

A New Era for the Waterways - An AWCC Response to the DEFRA Consultation

Executive Summary

1. The Association of Waterways Cruising Clubs has provided enthusiastic support for a New Waterways Charity (NWC) since it was suggested three years ago and has entered, with others, into detailed discussion with British Waterways (BW) to enable the current proposal to be put forward. Nevertheless, we consider that the creation of a successful Trust will need a considerable amount of effort and that its success cannot be guaranteed without the full co-operation of all parties involved, including the user and industry communities, the Interim Trustees and, not least, Government. Our many concerns are listed below and discussed in the following paper:

- **Funding** – The funding model is difficult to understand in its detail, but it is apparent that there is not enough money on the table at the moment and voluntary giving estimates may be optimistic in the short term. Also, the pension fund arrangements need to be looked at very carefully and also discussed directly with Government;
- **A Membership Scheme** - Full mutuality, given its eventual desirability, may become an unhelpful diversion at the early stages;
- **Volunteering** - The estimates for numbers of volunteers may be ambitious in early years and will depend on very careful management by the full-time management company;
- **Navigation** - The primacy of navigation on the network cannot be over emphasised. Given that this is reflected in current legislation, **it must be viewed as the fundamental purpose** that enables all else and the thing most people value greatest. It is summarised very neatly on the front of Inland Waterways International's (IWI – the world-wide organisation) current recruiting form: "***a blue ribbon for a green planet***"! Visitors come to see boats moving and actively using the waterways. Navigation and boating generally enhances the natural environment, it is the enabler that provides diversity and it must be the essential element of the new charity.

2. In addition there must be:

- Recognition that people are always more important than things and that the wording coming forth from the consultation document should leave no doubt on the matter;
- Recognition that the well connected national network and movement of boats nationally is equally important compared with local issues and the engagement of local people, e.g. a series of potentially disconnected local waterways is a totally unacceptable model;
- Recognition that built and cultural heritage are of equal importance to natural heritage;
- Recognition that the average boater is interested in all heritage and environmental matters as a primary driver for their boating.

3. **Overall** – We would wish to see a new and well functioning charity with the ability to do all that is done now, but differently, in that it should be perceived as doing it better and in a much more open and accountable way that engages more people.

The Association of Waterways Cruising Clubs

4. The **Association of Waterways Cruising Clubs (AWCC)** was founded in 1964 as an association of boat and cruising clubs, with the aim of caring for members practical interests when cruising on the inland waterways network. **We are now an Association of over one hundred cruising clubs with more than 20,000 affiliated members.** Our initial focus was on self-help and dealing with the unreliable aspects of leisure boating 50 years ago, but we quickly evolved into a national organisation that campaigned for the network as a whole, to ensure that it remained connected, enhanced and developed as a national leisure asset. Our Senior Patron remains Sir Frank Price, a former Chairman of British Waterways, and our co-operation with him to re-open parts of the network 30 years ago is well remembered today.

5. We enter consultations and negotiations with British Waterways (BW) and the Environment Agency (EA), and other bodies at national, regional and local levels. We attend all national fora, together with our colleagues in IWA, NABO, RBOA and RYA, etc. We were a founder member of the British Waterways Advisory Forum (BAAF) and we join with all other national waterways user and industry associations as an Associate Member of the Parliamentary Waterways Group (PWG).

6. Volunteering and self-help is at the heart of our people and what we do. We promote our cruising aims through a policy of mutual assistance, exercised through our clubs, many of whom have achieved a great deal in the construction of moorings, club-houses and boating facilities. Our clubs are active in local affairs and a recent example of this is the fund raising for and construction of a dry dock at the St Pancras Cruising Club in the heart of London, a facility well used by the local community.

General Points

7. The Legal Assumption. The AWCC make some basic assumptions and state particular legal concerns about clubs and their practical operation. We seek confirmation on both these matters:

- Basic Legal Assumption. A major point and assumption arising from the Public Bodies Bill, with its appropriate Ministerial Order (when drafted), is that **all existing powers**, as is today, will be transferred to the NWC on day one. This will include the Act of 1425 to improve the River Lee, and all that has followed up to the present day. It will also include the current status as a **Statutory Undertaking**, together with all the privileges, rights and responsibilities that such status implies and requires. Change thereafter may be considered via separate legislation or appropriate Ministerial Orders. Also, although not specifically raised in the DEFRA paper, we assume that this must mean that NWC will **remain a statutory planning consultee** and be involved in relevant planning decisions, as is currently so with BW. The assumption that these will be so is our pre-requisite for the formation of the NWC. We also assume that an Ombudsman scheme will be retained.
- Particular Legal Concerns. The AWCC is also concerned that all existing **lease arrangements** between BW and our member clubs (and waterside businesses as well) will be honoured in full and continued by the NWC under the terms and conditions specified, including the designation of "**BW Operational Property**", where relevant. We ask for recognition that all AWCC clubs are not-for-profit organisations, either as companies limited by guarantee, or as unincorporated bodies regulated by lease trustees. Hence, in due course it may be appropriate for all clubs and canal societies, with waterways as their primary interests, to become Corporate Members of the NWC

so that the privileges and responsibilities appropriate to the NWC may be adopted by all such clubs and that this may be seen to be a wider waterways community, acting together.

