

QUESTION 8

What facilities do you use at Cambridge?

- Pumping out
- Rubbish disposal
- Other
- If you answered 'other' please state the facilities used

SECTION 3

Use of Moorings in Cambridge continued...

QUESTION 9

What facilities would make boating life in Cambridge better in the future?

QUESTION 10

Would you like to see any other facilities made available to boaters in Cambridge?

- Disabled access for moorings
- Re-fuelling site
- Boatyard for repairs
- Mooring noticeboard/information point
- Additional fresh water supplies
- Additional paid toilet/shower provisions
- Additional dog fouling bins
- Large locked bin for rubbish disposal
- Anything not listed above, please specify

SECTION 4

Only complete Section 4 if you are a boat owner/moor on the River Cam

Managing the Moorings in Cambridge

QUESTION 11

How often does your boat move positions along the river?

- Daily
- Weekly
- Occasionally
- Never



SECTION 5

Enforcement Action

QUESTION 12

Do you consider the current enforcement action taken by the Council to be effective?

- Yes
- No

QUESTION 12a

If you answered 'no' why do you think it is not effective?

Question 13

What improvements would you like to see from the Council to improve its management and enforcement action?

SECTION 5

Enforcement Action continued...

QUESTION 14

Would you like to see a permanent 'no return' policy introduced following enforcement action being taken where a boat is evicted from City Council Moorings?

- Yes
- No

<input type="checkbox"/>
<input type="checkbox"/>

QUESTION 15

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:



SECTION 6

Feedback

How would you rate the Council on a scale of 1-10 with '1' being the lowest and '10' being the highest for managing the moorings of Cambridge?

1	2	3	4	5	6	7	8	9	10
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you rated us '8' or below, please tell us what we could do for you to rate us '10'

Cambridge City Council would like to thank you for your time in completing this questionnaire

EQUALITY MONITORING FORM

INTRODUCTION

Why are we monitoring equality?

All services are familiar with the idea of monitoring performance, measuring how well the service is performing against agreed objectives and targets.

Equality monitoring is simply checking whether the service is performing well for all customers.

What are we going to do with the data?

The data provided in this questionnaire is strictly confidential and will only be used to make things better, tells us where to direct our services, if the services currently on offer are being used and if there are additional services required for a better future.

This is to make sure the Council is being fair and that people from all backgrounds are represented. The details you give are protected by strict laws.

Contact details:

If you would like this form in an alternative format ie larger font, brail, or need assistance, please contact: Cerise Bradford, Asset Development Officer on 01223 458203 or via email: cerise.bradford@cambridge.gov.uk.

For further information on equality monitoring, please contact: Suzanne Goff, Strategy Officer, 01223 457174 or via email: Suzanne.goff@cambridge.gov.uk.

Thank you for taking the time to complete the Equality Monitoring form

PLEASE USE COLUMNS 1-5 TO REPRESENT EACH MEMBER OF YOUR HOUSEHOLD

AGE

What age were you on your last birthday?

	Person 1	Person 2	Person 3	Person 4	Person 5
Age in years	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Prefer not to say	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

DISABILITY

Do you have a long term medical condition/critical illness?

	Person 1	Person 2	Person 3	Person 4	Person 5
Yes	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Yes, affecting mobility	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Yes, affecting hearing	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Yes, affecting vision	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Yes, a learning disability	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Yes, a mental ill-health	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Yes, another form of disability please specify	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
No	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Prefer not to say	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

GENDER

	Person 1	Person 2	Person 3	Person 4	Person 5
How would you describe your gender? M / F / X?	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

ETHNIC ORIGIN

How do you describe your Ethnic Group

Person 1	<hr/>
Person 2	<hr/>
Person 3	<hr/>
Person 4	<hr/>
Person 5	<hr/>
Prefer not to say	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

Please put an 'X' in this box if you would rather not complete this form

Appendix B – Stakeholder feedback with Officer response

<p>Q6 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</p>	<p>Officer response</p>
<p>1 No civil 'contract law' = no extra cost Leave people alone to enjoy their stay so they can relax</p>	<p>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.</p>
<p>2 Civil law has no power unless the contract is agreed by both parties so has little/ no relevance to visitors. reconsider</p>	<p>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.</p>
<p>3 Common Law before wasting public money on unlawful enforcement</p>	<p>The Council does not have Byelaws it can use to regulate the use of its moorings; so the enforcement options available to it are limited</p>

<p>4 The Council should bring civil possession claims for trespass in the case of boaters who moor for unreasonably long periods without any mitigating circumstances or when this done wilfully and is not due to circumstances beyond their control. Boaters who moor for long periods due to circumstances that are beyond their control should be permitted to remain until their circumstances have improved. The reason the NBTA believes this is a better approach is because the civil contract law approach to enforcement does not have any room for discretion built into it. For a public body to fetter its discretion in this way would be unreasonable and thus unlawful. In addition, there would be safeguards built into the civil enforcement process for trespass that protect the homes of boat dwellers from arbitrary enforcement and victimisation, and take account of their individual circumstances. In conjunction with this, this the Council should investigate if and why there may be an increased demand for residential mooring in Cambridge and take steps to meet that need (as it is already doing in the case of boat dwellers moored at Riverside). This approach should apply</p>	<p>This is our current practice; however this can take many weeks and involves Court preparation and costs.</p> <p>A civil possession claim considers property matter only and therefore no discretion. To apply discretion would create the right to remain on Council land. There is no right to moor on Council land.</p> <p>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 for landowners without having to resort to fines issued under statutory legislation. It is our intention to offer the right of appeal to any issued Moorings Charge Notice.</p> <p>The level of residential moorings was set in 2006 and will be reconsidered in the review of the moorings policy in 2016.</p>
<p>5 No need to regulate</p>	<p>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</p>

