

National Bargee Travellers Association

Overarching Procedural Submission: Pre-determination and Evidential Bias in the "Transforming Boating" Consultation.

Before addressing the individual recommendations of the Future of Licensing Commission report, the NBTA must formally record a structural defect in the overarching framing of the "Transforming Boating" consultation.

The CRT Citizens Boater Panel launch page explicitly states that this consultation "is part of our response to the 2025 independent Commission on Boat Licensing, which highlighted that the existing licensing system doesn't work well."

By publishing this statement, CRT has presented the inadequacy of the primary legislation as a settled institutional fact, directing respondents solely toward endorsing how the system should be changed. Conducting a consultation based on the non-negotiable premise that the current system is broken indicates that proposals are not at a genuinely formative stage and that the Trust is proceeding with a closed mind.

As we detail extensively in our feedback below (particularly regarding Recommendations 3, 5, and 36), the NBTA maintains that the British Waterways Act 1995 is entirely sufficient; it is the Trust's administrative and enforcement interpretations that are flawed.

As many of the recommendations are aimed at remedying those flawed administrative and enforcement interpretations, the fact that legislation reform is presented as a settled fact undermines the licence review's attempt to rectify CRT's practice under current legislation.

1. The Foundation of Bias: The November 2024 Terms of Reference

The pre-determination currently infecting the Transforming Boating consultation was established at the project's inception. In November 2024, CRT published the Terms of Reference (ToR) for the Future of Boat Licensing Review, which explicitly declared:

"The Trust's boat licensing legal framework is, therefore, considered to be in need of review and reform in order to enable the Trust to adapt to the present and likely future use of its waters."

By asserting as an undisputed fact that the statutory framework was in need of "reform," CRT pre-emptively decided the outcome before gathering a single piece of evidence. As the National Bargee Travellers Association (NBTA) formally warned in January 2025, the ToR pre-emptively anticipated an outcome pointing toward legislative change, failing to objectively evaluate whether the existing British Waterways Act 1995 was sufficient.

2. The Perpetuation of Confirmation Bias

Rather than correcting this foundational bias to establish a neutral baseline for public engagement, CRT allowed these initial assumptions to dictate the Commission's work and the subsequent 2026 consultation roadmap.

The independent Commission's October 2025 report predictably relied upon CRT's foundational premise, asserting that the Trust was "right in our view to believe that its licensing arrangements need reform". The latest wording on the CRT Boater Consultation launch page proves that CRT

is now using the findings of a Commission it funded and mandated to validate the very bias it introduced in 2024.

By stating that the existing system "doesn't work well," CRT has permanently closed the debate on the fundamental question. The public is not being consulted on whether the legislation needs fixing, but is instead being corralled into endorsing how CRT will amend it.

3. Breach of Public Consultation Standards (The Gunning Principles)

Public authorities and charitable bodies exercising statutory navigation functions are bound by the common law principles of lawful consultation (the Gunning / Sedley Criteria), as acknowledged in CRT's own 2026 Statement of Work.

Gunning Principle 1 strictly requires that consultation must take place at a time when proposals are still at a formative stage, with a mind that is open to all options.

A consultation that starts from the non-negotiable premise that the existing law "doesn't work well" - and restricts the scope of engagement entirely to implementing or responding to reform recommendations - is the definition of a closed mind. You cannot claim proposals are at a "formative stage" when the necessity of dismantling the status quo was pre-determined in November 2024.

4. Remedy sought

To remedy this procedural bias and ensure the consultation process meets the legal standards for intelligent consideration, the NBTA requests the following structural adjustments before the public survey is launched:

1. Retraction of Pre-determining Statements: The removal of the statement that the system "doesn't work well" from the launch page and all associated consultation materials, replacing it with neutral wording that acknowledges legislative reform may not be necessary, and that the issue may instead stem from the incorrect implementation of current legislation.
2. Clear retraction of previous predetermined bias within consultation materials: The consultation materials and accompanying documents and statements must include clear confirmation that there is no verified evidence supporting legislative change over retention of current legislation and that promotes the retention of current legislation is an equally viable option
3. Inclusion of a Fully Developed 'Status Quo' Option within consultation processes and materials: The consultation materials and accompanying documents and statements must include the retention of the existing British Waterways Act 1995 as a distinct, co-equal policy option. This option must be accompanied by an objective operational impact assessment detailing how the current legislation could function effectively if supported by improved administrative practices (as outlined in our responses below), rather than presenting legislative overhaul as the only viable path forward.

**National Bargee Travellers Association
September 2026**