

## **MEMORANDUM OF UNDERSTANDING**

**Effective Date: 1 April 2024**

**BETWEEN:**

**ENVIRONMENT AGENCY (1)**

**CANAL & RIVER TRUST (2)**

**BROADS AUTHORITY (3)**

**ASSOCIATION OF INLAND NAVIGATION AUTHORITIES (4)**

**And**

**BOAT SAFETY SCHEME LTD (5)**

## 1. Introduction

- 1.1. This Memorandum of Understanding is made between The Environment Agency (“The EA”), Canal & River Trust (“CRT”) and the Broads Authority (“The Authority”) exercising their statutory roles. The purpose of this MoU is to ensure effective collaborative working between these organisations, to facilitate and manage communication and to adopt a common methodology of standards set by each respective organisation and reflective of any appeals against such standards. The Association of Inland Navigations (“AINA”) and Boat Safety Scheme Ltd (“BSS”) do not perform statutory functions and their participation and obligations under this Memorandum of Understanding are limited to the relevant parts noted for each body.
- 1.2. EA is an executive, non-departmental public body established by the Environment Act 1995. The EA is sponsored by the Department for Environment, Food and Rural Affairs (DEFRA).
- 1.3. CRT is a charity, registered with the Charity Commission (England and Wales) under reference no. 07807276. It does not have share capital and is controlled by company law and regulated by Companies House.
- 1.4. The Authority was incorporated by the Norfolk and Suffolk Broads Act 1988 and exists for the purposes of conserving and enhancing the natural beauty, wildlife and cultural heritage of the Norfolk and Suffolk Broads, promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public and protecting the interests of navigation.
- 1.5. AINA is an unincorporated association for organisations with statutory or other legal responsibility for the management, maintenance and operation of navigable inland waterways for navigation.
- 1.6. BSS is a not-for-profit private company limited by guarantee, Company Number 15501423, incorporated with three CRT-appointed director members (with CRT as a fourth corporate member) whose purpose is, amongst others, to train, assess, licence and regulate boat safety examiners who issue certificates as to whether any vessel meets the appropriate the safety and construction standards.
- 1.7. BSS is authorised by CRT under its function contained within s.17(6) of the British Waterways Act 1995 to confirm those persons authorised to issue boat safety certificates.

## 2. Powers and Legislation

- 2.1. The EA’s functions are primarily found in the Environment Act 1995, however it operates within a legal framework containing numerous pieces of national and local environment legislation and undertakes a very wide range of activities. It is the navigation authority for the River Thames, Medway and Anglian navigations. Its powers in relation to the construction and equipment standards of vessels upon those waterways are as set out in the Environment Agency (Inland Waterways) Order 2010. When exercising the power to set construction and equipment standards for vessels under s.12 of the Environment Agency (Inland Waterways) Order 2010 the Environment Agency must have regard to reasonable standards and specifications imposed by other persons and also to the desirability of achieving common standards in relation to the regulation of vessels by different persons. Under s.37 of the Environment Act 1995 it may do anything which is calculated to facilitate or is conducive or incidental to, the carrying out of its functions.

- 2.2. CRT was formerly known as British Waterways Board in England and Wales and under the terms of the British Waterways Board (Transfer of Functions) Order 2012, certain statutory functions moved from British Waterways to CRT. CRT are successor to property, assets and liabilities of British Waterways Board by the terms of the British Waterways Board Transfer Scheme 2012. CRT has similar powers to the EA to set construction and equipment standards which are contained in the British Waterways Act 1995 Schedule 2.
- 2.3. The Authority has similar powers to the EA and CRT to set construction and equipment standards which are contained in the Broads Authority Act 2009 section 12. Section 12(2) of the Broads Authority Act 2009 requires the Broads, where there is in force a scheme imposing standards in relation to vessels on navigable waters under the control of the EA and CRT to effect identical standards (subject to the exceptions in 12(2)(b)( and (c)).
- 2.4. The EA, CRT and the Authority are each subject to statutory provisions whereby the reasonableness of any standard or specification set can be challenged by specified persons.