	better mooring regulation.
6 as stated above law is expensive, disproportionate, time consuming, stressful. Co-operation without restraint works best.	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
7 I can't answer this question as the estimated costs of a civil "contract law" approach have not been estimated and described	The costs of the contract law model have not been considered in detail at this formative stage.
8 no, i dont believe that we need enforcement therefore we dont need an alternative to cover those additional costs	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
9 Breach of the 48hr mooring is an act taken by people in difficult and desperate time. Camboaters, Cam-conservators and the council need to work out the best measures to ask the boat to leave. My understanding is Cam conservators have always managed obstruction well.	Agreed.
10 The Council could introduce some more effective byelaws.	The Council does not have Byelaws it can use to regulate the use of its moorings; so the enforcement options available to it are limited
11 No, the civil contract approach seems a sensible way to go, provided there is full information	An MCN will only be issued if you breach the conditions displayed on the signs. These terms will be stated in

available to moorers before they arrive and when they arrive.	plain English so there will be no excuse for not reading and understanding them
12 You could consider renting out temporary stay licences over the Winter months in particular to non-licence holders.	This approach will be considered in the review of the moorings policy
13 We for one would love to pay until we get our licence back this year, but there's no system for the council to even benefit from that.	This approach will be considered in the review of the moorings policy
14 Visitor moorings for 5 days.	Respondents to the consultation are split on this issue 44 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 compared to 48 who do not agree
15 We do not use the visitor moorings and therefore cannot comment	
16 Stay as it is.	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
17 New technologies should be explored not civil contracts and excessive coercion. People do not live in their cars in car parks - this is not a comparable situation.	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.
18 I do not object to parking penalty system on 48h mooring just on residential mooring	Noted
19 The Cam Conservancy could be supported to monitor the situation on a daily basis. they have a good understanding of the river, of issues facing boat parking that might be unfamiliar to	Agreed.

<p>operatives used to working with cars.</p>	
<p>20 Why don't you introduce by-laws?</p>	<p>The Council does not have Byelaws it can use to regulate the use of its moorings; so the enforcement options available to it are limited</p>
<p>21 Why set up something that is expensive to enforce</p>	<p>There should be no cost to the Council. The Streets and Open Space – Operations Manager – Community Engagement and Enforcement, has been consulted on the report recommendations and has confirmed that she is content that her team has resources to support the implementation and long term management of the contract law approach</p>
<p>22 Parking ticket machine to pay for extra days - say £25 a day for a max of 2-3 days?</p>	<p>A Moorings Charge Notice could allow for overstays and could be set at a £25 charge, payable within 7 days.</p>
<p>23 The area to which 48 hour mooring applies should be extended to cover all the river upstream of Victoria Bridge. This is closest to the historic centre visitors want to see.</p>	<p>This approach will be considered in the review of the moorings policy</p>
<p>24 Boats could be left for longer if they enhance and do not disrupt the river space For example, a large proportion of the boats are disgusting, they ruin the reputation of Cambridge as a beautiful city and should be kept clean looking nice when on display. Also they are a lot of wide berth barges who disrupt river traffic and then blame river users who bump into their boats even though they take up nearly 1/3rd of the river. To encourage boat owners to create a better environment for the river - the thinner, well kept boats could be allowed to stay for a longer period.</p>	<p>Noted</p>

25 The current rules around 2-week moorings are sufficient, if enforced to ensure there is space for everybody.	Noted
26 I think a small charge for visitor moorings would be reasonable, if the cost of implementing the scheme were low enough	A Moorings Charge Notice could allow for overstays and could be set at a £25 charge, payable within 7 days.
27 Any new scheme should cost no more than it does to monitor them now, if you do it	There should be no cost to the Council. The Streets and Open Space – Operations Manager – Community Engagement and Enforcement, has been consulted on the report recommendations and has confirmed that she is content that her team has resources to support the implementation and long term management of the contract law approach
28 I feel this should be done by byelaw. I have a suspicion that as a government authority that is the only route open as riparian rights cannot be governed by civil action by an authority.	The Council does not have Byelaws it can use to regulate the use of its moorings; so the enforcement options available to it are limited
29 Let people moor as long as they want.	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
30 Enforce the current mooring policy and evict boaters who live in houses or rent their houseboats out. This will make room for those in genuine need of a council mooring and also for more visitor moorings	Noted
31 14 day mooring	Respondents to the consultation are split on this issue 44 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 compared to 48 who do not agree
32 The council should adopt the 14 day maximum stay policy to adopt to the way boating on most of British inland waterways is regulated.	Respondents to the consultation are split on this issue 44 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 compared to 48 who do not agree
33 Would it be profitable to put in some electric posts on new 7 or 14-day visitor moorings and charge, say, £5/day for Charge a fee after 48 hours.	This approach will be considered in the review of the moorings policy
34 Consult C & RT who have extensive knowledge and research in the area (e.g. Kennet & Avon Canal)	Canal & River Trust – They have very different legal powers than ourselves. Yet they still struggle with mooring management and often had to resort to using trespass law which they found ineffective / costly
35 New arrangements at Ely seem to be working very well ie free for 48hrs the £100/day thereafter	Noted
36 Sink offenders	
37 48 hours could be free but if you could pay per day perhaps £10 with a maximum of another 5 days stay	Respondents to the consultation are split on this issue 44 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 compared to 48 who do not agree
38 Why does it not work now? There are usually moorings free see my comment above.	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
39 Additional 24 hour moorings would also be useful especially at weekends	Respondents to the consultation are split on this issue 44 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 compared to 48 who do not agree
40 Maybe charge £5 by text or Web to Moor for 72 hours instead of 48.	
41 Your proposal to have the power to put a vessel for sale for non payment of these new fines is far too extreme! I cannot believe I just read this. Are you planning on contracting this out to a third party? This sounds to me like those private parking companies that issue 'parking charges'. They are much hated by the general public. Why are you considering going down this route? My proposal is to leave the situation alone. The council should evict people who jump the waiting list. They have consistently ignored their duty to do this and seem to be deciding to over react with this legislation change in another area.	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. It is our intention to manage this scheme inhouse

