

**PE1693/H**

Petitioner submission of 29 November 2018

Thank you for the opportunity to respond to the 7 submissions to the Petition Committee.

Can we firstly suggest that there have been omissions that would have been helpful for background and comparison purposes? Namely the Annual Report of the English Water Ombudsman 2017/18. This document notes that there were 252 referrals to it in that year. Most of the referrals were issues relating to boating. It would be a fair assumption that many of the issues would also be relevant to Scottish boaters. We believe that useful analysis and comments could also have been solicited from the pressure group "Keep Canals Alive" (KCA).

**RESPONSE PE1693/A - Audit Scotland**

The content of Audit Scotland's submission was limited but it is interesting to note that they identified future risks around maintenance of the canal infrastructure, investment in assets and long-term financial planning which they propose to consider in detail in their next audit. Why have they not considered these issues before? The response did look at the pricing situation as presented to them by Scottish Canals. However, they did not look at the alternative figures presented by the Boaters Group which evidenced the fact that Gerald Eves' report did not compare like with like along with other anomalies and discrepancies. It did not comment on other aspects like the auction or concerns that Gerald Eves' report was not independent.

**RESPONSE PE1693/B - Scottish Waterways Trust**

In this very short submission their input focused on the use of assets. It did not look at issues in relation to living on water, policy or navigation issues. Therefore, we would argue that it was very limited in its input to the discussion. We would also have to challenge their independence as they receive their funding directly from Scottish Canals. In our opinion whoever pays the piper usually calls the tune.

**RESPONSE PE1693/C - ROYAL YACHTING ASSOCIATION (SCOTLAND)**

This submission was valuable as it offered valid, constructive criticisms of the limitations in the petition we submitted. Their contribution widened the remit. The Keep Canals Alive (KCA) umbrella organisation have also exposed deep concerns that are not all being addressed by Scottish Canals. The Yachting Association's expertise, as stated in their submission, is wider in terms of people who take to the water in boats, they represent 70,000 people and have a wealth of historical knowledge. They highlighted that in Scotland the canals allow coast to coast transits thereby presenting additional opportunities. The Forth and Clyde has been and still is closed in part, making transits impossible and it is suffering from a serious shortfall in maintenance.

In their submission they note six years of deteriorating liaison with SC which has clearly adversely affected the operation of the canals. They note that SC are close to a tipping point and the successful Millennium regeneration is at risk of collapse and £98M of public money wasted. Drastic action is required to move SC back on track.

One significant area of concern is the directional change of policy within SC from a canal body to a leisure related business which has led them to failing to comply with their statutory obligations. It is our assertion Scottish Canals requires a watchdog ombudsman to monitor the situation and respond quickly before any situation deteriorates again. The submission was very educational and widened out the discussion by giving a holistic overview.

### **RESPONSE PE1693/D - INLAND WATERWAYS ASSOCIATION.**

The comments made by the organization again stem from usage of the canals for vessel transport, leisure or residential purposes. It is interesting that they suggest an alternative to an independent water ombudsman. Historically, there was a water ombudsman which was disbanded in 2012. They ask Parliament to consider reinstating the Inland Waterways Advisory Council (IWAC) as it was able to make recommendations on matters of policy. It is interesting to note in their submission the IWA had contacted SC seven times over the last two years about concerns including asset management strategy, closure of Forth and Clyde, lock maintenance, dredging and weed cutting. With sections of the canal closed for considerable time, locks and movable bridges will deteriorate further through lack of use, leading to a knock-on effect to the detriment of boating, tourism and the environment.

The IWA submission clearly states that they believe a robust process is required to hold SC to account. The canals are living waterways that have been causing concern to users and customers for the last few years. Professionals and boaters have the skills to identify concerns and while SC have very efficient PR and property development departments, it is sad that experienced water users have been given little credit or opportunity for using their unique skills and insight into the many complex areas. It was perhaps premature of the Government to abolish the Inland Waterways Advisory Council. Relying on an informal, advisory network appears to have been ineffective due to its lack of teeth and SC choosing to ignore their advice. There is a growing field of evidence to suggest the implementation of a body to liaise with SC would prevent this situation from reoccurring in the future. We appreciate the amount of work undertaken by the Inland Waterways Association and are grateful for its submission which gave significant additional food for thought.