8. Basic concerns. These have been summarised in the Executive Summary above. In general, there appears to be some incomplete or muddled thinking in parts of the consultation document. Our concerns in these respects are dealt with in the answers to the 29 questions posed by DEFRA, which now follow.

The Questions

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

9. We agree with the proposal that the EA navigations (and other navigations forming an important and integral part of the current network, e.g. the Wey Navigation) should be included as soon as is practically possible. Matters such as the funding of assets and suitable endowments should be tackled with vigour by the Government to enable this. In particular, DEFRA should ensure that sufficiently prioritised instructions are given to the EA in order to make it happen.

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

10. We agree with the general tone of the Declaration, but this seems to be somewhat limited in its scope and lacking in detail. We would encourage more detail, e.g. to allow the “other navigations” mentioned in Question 1 to join with complete ease when appropriate. One of the aims of the AWCC is to encourage the sociability of joining together to use the waterways for navigation. Hence, the NWC will need to acknowledge a social function. Also, we would make the point that “free access to towpaths” should mean free access to the public as public footpaths. Whilst this may be just loose use of words, there should be no implication that boats without a home mooring should have the right to moor indefinitely without charge. Whilst the Declaration should be relatively short and easily comprehensible, the Purpose should be comprehensive on the matters raised, hence our following response -

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

11. The AWCC believes that the broad thrust is correct, given some additions and re-ordering. The main aspect, in our view, is the need for an additional bullet at the top of the list to deal with and emphasise the main purpose, as a crucially important matter. Navigation is the fundamental thing that enables all else. It is adequately represented in the current legislation and should remain so. Visitors come to see boats moving and actively using the waterways. Navigation and boating mostly enhances the natural environment and must be the essential element of the new charity. The movement of craft on the water maintains viability and prevents silting-up. Without navigation, the waterways become no more than a smelly and dangerous series of muddy puddles that attracts little attention, apart from the fly-tipper. AWCC propose the following changes:

- **The primary task of the NWC is the efficient operation and management of the inland waterways network for navigation.**
- The stewardship role of NWC shall include:
 - Preserving and enhancing their availability **for a broad range of activities with water and boats at their heart and to proactively seek improvements that provide clear long term benefits;**
 - Facilitating a broad range of recreational and leisure uses for public health and well-being, including **fishing and walking for all on the towpath;**
 - Conserving and enhancing the **cultural**, built and natural heritage of the waterways, including **where appropriate**, wildlife habitats;
 - Sustainable use and management of natural resources, **including water, that takes account of all social and long-term environmental factors;**
 - **Pursuit of a social agenda that accompanies waterways activities, including the education of the young and the presentation of relevant artefacts for all through a comprehensive museum service;** (Note – we assume from the statement in the DEFRA paper that NWC will, in due course, subsume The Waterways Trust.)
 - **To encourage existing local waterways trust and canal societies in their objectives and to contribute directly to their activities where appropriate.**
- The restoration **and improvement** of their waterways; and
- Regeneration of **both rural and urban** waterways and the adjoining land corridors through which they pass.

12. We would emphasise that the “broad range of leisure uses ...” should included an ethos of greater “low cost” access to navigable waterways by both powered and unpowered craft, particularly for young people, by the encouragement of more clubs, the provision of facilities such as slipways for smaller boats, etc. Note that the AWCC has long promoted the so-called “Third Way” approach to encourage local groups to establish their own moorings and facilities.

Question 4: Do you agree with the proposed ‘mission statement’? How could it be improved?

13. Whilst the word “local” is important in the mission statement in terms of galvanising local volunteering, the word “national” needs to be added to protect our view of the waterways as a national asset and to satisfy those whose interest in the waterways is both national and strategic. We would suggest that the need for joined-up thinking both in the written word and in the planning strategy for the waterways network. A useful future “mission” for the NWC may be to work towards the whole of the system as a World Heritage Site, not just a small part of it. We would propose the following revision:

“NWC exists to protect and promote our inland waterways as a national navigable network so that this unique waterways heritage will always be valued as part of our local landscapes and communities.”

Question 5: Do you agree that the proposed ‘belief’ statement? How could it be improved?

14. A national dimension should also be included in the believe statement as argued above. Also, “people” should always come before the lower orders! Semantics maybe, but some of our members are concerned with and “believe” in the sanctity of human life. We propose the following revision to the second and third sentences:

“... Waterways are part of our national heritage, local communities, history and cultural identity. They refresh the spirit and provide a haven for people and wildlife amid ...”

15. We would also like to dispel a common “belief” that responsible boating damages the environment, e.g. falling vegetation contributes the most nitrite pollution and ducks excrete a foaming agent as a result of being fed too much bread by people who know no better!

