

# Broads Authority

29 November 2024

Agenda item number 13

## Broads Authority Act 2009 Provision- Removal of Wrecks

Report by Director of Operations

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### Purpose

This report sets out a proposal for redefining the listed criteria for ‘Unserviceable Vessels’ in relation to the removal of wrecks (Norfolk and Suffolk Broads Act 1988 Schedule 5 (12) (1) as amended by the Broads Authority Act 2009.

### Broads Plan context

Broads Plan Theme C: Maintaining and enhancing the navigation.

C2: Maintain existing navigation water space and develop appropriate opportunities to extend access for various types of craft.

C4: Maintain and improve safety and security standards and user behaviour on the waterways

### Recommended decision

Adoption of the revised criteria for unserviceable vessels as set out in paragraph 5.4.

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# 1. Introduction

- 1.1. Post the COVID-19 National Lockdowns (March 2020 – June 2020, January 2021—July 2021), there has been an increase of vessels used as primary residences on the Broads waterways. Most of these residents do so in full compliance. However, factors like the cost-of-living crisis, lack of affordable housing, high costs and scarcity of permanent moorings, transport costs and rising utility bills have also seen an increase in non-compliant vessels, several of which lie scattered about the system, unmaintained and left to decay.
- 1.2. These non-compliant vessels significantly drain the Authority’s limited resources, especially when left on 24-hour moorings, stranded on land after a tide, or sunken due to water egress or decaying hulls. The Authority also receives regular calls to Broads Control and complaints to the Rangers from other waterways users asking, “What are we doing about the unsightly, abandoned, unsafe, non-compliant vessels?”
- 1.3. The Broads Authority is clear about issues relating to the public perception of non-compliant boats: the aesthetics of a vessel are not a factor when reviewing a vessel's compliance.
- 1.4. A compliant vessel is one that:
  - Has a registered owner.
  - Has registration numbers correctly displayed.
  - Has a minimum of third-party insurance.
  - Has paid the correct toll.
  - Has a current Boat Safety Scheme Certificate.
  - If used as a primary residence, the vessel has an approved permanent mooring, abides by the constant cruising rules, and does not remain on Authority moorings longer than 24 hours.

# 2. Broads Authority Terminology

- 2.1. Schedule 5 (12) (1) of the Norfolk and Suffolk Broads Acts states:

The Authority may raise, remove or destroy any vessel which has been sunk, stranded or abandoned [**or which is unserviceable**], which was added by the Broads Act 2009.

(a) in any waterway within the navigation area; or

(b) at any place other than in the Haven, where it will, in the opinion of the Authority, affect navigation within the navigation area or the Haven.

- 2.2. Below, are additional definitions as used by the Broads Authority:

SUNK - A vessel that has taken on water, so it is no longer fully buoyant, with water ingress into the cabin or superstructure. The vessel may be submerged or resting on the riverbed.

STRANDED - An unaccompanied craft without the means to move, left aground or beached.

ABANDONED - A vessel with no traceable registered keeper.

NB: The Broads Authority's definition of abandoned is critical to understand, as it is defined within the 1988 Act. So even if a vessel is uncared for, stranded, sunken, and appears to be discarded, it is only classified as 'abandoned' if it has no traceable registered keeper.

2.3. The Broads Act 2009 18 (a) (b) defines 'unsafe' vessels as:

(a) the vessel does not comply with any standards applicable to the vessel; or

(b) a person has been convicted of an offence under this Act, or the 1988 Act, or any byelaw of the Authority, in respect of the vessel.

and the Authority is satisfied after taking advice where appropriate from a person qualified to examine or assess compliance with any standards imposed under section 12 that the non-compliance or the circumstances which resulted in the conviction, as the case may be, continues or continue to give rise to a danger to any person or any property, or risk of pollution, from the vessel.

2.4. Therefore, the act defines an 'unsafe vessel' as a craft that does not comply with the standards applicable to it, such as the Boat Safety Scheme.

2.5. However, an unstable vessel with poor hull integrity or other safety issues may not fall into the "unsafe vessel" category. Therefore, an additional clause of unseviceable was added for this circumstance.

### 3. Unseviceable Vessel

3.1. Schedule 7 (10) (6) of the Broads Authority Act 2009 amended Schedule 5 (12)(1) of the Norfolk and Suffolk Broads Act 1988 and extends the powers relating to the Removal of Wrecks to include the term unseviceable.