Q14 What improvements would you like to see from the Council to improve its management and enforcement action?	Officer response
1 Consultation with the boat community Camboater in particular	Agreed

<p>2 Do less</p>	<p>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</p>
<p>3 The Council should bring civil possession claims for trespass in the case of boaters who moor for unreasonably long periods without any mitigating circumstances or when this done wilfully and is not due to circumstances beyond their control. Boaters who moor for long periods due to circumstances that are beyond their control should be permitted to remain until their circumstances have improved. The reason the NBTA believes this is a better approach is because the civil contract law approach to enforcement does not have any room for discretion built into it. For a public body to fetter its discretion in this way would be unreasonable and thus unlawful. In addition, there would be safeguards built into the civil enforcement process for trespass that protect the homes of boat dwellers from arbitrary enforcement and victimisation, and take account of their individual circumstances. In conjunction with this, this the Council should investigate if and why there may be an increased demand for residential mooring in Cambridge and take steps to meet that need (as it is already doing in the case of boat dwellers moored</p>	<p>This is our current practice; however this can take many weeks and involves Court preparation and costs.</p> <p>A civil possession claim considers property matter only and therefore no discretion. To apply discretion would create the right to remain on Council land. There is no right to moor on Council land.</p> <p>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 for landowners without having to resort to fines issued under statutory legislation. It is our intention to offer the right of appeal to any issued Moorings Charge Notice.</p> <p>The level of residential moorings was set in 2006 and will be reconsidered in the review of the moorings policy in 2016..</p>

at Riverside). This approach should apply to all Riverside land owned by the Council and not just the 48 hour visitor moorings.	
4 Actual enforce those non-residents or those boats which are sublet	The current terms and conditions of the River Moorings Licence do not permit subletting. The collecting of evidence of sublet boats can be intrusive. Officers do make checks when subletting is reported.
5 A local office, between Stourbridge Common and Jesus Lock	This could be considered as part of the Review of rouse Ball Pavilion. There is also a vacant office at Chesterton Road toilets which could form a local base
6 I would like to see the Council leave us alone	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
7 Liaise more with the river community.	Agreed
8 Better governance of this area within the council and better management of the moorings which ultimately means working with the various river communities and stakeholders to try to foster a spirit of self-regulation instead of topdown enforcement that clearly doesn't work.	Agreed
9 transparency	Noted
10 Better and open communication between boat dwellers, Camboaters and the council. Transparency and clarity to boats and owners that behave in antisocial manor.	Agreed

<p>11 Better byelaws -Consistency in the council officers assigned to be in charge of moorings- no changing of posts/reshuffling of roles -Consistency of policy about the moorings -Greater consultation with ALL stakeholders- this consultation is, frankly, an utter shambles- poorly designed and with poorly written, confusing questions.</p>	<p>The Council does not have Byelaws it can use to regulate the use of its moorings; so the enforcement options available to it are limited</p>
<p>12 More visible enforcement and faster action where boats still refuse to comply</p>	<p>Agreed</p>
<p>13 Would like to see well thought out policies for addressing issues such as those with illness who cannot move from the area but do not have a mooring.</p>	<p>Agreed</p>
<p>14 All as above. A welfare/community officer to work alongside Camboaters, the Enforcement team and the community might help resolve issues and enhance community relations. It's a growing community, with children and families - but there are no facilities for families at all. No (official) support for them, either, though gypsies are allocated a relatively high amount of resource and many boaters do have traveller status - so surely the council's own traveller liaison team, could be called in to support and manage, too. If not them, then someone else - who could work to improve relations within the community, plus with other local residents, support the businesses along the river, too. Discrimination towards boaters is still very high, particularly towards those with welfare issues who may end up mooring without licences - more</p>	<p>Noted. Feedback from the consultation shows a need for better liasion and partnership working with organisations such Cam Boaters and the Cam Conservators</p>

