

Covering note

Dear stakeholder

We want to hear your views.

We are pleased to be able to share with you the draft proposed procedures for removal of unregistered residential vessels on Environment Agency waterways.

The procedure relates to our power to remove unregistered vessels under Article 16 of The Environment Agency (Inland Waterways) Order 2010 (“the Order”).

During the draft Order’s public consultation, the Environment Agency received a challenge regarding the proposed power to remove from the waterways a vessel, which might be in use as somebody’s home. In response, the Environment Agency agreed that it would not remove an unregistered residential vessel without consulting on appropriate procedures to safeguard the rights of those affected.

We consulted on proposed procedures in 2023. Whilst some responses were supportive of our proposals, we also received some challenges to them. Some responders were concerned that the procedure was too lengthy and bureaucratic, with the risk it would be inefficient and not used; whilst others told us it was too heavy-handed and did not address human rights issues.

We have considered all the consultation responses carefully and revised our proposals to address these concerns. We are now consulting on our revised proposals.

Article 16 of the Order, as passed into law, does not make any distinction between vessels used for any particular purpose and covers the removal of any unregistered vessel. This consultation document relates to procedures to remove residential vessels if they are unregistered. It does not relate to the power to remove them, which is already set in law.

Consultation with our stakeholder groups, user representatives and other relevant interested parties will inform any final procedure for the removal of vessels used for residential purposes.

The proposed procedure for removal of unregistered residential vessels on Environment Agency waterways below should be read alongside the consultation form which can be found at this link: <https://forms.office.com/e/pxRuH9WnyM>

or by scanning the QR code below:





Proposed procedure for removal of unregistered residential vessels on Environment Agency waterways

Date: 28 July 2025

Version: 1

We are the Environment Agency. We protect and improve the environment.

We help people and wildlife adapt to climate change and reduce its impacts, including flooding, drought, sea level rise and coastal erosion.

We improve the quality of our water, land and air by tackling pollution. We work with businesses to help them comply with environmental regulations. A healthy and diverse environment enhances people's lives and contributes to economic growth.

We can't do this alone. We work as part of the Defra group (Department for Environment, Food & Rural Affairs), with the rest of government, local councils, businesses, civil society groups and local communities to create a better place for people and wildlife.

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Background

We continue to see an increase in persistent offenders who fail to register their vessels, as required under Article 4 of the Environment Agency (Inland Waterways) Order 2010. In some cases, these vessels also may not comply with our requirements of registration – compliance with our Construction and Equipment standards (in most cases needing a valid Boat Safety Scheme Certification) and a third-party insurance policy.

The Environment Agency sees vessel removal as a ‘last resort’ when dealing with unregistered vessels. Wherever possible, we will try to work with the vessel owners to bring them into compliance; ensuring they meet the requirements of registration and therefore our safety requirements, to help protect all those who are using our waterways. Boat registration income is also essential to maintain the navigation services we provide.

Legislation

The Environment Agency (‘the Agency’) is the Navigation Authority for 1010km of waterways across England including the Anglian Waterways, non-tidal River Thames, the River Wye and Upper Medway Navigation, as well as the harbours of Rye and Lydney.

Our legislation provides the Agency with powers to remove vessels from our waterways, under:

The Environment Agency (Inland Waterways) Order 2010: Article 16*

‘The Agency may relocate on or remove from the waterways any vessel which is not registered under this Order if –

- a) the Agency has given notice under this paragraph; and
- b) the requirements of paragraph (5)** do not apply’.

* See Appendix 2 for Article 16 in full.

** Paragraph 5 refers to the ‘Duty to register’.

The Anglian Water Authority Act 1977 (‘the AWAA’): Section 21

‘Whenever any vessel is sunk, stranded or abandoned in any recreational waterway, or without lawful authority left or moored therein, the Authority may after giving (except in an emergency) not less than three months’ notice to the owner of the vessel, unless it is not practicable after reasonable inquiry to ascertain the name and address of the owner, raise and remove the vessel’.

Thames Conservancy Act 1950 (‘the TCA’): Section 16

‘Whenever any vessel or any part of a vessel is sunk stranded or abandoned in any part of the Thames the Conservators may if they think fit cause the vessel or such part to be raised removed blown up or destroyed’.

Upper Medway Navigation and Conservancy Act 1911 ('the UMNCA'): Section 70

‘Whenever any vessel is sunk or stranded in the Upper Medway the Conservators shall cause such vessel to be raised or in case of sunken vessels which it is not reasonably practicable to remove to be blown up or otherwise destroyed so as to clear the Upper Medway ...’

