

# Navigation Committee

04 September 2025

Agenda item number 12

## Boat Safety Scheme - compliance

Report by Chief Executive and Head of IT and Collector of Tolls

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### Purpose

To consult the Committee on a potential amendment to the Authority's byelaws using the power in Section 11 of the Broads Authority Act 2009 to support compliance with the Boat Safety Scheme.

### Broads Plan context

Broads Plan objective **C4** - Maintain and improve safety and security standards and user behaviour on the waterways.

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## 1. Background

- 1.1. One of the main ambitions behind the 2009 Broads Authority Act (2009 Act) was the full adoption of the Boat Safety Scheme. As a stop gap measure and in advance of the passing of the 2009 Act, the 2006 Boat Safety Standard Byelaws passed under s10(3) of the Norfolk and Suffolk Broads Act 1988 (1988 Act) contained a 23-page listing of standards for privately owned and hire vessels. They covered fuel and engine systems, electrical systems, fire extinguishment and escape, LPG systems, appliances and flues etc.

1.2. Under s10(3) and Schedule 5 of the Norfolk and Suffolk Broads Act 1988 (1988 Act) the Broads Authority has the power to make byelaws for the good management of the navigation area, the conservation of its natural beauty and amenities and the promotion of its use for purposes of recreation. This includes at schedule 5(4) making byelaws to prescribe for the purposes of safety, conditions with respect of the construction, equipment and maintenance of vessels using the navigation area. The Byelaws may contain such incidental, consequential, and supplemental provisions as the Authority thinks fit.

1.3. Section 11 (2) of the 2009 Act states:

*(2) The Authority may make byelaws for the purpose of providing for the registration of vessels in the navigation area or on adjacent waters, and for the determination and recovery of tolls in respect of vessels moored, used or navigated in the navigation area or on adjacent waters.*

## 2. 2006 Boat Safety Standard Byelaws

2.1. There were three different commencement dates for the byelaws, 1 April 2007, 1 April 2008 and 1 April 2009 for different classes of vessel.

2.2. Byelaw (4) required that:

*The owner or master of a vessel shall only moor, use or navigate, or cause or permit a vessel to be moored, used or navigated in the navigation area if*

*(a) it complies with the boat safety standards applicable to the vessel (subject to provision of Byelaw (6 (4) or*

*(b) there is a current certificate of conformity.*

2.3. Byelaw 6 (1) required:

*A person applying to the Authority for a toll receipt for a vessel shall, if so required by the Authority, submit with the application such evidence as the Authority may reasonably require to demonstrate that at the date of application the vessel complies in every aspect with the boat standards which are applicable to the vessel or which will be applicable to the vessel for all or part of the period covered by the toll receipt.*

2.4. Byelaw 7 stated that:

*Within 28 days of receiving evidence under Byelaw 6 the Authority shall-*

*(a) if it is satisfied that the vessel complies with the boat standards, issue a certificate of conformity, or*

*(b) if it is not so satisfied, issue a notice of refusal -*

*And shall forward the certificate of conformity or the notice or refusal to the person applying for the toll receipt.*

2.5. Byelaw 15 (1) stated:

*Any owner or master of a vessel who without reasonable excuse contravenes or fails to comply any requirement made by or under any of these Byelaws shall be guilty of an offence and be liable on summary conviction to a fine no exceeding level 4 on the standard scale.*

### 3. Broads Authority Act 2009

- 3.1. The Broads Authority Act aligned the construction and equipment standards for the Broads with the National Boat Safety Scheme (Section 12 of the Act) and a Boat Safety Certificate is evidence of compliance with the construction and equipment standards.
- 3.2. Section 15 of the Act deals with “Offences as to standards and insurance requirements” and under that section it is an offence not to comply with any safety standards applicable to the vessel as below.

*(1) The owner or master of a vessel who without reasonable excuse and (in the case of a master of a vessel who is not also the owner) knowingly—*

*(a) keeps, lets for hire or uses a vessel in the navigation area or on adjacent waters which does not comply with any standards applicable to the vessel; or*

*(b) contravenes the requirements of section 14(2) as to insurance policies, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale*

- 3.3. The 2009 Act contains a series of provisions to deal with unsafe vessels including Section 18 which defines the ‘Meaning of an unsafe vessel’, and Section 19 ‘Powers as to unsafe vessels’ and Section 20 ‘Removal of unsafe vessels’.
- 3.4. To ascertain if a vessel is unsafe the Authority must be satisfied (section 18), after taking advice where appropriate from a person qualified to examine or assess compliance, that non-compliance with any standards imposed under s12 continues or continue to give rise to a danger to any person or to any property, or risk of pollution, from the vessel. The Authority has a power of access to a vessel to inspect it (Section 17 Entry on and inspection of vessels) and in practice would usually need to access the vessel in order to ascertain if a vessel was unsafe. Section 17 (9) and (10) state that:

*(9) Subject to subsection (10) the costs incurred by the Authority under this section shall be borne by the Authority.*

*(10) In any case in which the Authority exercises the powers of this section in relation to a vessel which it determines fails materially to comply with any*

*standards applicable to the vessel, the costs reasonably incurred by the Authority in exercising those powers shall be borne by the owner of the vessel.*

3.5. The costs are therefore borne by the Authority unless the vessel materially fails to comply with the relevant standards.