3.2. The term 'unseviceable' is not defined in the Act. Still, it was explicitly included to encompass situations where vessels may not be classified as "unsafe vessels" as defined by the wording in Section 18 of the Broads Authority Act 2009.

### 4. Defining Unseviceable Vessel

4.1. In March 2013, the Boat Safety Management Group (BSMG) members suggested the development of a robust definition for unseviceable so that the total weight of the Removal of Wreck powers could be applied, and they offered these words:

“A vessel is unserviceable when the vessel no longer fulfils its function adequately or is unfit for its intended use, and the vessel has or is likely to have an adverse effect on the ease, convenience or safety of the navigation or the safety of persons or property in the navigation area or to cause pollution.”

4.2. Examples of when this definition would apply were also provided and were as follows:

Vessels which are demonstrating:

- Instability, e.g. overloaded, improper loading or lack of sufficient freeboard.
- Missing or inoperable bilge water removal system.
- Flooding or uncontrolled leaking into any space.
- Burnt-out vessel.
- Missing or inoperable watertight closures.
- Holed or decaying hulls.
- Immobilised or waterlogged.

4.3. The BSMG definition and criteria list was agreed at the Broads Authority on 11 July 2014.

## 5. Revisions to Unserviceable Vessel Criteria

5.1. When the unserviceable vessels criteria were first introduced in 2014, the Broads' waterways had a scattering of vessels which fell between unsafe and unserviceable, but fast forward to 2024, and we face a different situation. The number of non-compliant vessels is increasing, and these vessels are traded between waterway users, so seeing a flotilla of non-compliant vessels, often trespass mooring, is a common sight. These vessels are purchased as a 'doer-upper' or a side project. Boat repairs, spares, and maintenance are expensive, skilled, and time-consuming activities, so many of these vessels fall further into disrepair and never fulfil the potential the new owner envisaged.

5.2. The proliferation of non-compliant vessels represents a serious hazard on our waterways; those that do not sink can attract nefarious activity. They are further stripped of parts or become loose from their moorings, creating navigational hazards or waterway obstructions. In time, many sink, creating additional problems and costs for the Authority, which must remove them.

5.3. As a fact-finding exercise, the Yare Ranger Team surveyed non-compliant vessels using the existing 'unserviceable vessel criteria' to see if it could expedite the removal of these vessels within a small geographical location. Of the twelve known non-compliant vessels reviewed, only one met the existing unserviceable definition made in 2014.

- 5.4. The unserviceable definition is for the Broads Authority to define and it has been re-drafted using advice and expertise from the Boat Safety Management Group (BSMG).

The criteria have been expanded to read as follows:

- a. Instability, e.g. overloaded, improper loading or lack of sufficient freeboard.
- b. Missing or inoperable bilge water removal system.
- c. Flooding or uncontrolled leaking into any space.
- d. Burnt out vessel.
- e. Missing or inoperable water-tight closures.
- f. Holed or decaying hulls.
- g. Immobilised or waterlogged (immobilised means any maintenance, repair work, defect or deficiency that means that a vessel's engine(s) are not available for safe movement for more than 28 days within the navigation area).*
- h. Poor hull integrity, meaning the vessel is not watertight or weathertight.*
- i. Hull structurally unsafe, including vessels where the hull flexes or twists when underway or when boarding the vessel, rot in the superstructure, the hull has warped, and the transom core has signs of rot.*
- j. No secure fixing on the vessel, such as cleats capable of securing it alongside a mooring.*
- k. Unsanitary conditions, such as harmful or hazardous substances, including mould, throughout the vessel, long-term sanitation issues, and proliferation of sharps.*
- l. Vessel leaking fuel or other pollutants into the bilge or the waterways.*

The BSMG was consulted on 21 October 2024 and recommended criteria g to l (shown in italics). The Navigation Committee was consulted on 7 November 2024 and they unanimously agreed to support the updated criteria.

- 5.5. One or more of the above must be applied to meet the unserviceable vessel criteria.

## 6. Existing Powers relating to Unsafe Vessel

- 6.1. The Broads Authority already has powers to remove unsafe vessels (Broads Authority Act 2009 Section 19 & 20). See section 2.3. However, these powers are limited and do not fully address non-compliant vessel issues.