This consultation only relates to the proposed procedure for the removal of unregistered residential vessels under the Order and **not** the removal of sunk, stranded or abandoned vessels or wrecks which fall under the AWAA, TCA, UMNCA; or within the Harbour of Rye or the Harbour of Lydney, which fall under different legislation.

Proposed unregistered residential vessel removal procedure

Factors to consider before removing an unregistered residential vessel

The power to remove an unregistered vessel is significant and removal costly. A variety of factors need to be considered when determining whether the powers should be exercised. It will be for local Waterway teams to decide upon which vessels are priority, but some factors that may escalate the prioritisation are (not exhaustive):

- No valid Boat Safety Scheme Certification (BSSC), or equivalent, is in place for the vessel, including evidence that the construction and equipment standards have not been met even after we have informed the vessel owner of the requirements.
- We have not received proof from the vessel owner that there is valid insurance in place for the vessel, even after informing the vessel owner of the requirements.
- Evidence that the vessel owner is failing to comply with other requirements under our legislation or evidence of persistent breaches of relevant navigation byelaws.
- Length of time vessel is believed to have been non-compliant, previous history of prosecution etc.
- Vessel is moored on Environment Agency property without permission.
- Vessel is causing or is likely to cause an obstruction.

Under the Environment Agency's Non-Financial Scheme of Delegation (NFSoD), the decision to remove an unregistered vessel from the waterway needs approval to be obtained from the appropriate Waterways Manager in consultation with a Senior Managing Lawyer within Legal Services.

Each case is likely to be different based upon several factors. Vessel removal will normally only be invoked once all other options have been considered.

European Convention on Human Rights Act ("the ECHR")

The removal of a residential vessel needs to be treated with sensitivity. We believe, and it is a position underlined by recent case law, that Article 8 of the ECHR may be engaged by the removal of a residential vessel under Article 16 of the IWO.

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being

of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

The following steps are proposed to ensure that consideration is given to the extensive case law relating to Article 8 rights and the similar situation of the traveller community, where Article 8 rights apply.

Steps to be taken to remove an unregistered residential vessel

1. Welfare check

The Officer will have a conversation with the resident(s) to understand if there are any welfare concerns. The Officer will offer to contact the local council and can also provide a list of useful organisations that can offer information and support.

2. Review case

The Officer must discuss the case, including any welfare concerns, with the appropriate Team Leader who will then discuss with the signatory authorised to act under the NFSoD.

3. Serve the Warning Letter

After the Team Leader has reviewed the case, the Officer must serve a Warning Letter, which requires reasons for why the boat is not registered and giving 14 days to register.

4. After 14 days

The Officer must check if a response has been received. If a response has been received, they will assess any justification provided for the vessel being unregistered.

- If there is justification, they will log the information and why they have come to that decision. The Officer will write to the master/owner acknowledging receipt and setting out their acceptance of the justification.
- If there has not been a response or an unsatisfactory justification, the Officer will check if the vessel has been registered. If it has not, they will update the appropriate Team Leader who will inform the relevant NFSoD signatory.

5. Welfare check

The Officer must visit the occupier(s) to check on their welfare. If possible, they will attend with the local council.

6. Approval given to proceed with removal

- The Officer will draft the Article 16 notice giving at least 28 days and send to their Legal team for comment.
- Once Legal have advised, the Officer will send to the NFSoD signatory.
- Once signed, the Officer will serve the Notice by fixing it to the vessel or in a conspicuous place in the vicinity of the vessel. Officers will make such reasonable enquiries to determine the name and address of the owner and serve a copy on them.

7. After 28 Days

- The Officer will check if the vessel has been registered. If it has, they will discuss appropriate enforcement options within their local Waterway teams.
- If the vessel remains unregistered, the Team Leader will review the case in consultation with Legal. If satisfied, Legal will seek a declaration, taking account of any welfare needs, from Court.

8. Court Declaration

- If the declaration from Court is successful, the Officer will visit the occupier(s) along with the local council, to check on their welfare. The Officer will then plan for vessel removal through our authorised contractor. The contractor will then arrange for storage of the vessel and contents.
- If the declaration from Court is unsuccessful, the Officer will discuss with legal what other options are available.