### **RESPONSE PE1693/E - SCOTTISH PUBLIC SERVICE OMBUDSMAN**

In their submission they state that they have received eight complaints about SC from 2012 to date. They are not a regulatory body and have a very restricted remit which seriously limits what they can and cannot investigate. For example, on the question of "mooring charges" they advised that the legislation had been transferred

from the England at the time of the transition which states in law that Scottish Canals can set charges without restrictions. This is exactly what happened with the recent massive, beyond inflation price increases. This resulted in many people selling their boats. It will be interesting to see if this trend continues and if so, who buys the boats? The main point is that the ombudsman is not able to review any complaint about pricing policy and prices. This is an area that might benefit from Parliament revisiting and reviewing the legislation. Furthermore, it would be helpful if the Ombudsman could give the definitive criteria for what constitutes maladministration.

In section 15 of the submission, they note that the Water Ombudsman in England and Wales consists of one individual who in 2017/18 dealt with 48 enquiries and carried out 14 investigations. A similar arrangement in Scotland would go a long way to addressing concerns and would not cost too much in terms of return.

We were heartened to note in section 17 the Ombudsman highlighted the lack of protection for residential boaters. Homelessness can partly be alleviated by residential boaters living on water. The Scottish Government should investigate with a view to offering greater security to residential boaters. Since Scottish Canals are using house rents as a gauge, then perhaps the same rights afforded to home owners could be afforded to residential boaters. There will always be different perspective on situations and we believe that an independent water ombudsman with specialist knowledge who has the power to ensure that SC comply with their statutory obligations and their duty of care to boaters is the best option at this point in time.

## **RESPONSE PE1693/F - SCOTTISH CANALS**

There are many points regarding this submission that could be raised but due to time and space constraints we will only focus on 4 points.

1. SC state that there are 127 residential boaters at present. Their mooring fees are set in line with property along the canal. Apart from the obvious fact that a house and a boat are 2 very different creatures, the residential boaters have no rights. SC have a closed waiting list and it has been noted that there appears to be preferential treatment for some applicants which is open to criticism or exploitation. Residential boaters take pressure off the housing market but have no security except one-year leases. We have heard anecdotally that some boaters are afraid to raise issues with SC because of the power imbalance in the relationship and fear of victimisation.

2. The Pricing Review was a very complex piece of work and has many unresolved issues. SC state that it will be reviewed every 5 years. Concerns have been raised that this will lead again to significant price increases especially if aligned to price increases in the property market.

We have taken the following figures for consultation and feedback on the pricing review and allied issues from the SC website and analysed them in detail. There were 298 comments made at the time. In summary, there were 174 comments about the content of the Gerald Eve report. Other issues raised at that time were 8

concerns about boating charges, 13 concerns about canal revenue, 7 concerns about communication, 9 comments about legal agreements, 6 about monopoly situation, 28 comments about mooring charges, 7 concerns about navigation/transit charges, 4 concerns about security, 11 about surcharges and 8 about the survey monkey itself. The feedback was very critical of many aspects of SC's approach to its paying customers. We are unable to give the details, but the report makes very interesting reading as do SC's responses and although it will not make the best sellers list, it will certainly aid sleep at bedtime. As they say, the devil is in the detail.

3. We were delighted to see in print the assertion that S.C will now honour their responsibility to maintain navigation along the canals. However, this seems to be at odds with their own asset management strategy which states that the canals will only get resource and funding if it is available. They have prioritized each canal, Caledonian at the top of the list and the Forth and Clyde West at the bottom. Is this because whoever provides the largest financial return will get the funding? At present, the Forth and Clyde canal is not fit for transit or general navigation and this will continue unless adequate funding is provided. At present, there is little opportunity for boat movements which also results in loss of revenue from transit. Significant works are also required to maintain navigation on the Union canal, e.g. Leamington Lift Bridge and Linlithgow Embankment. Until recently, there were serious concerns that SC has focused on it's asset and land development portfolio to the detriment of canal maintenance. "Keep Canals Alive" were formed as an alliance of concerned organisations in response to the growing deterioration of the canals by the policies SC were pursuing.