Question 6: Do you agree with the proposed ‘vision’ statement? How could it be improved?

16. This is arguably the most important of the three statements. Currently it is sufficiently bland to cause little offence and the use of “everyone” is somewhat optimistic. Our suggestion is:

“The NWC will ensure that the entire inland waterways network is cared for and available for multi-purpose use by those who value it most.”

17. We understand that mission, belief and vision statements are perceived as necessary for all corporate bodies and trusts, but we also believe that some people with an interest in NWC will be irritated by such management speak. The matter should be handled with sensitivity towards such people.

Question 7: Do you agree that the NWC should enjoy the same powers and be subject to similar legal duties to maintain the waterways as BW currently is?

18. Statutory Law. The simple answer, as stated above is that all relevant statutory law contained in Acts of Parliament, even going back to 1425, should in principle be transferred to the NWC, as this defines the statutory starting point.

19. Trust Obligations. Trust obligations, arising from the law of trust, must be well defined from the outset as a set of inalienable rights and responsibilities for the Trustees to hold the waterways, in trust and in perpetuity for the Nation. Once in place, Government may not take this away or alter it and only the Trustees may initiate a variation through normal charitable procedures.

20. Constitution. The constitutional arrangements for the governance of the NWC must again be well defined from the outset by the trustees, in consultation with the Government and the current user bodies, but recognising that some arrangements will need to be of an interim nature. Thereafter, revisions to the Constitution should be a matter of discussion with the governing Council and implemented by the Trustees.

21. General and Corporate Legislation. General legislation such as health and safety and human rights also cannot be circumvented. However, there is much in general legislation, when applied to a charitable situation that is intended, where relevant, to ease the burden on the previous regime of a Government Corporation. An example may be the Data Protection Act and

this and similar examples must be considered by lawyers at the earliest opportunity. There are also aspects of corporate policy making that may be considered under the charitable umbrella where the burden could be eased. The NWC Trustees must ensure that all such policies are very clearly stated, particularly where they represent a change to the previous regime. **We recommend that the NWC should appoint an independent legal advisor at the earliest opportunity**, as this is a normal precaution taken by any large trust dealing with large amounts of resource.

22. Contract Law. The intention is stated in the DEFRA paper for there to be a government funding contract with the NWC. The primary purpose of this contract must be viewed as - **to prevent the need for the inland waterways to be taken back into the public ownership**. Hence, it should not be written as a contract for services, but should have a more general theme that has a focus on protecting the assets for the citizenry of the United Kingdom. It should be clearly perceived as providing support for a wide range of public benefits described in the charitable purpose.

23. Future Changes in the Legal Framework. The Association of Inland Navigation Authorities (AINA) sponsored a conference about five years ago on the legal framework of inland waterways. The conclusion drawn was that it is in a mess and needs to be resolved, but despite much continuing discussion since then, a suitable method has not been found, which does not involve primary legislation. The Public Bodies Bill is the closest that we have all got to the ideal of change, but AWCC appreciate that this Bill cannot make “changes or improvements” per se once enacted. Nevertheless, the responsible Minister has the right and responsibility to make certain Orders under, for example, the 1968 Transport Act and the more recent Transport and Works Act. This could affect the classification of waterways that are (under the 1968 Act) either “Remainder” or “Commercial”. The degree to which he should exercise these powers in the interim period of NWC is the subject of further discussion in this paper.

Question 8: Do you agree with the proposed Governance model?

24. In general terms, the governance model appears suitable, but the devil may be in the detail. There has been much discussion on this matter in the last three years. The model is similar to the National Trust and we agree that it has the potential to work, but suggest that certain interim arrangements will be necessary in the first three years to make it work well in practice. We would suggest that the guiding principle in the early stages should be to keep the process of governance as simple and straightforward as possible, with roles and responsibilities well defined and aimed at the most important things to be achieved. There are many issues and four are listed below:

- Getting together a representative Council on day one of NWC, including defining representative constituencies and dealing with the membership dilemma;
- Organising the interface between Trustees, the Council and the Delivery Organisation, and making it effective from day one;
- Making Local Partnerships effective bodies that are truly representative of and fully engage local people and at the same time help and not hinder the Local Managers, as well as NWC as a whole;
- Avoiding a culture of endless meetings that totally overwhelm both volunteers in the governance structure (including Trustees, Council Members and Local Partnership Members) and the full time NWC Executives. This is probably the worst risk!

25. These matters are discussed further in connection with questions 18, 19 and 20 and our recommendations are presented there.

Question 9: Should fund raised locally by Local Partnerships be spent on local priorities? Why?

26. In principle, the morally right answer would appear to be yes, but it needs heavy qualification. The main principle for local funding is that there must be well-defined projects for which the money is to be raised and ring-fenced. Projects such the restoration of the Anderton Lift (very successfully completed), or the restoration of the Runcorn Locks (still to be achieved) are good examples. Local people would then have certainty about on what their money is to be spent. Large projects must not be seen to dominate small projects.

