

‘A New Era for the Waterways’: Defra consultation

Response by the British Waterways Advisory Forum

Summary

BWAF members have campaigned over many years for the waterways to be managed by a body whose first duty was their sustainable care, for the public benefit in all its many forms. BWAF therefore warmly welcomes the government’s proposals for the waterways presently managed by British Waterways and the Environment Agency, because, for the first time, they would put the waterways beyond asset stripping. This is a necessary condition of being able to manage the waterways, and their investments, for the very long term. It is not, however, a sufficient condition. In this response, BWAF describes its significant concern that the new charity will not have enough income to fulfil its most basic objectives. The shortfall in funding risks causing inadequate maintenance, undermining the very thing we are all trying to create. In particular, the funding contract offered by Defra for the ten years starting 2014/15 is very much too low.

BWAF would appreciate the opportunity to review the draft transfer order, trust declaration and constitution as early as possible, and before the public consultation, in order to help forestall any problems during their tight consultation and parliamentary timetables. It is important that there be no delay caused by controversy or misunderstanding, lest the order lose its place in the queue.

BWAF would also welcome an opportunity to discuss with the transition trustees and with Defra the composition of Council, and the means of selecting its first members.

This response represents the views of BWAF as a body. Where it conflicts, whether in emphasis or opinion, with the response of any individual BWAF member organisation, that organisation should be considered as committed to its own views rather than those expressed here.

Background

The British Waterways Advisory Forum has been actively involved in the many iterations of the proposal to move BW’s waterways into a new charity.

BWAF was established in 2005. It brings together a wide range of national membership organisations. Its object is the discussion of strategic matters with British Waterways. It meets formally twice a year, with attendance by the Chairman or Vice-Chairman of British Waterways, the Chief Executive, and other directors and senior officers. Numerous additional meetings of sub-groups, including senior British Waterways officers, are held. BWAF provides an invaluable means for the exchange of information, views and advice.

The attached list shows the variety of organisations which take an active part in the work of BWAF. Attenders at BWAF meetings are all senior members of those organisations, who much appreciate, and make good use of, the opportunity to meet senior officers and directors of British Waterways.

The significance of boating

It is appropriate here to confront the pejorative use of the term ‘boaters’. The so-called boaters’ organisations are in fact knowledgeable about and concerned for all aspects of the waterways. It is

likely that BWAf members spend much more time walking, volunteering or working on the waterways than they do boating. People boat, or live, on the waterways for precisely the same reasons as people who fish, or walk or cycle: they love the heritage and scenery – urban or rural – the wildlife, the open air and above all the sense of being in another world. The boat and the feet are equal ways of experiencing this.

Where boating does differ is in its financial input. Whereas walkers, cyclists and other casual users pay nothing at the point of use, boaters and participants in water sports contribute £30m directly to British Waterways, as payments for licences, moorings and so on. Additionally, boaters pay marinas, boatyards, boatbuilders and chandlers for the things they need for their boats. These businesses are entirely reliant on British Waterways for their income; no waterway, no boat; no boat, no customer – and no customer, no tax. The tax take from marine businesses alongside British Waterways canals and rivers is conservatively estimated by the British Marine Federation to be £25m a year, while the VAT on sales to boaters by British Waterways itself is £5m a year. In other words, tax on boating provides three quarters of the money which Defra proposes to pay NWC – yet this will in fact go to provide for public benefits such as land drainage, nothing to do with boating. Additionally, there is substantial tax take from waterside pubs and shops, which again only prosper because the waterways are used. Waterside property – that is, property beside a living waterway – is some 25% more valuable than similar property away from the waterway. This is reflected in stamp duty and rateable values, to the benefit of both central and local government. It is clear that government funding of the waterways costs it little or nothing, yet huge public benefits are generated for others, and many government objectives met, by cash raised from boating.

Canoeists and other participants in watersports contribute income to British Waterways, included in the figures above. Their equipment suppliers and other infrastructure costs are not included in the industry tax figures.

The only other group of users who make a significant financial payment is anglers, who together pay £0.6m a year. They also help support a substantial tackle industry, which again generates much tax.

Structure (Q23)

BWAf wholeheartedly supports the proposed building blocks – charity; trading CIC subsidiary with asset lock and able to remit profits only to NWC; Declaration of Trust by Defra; long-term contract with Defra.