4. Community Moorings Scotland aims to empower boaters by letting them develop and look after their own moorings. This will hopefully reenergise the network, bringing life and business back to the canals. At present, the pilot scheme at Narrowboat Farm has been in discussion with the legal department at Scottish Canals for two years. This should be an area for immediate action to bring it to fulfilment.

### **RESPONSE PE1693/G - CABINET SECRETARY FOR TRANSPORT**

In his submission, the Cabinet Secretary for Transport states that they get their information primarily from Scottish Canals. Information from this source is likely to be biased and limited in its content. Government are responsible for appointing the board and are likely to support them partly for that reason. It is unlikely that Government would be provided with negative information such as canal closures, money spent or not spent on maintenance, money wasted on Spiers Wharf bridge, the boats at Bowling which were not fit for purpose and other examples.

An independent ombudsman would naturally have cost implications. However as stated by the SPSO this cost of one person would be reasonable and beneficial. Wage costs for some SC management positions are very high and natural wastage would free up funding. Savings could be made to accommodate an ombudsman within the framework and we believe that the cost would be recouped with prudent

cost cutting. The Government have a duty of care to the residential boaters and service users who, along with other organizations, have been left with no other option but to take the matter to the Scottish Government to air grievances and concerns. It is appreciated that Government has many other demands on its time but clogged up, badly maintained waterways are devaluing the beauty and regeneration alongside the canal. The navvies who built the canal and the historical significance of the past must be the blueprint for the future. We all need to be interactive and proud of our unique waterways.

It was interesting that the Minister of Transport advised that the £100 per year increase for mooring charges was to be a staggered over the next few years. This needs to be seen in context, it is reaching the position that mainly affluent people can afford to moor a boat on Scotland's canals, thereby limiting the community aspect.

It is interesting to note that it has taken SC six years to produce their asset management strategy, this is not the mark of an organisation which believes it has a duty to maintain assets for the foreseeable future.

## **CONCLUSIONS**

In the evidence provided to the Petition Committee there were a wide range of opinions. While it is fair to say there has been an improvement in communication with the new management and canal maintenance in the last few months, it is equally clear that there are still areas of concern.

- 1 Rights for residential boaters.
- 2 No transparent policy on hardship cases caused in part by excessive price increases.
- 3 Checks and balances on Scottish Canals' pricing policy.
- 4 Monopoly position of Scottish Canals in relation to ownership of moorings leads to a conflict of interest. For example, the price increases led to boat sales. SC were able to exploit its monopoly position by buying the boats for their business.
- 5 Maintenance of the canals and ensuring continued navigation. At present, work is ongoing. Engineering posts are being advertised on the website.
- 6 Money from the Scottish Government may be required to fund the backlog of maintenance.
- 7 Communication issues have significantly improved recently. However, it is still early days.

There will always be different opinions and views as people live, work and play. We hope we have made a case for an Independent Water Ombudsman or an equivalent body which would oil the wheels of good practice on Scottish Waterways. We would like a body where issues can be resolved at an early stage, however, we also need a neutral arbiter whose decision would be final in order to complement the work undertaken by Scottish Canals in their complex and multifaceted remit.

Within our original evidence and subsequent submission in response to the responses of those asked for opinion by the panel we stated that there was a deal of optimism that changes for the better were beginning to happen with the appointment of the new CEO. That optimism has been dashed by the news that said CEO will be resigning due to a variety of issues relating to her position as a Civil Servant and the demands of the Prison Service from whom she was originally seconded temporarily. Clearly this has come as a serious blow and raised major concerns as to who is to replace her. We can only request that whoever is appointed is determined to Return Scottish Canals to their core duties as a Canal Company with compliance to their statutory duties to maintain the canals under the terms of the Transport Act 1968. Consequently it is felt that the creation of a Waterways Ombudsman or a replacement for the former Inland Waterways Advisory Council is even more essential.