27. What MUST NOT happen is that locally raised money is used for routine operation and maintenance tasks, as this could result in a 'gold plated' region where there is a more dense or prosperous population, suddenly changing to a 'thread bare' region with lower population and less fund raising potential. A small percentage levy could be considered on all contributions for the national pot, but it must be made very clear to all potential contributors at the point of collection whether their money is to be used for a local project or national system work. The subject is, of course, related to the membership dilemma.

Question 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?

28. The AWCC and other user organisations have been involved in establishing the two trial Local Partnership. The chairman should be sought as a prominent person from the local community in industry/commerce, academia or local government, who has both a declared special interest in the NWC and the waterways, and the time and energy to devote to it. In future, an appointments committee (4 people) consisting jointly of NWC Trustees and Council members, with an independent chairman (see paragraph 47) should select the Local Partnership Chairman. A panel consisting of the appointed Chairman, the NWC Local Manager and two Council members from appropriate constituencies within the Council should then select the Local Partnership members.

29. The following criteria have been developed from those used for the trials and are suggested for future use:

- Local Authority or other public body,
- Private sector industry or commerce,
- Powered and unpowered boating,
- Other waterways users, e.g. walking, cycling, fishing,
- Local tourism development and management,
- Heritage – built, cultural and geographical,
- Environment and natural heritage interests,
- Education and training,
- Fundraising and financial management,
- Volunteering and community engagement,
- Health and fitness,
- Communications and public relations.

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

30. There is no right prescribed answer, as it may depend on what is the specific local challenge, the extent of the local issues and the given chairman's personal approach. (Each trial Local Partnerships ended up with a team of 14, including the Chairman, in order to cover adequately the various functions.) The answer is clearly to let the Chairman decide what he wants and then to make it work.

Question 12: Subjects for specific sub-committees of Local Partnerships?

31. As above, each chairman should be allowed to run his committee in a manner in which he feels most comfortable. The chairmen will vary in their attributes (the current two are very different), but there should be a common desire to make a difference. They are likely to employ different methods. Some may use sub-committees; others may rely on individual responsibility. DEFRA should note very carefully the results obtained during the current trials.

32. If there is to be one prescribed topic, it should be how to reach out with localism at the community or Parish level. Local Partnerships based on the current BW regions are large, maybe too large, but any more similar "Partnerships" would be too many, somewhat unwieldy and probably overwhelming, causing a local/national balance problem. Ideas should be sought on how to reach out to this local level during the trial period from those participating in it.

Question 13: How best can the NWC strike the right balance between local needs of the waterways network as a whole?

33. This is another key and crucial question! One answer that pursues the simplicity argument is to use to the full what already exists and works in order to receive best advice on balance. The BWAFF is now in its seventh year and has evolved into a very useful body for both BW Directors and the user and industry community. It is probably the single issue of what should be done about a charitable body to run the waterways that has galvanised all sides and brought them together on very common ground. The BWAFF Heritage Sub-group has been working well for some time and has recently taken on an expanded remit to look at all proposed BW property developments where there is heritage sensitivity. More BWAFF sub-groups are in the process of being formed to advise on other specialist areas.

34. The Interim Trustees for NWC should use to the full the advice and expertise and goodwill that exists with BWAFF and there is every indication that they will do this. We note that a former BWAFF member has been appointed as an Interim Trustee and we anticipate a full and fruitful relationship with all the Interim Trustees in the year to come.

35. AWCC was an enthusiastic founder member of BWAFF; we took part fully in initial discussions with the interim chair, Prof. Sir Jeffery Jowell QC and were present at its birth. **We believe that in due course, BWAFF should form the basis of the new NWC Council.** (We believe that most BWAFF members agree with this suggestion.) It would be a sensible and pragmatic interim solution that can be up and running on day one. It would be the easiest way to get fair representation before NWC has acquired a body of individual members.

36. The long-term answer to the question is that the Council, with its necessary advisory sub-committees, **MUST** be organised to provide the Trustees with detailed advice on this matter.

However, we note that the Broads Authority has a statutory duty to seek balance in all matters and conclude that this is no bad thing.

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

37. The answer is similar to that for Q13. Neighbouring Partnership chairmen must be required to engender a sense of co-operation and sharing across the Local Partnership boundary, but in the final analysis, the Council must be responsible for making any difficult rulings on a boundary dispute. However, it is our experience that waterway organisations have built a relationship of respect and goodwill towards their local BW staff that needs to be encouraged and used to good effect under the NWC regime.

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

Question 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?

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

38. Volunteering. The subject of likely barriers to volunteering in a waterways environment is a complex one that could promote a discursive paper in its own right.