### **3. Scope and Purpose of this MoU**

- 3.1. CRT, the EA and the Authority seek to work collaboratively to enhance their effectiveness in relation to the setting of construction and equipment standards with the aim of adopting a common set of standards.
- 3.2. All parties agree that it is both appropriate and beneficial to discuss standards in a common forum and that forum (“Standards Setting Forum”) can appropriately be held at BSS should it be convenient to do so to discuss, review and publish construction and equipment standards and for each body to contribute views and opinions, together with AINA, BSS and others as necessary, with the aim of achieving a common standard to be adopted (“the Standards Scheme”). CRT and EA as the two largest navigation authorities shall ultimately attempt to agree a set of common standards for navigable watercourses under their control and that will be considered to be a scheme imposing common standards. That scheme shall also have effect on the navigable waters under the control of the Authority by reason of s.12(2)(a) of the Broads Authority Act 2009.
- 3.3. Each of EA, CRT and the Authority have a statutory appeal mechanism against the reasonableness of the standards that it sets, and each respective organisation has a statutory duty to convene a panel to hear such an appeal.
- 3.4. It is agreed that if an appeal is received by any one body then it should be treated as an appeal against the common standard adopted by all and therefore if possible that such a panel (regardless of the body convening it) should be convened to meet as far as may be possible in a way that ensures that the views of the other statutory authorities are heard and minimising the necessity for a separate challenge to another body against the same standard and ensuring that if successful the challenged standard is amended across all bodies and the desirability of a common standard is retained.
- 3.5. Therefore, in the event of a successful challenge to the standard then the common standard will be revised if/where appropriate accordingly at the next meeting.

- 3.6. The Standards Scheme shall set the common standards as required by each body (and in the case of the Authority standards under the control of the EA and CRT for the purposes of s12(2) of the Broads Authority Act 2009), but shall not be the authorising, approving or licensing body for any individual BSS examiners who may wish to register participation in any such licensing scheme. However, the bodies agree, subject to assessments at appropriate intervals to confirm the satisfactory regulation of those authorised by BSS, to accept any certificate from a licenced BSS examiner authorised by BSS as being in satisfaction that the common standard for any particular vessel has been met.
- 3.7. Any reporting or investigation requirements under the Merchant Shipping (Accident Reporting and Investigation) Regulations 2012 shall be entirely independent of any participation in the Scheme.

#### **4. Structure of the Forum**

- 4.1. CRT, the EA and the Authority shall meet as a Standards Setting Forum with standing invitations to AINA for input in relation to other navigation authorities and BSS as to the efficacy of the regulation of the BSS and any issues in relation to amendments to standards which might impact upon those examiners supervised by BSS.
- 4.2. The Standards Setting Forum shall also receive via BSS information from an Advisory Forum and a Technical Forum in relation to detailed consideration of construction and equipment standards.
- 4.3. The Standards Setting Forum shall meet every quarter.

#### **5. Publication of Standards**

- 5.1. The Parties Agree that it is appropriate and sensible for the website of BSS to publish the common standards which are set and for it to be clear that the parties to this MoU have endorsed and implemented those standards. To the extent necessary the parties agree to licence their logo to be present on the BSS website for this purpose.
- 5.2. The standards in existence as promoted by EA and CRT on the website [www.boatsafetyscheme.org](http://www.boatsafetyscheme.org) shall be taken to be the common standard at the date of commencement of this Memorandum of Understanding.

#### **6. Role and Resourcing of BSS**

- 6.1. BSS shall offer to hold the forum as necessary, attend meetings of the Standards Setting Forum as requested and publish the standards upon their website.
- 6.2. BSS is incorporated as a non-for-profit company limited by guarantee, funded via examiner training fees, annual boat safety examiner accreditation fees and boat safety certificate licence charges to be set by BSS from time to time.
- 6.3. CRT will provide administrative and management support to BSS and recover its costs of providing that support via a service level agreement the terms of which shall be agreed between CRT and BSS from time to time.

- 6.4. BSS currently offers other general safety training to participating navigation and harbour authorities and shall continue to do so, such training to be offered at usual commercial rates and subject to separate terms and conditions.

## **7. Review of MoU, Non-Fettering and Freedom of Information**

- 7.1. From and including the date of this MOU, the previous MOU entered into by the British Waterways Board (the statutory predecessor to CRT) and the National Rivers Authority (the statutory predecessor to the EA) in February 1995 and the Navigation Authority Agreement executed by CRT in March 2014 are both terminated and replaced by this MOU.
- 7.2. This MOU will be reviewed every 3 years via the Standards Setting Forum, unless terminated sooner or extended by prior collective written agreement by all parties.
- 7.3. Nothing in this Memorandum of Understanding shall constitute an unincorporated association, nor shall the actions of the Standard Setting Forum fetter the discretion of the relevant statutory authorities involved.
- 7.4. To the extent relevant each body shall be responsible for satisfying any Freedom of Information requests that are made to it.