



NWC Consultation Responses  
Inland Waterways Team  
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Dear Sir

**Consultation on the Government's proposals for moving inland waterways into a new charity in England and Wales**

We refer to DEFRA's consultation in relation to the above and we welcome this opportunity to comment on the proposals set out in the Consultation Paper.

The RYA is the national body for all forms of recreational and competitive boating. It represents dinghy and yacht racing, motor and sail cruising, RIBs and sportsboats, powerboat racing, windsurfing, inland cruising and personal watercraft. The RYA manages the British sailing team and Great Britain was the top sailing nation at the 2000, 2004 and 2008 Olympic Games.

The RYA is recognised by Government as being the primary consultative body for the activities it represents. The RYA currently has over 100,000 personal members, the majority of whom choose to go afloat for purely recreational non-competitive pleasure on coastal and inland waters. There are an estimated further 500,000 boat owners nationally who are members of over 1,500 RYA affiliated clubs and class associations.

The RYA also sets and maintains an international standard for recreational boat training through a network of over 2,200 RYA Recognised Training Centres in 20 countries. On average, approximately 160,000 people per year complete RYA training courses. RYA training courses form the basis for the small craft training of lifeboat crews, police officers and the Royal Navy and are also adopted as a template for training in many other countries throughout the world.

**General Comments**

In principle, the RYA is broadly supportive of the Government's proposal to transfer British Waterways' undertakings to a new charity for the benefit of users and the wider public. However, the new charity must be independent of Government and substantially different from British Waterways in organisation, organisational culture and governance and must have navigation as its primary focus.

It is essential that the new charity has access to and power to manage British Waterways' estate with a view to maximising commercial development and revenue and for the estate to be locked in to the charity in order for sustainable funding to be geared up in the future. The new charity must be enabled to take steps towards achieving financial independence by having the power to make investments, to accept and make loans, to accept income from commercial, charitable or private sources, to accept donations and legacies, to trade and to levy fees and charges for the use of the available assets.

However, building up the new income sources will be a gradual process and adequate Government funding is likely to be essential for the foreseeable future. It is critical that, following on from their negotiations with the Government, the transitional trustees are satisfied that the amount of the Government's initial financial support is sufficient to enable the new charity to succeed. In order that the new charity can plan appropriately for the future, it will need a long-term contractual commitment from the Government setting out the Government's financial support for the organisation.

Without such access to the necessary financing, the charity is doomed to failure. British Waterways estimates that the cost of maintaining a 'steady state' (i.e. keeping the waterways at their current standard) is £119m per year. The confirmed Government grant for British Waterways is £43m for 2011/12 and then £39m per year to 2014/15 (not index linked). The shortfall will need to be made up from revenue income from British Waterways' property portfolio and other commercial and donation income and will be exacerbated by the fact that it is proposed that the grant will not be indexed linked. These figures do not take into account the need for the charity to develop financial reserves in order to deal with unexpected non-steady-state financial issues such as 'disaster recovery', whether from natural or man-made causes. The new charity's exposure in this regard might be reduced if responsibility for maintaining road-carrying bridges were to sit with the highways authority rather than the new charity.

The forecasts of likely voluntary income (from membership, donations, legacies etc) contained within the consultation document appear to be optimistic and without detailed explanation. We are concerned that no consideration appears to have been given to an alternative course of action should the forecast level of donations not be achieved.

British Waterways' pension fund legacy could be extremely costly for the new charity and we therefore consider that this should be funded by the Government separately from the Government Funding Contract. We consider that such provision for the legacy pension fund needs to be made from the outset.

### **Specific Questions**

1. Do you agree that, over time, the charity should work towards including other navigations, including the EA Navigations in the next Spending Review?

The constitution, guiding principles and organisation of the new charity should facilitate, rather than inhibit, the transfer of the management of other inland waterways to the new charity in the future. The governance of the new

organisation should be such that the organisation, from the outset, is able to consider incorporating inland navigations other than those currently managed by British Waterways.

Whether or not other waterways are in practice amalgamated into the new charity in the future should be a matter for the navigation authorities for those waterways to decide, in conjunction with the new charity's trustees.