9. After 3 months of successful vessel removal

- 3 months from the date the Article 16 notice was served, the vessel and its contents become the property of the Environment Agency.
- The vessel and its contents can be sold or scrapped in consultation with our authorised contractor.
- If we know who the owner is, we should arrange recovery of our costs.

Where a claim is made

If within 24 months of the date the Article 16 notice was served, a claim is made to the vessel or to anything attached to or carried in or on the vessel by a person who proves to us that they are the owner, the following shall apply:

- if the property is unsold and we have received payment to cover our costs, then the person may retake the vessel. They may also take anything attached to or carried in or on the vessel if we are satisfied it does not belong to somebody else.
- if it has been sold, we pay that person the amount of the proceeds of such sale after deducting our costs, which include removal, storage and sales (including where appropriate valuing) of the vessel and, if those proceeds are insufficient to cover our expenses, we may recover the deficit from that person.
- If the vessel is deemed unsuitable for sale, then the vessel can be disposed of 3 months after the date the A16 Notice was issued.

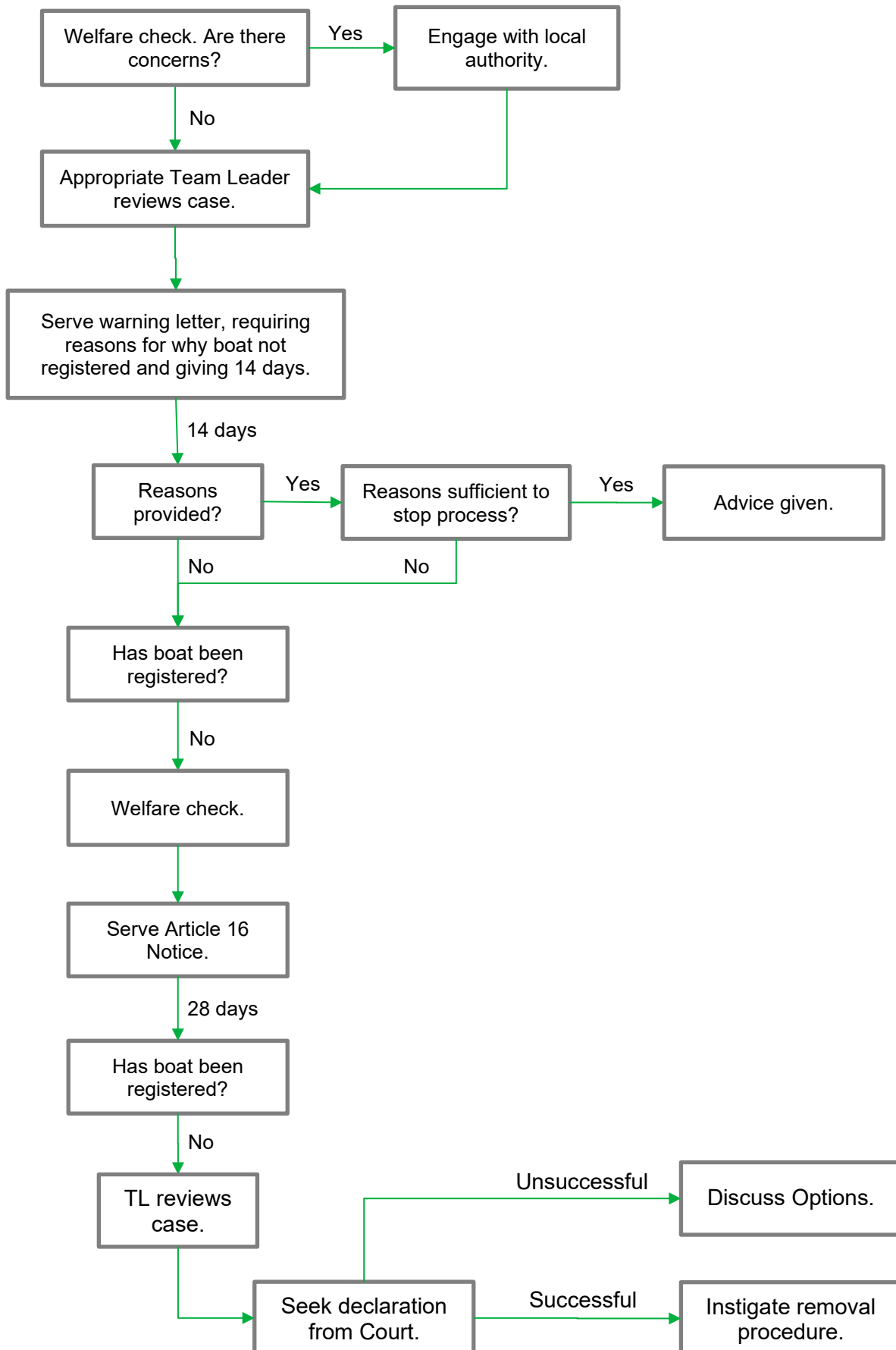
If the vessel is disposed of then this is treated as waste and as such all relevant waste legislation must be adhered to including (but not limited to) Waste duty of care: code of practice, Environmental Protection Act 1990, The Hazardous Waste (England & Wales) Regulations 2005, The Environmental Permitting (England and Wales) Regulations 2016.