likely to be dubbed 'river rats' than any other type of boater. But the offer of the river community to the rest of the city - is extraordinary. It's the last bastion of affordable housing the city has! A huge asset.	
15 Be more transparent	Noted
16 The council needs to be better at treating people equally rather than ignoring some who flout the rules and not others.	Noted
17 Closer relationship with boaters and other river users.	Agreed
18 Management and community partnership - simples!	Agreed
19 Better communication and connection - with the Camboaters group, and with the Cam Conservancy. Much of what you need to do can be achieved working in partnership with existing residents and agencies without the need for an enforcement team (the very name is off-putting and likely to cause friction). Better signage, or a good noticeboard would help make it clear to visitors.	Agreed
20 Needs extra resources	
21 Actually enforce at Riverside	
22 Clear signage backed up with real effective action if rules are abused	
23 Tighter controls and much swifter eviction of illegal mooring.	
24 Enforcement of only having boats in the designated mooring zones.	
25 Stricter rules on size of barge, cleanliness of barge and behaviour of the boat owner (not enticing tensions between them	

and other river users) Then a faster response to enforcing these rules	
26 Management of this should be handed over to the Canal River Trust, which has far more experience dealing with these issues. You would not put CaRT in charge of schools or libraries.	Canal & River Trust – They have very different legal powers than us. Yet they still struggle with mooring management and often had to resort to using trespass law which they found ineffective / costly
27 I consider boaters a low priority river user; they deteriorate the river experience for other users and contribute very little to the city.	
28 Byelaws	The Council does not have Byelaws it can use to regulate the use of its moorings; so the enforcement options available to it are limited
29 use properly trained enforcement officers.	Council Enforcement Officers issuing Moorings Charge Notices would receive training
30 Crack down on street crime	
31 Enforce the use of toilet waste disposal facilities and ensure that boats are prevented from discharging foul waste into the river, which poses a significant health risk to other river users.	These are already Mooring Licence terms and conditions
32 The proposed arrangement should suffice if enforced fairly.	Noted
33 Implement it's own mooring policy	Noted
34 actual enforcement	Noted
35 support Canal & Rivers Trust with their volunteer programme	
36 Stop being so harsh	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

37 get rid of boats that over stay and make room for visitors	The Contract Law Model would assist in this scenario
38 Adopt the same practice as the Canal and River Trust.	Canal & River Trust – They have very different legal powers than us. Yet they still struggle with mooring management and often had to resort to using trespass law which they found ineffective / costly
39 Actually enforce existing rules	Noted
40 I think it's fine. In my visiting experience, there has been only one boat without a Cam mooring license that has overstayed by a lengthy time, and you seem to have dealt with it effectively.	
41 No licence means eviction No Boat Safety Certificate means eviction Persistent anti-social behaviour means eviction The Council has everything written into their own Moorings Agreement!!	
42 Buy a gunboat to deal with offenders,	
43 I realise its difficult but more enforcement of the current rules or better tools to help enforce current rules before setting up new rules	
44 Enforced removal of grossly neglected boats.	
45 The above facts are known to the council but nothing is done, people on the waiting list cannot move up.	
46 Leave the boaters alone by the gas works they add character to the city	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

47 Establish and enforce minimum standards for boats and life on the river.	This could be addressed in the Mooring Licence terms and conditions
48 Keep fishermen off the visitor moorings and general management i.e. politely asking boats to close up gaps freeing up space for other visitors.	The use of the Commons for fishing is a legitimate recreational use. There needs to be a balance between moorings and recreational use of the Commons. This can be reconsidered in the River Policy Review, however the current balance does not appear to be at the detriment of either activity.
49 Termination of residential boat licenses should the occupier own a house/houses	
50 None	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
51 Regulate the number of rowing vessels on the river at a time to improve safety and navigational ability	This is responsibility of the Cam Conservators and therefore outside the scope of the City Councils work
52 manage their mooring licence properly and not harass people that are residential	
53 Maybe a 3 strikes and you are banned from the river approach? CamCon could revoke navigation licenses if people repeatedly overstay?	
54 The 48-hour moorings don't seem to need any improvement. The Council don't seem to be able to manage the residential list. They should definitely have powers to move people on and fine them in these areas should people trespass and jump the list. the Cambridge experience	

particularly cooking smells and rubbish	
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Other feedback received with Officer comment

55 VALIDITY OF CONSULTATION

As a public body Cambridge City Council is obliged to follow HM Government's Code of Practice on Consultation. This Code of Practice is based on the judgment in R v Brent LBC ex parte Gunning [1986] 84 LGR 168 ("Gunning"). Whenever consultation is carried out by a body that exercises statutory powers the consultation must comply with the requirements set out in Gunning.

These are:

"To be proper, consultation must be undertaken at a time when proposals are still at a formative stage; it must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken".

In allowing a period of only 25 days for this consultation, Cambridge City Council has breached the Gunning requirements, which specify 12 weeks as the minimum time to allow those consulted to give intelligent consideration and an intelligent response.

Cambridge City Council is therefore required to extend the period of this consultation until at least 24th April 2016.

Validity of Consultation Officer response

The Council has judged the length of the consultation to be fair and reasonable, on the basis of previous knowledge and taken into account the nature and impact of the proposal.

We are not legally obliged to consult for a 12 week period; but for a period length which is considered adequate and proportionate in relation to the proposal being consulted upon.