39. There are many levels of potential volunteering and they will attract different people in different circumstances. Professional skills that would be of immediate use would be engineering, particularly civil, financial, e.g. accountancy, and legal. They would be of most use in regional or national headquarters. Intermediate level volunteers could be used directly on navigation related matters such as lock keeping, in areas where this is appropriate. Manual skill volunteers are likely to come forward on a local basis and it is these people that could be used for such things as vegetation management, a function currently contracted out and a problem that never seems to be quite under control. Volunteer labour could be used to tackle off-side management that is currently only done on an emergency basis, because it cannot be afforded. We are also aware of a civil engineer, who would love to tackle the widespread bridge problem.

40. Training and supervision will be important management issues. If it is not got right, potential volunteers will evaporate and direct their efforts elsewhere, if they are not made welcome and appreciated. The offer of free skill training could well be attractive to some potential volunteers. Overall, this is one place where a cultural change within the current BW management structure will be required and an enhancement in their management skill base on volunteering will be needed.

41. We would point out that volunteering on a large scale for complex and highly technical tasks has been going on for many years with the IWA's Waterways Recovery Group (WRG) and many other local waterway initiatives, where technical equipment requiring adequate training is regularly used. These activities encompass many young people who seek a sense of achievement and autonomy. The many steam railway preservation societies in the UK fulfil a

similar role and are another example of voluntary organisations that successfully combine complex technical and managerial tasks, together with the provision of appropriate training.

42. The current staff within BW will need to be supplemented by managers that have real experience in organising people in these ways. In the end, success breeds success and when a local community sees that such volunteering is both successful and enjoyable, then it will encourage more. Hence, some selected high profile programmes will need to be carefully selected, promoted and managed.

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

43. Fair representation that is seen to be fair is an absolute necessity. Achieving it from day one may not be easy and must be carefully considered by the Interim Trustees. The pros and cons of an immediate membership scheme are summarised as:

PROS -

- It is immediately seen by the general public as fair;
- It will aid fund raising;
- It creates democratic principles and can help to ensure a spread of views.

CONS -

- Creating a significant and representative body of members on day one will be near to impossible and place an unacceptable burden on Interim Trustees;
- Taking over an existing body of “members”, such as BW licence holders, would be perceived as grossly unfair by other interested parties;
- It would leave the NWC open at its formative stages to be taken over by the vociferous minority, who would seek to pursue narrow and vested interests;
- A small proportion of members of many bodies, e.g. NT or IWA, actually take part in the governance of their organisation, so time would help to educate potential members as to their duties;
- The, “what’s in it for me?” question has to be addressed before a membership scheme is launched. A comprehensive answer may not be apparent on day one.

44. We are minded to accept evidence presented by Dame Fiona Reynolds, Director General of the National Trust at the Parliamentary Waterways Group, who said that NWC should initially concentrate on charitable aspects and leave full mutuality until the charity is up and running. Whilst it could be argued that the NT (and others) should be trying harder to engage their membership on governance issues, we recognise it as a general problem with membership organisations. The advice does align with our simplicity theme. Hence, in summary, we believe that the requirement to institute **a membership scheme should be imposed upon the Trustees on day one, but its implementation should be deferred for three years.** This will allow time for the Trustees to ensure that it is more reliably constructed and becomes truly representative when a significant membership base has been created. We suggest a progressive scheme where 10% of the Council members are elected when the membership reaches 5,000, rising in 10% steps to 50% of the Council when the membership reaches 50,000 or above. Elected membership should not exceed 50% of the Council members.

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

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

45. See also the response to questions 8, 13 and 18 above. The proposed composition shown on page 33 of the consultation document appears to be a reasonable initial attempt at fair representation. Some people may be concerned that a Council of 50+ people is too large, but noting that the National Trust operate successfully with a Council of 52 members, we are prepared to endorse it. Initially, the Council should be an appointed body, transferring to a 50/50 appointed/elected body in due course, as indicated above. There will need to be a process for making direct appointments together with a method for the Council to select the nominating bodies entitled to nominate appointed members. Flexibility should be built into the NWC Constitution to allow correction of aspects of the process that in practice is found to work less well. AWCC would suggest that, **initially, all the main current members of BWAF, that are backed by large democratically elected bodies, are offered at least one seat on the Council** in order to capture that experience and get the Council off the ground and to a quick and effective start. The Interim Trustees should be encouraged to debate and agree the details of this aspect with BWAF and BW Board members at their meetings before vesting day.

46. It is also worth noting that the original Constitution of BWAF (as advised by Sir Jeffery Jewel QC), had constituency-based representation. In practice, this did not work well and was soon abandoned, but it may be necessary to reconsider such a system for representation on the NWC Council. **We recommend that, initially, the constituency, stakeholder or interest group based approach, as outlined in the DEFRA consultation document is simplified as follows:**

	Constituency, stakeholder or interest group	No. of Council members
1	Navigation related users and canal businesses, including powered & unpowered boating and anglers. *	16
2	Local board chairs.	11
3	Local government and statutory bodies.	6
4	All heritage and environment interests. *	6
5	Co-options (split between Trustee and Council nominations). *	5
6	Employees (from the management company, former BW).	4
7	Community and towpath interests. *	3
	TOTAL	51

* Initially to be nominated in whole or part by BWAF.