- 6.2. For example, if a vessel has a current Boat Safety Scheme certificate<sup>1</sup> (BSS), it cannot be classed as unsafe unless it is re-assessed by a qualified Boat Examiner and fails. This assessment would be at the Authority's expense.
- 6.3. If the vessel fails the re-test, the Authority can seek to reclaim the expenses that occurred; if the vessel passes, the cost will remain with the Authority.
- 6.4. Under existing powers and following a failed reassessment, the Authority can undertake the repairs needed to make the vessel safe and compliant for our waters.
- 6.5. The Authority would then rely on the vessel owner to repay the Authority's costs or use the Courts to reclaim the expenditure. This approach has significant financial implications and would place an expensive burden upon the navigation expenditure.

## 7. Economic, Social and Environmental Implications

- 7.1. The removal of wrecks from within the navigation is an increasingly expensive activity, with costs often rising due to the vessels being sunken, meaning specialist plants and equipment is needed to raise and remove the vessel safely. Additional plant and equipment mean extra resources are needed, again elevating the Authority's costs. Using the 'unserviceable' meaning within the Removal of Wrecks powers will enable the Authority to be proactive and work with the registered keeper to remedy the defects. However, if that process fails, the vessel can be removed while afloat.
- 7.2. Many residential boaters enjoy the broad waters year-round, adhere to the rules governing moorings, and comply with safety standards (Insurance and Boat Safety Scheme Certification), but non-compliance is on an upward trend. Rangers are increasingly dealing with vessels and owners with complex needs and referrals to the River Chaplaincy and housing services, as well as vessels left on trespass mooring and appearing to be uncared for, occupying time that could be spent patrolling. Again, applying the unserviceable vessel criteria will address some of these issues.
- 7.3. A further complication to unserviceable vessels is the environmental risk they pose if left unmaintained and uncared for any extended duration. This was experienced at the Griffin Lane Dockyard when the Authority was breaking up an abandoned vessel, an unnoticed contaminated bilge tank was punctured, resulting in heavy oils leaking out. Fortunately, our strict oil spill containment protocols were in place, which prevented the oil from getting into the water course. But because of this 'near miss' we have constructed a bespoke vessel breaking area at the dockyard to address the growing number of boats needing this service, which is bunded and contains contamination containment

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<sup>1</sup> A current BSS certification is valid for four years, if the vessel has extensive works which effect the elements assessed within the BSS criteria the vessel owner is expected to have the craft re-tested.

## 8. Conclusion

- 8.1. The 'unserviceable vessels' addition to the removal of wrecks process, provided by the Broads Authority Act 2009, bridges the gap between unsafe and non-compliant vessels. It also puts the onus back on the registered keeper of the vessel to ensure all standards needed to have a vessel on Broads waters are complied with.
- 8.2. The re-drafted criteria have been supported by the Boat Safety Management Group and the Navigation Committee before coming to the Authority for a decision.
- 8.3. If adopted by the Authority, the 28-day notification and chance to repair or fix the vessel's defects will be applied. This allows the registered owner to address the items that made the vessel unserviceable within the set timescale.
- 8.4. Vessels where the defects are not remedied to make the craft compliant after the issue of a 28-day notice (under the removal of wrecks procedure) will be removed and disposed of by the Authority. If the unserviceable vessel has any latent value, the 2009 Act allows the Authority to sell the craft and deduct expenses to cover the recovery, removal and storage costs. Any excess funds from the sale would be issued to the registered keeper.
- 8.5. The long-term effect of applying the unserviceable vessel powers is expected to be like that of the Ministry of Transport test (MOT). The MOT's exacting standards and regular application have removed unroadworthy and 'banger' style vehicles from the highways. In time, non-compliant vessels will be significantly reduced from our waterways, bringing safety improvements, reducing incidents and saving staff resources dealing with the issues these vessels create. A message will be communicated that all are welcome on the Broads if their craft meets the criteria set by the Broads Authority, designed to maintain high safety standards.

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Background papers: Update on Broads Authority Act 2009 Provision Removal of Wrecks, Broads Authority 11 July 2014.

[Broads Plan](#) strategic objectives: Theme C.