We believe the consultation followed the Gunning principles as follows:

- I. it must take place when the proposal is still at a formative stage;
- II. sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response;

- III. adequate time must be given for consideration and response; and
- IV. the product of consultation must be conscientiously taken into account.

56 THE POWERS OF PUBLIC BODIES

Like all public bodies, Cambridge City Council only has the powers that were conferred on it by statute. See for example *Moore v British Waterways* [2013] EWCA Civ 73; *Swan Hill (Developments) and Others v British Waterways Board* [1997] EWCA Civ 1089 and *McCarthy and Stone (Developments) Ltd v Richmond upon Thames LBC* [1989] UKHL 4. The Council has not provided any justification why its proposals for a civil contract law approach to enforcement of mooring stay times on the River Cam fall within the remit of its statutory powers. Therefore it must be assumed that Cambridge City Council does not have the power to impose and enforce the proposed civil contract law penalties and if the Council were to adopt this approach it would be acting *ultra vires*.

The powers of public bodies Officer response

Moore v British Waterways and *Swan Hill Developments and Others v British Waterways Board* relate to the exercise of statutory powers by BW. They are not about the ability of a landowner to regulate the use of its land.

The Council owns the riverbank covered by its moorings policy and the river bed to the mid point of the river. In the *Moore* case at paragraph 67 Lord Justice Lewison said “I wish to make it clear that different considerations might well apply if a claim in trespass were brought against Mr Moore by the owner of the bed of the waterway over which his vessel is moored.”

The case of *McCarthy and Stone Developments Limited v Richmond Upon Thames LBC* relates to powers to charge for planning application advice.

By determining its mooring policy and the way in which that policy will be brought into effect and enforced the Council is acting as landowner and is entitled to regulate the use of its own landholdings.

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 and recently adopted for moorings by other local authorities, including East Cambridge & Spelthorne District Councils, 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

Community Services Scrutiny Committee has previously considered a report on the 8th October 2015 that set out two options to regulate moorings to overcome the current management issues; the civil possession claims for trespass to move on unauthorised boaters, and a contractual approach based on the Oxford Model, which sets out 'licence' terms that are a contract for the non-exclusive use of a space for a period of time.

57 MOORING TIME LIMITS

Mooring stay times of as little as 6 hours and 48 hours contravene the law relating to the Public Right of Navigation. There is a Public Right of Navigation on all navigable rivers in the UK. This includes the River Cam. The authority of *Crown Estate Commissioners v Fairlie Yacht Slip Ltd* [1978] Scot CS CSIH 3 confirms that while a Public Right of Navigation does not extend to the right to lay permanent mooring structures, where a Public Right of Navigation exists, it includes the right to moor for temporary periods using equipment that is intended to be, and can conveniently be, taken onto and carried on board the vessel in the ordinary course of use (such as ropes and mooring pins).

In the *Fairlie Yacht Slip* case, the Court made no ruling on what length of time constitutes "temporary". The reasonableness of the length of each stay depends on factors such as the circumstances of each boat and on river and weather conditions. Therefore to restrict mooring to 6 hours on all land owned by Cambridge City Council for boaters who do not hold a Residential Mooring Licence for that site is an unlawful and unreasonable interference with the Public Right of Navigation. As a public body the City Council is required to exercise statutory power in a reasonable manner following the authority of *Associated Provincial Picture Houses v Wednesbury Corporation* [1947] 1KB 223.

There should be no further restrictions on mooring on the River Cam. The restrictions that already exist should be relaxed, especially in winter when demand for visitor moorings is low. Boat dwellers who are either visiting Cambridge or permanently based in the city should be protected from unreasonable and arbitrary enforcement especially if the length of time they remain moored is the result of circumstances beyond their control. Visiting boat dwellers should be free to moor in Cambridge for a reasonable time both in order to maintain contact with family and friends, and to visit the city on holiday

The proposed time limits are impractical as well as unlawful. They do not reflect the reality of navigating all year round as NBTA members do. Circumstances such as flood; high winds; mechanical breakdown; illness; ongoing medical treatment; disability; pregnancy; family emergency and caring for vulnerable or elderly family members mean that Bargee Travellers

may need to stay longer than a given time limit. The proposals for contract based enforcement will penalise them for circumstances that are beyond their control and no fault of their own. To impose this system of enforcement would be fundamentally unjust and unreasonable.

Mooring Time limits Officer response

The proposed contract law model would not affect the Public Right of Navigation.

In the Fairlie Yacht Slip case related to the laying of fixed moorings in the sea bed at Fairlie Bay. The case is not authority for the argument that restricting mooring to 6 hours on land owned by Cambridge City Council for boaters who do not hold a residential mooring licence for the site is unlawful or that it interferes with navigation rights.

The banks of non tidal rivers are private property of the riparian owners (in this case, Cambridge City Council) so that if members of the public, while exercising their right of navigation alight on privately owned land without permission they will be trespassing.

The public can only use the riverbanks by an agreement with or a grant from the owner of the riverbank.

A landowner can make a charge for mooring.

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. These terms are stated in plain English so there will be no excuse for not reading and understanding them.

It is our intention to offer the right of appeal to anyone issued with a Moorings Charge Notice.

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.

As landowners we have a right to manage land and impose such conditions as we see fit.