In principle, BWAf agrees that the whole estate should be managed by the CIC. There are concerns about relationships with trade customers. British Waterways has recently made great progress in integrating all aspects of trade customers' relationship into one management team. This includes estates, licensing and some aspects of operations. The trade will not want to have separate relations with its landlord and the track operator, so will wish to discuss this with NWC.

Charity purposes (Q3, 4, 5, 6)

It is obviously essential that NWC be clear as to what it is supposed to do. Its principal (though far from only) objective will be to maintain its waterways in stable navigable condition as required by law. Unsurprisingly, this will account for by far the greater part of its spending.

This is something to be proud of, not hidden. It is precisely this maintenance in stable navigable condition which sustains a reliable habitat for the animals and plants which currently live in or by the waterways. In the same way, maintenance of a living navigation provides places for walkers, anglers, cyclists, joggers, commuters, lovers and grannies with toddlers to use and enjoy. All these people understand that the waterways are navigations, not drainage channels. If, as we all hope, people are to be encouraged to use the waterways more, then messages must be clear and simple, starting with recognition of what the waterways are – navigations. The same applies of course to staff and volunteers.

Therefore BWAF considers it essential that maintenance for navigation be placed first in the list of charitable purposes, not after 'efficient operation and management' as in 2.6.4. NWC should seek to improve and enhance all aspects of the condition of the waterways. BWAF prefers the original version of the charity purposes.

Regeneration is an important objective. British Waterways has been required to foster regeneration, as an agent of government policy, even when British Waterways itself stood to gain nothing. This requirement should not be imposed on NWC, which should confine its efforts to those partnerships where it may share any gains.

Although NWC will be required by law to conserve the environment, its environmental responsibilities should be more strongly stated in the charitable purposes, particularly water quality, habitat and ecological management.

The Mission, Belief and Vision will change, at least in emphasis, over time, and should be a matter for the Trustees. To have three such statements is to invite confusion. One clear statement would suffice, with marketing strap-lines varied over time and for different audiences.

The Trust Declaration (Q2)

Beyond the existing legislation which is to be continued, this is the most fundamental part of the project. It will set the terms by which BW's undertaking is to be transferred to NWC, and it will set out the conditions under which it could, or must, be taken back. It will also be the last opportunity for government to give instructions to NWC. Such instructions must provide for both foreseeable and unforeseeable circumstances.

Un-wished-for events might include the failure of NWC to keep some, or even all, waterways sustainably. BWAF is very concerned that in such a situation, government might be prepared to permit NWC to close certain hard-to-finance waterways; or in some other way to break up the system; or to privatise part of it. BWAF will therefore be looking for the Trust Declaration to lay down safeguards against such actions. In such a case, BWAF would want government to be obliged to take back the waterways, and deal with them effectively. BWAF has been told that such provisions will indeed be included.

The availability of the network as a whole is a key requirement of many users. Accordingly, BWAF looks for a requirement in the Trust Declaration to maintain resilience of the entire network.

Likewise, BWAF seeks a requirement for the trustees to form a maintenance policy, and measure performance against it.

BWAF agrees with 2.5.2, which says that the Declaration should specify that NWC's charges must be reasonable. Section 43 of the 1962 act, which has no such requirement, has in the past led British Waterways into repeated difficulty as it took aggressive charging positions from which it subsequently had to withdraw. The need to pass a test of reasonableness would help NWC managers make defensible decisions.

BWAF would appreciate early consultation on the Trust Declaration.

Finance (Q25, 26, 27, 28)

BWAF accepts in principle the government's wish to remove the waterways from state control, and to cease providing subsidies for loss. Especially, government wishes to shed the risk inherent in responsibility for a 200 year old system. BWAF considers it essential that government continue, ultimately, to bear that risk, by remaining responsible to reclaim the waterways from NWC should it fail. Likewise, government should indefinitely remain responsible for contributing to public services which NWC provides to those who cannot pay at the point of use, such as land drainage, flood control and towpaths. It is understood that the proposed contract will not precisely be a contract for services, but nonetheless the principle must apply.

British Waterways, in common with many other public bodies, has suffered a dramatic and unplanned reduction in its Defra grant for 2011/12. BWAF understands the reasons for this.

British Waterways has addressed this by another round of staff reductions, and by dramatic cuts in spending on major works. Although risky – something may collapse which was due to be repaired – cuts in major works can be survived in the short term provided that spending is recovered quite quickly to a sustainable level, and that additional spending is available to recover from the backlog. Defra's proposals do not pass these tests.