Records of the costs involved will be kept for at least 24 months after the disposal of the vessel, in case the owner comes forward, as the owner could be liable for these costs.

List of abbreviations

- AWAA: Anglian Water Authority Act 1977
- BSSC: Boat Safety Scheme Certification
- EHCR: European Convention on Human Rights Act
- NFSoD: Non-Financial Scheme of Delegation
- TCA: Thames Conservancy Act 1950
- UMNCA: Upper Medway Navigation and Conservancy Act 1911.

Appendix 1: Proposed unregistered residential removal



Appendix 2: Article 16 Environment Agency (Inland Waterways Order) 2010

Removal of unregistered vessels

16.—(1) The Agency may relocate on or remove from the waterways any vessel which is not registered under this Order if—

- (a) the Agency has given notice under this paragraph; and
- (b) the requirements of paragraph (5) do not apply.

(2) A notice under paragraph (1)(a) must—

- (a) identify the vessel in respect of which the notice is served and its approximate location;
- (b) state that if the owner fails either to apply for the registration of the vessel or to remove the vessel before the expiry of a period specified in the notice and being not less than 28 days from the date when the notice is first given under paragraph (3)(a), the Agency may relocate or remove the vessel and recover all expenses reasonably incurred in doing so from the owner; and
- (c) state that the vessel and its contents, once relocated or removed by the Agency, are liable to vest in and be disposed of by the Agency

(3) A notice under paragraph (1)(a) must be given—

- (a) by fixing a copy of the notice on the vessel or in a conspicuous place in the vicinity of the vessel; and
- (b) unless the Agency has made such enquiries as it may determine are reasonable to ascertain the name and address of the owner of the vessel but has been unable to do so, by serving a copy of the notice on the owner of the vessel.

(4) Section 123(1) to (4) of the Environment Act 1995⁽¹⁾ (service of documents) applies to the service of a notice under paragraph (3)(b) as it applies to the service of notice under that Act.

(5) The Agency must not relocate or remove a vessel under this article if, within the period specified in the notice given for the purposes of paragraph (2)(b) in respect of the vessel, the owner of the vessel—

- (a) applies for the registration of the vessel; or
- (b) enters into an agreement with the Agency on such terms as the Agency may see fit for the removal of the vessel from the waterways.

(6) The Agency may recover from the owner of any vessel relocated or removed under this article all expenses reasonably incurred by the Agency in respect of the relocation or removal and storage of the vessel or in relocating, removing or storing anything attached to or carried in or on the vessel.

(7) A vessel relocated or removed by the Agency under this article (together with anything attached to or carried in or on the vessel) vests in the Agency 3 months after the date the notice was first given by the Agency under paragraph (3)(a) in respect of the vessel.

(8) If within 24 months of the date the notice was first given under paragraph (3)(a) in respect of a vessel a claim is made to the vessel or to anything attached to or carried in or on the vessel by a person who subsequently proves to the satisfaction of the Agency that the person is its owner, then the Agency must—

- (a) if the property is unsold and upon payment of the expenses referred to in paragraph (6), permit that person to retake it and, in the case of a vessel, together with anything attached to or carried in or on the vessel which has not been proved to the Agency's satisfaction to belong to another; or
- (b) if it has been sold, pay to that person the amount of the proceeds of such sale after deducting the expenses referred to in paragraph (6) and the costs incurred in selling (including where appropriate valuing) the vessel and, if those proceeds are insufficient to reimburse the Agency those expenses, the deficiency may be recovered from that person by the Agency.

(9) Subject to paragraph (8)(b), the proceeds of the sale of any vessel vested in the Agency under paragraph (7) must be spent by the Agency only in the carrying out of its navigation functions.

(10) In this article "vessel" includes any part of the vessel.

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