Respondents to the consultation are split on this issue. 44 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 compared to 48 who do not agree with this.

We will review and agree the contract T&C, including stay/ return periods in consultation with stakeholders, as part of next phase, i.e. following adoption of contract law approach in principle.

58 PROPOSED CONTRACT TERMS

The consultation document does not specify the proposed contract terms or the proposed level of charges that would be levied in the case of overstaying boats. Without this information, the consultation is meaningless and contravenes the Gunning principles in that it does not allow those consulted to give intelligent consideration and an intelligent response. Since the consultation is in breach of the Gunning principles, it is not a valid consultation and should therefore be abandoned.

The terms would need to include for example; the permitted duration of the visitor moorings; the charge payable if the boater chooses to moor in excess of the period of mooring (or chooses to return sooner than permitted); the fact that any debt recovery action will be added to the charge and are payable on an indemnity basis; and provide for a contracted right to remove a vessel and in the event of a non-payment of fees, the sale of the vessel.

If a boat is somebody's home, the Council cannot simply remove and forcibly sell it even if there are unpaid fines. Boat dwellers are entitled by virtue of Articles 6 and 8 of the European Convention on Human Rights not to be arbitrarily deprived of their homes and to have the proportionality of depriving them of their home decided by a Court with the opportunity to defend themselves and to have legal representation. Unless the Council is proposing to intentionally violate the Article 6 and 8 rights of boat dwellers, the enforcement process would not be dissimilar to a possession claim for trespass. There is very little benefit to the Council in adopting this approach in the case of boat dwellers whom it appears these proposals are primarily directed against and who are likely to be the majority of the boaters adversely affected by the proposals.

Proposed Contract terms Officer response

The Council consulted on the principle of introducing a contract law model.

The 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.

If fines are unpaid County Court proceedings would be issued. Article 6 & 8 would be considered at this time.

Moving the boat does not deprive the boat owner of their home, nor does the boat owner have a right to be on Council owned land. Their human rights are engaged but not infringed.

59 THE EQUALITY ACT AND CHILDREN'S ACT RIGHTS OF BOAT DWELLERS

To impose a system of contract based enforcement with steep penalties has the potential to contravene the rights of boaters under the Equality Act 2010 who have protected characteristics such as age; disability; pregnancy or maternity. The Equality Act entitles those with protected characteristics not to have policies and procedures applied to them in the same way as they are applied to people who do not have those protected characteristics. This consultation is completely silent on how the Equality Act rights of boaters would be upheld by the proposed enforcement system. The Council has not provided any evidence that it has carried out an assessment of the equality impact of its proposed policy. It is required to carry out such an assessment on all of its policies before implementation. Since no evidence of an equality assessment is included in the consultation, it must be assumed that the Council is in violation of the Equality Act 2010 in this instance. Until an equality impact assessment of the proposals is carried out, the proposals should not go ahead.

In addition, local authorities have a duty under the Children's Act to consider the welfare of children when deciding new policies and procedures. To impose a system of contract based enforcement with steep penalties potentially contravenes the Children's Act if it results in debt recovery action, removal of a boat or seizure of a boat in the case of boat dwelling families with children.

The Equality Act and Children's Act, Rights of Boat dwellers Officer response

The important point to highlight is that we are not 'enforcing' we are setting out licence terms that are a contract.

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

- Licence Holders, Regulated Moorings and those on the waiting list – 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 boats that moor after the date of introduction will not be subject to the contract terms

An Equalities Impact Assessment for the proposal has been completed.

Issues of equity potentially arise at three different levels:

- Within the policy itself: does the policy offer equality of access to all sections of the community?
- Within the city: does the policy treat boat owners and Cambridge residents, or specific groups of residents, fairly in relation to each other?
- Within the national framework: does the city's policy deal fairly and equitably with residential boat owners in comparison with other mooring authorities elsewhere?

This aspect of equality needs to explore whether all sections of the community have equal access to the benefits of the city's moorings policy, regardless of their age, gender, ethnic origin, disability, sexual orientation, or religious belief.

By section 11 of the Act the Council is under an obligation to make arrangements to ensure that its functions are discharged having regard to the need to safeguard and promote the welfare of children.

In cases of travellers on Council land we arrange for a welfare assessment to be carried out. A welfare assessment is completed when the Council makes an application to the County Court for a possession order. It would be unlawful to remove or seize a boat that is being lived on without a possession order and bailiff's warrant

There are no aspects of the present policy or charging regime that give rise to specific inequality or discriminatory concerns as regards the statutory equality strands of race, gender or disability, or the additional equality strands of age or religion.

QUESTION 3a

If you answered 'no' why do you think they do not work? Please state your reason(s) why

The time limit of 48 hours with no return within 7 days is unlawful, contrary to the Public Right of Navigation. In addition, it does not allow enough time for visiting boats to carry out all the activities that they may wish to do in

Cambridge. This is detrimental to boaters whose reasons to visit Cambridge are to maintain contact with friends and family. The time limit and the non-return period prevents visiting boaters who are not on holiday from having the social contact with family and friends in the city that they need. Whether or not visiting boaters live on their boats, the time limit and non-return period has a detrimental effect on the economy of the city because it deters visiting boaters who are on holiday from contributing to the local economy.