In fact, BWAF considers the extent of the projected financial shortfall to be so great as to put the entire project at risk. The steady state model sets out starkly the extent of the risk which trustees are invited to assume. KPMG and Defra's own economists have verified the conclusions of this model. Projections by British Waterways show that, if commercial income recovers as expected, and if major catastrophes are avoided meanwhile, by 2014/15 the shortfall on steady state will recover to 'just' £30m. This means that the condition of the waterways will be £30m short, not of some idealised condition, but of where it would have been had it not got worse. There is in fact no future for the waterways unless steady state shows a shortfall of nil.

Of all the actions which Defra can take to prevent failure of this project, index linking the contract payment is the most valuable.

Q26 Areas to increase income

NWC will not suffer the restrictions placed on British Waterways as to location or asset class of investment. It will be able to borrow for investment. BWAF welcomes this.

The canals play an invaluable part in land drainage, or at any rate one which has never been valued. The original engineers altered natural watercourses, fully integrating the new canals in the drainage of the land through which they passed. Land drainage is explicitly required in the Framework

Document. It is intended that the long-term contract with Defra will provide payment for this public service – but how can it, when its value has never been estimated? It is very clear, on the other hand, that the cost of providing drainage by other means would be enormously expensive. Work should be done to establish the value of this service, and appropriate charges should be either levied on landowners (particularly for new developments required to have Sustainable Urban Drainage Systems) or provided by Defra. In particular, when the first contract comes to be renewed, there should be no attempt to pass the cost of drainage back to NWC.

Defra has cut its grant to British Waterways for 2011/12. Were this to be reinstated from 2012/13, this would be acceptable: major works spending can be reduced for a short time, as has happened before. But instead, Defra proposes to cut further, and then freeze. There is absolutely no prospect that NWC could grow its charitable and commercial income fast enough to make up the shortfall. It is essential that the £39m base line for 2011/12 be increased by about 25%, or that NWC be relieved of responsibilities, such as pensions, to an equivalent value. If this were not done, an extended period of grossly inadequate spending on major works would greatly increase risks to the public from asset failure, particularly flooding after embankment breach.

Defra proposes to maintain the contract payment at £39m for 10 years. Inflation would eat away at such a sum. BWAF does not expect NWC to be capable, from a standing start, of growing its income anything like fast enough to make up for the rapid drop in value of a flat £39m. It is therefore essential that the contract payment be index linked, using an index reflecting construction industry costs.

When the proposed contract comes to an end in 2024, it will be tempting for government to try to reduce its financial commitment to the waterways, particularly if by then NWC is doing well with external funding. This would be unjust, since government stands as proxy for people who benefit from the waterways but have no means of paying. It would be entirely unreasonable to expect NWC's customers, partners and donors to bear the whole cost of such public services. To mark the government's commitment to permanent funding for unchargeable public benefits, the initial contract should be for a longer period – a minimum of 15 years. There should also be an explicit statement of policy, that government intends to roll over the contract because it recognises the need for central funding where users cannot pay at the point of use.

The one-off costs of the transition, plus the set-up costs for fundraising, should be carried by Defra rather than NWC.

British Waterways has played a major role in enabling regeneration of its own and third-party land. It is presently involved in projects which will unlock £10bn of development. NWC will no doubt wish to continue this important work. But unless NWC owns land, it will generally receive no income from successful schemes. Local Authorities, by contrast, will receive rates, or credit for business rates, plus in many cases benefits from S106 agreements. At the next review of planning law, provision should be made for NWC to share in the proceeds of S106 agreements, or rateable value uplifts, on non-NWC waterside land. Where a developer wishes, for example, to incorporate the towpath into a site's public realm, NWC can secure a continuing contribution by means of ground rents – as at Kings Cross.

Perhaps 90% of visits to waterways are by local people. They enjoy facilities provided free of charge by BW/NWC. In a growing number of cases, Local Authorities make financial contributions, either for specific projects or by annual agreement. NWC, with the help of Local Boards, will seek many more such contributions. These could range from teamwork over the recovery of litter or from vandalism (on which British Waterways spends £3m a year), to delivering health benefits.

In the longer term, as NWC puts down stronger roots in local communities, the climate might be created in which it became acceptable to levy a small local rate precept.