3.6. Section 11 (10) of the 2009 Act states that:

*(10) Where the Authority is satisfied that a vessel does not comply with any requirement of the relevant sections, it may cancel the registration of that vessel if—*

*(a) it has given the owner written notice of the non-compliance in question and required him to remedy it within 14 days of the date on which the notice is given; and*

*(b) that period has expired without the non-compliance being remedied;*

*but where the Authority considers that it is necessary to cancel the registration as a matter of urgency, it may do so with effect from the date on which the notice is given*

3.7. Where a vessel doesn't comply with the Boat Safety Standards the Authority can therefore cancel registration. However, for the Authority to be satisfied that there is non-compliance.

3.8. While the Act appeared to cover all eventualities this whole process can be time consuming and costly. With the benefit of recent experience, it is now clear that it would be simpler for the Authority's Byelaws, amended under the provision in Section 11 of the Broads Authority Act 2009, to require a current Boat Safety Certificate to be held in respect of vessels, other than seagoing freight vessels, as a condition of using the navigation area and adjacent waters for the purposes of safety. A failure to hold a current Boat Safety Certificate would be an offence under the Authority's Byelaws. It is therefore proposed to reinstate wording like that used in the 2006 Boat Safety Standard Byelaws in the Registration Byelaws, namely:

*The owner or master of a vessel shall only moor, use or navigate, or cause or permit a vessel to be moored, used or navigated in the navigation area and adjacent waters if a Boat Safety Scheme Certification has been issued in respect of the vessel and such Boat Safety Scheme Certification is Valid.*

*"Boat Safety Scheme Certification" means a certificate issued to vessels that comply with the Safety Standards imposed by and in accordance with a Boat Safety Scheme.*

*"Boat Safety Scheme" means a scheme currently in force in relation to vessels on navigable waters under the control of the Canal and River Trust and the Environment Agency.*

*“Safety Standards” are the standards and relating to construction and equipment for the purposes of ensuring safety or preventing noise or pollution imposed in accordance with s12 of the Broads Act 2009.*

*“Valid” a Boat Safety Scheme Certification is valid where it has been issued in accordance with the Boat Safety Scheme in respect of the relevant vessel, and the period for which the certificate has been issued has not expired.*

## 4. Process

- 4.1. The process of making a byelaw requires that the Authority consult the Navigation Committee, the purpose of this report.
- 4.2. The procedure for making byelaws under either Section 10 (3) of the Norfolk and Suffolk Broads Act 1988 and Section 11 of the Broads Authority Act 2009 is pursuant to Section 236 of the Local Government Act 1972 and is set out below:
  1. Establish what legislation should be used to make the byelaw.
  2. Draft the byelaw.
  3. Submit the draft byelaw and application for Provisional Approval of byelaws to the government byelaws section (byelaws@communities.gov.uk). At this stage, the Government will scrutinise the byelaw and provided there is no legal problem or conflict with government policy, notify the Authority that it can make and seal the byelaw.
  4. Once the Authority has formally resolved to adopt the byelaw, make the byelaw under the common seal of the Authority.
  5. Advertising the byelaw – a notice of intention to apply for the confirmation of the byelaw must be published in one or more local newspapers at least one month before the application for confirmation of the byelaws is made. A copy of the byelaw must also be kept for at least one month before the application for confirmation is made at the Authority’s offices for public inspection. A copy of the byelaw must be provided to any member of the public who applies for one (on payment for a sum not exceeding 10p for every 100 words as the Authority shall determine).
  6. Once the above steps have been followed the Authority should apply to the Government for confirmation.
  7. It is open to the Secretary of State (so) to confirm byelaws subject to such modifications as he thinks fit. If the SoS considers the modifications to be substantial, he is required to inform the Authority and require it to take such steps as the SoS considers necessary for informing persons likely to be concerned with the modification. In that case the SoS shall not confirm the byelaws until such period has elapsed as the SS thinks reasonable for the Authority, and others who have been informed of his proposal, to consider and comment on it.

8. Once confirmed the Authority must print and deposit the Byelaws at its offices and they shall at all reasonable hours be open to public inspection without payment, and a copy is to be provided to any person on payment of such sum, not exceeding 20p for every copy, as the Authority may determine.

- 4.3. It is noted that the Secretary of State is entitled under to hold a local enquiry before deciding whether or not to confirm byelaws made under s10(3) 88 Act. Where that is the case the minister may direct that the costs incurred by him in relation to the inquiry shall be paid by such local authority or party to the inquiry as he may direct.
- 4.4. The Minister may also make orders as to the costs of the parties at the inquiry and who those costs are to be paid by.

## 5. Financial implications

- 5.1. There are costs associated with amending the byelaws, for example in advertising the proposed byelaw and making it available to the public, but the main costs are in staff time.

## 6. Risk implications

- 6.1. If the proposed byelaw is opposed the main risk is in the amount of time and resource that it takes to get it confirmed.

## 7. Conclusion

- 7.1. An amendment to the Authority's Byelaws to make it an offence not to have a Boat Safety Certificate applicable to the vessel would make the enforcement of the standards simpler.

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Background papers: Broads Authority Act 2009, Boat Safety Byelaws 2006

[Broads Plan](#) strategic objectives: C4