Q3a Officer response

The banks of non tidal rivers are private property of the riparian owners (in this case, Cambridge City Council) so that if members of the public, while exercising their right of navigation alight on privately owned land without permission they will be trespassing.

The public can only use the riverbanks by an agreement with or a grant from the owner of the riverbank.

A landowner can make a charge for mooring.

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. These terms are stated in plain English so there will be no excuse for not reading and understanding them.

It is our intention to offer the right of appeal to anyone issued with a Moorings Charge Notice.

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.

As landowners we have a right to manage land and impose such conditions as we see fit.

Respondents to the consultation are split on this issue 44 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 compared to 48 who do not agree with this.

We will review and agree the contract T&C, including stay/ return periods in consultation with stakeholders, as part of next phase, i.e. following adoption of contract law approach in principle

QUESTION 4

Visitor mooring is currently available for 48 hours at part of Jubilee Gardens and part of Midsummer common with no return in 7 days. Is a maximum period of 48 hours for visitor moorings with no return in 7 days still the most appropriate length of stay to ensure we maximise the opportunities for boaters to visit Cambridge?

No. To have two locations that are limited to 48 hours, with non-return periods of 7 days, is completely impractical whatever the boater's reasons for visiting Cambridge. It means that boaters who wish to spend more than 96 hours in the city have to leave the city for at least 5 days before they can return. This is so impractical that it serves to discourage visitors altogether. The maximum period of 48 hours should be extended to 14 days in winter from 1st November to 31st March. The non-return period should be reduced to 48 hours in summer and remain at 7 days in winter.

Q4 Officer response

Respondents to the consultation are split on this issue 44 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 compared to 48 who do not agree

QUESTION 4a

If you answered 'No' please state your reason(s) why

This would allow visiting boaters both to maintain contact with family and friends in the city and would increase the contribution of visiting boaters to the local economy. The time limit of 48 hours is not necessary in winter because the number of visitors and demand for visitor moorings is very low and does not warrant such a short time limit.

QUESTION 5

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:

The Council should bring civil possession claims for trespass in the case of boaters who moor for unreasonably long periods without any mitigating circumstances or when this done wilfully and is not due to circumstances beyond their control. Boaters who moor for long periods due to

circumstances that are beyond their control should be permitted to remain until their circumstances have improved.

The reason the NBTA believes this is a better approach is because the civil contract law approach to enforcement does not have any room for discretion built into it. For a public body to fetter its discretion in this way would be unreasonable and thus unlawful. In addition, there would be safeguards built into the civil enforcement process for trespass that protect the homes of boat dwellers from arbitrary enforcement and victimisation, and take account of their individual circumstances. In conjunction with this, this the Council should investigate if and why there may be an increased demand for residential mooring in Cambridge and take steps to meet that need (as it is already doing in the case of boat dwellers moored at Riverside). This approach should apply to all riverside land owned by the Council and not just to the 48 hour visitor moorings.

Q5 Officer response

This is our current practice; however this can take many weeks and involves Court preparation and costs.

A civil possession claim considers property matter only and therefore no discretion. To apply discretion would create the right to remain on Council land. There is no right to moor on Council land.

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 for landowners without having to resort to fines issued under statutory legislation

QUESTION 12

Do you consider the current enforcement action taken by the Council to be effective?

Yes.

QUESTION 13

What improvements would you like to see from the Council to improve its management and enforcement action?

We would like to see the Council addressing the maladministration of its Residential Mooring Licences. We have been contacted for assistance by a number of boat dwellers on the River Cam regarding these licences. The issues raised include the following. Firstly, boat dwellers have been wrongly deprived of their licences as the result of inappropriate and intrusive

snooping leading to the erroneous conclusion that they were not living on their boats when in fact their boat was their only home. Secondly, that the intrusive level of surveillance of some boat dwellers was the result of victimisation and not all licence holders were subjected to such surveillance. Thirdly, that there is a significant number of licence holders who are in breach of the terms and conditions of their licence primarily by no longer being resident on their boats, and yet the Council has taken no action against them and their boats remain fully licensed to the detriment of those boat dwellers who are on the waiting list. Fourthly, that there is a total of 71 licences available but only 50 of these licences have been sold by the Council, leaving a further 20 that are available but have not been sold, also to the detriment of the boat dwellers on the waiting list. Fifthly, that the Council has provided no explanation of the above discrepancies.

The NBTA would also like to see a policy of allowing all boats to moor for reasonable temporary periods on all the riverside land owned by the Council except the areas set aside for Residential Mooring Licence holders and 48 hour Visitor Moorings.

Q13 Officer response

There are currently 70 licences available not 71 and 60 issued not 50. We have not issued to full capacity because of overstays and we have yet to decide on the status of Riverside.

There are incidences of boater owners also having property in Cambridge. On two occasions the boater owner has voluntarily surrendered a licence.

The Council is aware of subletting; however establishing this is the case is often difficult to prove without investigation. We always investigate reports of subletting.

QUESTION 14

Would you like to see a permanent 'no return' policy introduced following enforcement action being taken where a boat is evicted from City Council Moorings?

No. A permanent 'no return' policy would be unlawful because it would contravene the Public Right of Navigation.

Q14 Officer response

The proposed contract law model would not affect the Public Right of Navigation.

The important point to highlight is that we are not 'enforcing' we are setting out licence terms that are a contract.