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

47. Clearly, the full Council will almost certainly want to vote on the matter. The appropriate skills are likely to be found in a person with a broad and successful professional career, with a proven history of handing diverse groups of people and preferably not an HR specialist or any deep specialist. He/she should have a basic sympathy with and knowledge of charitable trusts and the real responsibilities of the trustees, plus a willingness to do the NWC job for a notional fee.

Question 22: Are there other topics you consider would benefit from Council scrutiny committees?

48. The AWCC (as a full working member of BWAF) has recently joined with colleagues and BW executives (with an Interim Trustee present) in recommending a list of Expert Advisory Groups (EAG) as a preparatory step for NWC vesting. They are:

- **Navigation** – this is seen as replacing the **Waterway Users** (WUSIG) and the **Customer Services** (CSSAP) groups. Note that AWCC NEC members sit on/advise both the current groups, which meet six monthly and have a broad membership that includes categories 1, 4 and 7 in our table at paragraph 46 above.
- **Angling** – this has recently been established and is seen as continuing in present form.
- **Heritage** – to be built on the successful experience of the current group, e.g. to include property development aspects in heritage sensitive areas and situations.
- **Environment** – The wider aspects of water resources legislation (Acts of 1991 and 2003, etc) and the further implementation of the Water Framework Directive (WFD) are seen as key areas where expertise will be required to supplement the very limited expert resource currently within BW. Also, whilst BW has an ecologist at present, an independent academic would also be useful on this EAG.
- **Freight** – opportunities to establish the right context for freight within NWC, to identify the right niche markets and to draw in the wider logistics industry will need to be examined.
- **Others** – such as education, young people and volunteering could have an initial role in NWC. Most community matters are likely to be tackled by the Local Partnerships, given that they may need some overall guidance and co-ordination. The AWCC has also been involved with the co-ordination of local mooring strategy trials (K&A, etc). Given much volunteer effort on our part (and other user organisations too), the outcome is still uncertain and awaits the discussion with BW executives on a Crown Court ruling in Bristol. It involves national issues that cannot be swept under the carpet that could seriously get in the way of the effectiveness of Local Partnerships.
- **Overall** - the Council should be free to establish and terminate advisory groups, as their need is perceived to arise. The need for a finance EAG will depend upon how the Interim Trustees wish to handle this important topic. Our answer to Q13 in paragraphs 33 to 36 is also relevant.

Question 23: Are there any other activities of BW that would be best placed in the CIC?

49. The proposals for the CIC are sensible and clearly BWML and the property company, plus any JVs arising from it, are the prime initial candidates. Others may arise, e.g. specialist freight interests.

Question 24: Freight – Do you agree the status quo is no longer an option? Which of the five options [in Annex C] do you prefer? What other options should be considered?

50. It is apparent to most waterway users that the current status quo of commercial waterways may be unaffordable and that this may prove one very difficult aspect for the Trustees of NWC to handle. (We note that one of the Interim Trustees has expertise on this matter.) However, if the standard of any commercial waterway falls and freight disappears, it will be (and is now) extremely difficult to re-establish. As discussed elsewhere, future freight is always likely to be a

niche market, e.g. the gravel carrying on the southern Grand Union at Uxbridge, but that is not to say that these niche markets should not be proactively sought by NWC, where wider environmental and social benefits are obvious or likely at a future time.

51. Water depth is a crucial matter for freight carriers and the vexed question of dredging and its considerable expense is always at the heart of the matter. This will inevitably have to be a subject for EAG action. One aspect to receive much discussion is the plethora of environmental legislation that requires special treatment for the arisings from dredging. We have no quibble with this approach when the arisings are polluted with, say, heavy metals from previous industrial activity, but we see no reason why arisings in country areas should not be used to supplement bank and farming land. Getting a better deal on this matter would be a useful cause celebre for NWC!

52. Waterway Classification. The more immediate matter for government is that of **waterway classification**. It was discussed at a meeting at DEFRA on 2 June and representatives clearly viewed a version of Option 2, where application to the SofS for an order to change the status of either a commercial or a remainder waterways, should apply. In summary, the view of the AWCC is that a major or hasty reclassification will not be possible within the limited period before NWV vesting, but that the matter of classification will need to be examined in detail by the NWC. We believe that reclassification of many remainder and some commercial waterways is desirable and that the Interim Trustees should agree with the Minister responsible for granting the order, before NWC vesting, which ones these should be. We would like the agreement of a timescale so that any reclassification as cruiseways may take place to a programme defined and agreed between the Interim Trustees and DEFRA in advance of NWC. We also make the following suggestions:

- **Remainder Waterways**. As a matter of principle, NWC should seek to upgrade all remainder waterways where they are currently capable of supporting navigation for a significant part of their length. Where this is not so, but where a local society or trust is actively concerned with restoration, NWC should proactively seek to establish a long-term policy with the local body, with a view to providing appropriate non-financial support. In most circumstances, fund raising will inevitably be retained by the local body.
- **Commercial Waterways**. The status of all commercial waterways should be reviewed. They should be retained where there is significant commercial use or the prospect of significant use and where there is adequate wharfage to support it. Over simplified questions of, do individual commercial waterways pay, may be less relevant. If wider environmental objectives of water transport are to be considered, then it would be relevant to consider which part of government should pay for a support contract, i.e. environment or transport. Where commercial waterways are retained, NWC trustees may wish to instruct the new waterways management organisation to improve the marketing of these waterways.

