

Our Ref: CIM/LW/COLL180.1

Date: 5th May 2022



Miss Julia Simpson
Area Director
The Environment Agency
Red Kite House
Howbery Park
Wallingford
OX10 8BD
BY EMAIL AND POST

Dorking Office
156 High Street
Dorking
Surrey
RH4 1BQ

T 01306 880 110
F 01306 471 230
DX 57300 Dorking
downslaw.co.uk

Dear Ms. Simpson,

Mr. Trotman

I thank you for your email of 26th April 2022 upon which I have taken my client's instructions on behalf of himself and the interested organisations which he represents.

It is sadly, yet again the case, that the Environment Agency is seeking to evade its legal duties and obligations to the public to regulate and enforce the lawful use of the Thames, within its jurisdiction.

You seek to avoid disclosure as to the action (or otherwise) that you are taking to remove the vessels owned by Mr. Trotman and unlawfully moored on your land, by virtue of some unqualified reference to the Freedom of Information Act, and other GDPR legislation.

You additionally refuse to disclose the enforcement action being taken with regard to "this matter", which I presume must be the judgment of Staines Magistrates Court in November 2021, but please confirm, as it appears that Mr. Trotman has applied to have the case stated.

Question: Have you responded to the Court by 29th April 2022 opposing such Application?

If you are not willing to disclose that fact, please state the legal authority by which disclosure of such fact must "remain private and confidential"?

You then state that "It has not been appropriate to take action whilst the prosecutions from us and Surrey Fire and Rescue are on-going". Your link in your email however refers to the operational constraints upon your staff with regard to Covid, not with regard to any deferral of your rights and obligations to enforce the law. In respect of Mr. Trotman, his vessels have no lawful right to house tenants, and indeed are a danger to the safety of any such occupants, as was the judgment of Guildford Crown Court in November 2020.

Since my letter to you of 30th March 2022, I am aware that the Royal Borough of Kingston Upon Thames obtained an mandatory Injunction on 29th April 2022 against Mr. Trotman in

Also at Cobham and Godalming

Downs Solicitors LLP is a limited liability partnership registered in England and Wales, registered number OC 321831. Registered Office: 156 High Street, Dorking, Surrey RH4 1BQ. A list of members' names is available for inspection at the above address. Authorised and regulated by the Solicitors' Regulation Authority.



respect of one of his vessels KUPE, moored illegally against the Council's riverbank – see copy attached.

Question: If the Council are able to take such action, then please tell me why the Environment Agency cannot do so with regard to Mr. Trotman's vessels, Rhythm of the River and Hui?

I understand that Mr. Trotman may be moving Hui from its illegal mooring tomorrow.

Question: Will the Environment Agency allow Mr. Trotman to illegally moor his vessel on riverbank owned by it? If so, why?

I am also aware that on 7th April 2022, a number of enforcement notices were served upon boats/vessels illegally moored along the Environment Agency's riverbank at Sadlers Ride and Molesey Reach. It is believed that notices requiring the removal of such boats/vessels served with such notices included those owned by Mr. Trotman i.e. Rhythm of the River and Hui, as appears to be evidenced from the posting of Maria Herlihy, (the Environment Agency's waterways manager) on 7th April – see enclosed.

Question: Can you please confirm whether such notices were served upon Mr. Trotman with regard to his vessels Rhythm of the River and Hui; if so, what action will the Environment Agency take now, that such notices have expired. If no notices were served, please explain why not?

It is simply unacceptable for the Environment Agency to evade and avoid its obligations and duties to uphold the law, and in doing so, to protect the interests of the public, and in particular the lawful users of the River Thames, and the residents affected by the illegal moorings of Mr. Trotman's vessels, and those owned by others.

I should be grateful if you would kindly do me the courtesy of answering each and every question raised above separately, and I should be grateful if you would kindly do so within the next 21 days.

Should you fail to do so, or should you fail to confirm that (a) the Environment Agency will enforce its rights and duties with regard to the illegal mooring of Mr. Trotman's vessels and (b) the specific action which it will take by way of such enforcement, then my client will consider that such response should be the subject of an Application for a judicial review.

With regard to a judicial review, I am mindful that Mr. Stephen Collins previously threatened an Application against the Environment Agency with regard to similar circumstances concerning Mr. Trotman in his Pre-Action Protocol letter of 14th July 2020. I am aware that your colleague Penelope Yorath in her reply dated 29th July 2020 contended that Mr. Collins had not identified a decision which was capable of being amenable to judicial review.

She further contended in her letter that in order for there to be a successful judicial review, the Applicant must be able to identify a decision (or an omission or policy), which is unlawful. She added "Mere disagreement with the Agency's course of action would not sufficient".

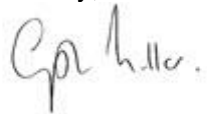
With respect to Penelope, a decision not to uphold and enforce the law is contrary to the rights and expectations of the public. If it be contended that "inaction" is a reasonable exercise of the Environment Agency's discretion based on costs or proportionality (as suggested by Penelope in her letter), then we must disagree when set against the rights of the public.

It is meaningful that if one were to look at paragraphs 24-28 of Penelope's letter (under the sub heading "The Agency's Enforcement Actions in respect of Old Kingston Cole, HUI and ROR"), one can add a further 3-4 apparent steps latterly taken by the Environment Agency against Mr. Trotman and his vessels. [In passing, it would appear that Penelope was not as concerned as you appear to be with regard to disclosure of the actions taken by the Environment Agency against Mr. Trotman]. What is telling is, with reference to the concerns of the Environment Agency's actions contained in paragraph 28, that the Environment Agency has achieved little or no success in enforcing the law against Mr. Trotman. This sadly begs the further question whether the Environment Agency has been inept and wasteful of the taxpayers' money in its actions against Mr. Trotman, when compared to the speedy and successful action taken by the Royal Borough of Kingston Upon Thames.

The time has come for the Environment Agency to speedily and properly utilise its resources to finally remove Mr. Trotman's vessels (and indeed, any other vessels), which are unlawfully moored against the river frontage owned by the Environment Agency.

I look forward to hearing from you in the next 21 days.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Chris Millar", written in a cursive style.

CHRIS MILLAR

DD: 01306 502225

Email: c.millar@downslaw.co.uk