The Consultation Paper suggests that Government is committed to transferring the waterways currently managed by the Environment Agency to the new charity following the 2015 spending review (subject to affordability and the agreement of the charity's trustees). The Environment Agency should therefore now be concentrating on managing its waterways so that they continue to be improved and maintained to a high standard in order that, should such a transfer take place, the navigations are properly prepared.

2. Do you think that the proposed requirements of the Trust Declaration are the right ones? Are they sufficient/are there others which should be considered?

We believe that primary purpose of the inland waterways, navigation, should be enshrined in the Trust Declaration. We therefore consider that the Trust Declaration should expressly require that the charity must preserve and enhance the waterway network and infrastructure for navigation.

The reference to "former state-owned waterways" appears to limit the scope of the Trust Declaration to the canals currently managed by British Waterways. The rivers for which British Waterways is currently responsible and the navigations currently managed by the Environment Agency cannot be said to be "state-owned", as there are many riparian owners, nor can many of the navigations managed by the independent navigation authorities. We therefore consider that the reference to "former state-owned" in the Trust Declaration should be omitted such that the Declaration is equally valid for all those waterways for which the new charity is or becomes responsible.

3. Do you agree that the suggested charitable purposes for the NWC are broadly the right ones? Can you think of other necessary requirements?

We welcome the prominence of preserving and enhancing the availability of the waterways for navigation as a key charitable purpose of the new charity.

However, we consider that maintaining the integrity of the waterways as a connected network should also be included as one of the charitable purposes.

We are also concerned that the consultation document, and the proposed Mission Statement etc are all, essentially, about maintaining the status quo (at best). We believe that it is important also that the charitable purposes, Mission Statement etc include a commitment to future development of the waterways in order to meet the requirements of future generations.

4. Do you agree with the proposed 'mission statement'? How could it be improved?

While built and cultural heritage is an important feature of the waterways, in our view it is secondary to the preservation and enhancement of the waterway network for navigation. We therefore consider that the mission statement should place a greater emphasis on maintaining the availability of the connected waterways network and associated infrastructure for navigation.

5. Do you agree with the proposed 'belief' statement? How could it be improved?

Again, we believe that the belief statement should include a reference to maintaining the availability of the waterways network for navigation.

We also believe that the waterways should be maintained primarily for people: we would therefore wish to reverse the belief statement's 'wildlife and people' such that it reads 'people and wildlife'.

6. Do you agree with the proposed 'vision' statement? How could it be improved?

We have no comment on the vision statement other than to note that there is no reference to standards, which we believe would be appropriate in a vision statement.

7. Do you agree that the New Waterways Charity should enjoy the same powers and be subject to similar legal duties to maintain the waterways as British Waterways currently is?

We agree in principle that the new charity should enjoy the same powers as British Waterways currently does. However, the process of identifying those powers for the purpose of drawing up an Order under the anticipated Public Bodies Act may provide an opportunity for the scope of those powers to be reviewed in a consolidated format and any need for appropriate modifications might be identified at that stage. We therefore await with interest publication of the draft Order.

We consider that the new charity should be under an express duty to preserve and enhance the availability of the whole waterways network within its control for navigation, irrespective of the classification of individual waterways as being commercial, cruising or remainder waterways under the Transport Act 1968.

To the extent that British Waterways is under duties in respect of environmental objectives, including flood risk management, river basin management and implementation of the EU Water Framework Directive, we consider that these duties should be retained by the Government and not transferred to the new charity.

Consideration should also be given to the extent to which the Secretary of State retains the power to direct the new charity. In particular, if the classification of waterways under the Transport Act 1968 is to be retained then

the power to reclassify waterways by reference to the current usage and prospective usage of particular waterways, and the power to close a particular waterway, should be retained by the Secretary of State, although only exercised at the behest of or in consultation with the trustees of the new charity.

8. Do you agree with the proposed governance model for the new charity? What improvements could be made?

We set out below our comments in relation to specific aspects of the proposed structure. However, the diagram in Box 3B and the text in Paragraph 3.3.1 of the Consultation Paper suggest that a local partnership would be created for each of the eleven management units. In our view, however, the creation of local partnerships should be driven by the demands and needs of stakeholders at a local level rather than simply by convenience for the management. Each management unit should be prepared to work with any number of local partnerships created within its geographical scope.