The boat licensing system contains a number of anomalies, which should be removed, both in the interests of fairness and to increase revenue. These were identified in a BWAf report in 2008. This report should be used as the basis for a fresh review of licence fees. Such a review should also examine how the licence regimes for the Thames and the Fenland waterways might, over time, be merged with the British Waterways system. It must be recognised that at present the scales of charges are very different, and a commitment is needed against sudden and dramatic increases.

Q27 Efficiency

It is widely held that future senior staff of NWC should be paid significantly less than their BW predecessors. This is an attractive idea, but it will in fact be necessary to pay the going rate. It is also likely that senior executives will be incentivised, whether to raise revenue or control costs. Over time it will be necessary for BW's pay, conditions and pension arrangements to fall into line with other charities.

British Waterways has made considerable progress in putting work out to contract. NWC should review, and where appropriate, continue this programme. An important factor will be progress in the current negotiations with bankside staff and their unions.

British Waterways, in its proper concern to promote health and safety, has made it a requirement for all its contractors to register under Achilles. This onerous procedure effectively stops small companies tendering for single jobs. This has severely prejudiced an important opportunity to save money by competitive tendering. NWC should take steps to remove this impediment.

It is far more expensive to repair structures just after they have failed, than just before. It is therefore most important to reinstate the major works spending as soon as possible.

The environmental rules for the disposal of dredgings have become increasingly onerous, perhaps as a result of the UK gold-plating of EC directives. Defra, as the sponsoring department for both the dredger and the enforcer, could usefully re-examine these regulations with a view to relaxing unnecessary conditions. Likewise, the Treasury could exempt NWC, as a charity, from the payment of Landfill Tax.

NWC will inherit the responsibility for a large number of road bridges. These are not necessarily original bridges, but are at sites where the cutting of the canal met an existing road. Axle weights have greatly increased as a result of UK and EC legislation, and growing traffic causes increasing impact damage to parapets – trucks are about to get longer, again. There have been government-financed bridge strengthening programmes in the past, but at present bridge repairs are significantly

underfunded. There is a strong case that these bridges should in due course become the responsibility of highway authorities.

British Waterways operates a single pension scheme, which has a substantial deficit. In the 2009/10 accounts this was reported as £95.5m (a new valuation was to be published in June 2011). All existing employees of British Waterways will transfer to NWC, their rights protected by TUPE. BWAf notes that public sector pensions are being reviewed, as is TUPE. NWC's acquisition of the business of British Waterways will not be a commercial purchase, in which outstanding liabilities are netted off against the purchase price. BWAf considers that the liability for any deficit relating to already-retired staff should not be assumed by NWC. BWAf recognises that the adjustment of pension rights for currently-working public sector staff will be very painful, but in the interest of the long term future of the waterways considers it essential that NWC minimise its pension liabilities.

It may be that some staff do not transfer to NWC. If so, the cost of severance should not be borne by NWC.

Powers and duties (Q7)

It is necessary to transfer all statutory undertaker powers including water rights, access to neighbouring land, ability to make charges (with an added test of reasonableness), licensing of boats, the making of bylaws, status as a statutory consultee. Duties to maintain need to be clarified – see under Maintenance.

BWAf's understanding is that the enabling order may not vary legislation unless such variation is directly consequent on the transfer of British Waterways's undertaking. It will be important that no controversial changes are included in the draft order, if it is to pass through public consultation and parliamentary scrutiny in the very short time available.

BWAf has been discussing the issues with British Waterways. To help a smooth passage, BWAf would welcome the opportunity for early discussion with Defra of the draft order.

Maintenance

NWC will inherit BW's duties to maintain waterways according to the provisions of the 1968 act. It is important to recognise that these are not necessarily in use. The act classifies waterways as Commercial, Cruising or neither. Commercial and Cruising Waterways were to be kept capable of passing vessels which used them in a 1967 reference period; the rest in a minimal condition with no requirement for navigability. There are procedures for downgrading (never used) and upgrading. 139 miles of never-closed or restored remainder waterway in England and Wales have been upgraded to Cruising; 176 miles have not. There is also a procedure whereby, if the traffic has changed, the Minister can instruct British Waterways to maintain to any new standard he specifies. This has never been used. Finally, there is a procedure whereby a third party could challenge British Waterways for failing to maintain to the 1967 standard. If compliance by British Waterways would cost the government money, the Minister can issue a S105(3) order legalising the status quo. Unsurprisingly, such a challenge has seldom been attempted.

