



The Scottish Parliament
Pàrlamaid na h-Alba

PUBLIC PETITION NO.

PE01693

Name of petitioner

Graeme Harvey on behalf of Lowland Canals Association

Petition title

Independent Water Ombudsman

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to establish an independent water ombudsmen to—

- safeguard the interests of waterway users
- review and arbitrate on disputes with Scottish Canals
- ensure that navigation along the full length of the lowland canals is maintained for the benefit of future generations.

Action taken to resolve issues of concern before submitting the petition

We have tried to resolve a number of issues direct with Scottish Canals both at public meetings and through their complaints procedure but substantive conflicts have not been resolved. Some of our concerns have been referred to the SPSO who have declared that their remit specifically prevents them from considering the issues.

Several local MSPs have been contacted with details of our concerns.

Petition background information

Prior to 2012, British Waterways was responsible for the management of around 2000 miles of canals across the UK. In 2012, British Waterways' assets and canals in England and Wales were transferred to the Canal and River Trust, a charity. In Scotland, British Waterways remained, under the name of Scottish Canals. Scottish Canals is a public body (a public corporation in the same category as Glasgow Prestwick Airport) and is accountable to the Scottish Government.

Scottish Canals are responsible for 137 miles of 4 working canals (the Caledonian, the Crinan, the Union and the Forth and Clyde) as well as associated land and property assets and are an asset based business. Under the Transport Act 1962 Scottish Canals also has a core statutory duty to operate and maintain the waterways with an obligation to maintain the canals for navigation.

to maintain the canals for navigation.

Before the break up of British Waterways, the Inland Waterways Advisory Council (IWAC) dealt with issues of dispute or grievance across the whole British Waterways' network. When the canals in England and Wales were transferred to the Canal and River Trust, this board was wound up and a completely independent Water Ombudsman was appointed to mediate on conflict issues between CRT and the boaters. His decisions are final.

In Scotland, the Scottish Public Services Ombudsman (SPSO) was appointed, with a limited remit to review and arbitrate on disputes with Scottish Canals.

It has been our experience that 3 submissions to the SPSO have not been actioned satisfactorily as their terms of reference are limited to "injustice, hardship or maladministration". They are specifically prevented from taking "Action relating to the determination of the amount of any rent or service charge". They are also unable to deal with other navigational issues. Scottish Canals write their own procedures and the ombudsman can only act when the procedures are ignored or not followed. The SPSO cannot comment on the acceptability of the procedure themselves.

Scottish Canals assert that they use a "strong network of advisory groups" as a regulatory measure. There is an argument to be made that these advisory groups will have their own agendas that do not necessarily align with the views of other canal user groups. For example, residential boaters experience different issues from commercial boat operators.

We consider that, in the absence of an independent Waterway Ombudsman and/or an independent appeals system, the Scottish Government is failing to provide the necessary checks and balances that are normal in public life. It seems to be discriminatory that these checks and balances exist in England and Wales but not in Scotland. This petition is therefore requesting the same safeguards for Scottish boaters and waterway users and the establishment of a totally independent water ombudsman to safeguard the interests of waterway and canal users.

Examples which we consider to demonstrate the need for an independent water ombudsman include—

1. There is an ongoing need for an independent body for resolution of differences of opinion between different groups of canal users, such as residential users and those operating commercial businesses.
2. The lack of rights for residential boaters (other than the right to be taken to court before eviction).
3. The monopoly position Scottish Canals have in relation to mooring sites, including the setting of fees, access to the waiting list for moorings, the allocation of moorings and facilities/maintenance of moorings. We believe Scottish Canals is operating unfairly in this regard.
4. In cases of hardship, matters are dealt with individually by Scottish Canals and therefore can be arbitrary.
5. Concerns and anomalies raised about the report on the Scottish Canals Pricing Policy have not been adequately dealt with by Scottish Canals. Boaters accept the matrix as a tool but disagree with the conclusions. Appeals to the SPSO about this have been rejected on the ground that it has no jurisdiction to intervene. This is an area on which a large number of concerns have been raised by boaters, the Royal Yachting Association and the Inland Waterways Association.
6. Communication issues with many stakeholders feeling that their views are being ignored, or paid lip service without substantive changes being made. There are also concerns about potentially penalties (such as not having licences or mooring renewed) being applied to those who speak out about the approach that has been taken by Scottish Canals.
7. There is a perceived conflict of interest in that Scottish Canals have purchased boats and are then able to use them commercially or to rent them out for Living on Water, giving an unfair advantage over others.
8. The lack of representation of the interests of boaters on the board of Scottish Canals.

9As a result of a lack of maintenance of the infrastructure of the canals there have been issues with locks, bridges, dredging and weed control which have seriously impacted on the navigability of the canals.

Conclusion

The Lowland Canal Association was formed last year by a large number of boaters who felt disempowered by Scottish Canals. The expectation is that all Scottish Canals' pricing, publicity and mooring allocation will be neutral, transparent, consistent and fair with their primary commitment to canal operation. This should be in line with their legal obligation to maintain the canals for navigation.

Boaters and businesses investing in life choices will make them susceptible to the decisions and pricing policies implemented by Scottish Canals. However, Scottish Canals is primarily an asset based company operating solely for its own commercial benefit.

One result is that fewer boats are transiting the lowland canals. Financial penalties have been introduced for using the parts of the canals during the week. Scottish Canals' policies and shortfalls in maintenance spending are a threat to the long-term survival of navigation on the lowland canals.

We believe an independent water ombudsman will be able to address the above and any ongoing issues and represent the interests of boaters and businesses operating on the canal.

Unique web address

<https://www.parliament.scot/GettingInvolved/Petitions/waterombudsman>

Related information for petition

Do you wish your petition to be hosted on the Parliament's website to collect signatures online?

YES

How many signatures have you collected so far?

5

Closing date for collecting signatures online

19 / 06 / 2018

Comments to stimulate online discussion

We believe that an independent Water Ombudsman is necessary to safeguard the interests of waterway users and to be able to look at conflicts of interest in Scottish Canals' activities. He should be able to ensure that navigation along the full length of the lowland canals is maintained for the benefit of future generations.