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

53. BW currently has a well evolved system of Stewardship Scores, agreed with DEFRA, which may or may not be appropriate for the NWC. This covers aspects such as maintaining the network, meeting commercial income targets and delivering public benefit, resulting in overall indices for Waterways Condition and User Benefit. NWC will inevitably have to have a similar

system to both satisfy EU regulations that public money is being properly spent and to assure the public of the efficacy of the operation. The method adopted will need to be totally open to scrutiny and understandable by the public. There will need to be a debate within the Council about the setting of performance standards. The current stewardship system will need to be critically reviewed by the Council and Trustees. They may wish to consider alternative methods and review other systems of commercial benchmarking, as well as similar systems used by other large charities. Whilst measurement of performance is important in any organisation, its must be seen to promote good practice in general and its targets and drivers must also be seen as realistic, achievable and fully appropriate to motivating staff (and volunteers) towards the real goals.

Question 26: Are there other areas where you think NWC could increase:

- ***Its commercial income,***
- ***Its voluntary income,***
- ***Its third party income.***

54. AWCC cannot put forward a sensible view, at this stage, on commercial and third party income, which departs from the status quo, other than by saying that BW has a reasonable range of professional expertise in the matter that should be retained and enhanced as changed circumstances are met. However, expertise is probably at the heart of the question and voluntary income is the big unknown. BW will need to recruit a team of people with a proven track record in fundraising that will also have to include relevant marketing and PR expertise.

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

55. The difficulties of running an infrastructure that is on average 200 years old is not an easy business. For example, there are many specialised skills concerned with waterways maintenance, such as lock gate construction. We firmly believe that these skills are best retained in-house, where they will benefit NWC and could be used to train young people to the benefit of the wider community.

56. BW has attempted reasonably successfully to reduce the cost and increase the efficiency of their operations over the last decade. If nothing were to change, it is likely that further cuts would adversely affect the service provided and the asset condition. Some indications of savings within a new charitable regime have been stated elsewhere in the paper. However, it is likely that as NWC begins to engage a greater range of people at all levels, more opportunities will become apparent over and above the greater use of volunteer labour. **We recommend that the NWC Trustees maintain a flexible approach to the methods to be used, but be single-minded in their management of resources and the need to run a tight financial ship within the Trust.**

Question 28: Views on the Impact Assessment?

57. This is a key question and we would say from the outset that the data provided in the Consultation document is far too speculative and basically inadequate for AWCC to attempt a detailed response. Hence, **we recommend most strongly that the Interim Trustees set up a review of the matter and appoint immediately an independent financial advisor** to do this. They may wish to consider KPMG, who have a head start in the matter!

58. We believe that Scenario 2 is the basic assumption and that it is probably dangerous to move beyond that at present. We note the comment in the document – “*Creation of the charity will avoid the most significant risks of an underfunded network in which health and safety risks increase as assets deteriorate and are susceptible to failure.*” This is, indeed, the potential, but it is far from guaranteed at present. We believe that there could be a significant risk that the charity is significantly underfunded at its vesting. **We recommend that steps be taken in the interim period to avoid this risk.** Above all else, we would wish the Government to create the right initial conditions whereby the risk that the waterways have to be taken back into public ownership is reduced to a low level. This is an objective all sides would easily agree! Hence, the Government must understand that the initial funding package has to be adequate to allow this to be so and we are concerned that it may not!

59. The Waterways Minister said in a question we posed at last November’s AINA Conference that he accepted that any major organisational change requires an “initial resource hump” to make the change effective and quickly so. The rest of our comments are based on how we consider the package should be modified to reduce the risk of failure.

60. Several members of the AWCC NEC have in their professional careers been involved with government contracting from both sides of the fence. A fundamental principle, invariably applied to large, fixed price contracts is the Variation of Price (VoP) condition, which allows the agreed fixed price to be elevated on an annual basis by the agreed (HM Treasury index) industry inflation. This allows contractors to bid a reasonable price, without substantial contingency for unknown inflation in years to come, and it results in a lower overall price for the project. Hence, we consider it absolutely essential that the budget provided in the Government contract with NWC is given a similar VoP protection for the proposed ten year period, as it will allow proper forward planning, particular for the maintenance of major assets. Not to do so will, in our view, greatly increase the risk of financial failure in the early stages of NWC. Given that this is done, DEFRA may wish to consider a claw-back clause after, say five years of operation, if charitable giving equals or exceeds expectations, but that inflationary increases continue at a reduce rate if it does not. We also believe that the extent of charitable giving will have a direct relationship to the performance of the UK economy, which is always uncertain and traditionally lower than political desire.