The reality is that although in many ways the waterways are now in far better condition than they were in 1967, in other ways they are not. British Waterways used to report the Statutory Arrears:

that is, what it would cost to restore waterways to their 1967 condition (last reported as £110m at 31 March 2007). A major component of this cost would be dredging. Yet, relating to conditions and traffic of more than 40 years ago, these duties are in some ways no longer appropriate. This was recognised in the Framework Document of 1999, when the government instructed British Waterways to maintain 'to standards that reflect use and prospects of use and any land drainage requirements'. This instruction regularised long-standing practice, and was given under general powers (S27 of the 1962 act), rather than under the never-used S105(3) of the 1968 act. This liberated British Waterways from the threat of court action, and allowed it to set its own standards. British Waterways has devoted great efforts to developing a more balanced approach, with improvements to features such as towpaths which were ignored by the 1968 act, and the maintenance of navigable remainder waterways; but 'use and prospects of use' was essentially a realistic and necessary means of allowing British Waterways to reduce depth. For some time only noticed by those with deeper-draughted boats, the backlog of dredging is making itself increasingly obvious to the generality of boats. If silting continues to exceed dredging, then in quite a short time waterways will become impassable.

The Waterway Standards referred to in the Framework Document were still based on the concept that each waterway should be capable of passing boats of a given size – albeit smaller than in 1967. They added a wealth of criteria, graded and measurable, describing each short section in terms of serviceability, towpath and vegetation condition, and so on. The Waterway Standards, like the 1968 standards, were essentially aspirational.

Now British Waterways uses the Steady State Model, which, length by length, analyses what needs to be spent to prevent the waterway from deteriorating. This is compared with the actual spend, in all cases (bar inspection) substantially lower. Steady state is an oxymoron; the model is rather a living, financial measure of the progressive degradation of the system. Projections for 2014/15 show recovery (!) to a steady state deficit of £30m. What this deficit actually indicates is the risk of catastrophic failure, since in large part it relates to deferred repairs to structures in conditions D and E. There will be a nasty spike in this risk over the next three years.

No previous ministerial instructions can apply to NWC. Thus NWC would on its first day become liable to maintain to the 1968 act standards. The statutory wrears would impose intolerable financial risk. Therefore means must be found to instruct NWC to establish its own maintenance policy – in accordance with use and prospects of use, for example. NWC will then be free to develop the extensive work already done by British Waterways on how to form and achieve clear standards appropriate to every waterway. This will both enable effective management, and allow executives and trustees to be held to account – by Council, and as a last resort by government as settlor of the trust.

If, and to the extent that, the 1968 maintenance rules still applied, then it would remain open to a user to apply for a court order compelling NWC to improve a given length of waterway. This has not been done in the past, because the Minister, if he thinks such work would end up at his expense, can impose a S106(4) order reducing the maintenance requirement on that stretch. This procedure requires technical modification to reflect the changed financial responsibilities towards each other of NWC and government. BWAf would not wish to see users' safeguards reduced by such changes, and

emphasises the importance of the Trust Declaration in obliging NWC to maintain its waterways in good useable condition.

Council, acting as the 'guardian' of NWC's long term values (3.5.1), will advise on the formation of, and compliance with, the future maintenance policy. BWAf believes that the work of Council, its advisory groups, and the Local Boards will make an important contribution to the development and implementation of sustainable maintenance policy.

Remainder Waterways

The recent and welcome upgrading of the Kennet & Avon Canal shows that the procedure is slow and tortuous. Although BWAf has long urged the upgrading of now-restored remainder waterways, it accepts that this cannot now be achieved before NWC takes over. It is also accepted that the Transition Trustees must have time to form their own opinion.

Upgrading confers significant benefits. It safeguards rights to water supply, and puts beyond doubt any question of dropping bridges. More importantly, it creates confidence in the long-term future of the waterway. This in turn fosters investments by marinas and other businesses, and makes it easier to raise money from local authorities and other third parties.

Relationships with local authorities are central to this issue. Not all restored remainder waterways are at the same stage in their development, and some remainder local authorities have stronger links with British Waterways than others. Accordingly, it will be sensible to consider waterways in groups, as recommended by IWAC. Each remainder waterway to be considered for upgrading should have its own draft order. As a technicality, the procedure in S104(3) of the 1968 Act does not allow for an upgrading request to be originated by BW or its successor. This should be amended in the forthcoming public bodies order.

There is also the question of navigable waterways which in 1968 did not belong to British Waterways. On completion in July, the Droitwich Canals are to be transferred to British Waterways, and in due course to NWC. Ipso facto, they will be remainder waterways, even though they have just been restored to good condition. The Rochdale Canal currently belongs to The Waterways Trust, and is leased by them to British Waterways, with contracts for maintenance with local authorities. Again, this is a remainder waterway. This complicated structure will need simplification following the merger of TWT with NWC, whilst preserving the local authority contracts.

There are 180 miles of unnavigable remainder waterway in England and Wales, plus other closed waterways not held by British Waterways. Many of these are already undergoing restoration; others have plans. There are also entirely new projects. The greatest threat faced by these schemes is sudden death by road-building, development or HS2. Defra could do much to encourage local planning authorities to safeguard the routes of these long-term projects.

Heritage

The consultation document mentions the importance of the built heritage of the waterways. BWAf's Heritage Group has been much involved with the development of British Waterways's work in this field. The heritage of the waterways in fact has three components; built, floating and cultural. Only the built heritage will be directly under the control of NWC, but its work will need to involve the

other forms if the living traditions of the waterways are to be properly passed down to future generations. BWAf member organisations will continue to work closely with NWC on boat festivals, demonstrations of horse and motor boating skills, and the recording, conservation and use of historic boats.

BWAf welcomes the announcement that The Waterways Trust will be incorporated into NWC. This will improve security for the national waterways museums, which have recently made progress from difficult times. TWT's staff and volunteers will bring immense ability, experience and enthusiasm to NWC's mission to conserve its heritage.

Governance (Q8, Q22)

BWAf has been closely involved in discussions on governance. While BWAf supports the general structure, it still has serious reservations about the model proposed in the consultation document.

It is agreed that the number of shareholders should not be fewer than the 35-50 proposed, to ensure proper conduct of companies acts functions such as appointment of trustees and approval of accounts.

BWAf believes that if government's objectives are to be fulfilled, Council must play a much greater part than this. Council should give advice, and help to form policy, on strategic matters. A group of 50, meeting once or twice a year, will be too large to handle such matters. More formal functions will be the responsibility of Scrutiny Committees. For other matters, such as maintenance policy, BWAf has proposed a list of advisory groups, with an outline of their functions. British Waterways has accepted this suggestion, and work is in hand to set up these groups. They will build on the work both of BWAf's successful Heritage Group, and of numerous ad-hoc groups, BWAf and BW. It will be necessary to control carefully the work of these groups to ensure that productive use is made of management time. Some groups will be needed only for a limited period.

Further work needs to be done to define the relationship between these groups and the Council. BWAf would welcome the opportunity to discuss this with Defra.

For the Council to fulfil its potential, it will need an independent chairman.

Council will need access to the executive and to the CIC as well as to the Trustees; this should be shown on the organogram.

Council membership (Q19, Q21)

Council's membership should of course reflect the wide diversity of interests among the waterways community. Its duty will be to promote the interests of the waterways rather than of special interest groups. So a significant proportion of Council members should have deep knowledge of the waterways. If this means that many council members have experience of the waterways gained through boating, this should not be seen as a disadvantage, just as it would not be a disadvantage to have wide knowledge of, say, environmental issues. Other Council members who can bring a perspective of the wider world will have a valuable part to play in helping NWC to spread its roots into parts of the community which the waterways do not yet reach. Council must both represent the

broadest possible range of players in the waterways scene, and from its first day form a body of serious expertise.

BWAF agrees that the appointments panel, which has done such good work with the transition trustees and trial local boards, should assist in the appointment of the first Council. BWAF would like to discuss with the panel, and with Defra, how to design a process whereby bodies can propose candidates for posts in the various constituencies, at the same time as encouraging other applications through advertisement.

Following review and revision, a similar process could be used for subsequent appointments, with the joint Appointments Committee taking over the role. The chair of this committee should be appointed by Council, on the recommendation of the committee.

If in due course a membership or supporter scheme is successful, up to half the members of Council could be elected, and half appointed.

Public membership (Q18, 20)

BWAF understands the potential pitfalls in trying to create a membership organisation, particularly in the early years when to some eyes NWC may still seem rather like British Waterways. Some BWAF members also have concerns about competition for members.

Comparisons with the National Trust or English Heritage are misleading, because membership of those organisations gives a season ticket for entry to paid-for attractions. Much more germane are the RNLI and Sustrans. In each of these, the principal benefit is – belonging. Sustrans provides cycle tracks, but these can freely be used by anyone; we are all able to be rescued by the RNLI. The RNLI is a tremendously powerful cause, and of course NWC cannot aspire to rival its appeal. But Sustrans is an organisation with whom NWC could very soon compete (whilst remaining of course a strong partner!).

It is genuinely difficult to predict how far or how fast a membership or supporter scheme could grow. BWAF therefore understands that the trustees might hesitate to set out on this path, for fear of disappointing returns. Yet if a membership/supporter scheme succeeded, then it could very well become a major source of income. The biggest obstacles would be disinclination of the organisation to change, and poverty of ambition. Since both of these need to be overcome for other reasons, a membership scheme could be a useful vehicle for change management.

Those who worry that giving members a vote would allow dissidents onto Council need not fear. In an inversion of Gresham's Law, good candidates would drive out bad. As further protection, the numbers might grow on a sliding scale, from a high base, and up to no more than half the total.

Those who see long-term benefits from membership concede that Day One might not be the best time to launch it.

British Waterways has commissioned consultancy on this issue. BWAF would welcome an early opportunity to discuss it with the transition trustees.

Local Boards (Q9, 10, 11, 12, 13, 14, 15)

These new bodies are intended to increase links with local communities, to create new fundraising streams, and to give users a greater voice in the setting of priorities by local managers – all aims which BWAf strongly supports.

The difficulty is what is meant by 'local'. To British Waterways, this means the waterway unit. These typically have 150-200 miles of waterway. To a local authority, it means its borough or county boundary, containing a much shorter length of waterway. To an individual, it means his or her town, village or city district.

Clearly, NWC must run its business on the basis of the local boundaries it sets from time to time. It is much less obvious to BWAf that these same boundaries should be used for Local Boards.

Close attention will be paid by all to the results of the current trials, and BWAf suggests that it may prove worth trialling an alternative model based on local authority or LDP boundaries.

In either case, means must be found of involving much smaller local levels. Travelling distance must not become a barrier to involvement.

NWC needs to capture the knowledge, expertise and enthusiasm of those individuals, from whatever background, who care enough about their local waterway to become involved in the LWPs. They must feel, and know, that their input is valued and that they can really influence what happens.

The document envisages that Local Boards will 'endorse' local strategic and business plans. They will need to do more than this. The plans should of course be originated by waterway managers, but the Local Boards should be expected to influence and alter the plans. The greater part of a local manager's budget is committed to things that have to be done – though there may be scope for debate as to means and costs. Nonetheless, there is some limited room for discretion, and the partnerships should have a full input into the choices. Any discretionary spending should be directed to core waterway work.

The trial Local Boards for West Midlands and North West have impressive lists of members. This shows that the original ambitions for spread of membership can be achieved. At 13, the boards seem rather large.

It is important that partnerships in different areas are free to behave very differently, according to how they see their priorities. Local Boards should be able to set up their own sub-committees.

Effective working between different communities has been established in many quite different circumstances over many years. It will not be an issue. The more difficult thing will be to involve people who have much to contribute but don't yet know it.

Funds raised locally must be spent locally, unless they have specifically been raised for a national purpose. There will clearly be a tension when some areas raise more funds than others: will the trustees accept that some waterways are better than others, or will they wish to reduce central funds to the successful areas, to spend more in areas which raise less cash? This can only be resolved over time and with full debate.

Staff culture

Staff who transfer to the new organisation will no doubt experience a mixture of trepidation and hope. It is not only outsiders who can see the need for change: staff know very well the weaknesses as well as the strengths of the present organisation.

BWAF considers the scale of cultural change will be greater and tougher than many BW staff yet understand. BWAF is pleased that the shadow trustees include a senior person with experience of change management in a charity. The essential point will be to expand the 'us' to whom the waterways belong from the state, or the staff, to staff plus volunteers plus customers and users. The very successful 'Yours to Enjoy' campaign envisaged moving public messages in this direction. This campaign should be completed, with equal emphasis on an internal programme. BWAF members stand ready to help with this process.

There will be an early need for incisive leadership. Good staff with deep knowledge of how the waterways need to be managed will deserve continuing recognition of their contribution. But it is no criticism of those who have so brilliantly brought British Waterways to the brink of this new age, to say that the new organisation must be led in new directions. These must include a more outward-looking, inclusive style, and rigorous bearing down on costs – two quite different things which will be very hard to achieve at the same time.