9. Should funds raised locally by the Local Partnership be spent on local priorities? Why?

The nature of the inland waterways is such that they attract a significant amount of support from local people at a local level in relation to a local stretch of waterway. If the new charity is to raise funds from enthusiasts and users at a local level then it will be a key incentive for those considering making donations to the charity to know that a significant proportion of the funds raised would be spent locally to meet local priorities.

However, in order for the integrity of the network to be maintained as a whole the new charity will need to be in a position to divert a proportion of funds raised locally to fund some national activities and subsidise the upkeep of those stretches of the network where local financial support may be less substantial.

A balance would therefore need to be struck between the need for the charity to apply funds raised locally to maintain the national infrastructure against the incentive provided to local fund-raisers by applying locally-raised funds to local projects regarded as priorities by the local partnerships.

10. Who do you think should be encouraged to sit on Local Partnerships? How should the nominations panel be constituted; who are the essential parties?

We consider that the composition of local partnerships should reflect the different types of interests and activities that are prevalent in the particular area and that there should not be a standard model that applies across the board.

Notwithstanding the above, however, in our view it is crucial that those users who make a direct financial contribution to the charity by way of payment of licence fees, such as boaters and anglers, should be represented on all local partnerships.

11. Is between 8 and 12 the right size for a Local Partnership?

The optimum size of a local partnership will vary according to the size and nature of the geographic area the local partnership encompasses.

12. Which are the particular subjects or activities you think may require the attention of a specific sub-committee of a local partnership?

In our view, the need or otherwise for specific sub-committees should be determined by the local partnerships themselves.

13. How best can the New Waterways Charity strike the right balance between local needs and the needs of the waterways network as a whole?

Balancing local needs and the needs of the waterways network as a whole will fall to the charity's trustees and management, which will need to engage fully with the local partnerships and the national Council.

14. How could the charity encourage effective working between different communities and partnerships who share the same waterway?

It will fall to the local partnerships to encourage effective working between different communities and partnerships who share the same waterway and it is therefore critical that the composition of the local partnerships reflects the different types of interests and activities that are prevalent in each local partnership's area.

15. In what ways could people be helped to become more involved and take more responsibility for their local waterways? What might the barriers be, and how could they be overcome?

The Inland Waterways Advisory Council published a comprehensive report on how to attract, integrate and retain volunteers in the inland waterways sector in September 2010 and we would encourage the Government to consider the advice and recommendations set out in that report. In particular, we would note that a significant change of management and organisational culture from that existing in British Waterways will be required in order for the new charity to maximise the involvement of volunteers.

16. In what ways could more people be encouraged to volunteer for the waterways? What might the barriers be, and how could they be overcome?

See the answer to question 15 above.

17. What would a successful volunteer programme look like? What would it achieve?

See the answer to question 15 above.

18. Do you agree that the new charity should initially focus on securing fair representation, and move towards a greater element of direct membership over time?

We consider that it is vital for the long-term success of the new charity that it is seen by users of the waterways as being a user-led and user-governed organisation with stakeholder engagement and involvement at all levels, rather than simply British Waterways in the third sector. We believe that users are likely to have significantly greater confidence in the new charity if they know that there is a formal process for ensuring that their views are taken into account by the management of the new charity. To this end, we consider that the new charity would stand a greater prospect of succeeding if it were to have a voting membership rather than relying solely on representation from the myriad differing interest groups.

When the prospect of transferring British Waterways' undertakings to the third sector was mooted in 2009, the stated aspiration was to create a "national trust for the waterways" and the governance structure of the National Trust was illustrated in British Waterways' November 2009 report "Setting a New Course". It is a key feature of the National Trust's governance structure that it has a voting membership, which has the power to elect half of the members of the governing Council. In our view, this aspect of the National Trust model should be adopted by the new waterways charity from the outset. We also note, however, that this form of membership organisation will only succeed if the volunteers are empowered by the new charity to take a full part in its activities, including having access to the financial and management information necessary for members to take informed decisions. If members are merely treated as a source of funding, with neither the power to hold the charity management to account nor appropriate information to inform them, then member involvement will be ineffective.

While we acknowledge that the new charity will be starting from a position of having a relatively small membership, if the transition trustees were to grant membership of the new charity automatically from the outset to all those who pay for a licence to use the waterways (i.e. boaters and anglers) then we believe that the new charity should have a sufficient membership base to enable it to elect half of the members of the Council. In the first instance, it may be that an already established representative body (such as the British Waterways Advisory Forum) could be asked to fill the members' seats on Council until such time as the membership system is established (and non-licence payers have been given the opportunity to join) and meaningful voting can take place.

If a membership structure is not built into the charity from the outset then it is likely to prove difficult to introduce at a later date.

19. Do you agree with the proposed make-up of the Council? Which interests should be represented?

We agree that the size of the Council should be limited so that it does not become too unwieldy or cumbersome, stifling constructive debate.

We consider that half of the members of the Council should be directly elected by the members of the charity.

We consider that the remaining half of the members of the Council should be appointed to represent the range of interests in the charity's activities. In particular, we believe that those representing navigational interests should have a substantial presence in the composition of the Council.

Given the need to keep the size of Council to a reasonable level, we would question whether it is necessary for all of the chairs of the local partnerships to be represented, since sufficient representation might be achieved by one or two representatives speaking for all of the local partnerships.

20. Should a proportion of the Council be directly elected? If so, who should be entitled to vote?

We consider that half of the members of the Council should be directly elected by the members of the charity. If, however, the Government decides that the charity should not have a voting membership initially then this half of the members of Council should be elected by those users who pay licence fees to the charity.

21. Should the independent chair of the Appointments Committee be chosen by Committee members or the Council? What skills would they need?

We consider that the independent chair of the Appointments Committee should be elected by the members of the charity or, if there are none, by those users who pay licence fees to the charity.

22. Are there other topics that you consider would benefit from Council scrutiny committees?

In our view, the need or otherwise for specific Council scrutiny committees should be determined by the Council itself.

23. Are there any other activities of British Waterways that would be best placed in the CIC?

We believe that there would considerable merit in the charity's objects being couched in such terms that as much of its trading activity as possible would fall within the scope of these objects. In addition, setting up a separate trading body may distance a significant part of the organisation's activities from the control of the trustees and there may be conflicting priorities between the charity's trustees and the trading company's directors. We would therefore



encourage the Government to conduct a further review of this issue before reaching a decision on transferring trading activity to a CIC, which model has not proved to be as versatile as its advocates originally anticipated.

24. Government policy is to support the movement of freight on inland waterways, where it is economically sustainable. Do you agree that the status quo is no longer an option? Which of the 5 options do you prefer? What other options should we consider?

We acknowledge that the statutory commitments under the Transport Act 1968 relating to commercial waterways may prove to be unduly onerous for the new charity and we would therefore support Option 2 in Annex C as a potential way forward.

25. What measures of the effectiveness of NWC's use of public funds (through the Government Funding Contract) would be appropriate?

We consider that the Government Funding Contract should specify a minimum level of service to be delivered by the charity in preserving and enhancing the availability of the waterways network and infrastructure for navigation and that the charity's performance should be measured against that specified service level.

26. Are there other areas where you think NWC could increase:
- Its commercial income;
  - Its voluntary income;
  - Its third party income?

We are not in a position to answer this question.

27. Are there other areas where you think NWC could save more money/make greater efficiencies?

We are not in a position to answer this question.

28. We would welcome any views you have on the analysis in the Impact Assessment and relevant evidence that we could draw upon in finalising the assessment.

The case for transferring British Waterways' undertakings to the new charity and the associated financial projections appear to be based largely on British Waterways' own analysis of its own forecasts. We would therefore welcome an independent, objective analysis of British Waterways' projections and forecasts in order to understand better their accuracy and sensitivity.

29. New Waterways Charity (NWC) is just the working title for the new charity. Which of the following suggestions for the name of the new charity do you prefer, and why?
- a) National Waterways Trust
  - b) Waterways Trust for England and Wales

- c) Waterways Trust
- d) National Canals and Rivers Trust
- e) Canals and Rivers Trust
- f) National Waterways Charity
- g) [your suggestion]?

We have no particular view on the name of the new charity.

Please do not hesitate to contact me if you have any questions or queries arising from our response. On behalf of the RYA, I would be pleased to be involved in any future consultations or discussions.

Yours faithfully,

Gus Lewis  
Legal & Government Affairs Manager