61. We have examined with BW managers, asset condition assessments and can see that safety considerations become critical around 2017 if the financial package is not enhanced as we believe it should. Whilst we would defer to the review of the independent financial advisor, our view is that the current financial package of £39M pa, fixed and firm for ten years, needs to be enhanced by an additional £10M pa and the total subject to VoP as described above, in order to keep safety critical assets in an acceptably safe condition. We look forward to a re-assessment by the independent financial advisor of the previously stated “steady state” annual financial budget (but just for England and Wales), as this is a useful measure. We believe that it may be in the order of £119M,

62. On a parochial point, we have stated in paragraph 7 our concerns that the NWC should not seek unreasonable increases in prices or changes in conditions to all those involved in the waterways as users, or in business. The review proposed above may care to consider aspects of the elasticity of demand within the industry for item and services that users and business have to buy in, particularly from the NWC.

Question 29: A new name to replace NWC?

63. There are two basic problems –

- Firstly, to avoid any confusion with what The Waterways Trust, that currently exists, as was, is or will be in the future;
- Secondly, it is best not to get into pedantic arguments about a restriction to England and Wales and go for the word “National” as an all-embracing term both now and whatever NWC may become in the future. We also believe that the word “waterways” should be used throughout and in the title as an all-embracing expression, hence leaving use of either “canal” or “river” free for that specific meaning where needed.

64. AWCC’s choice from the list is therefore (a) – a “**National Waterways Trust**”.

65. AWCC considered a snappy one-word title, but on balance, we suggest that those of the public at large who have an interest in such matter would prefer a “straight” title, as above, as a very clear indication of charitable purpose.

66. In the final analysis, the question should be asked of the current staff, would you be happy working for an organisation called – xxxx? We are sure that this will help with positive motivation in the early stages of the NWC and create a feeling of belonging to a new organisation in which they will have a continuing and important role.

67. However, the AWCC feel most positively that **the current logo should not be changed**. Retaining it will provide continuity, look familiar, save money and provide confidence to the public.

68. AWCC would now like to add a 30th question, which has been implied, but not stated by DEFRA. It is certainly one that has been considered by our members.

Question 30: What aspects would you like to change and what would you like to remain within the current BW staff as they transform themselves into the new delivery organisation for NWC?

69. It should be said at the outset that BW do a good technical **job** within the many constraints and financial restrictions under which they **currently** operate. The charitable operating framework has been discussed above, so the changes that it implies will not be repeated, other than to emphasis that the policy and strategy setting regime will be totally different and will require an adjustment in thinking at all levels within current BW staff. Hence, on vesting day, the Interim Trustees are likely to require delivery of services along the current lines with a gradual improvement that the new framework may allow in time.

70. Will this be situation normal? We believe not! People desire and have the perception that “something” has to change. That something is usually put down to an almost intangible aspect of corporate culture. Experience gained by members of the AWCC NEC in similar circumstances indicate that while processes and policies are easy to change, the underlying thinking of employees is likely to take much longer to change and it is likely to apply right from the bottom to the top of the organisation. There will be those who are apprehensive about the changes, unconvinced by the perceived benefits and fearful for their jobs. At the other extreme, there will be those who are supremely confident about the organisation’s ability to achieve; maybe unrealistically so. There will be those who learn to speak the language of change, but within themselves are not convinced and will not produce the right actions. This can be a serious

management issue. **We recommend that it is taken so to be by the current executive team, who should not be afraid to seek help with change management.**

71. Above all else in the cultural change, we ask that the new delivery organisation concentrate greatly on a real **policy of openness and customer orientation to the ordinary person on the cut** providing assurance that all levels of the former BW staff are listening and will be responsive to them. As already stated, the BW Board and executives have become increasingly open and co-operative with the AWCC and our other BWAF colleagues in the last three years. We would like to see this feel-good factor progress to every element of the organisation, as it will seed success.

72. Finally, we would make the simple comment that the current senior executives' salaries are inappropriate for a charitable organisation. We have made the point to the Minister's special selection team with complete agreement.

73. Overall Conclusion. AWCC recognises that this is the biggest opportunity for future success handed to the inland waterways since the founders of the IWA first suggested a waterways conservancy in the 1940s. It has huge potential to provide much social and political gain. However, we have heard this consultation described as "a study in optimism" and whilst we appreciate a positive attitude throughout, there is also the need for realism, particularly by Government. **We recommend that the current Government take every opportunity to capitalise on the gains and to eliminate as much risk as possible in the early stages and to ensure that the NWC is a success that we may all be proud of in this country.**

74. This report has been compiled for the National Executive Council of the Association of Waterways Cruising Clubs by:

Geoff Ashton	President
Paul Le Blique	National Chairman
Richard Elder	NEC Member
David Pearce	Parliamentary Representative (and former AWCC Chairman),

Approved by the NEC

25 June 2011