Although NWC will be exempt from the Freedom of Information Act, it will actually be important to find ways of being more open, without the extravagant cost sometimes associated with FOI compliance.

Volunteering (Q16, 17)

Volunteers offer themselves for a complex variety of motives, of which the most important is altruism. Yet volunteers are not entirely selfless, and each individual prefers tasks which he or she finds congenial. Insight and empathy are therefore needed when assigning volunteers to tasks. It can be difficult for those who do not themselves volunteer, to understand those who do.

British Waterways has already attracted an impressive array of volunteers. The success of the Waterway Recovery Group and canal societies similarly shows that there is almost no limit to the *type* of work which can be well handled by volunteers. It is quite another matter to consider the *volume* of work which volunteers can do. There are also tensions between paid and unpaid workers engaged on the same task, which have so far largely been absent from projects conceived and managed by volunteers, even those on BW waterways.

BWAF considers that the speed and direction of growth of volunteering with NWC will depend on the pace of cultural change both within NWC and among existing voluntary groups. The less NWC seems to differ from British Waterways, the harder it will be to recruit volunteers. It will be useful to explore a number of different approaches to the recruitment and management of volunteers. There should be wider discussion of lessons to be learned from other charities which engage large numbers of volunteers.

NWC should have huge ambitions for volunteering, but it will take time.

Non-BW waterways (Q1)

BWAF is constituted only to speak to British Waterways. Naturally, however, its member organisations have extensive knowledge of, and interests in, waterways run by other navigation authorities. BWAF members are clear that NWC should be open to other waterways to join, whatever the form of their current ownership. This would of course require NWC, the applicant authority and users to support such a move. It will also only be possible for waterways to migrate if sustainable funding is arranged. The Declaration of Trust should envisage a flexible procedure for this, using orders under the 1968 act or the Transport & Works Act.

The immediate issue is the possibility of waterways transferring to NWC from the Environment Agency. BWAF accepts that it was not possible to make this transfer now, and welcomes the ministerial proposal to review in 2014. BWAF would strongly support this merger, though not at any price.

The main obstacle was the cost of maintaining very large structures on the River Thames, which provide both for navigation and for flood control. At present these are funded primarily from the Agency's flood control budget rather than from its navigation one. Means clearly have to be found for continuing a substantial contribution to the upkeep of these structures from the Agency.

BWAF members regret that the opportunity has been lost to create from the outset a culture in NWC which has roots both in British Waterways and in the Environment Agency. Defra, the Transition Trustees and the Environment Agency should take early steps to increase joint working so as to make the merger easier when it comes.

It is a curiosity that all non-BW waterways transferred to NWC, even the mighty Thames, will instantly become remainder waterways, and therefore need a S104 order.

Freight (Q24)

BWAF accepts that the Transition Trustees will be daunted by the cost of improving some Commercial Waterways to 1968 standards, in relation to revenues offering. Certain Commercial Waterways, such as the Selby Canal, might well be better reclassified as Cruising Waterways - though having been maintained as such for many years, no cost saving is likely.

Rapidly increasing fuel prices, together with other long-term environmental arguments, make the case for inland waterway freight stronger by the day. If there is to be significant revival in freight, the scale of the necessary investment will be beyond the ability of NWC. Traffics must be researched and secured, while there would be need for investment in waterways, wharfage and barges.

As a holding operation, BWAF therefore supports Option 2, with an early and thorough review. This should include significant effort to identify traffic suitable for long-term investment, on a basis comparable to rail. The Department for Transport should lead this work.

Name (Q29)

BWAF prefers: Waterways Trust or National Waterways Trust.

29 June 2011

British Waterways Advisory Forum: Members

Amateur Rowing Association
The Angling Trust
Association of Canoe Traders
Association of Pleasure Craft Operators
Association of Waterways Cruising Clubs
The Barge Association
The Boating Association
Boat Museum Society
British Canoe Union
British Hire Cruiser Federation
British Horse Society
British Marine Federation
Canal Boat Builders Association
Central Council of Physical Recreation
Commercial Boat Owners Association
Country Land & Business Association
Electric Boat Association
Historic Narrow Boat Owners Club
Horse Boating Society
Inland Waterways Association
National Association of Boat Owners
National Community Boat Association
The Ramblers Association
Residential Boat Owners Association
Royal Yachting Association
Save our Waterways
Steamboat Association of Great Britain
Sustrans
Towpath Action Group
Wooden Canal Boat Society
Yacht Harbour Association