There are other moorings in Cambridge that are not under City Council control and will not have the same set of restrictions

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

- Licence Holders, Regulated Moorings and those on the waiting list – None.
- Visiting Boats that stay for 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 boats that moor after the date of introduction will not be subject to the contract terms

QUESTION 15

If you have any alternative proposals that the Council could consider to regulate the 48hours moorings and to cover the costs of a civil ‘contract law’ enforcement, please describe it below:

The Council should bring civil possession claims for trespass in the case of boaters who moor for unreasonably long periods without any mitigating circumstances or when this done wilfully and is not due to circumstances beyond their control. Boaters who moor for long periods due to circumstances that are beyond their control should be permitted to remain until their circumstances have improved.

The reason the NBTA believes this is a better approach is because the civil contract law approach to enforcement does not have any room for discretion built into it. For a public body to fetter its discretion in this way would be unreasonable and thus unlawful. In addition, there would be safeguards built into the civil enforcement process for trespass that protect the homes of boat dwellers from arbitrary enforcement and victimisation, and take account of their individual circumstances. In conjunction with this, this the Council should investigate if and why there may be an increased demand for residential mooring in Cambridge and take steps to meet that need (as it is already doing in the case of boat dwellers moored at Riverside). This approach should apply to all riverside land owned by the Council and not just to the 48 hour visitor moorings.

Q15 Officer response

This is our current practice; however this can take many weeks and involves Court preparation and costs.

A civil possession claim considers property matter only and therefore no discretion. To apply discretion would create the right to remain on Council land. There is no right to moor on Council land.

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 for landowners without having to resort to fines issued under statutory legislation. It is our intention to offer the right of appeal to any issued Moorings Charge Notice.

The level of residential moorings was set in 2006 and will be reconsidered in the review of the moorings policy in 2016.

SECTION 6

How would you rate the Council on a scale of 1-10 with '1' being the lowest and '10' being the highest for managing the moorings of Cambridge?

3

If you rated us '8' or below, please tell us what we could do for you to rate us '10'?

The NBTA would like to see the Council addressing the maladministration of its Residential Mooring Licences. The NBTA has been contacted for assistance by a number of boat dwellers on the River Cam regarding these licences. The issues raised include the following. Firstly, boat dwellers have been wrongly deprived of their licences as the result of inappropriate and intrusive snooping leading to the erroneous conclusion that they were not living on their boats when in fact their boat was their only home. Secondly, that the intrusive level of surveillance of some boat dwellers was the result of victimisation and not all licence holders were subjected to such surveillance. Thirdly, that there is a significant number of licence holders who are in breach of the terms and conditions of their licence primarily by no longer being resident on their boats, and yet the Council has taken no action against them and their boats remain fully licensed to the detriment of those boat dwellers who are on the waiting list. Fourthly, that there is a total of 71 licences available but only 50 of these licences have been sold by the Council, leaving a further 20 that are available but have not been sold, also to the detriment of the boat dwellers on the waiting list. Fifthly, that the Council has provided no explanation of the above discrepancies.

The NBTA would like to see the Council upholding the Equality Act and Children's Act rights of boat dwellers and carrying out an equality impact assessment both of the proposals in this consultation and of its

administration and decision making with regard to the Residential Mooring Licences.

The NBTA would like to see the Council developing a proper policy regarding its duties under the Equality Act, the Children's Act and Article 8 of the European Convention on Human Rights to safeguard and protect the homes of vulnerable, sick, disabled, pregnant and elderly boat dwellers and their children.

The NBTA would also like to see a policy of allowing all boats to moor for reasonable temporary periods on all the riverside land owned by the Council except the areas set aside for Residential Mooring Licence holders and 48 hour Visitor Moorings.

Section 6 Officer response

There are currently 70 licences available not 71 and 60 issued not 50. We have not issued to full capacity because of overstays and we have yet to decide on the status of Riverside.

There are incidences of boater owners also having property in Cambridge. On two occasions the boater owner has voluntarily surrendered a licence.

The Council is aware of subletting; however establishing this is the case is often difficult to prove without investigation. We always investigate reports of subletting.

It is the Council's intention to review its current River Mooring Policy in 2016/17.

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 Enforcement

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

The 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 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

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.

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

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):

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.

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

In summary and in response to the consultation 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.

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 propose is intended to provide an effective remedy without having to resort to Court action.

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 amount of time spent managing unauthorised mooring is disproportionate to the time spent managing those holding a River Moorings Licence. The time spent managing unauthorised moorings could be used to support the River Moorings Policy more effectively.

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.

We will review and agree the contract T&C, including stay/ return periods in consultation with stakeholders, as part of next phase, ie. following adoption of contract law approach in principle.

(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)

None identified

(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)

None identified

(c) Gender

None identified

(d) Pregnancy and maternity

None identified

(e) Transgender (including gender re-assignment)

None identified

(f) Marriage and Civil Partnership

None identified

(g) Race or Ethnicity

None identified

(h) Religion or Belief

None identified

(i) Sexual Orientation

None identified

(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):

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 on boaters and the Council Officers who will be involved in managing the moorings

9. Conclusions and Next Steps

No identified negative impact.

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 – Asset Development Officer

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

Date of completion: 1st March 2016

Date of next review of the assessment: