

## **PE1693/P**

Petitioner submission of 4 September 2019

The Petition Committee asked 3 questions of Scottish Canals.

### **Question 1**

The first was in relation to the Advisory Group. The LCA wish to add the following points about the new Scottish Waterways for All group.

There are mutual potential benefits from cooperation between Scottish Canals and the new group. The establishment of Scottish Waterways for All should provide a useful forum where the concerns of users can be considered and matters of policy can be discussed. However, it is not a body which can function as an independent ombudsman.

SWfA is not independent as there are three members of SC's staff are on the management committee. Indeed, the constitution states that in the event of a dispute, the matter will be put to arbitration between the chair of the group and the CEO of Scottish Canals. It is not set up to investigate disputes or complaints about Scottish Canals from individuals.

The group will have no real power to change SC policy which is decided in the board room. Policy decisions can be challenged but at the end of the day, Scottish Canals can ignore or fail to implement advice from the advisory group. There will be and are areas where consensus will lead to a better understanding by all parties by early identification of issues. There will also be a limitation on the work that can be undertaken as the group will only meet 4 times per year. As it is a pilot scheme, its success or otherwise will be reviewed after a year.

### **Question 2**

The second question asked by the Petition Committee was "how much of the £70m repair backlog was considered to be critical". The LCA would like to draw the member's attention to the following in Section 12 - Canal Strategies of the Asset Management Strategy 2018-2030

"There is therefore a need to consider a more rationalised approach to budget prioritisation. Consideration must be given to the primary use and function of the various canals, recognising the wider benefits to the greatest number of people. This may not necessarily include navigation, although this is an important consideration".

The maintenance of all canals should be given higher priority on the principle that a stitch in time saves nine. Analysis of Scottish Canals' annual reports done for the campaign for bridge repairs last year showed that the proportion of their total budgets spent on their core statutory maintenance obligation fell steadily from near 60% in 2008 to 42% in 2016, although this has since increased slightly. This reinforces the questions asked by the Committee in respect of the priority given to the basic core duties of maintaining the canals in a useable condition. The most recent paper from Scottish Canals quotes only the minimum investment of £30m required over the next 10 years to deal with the backlog, which on their own prediction would still result in the closure of some navigations. On that basis, we do

not believe that Scottish Canals give sufficient priority to their basic core and statutory duties.

### **Question 3**

The LCA have no opinion to express on the third question from the Petition Committee in relation to the governance arrangements. Common sense would suggest that the person appointed should have some insight and experience in the field of water management and proven financial experience.

### **Possible Options for an Ombudsman**

We submit the following options for your consideration for the role of ombudsman.

#### **1 The Scottish Public Services Ombudsman**

The current remit of the SPSO is extremely limited and he/she is only permitted to adjudicate in cases of SC's failure to comply with their procedures or maladministration. They were unable to adjudicate on the price increases stating that their remit specifically precluded them from any issues to do with rent and service charges. It is our opinion that an Ombudsman should also be able to review the procedures themselves to judge whether they are fit for purpose and ensure that SC comply with their statutory and legal obligations, especially in maintaining the structures of the canals and navigation. The Scottish Government could widen the remit of the SPSO to increase their role to cover additional water related issues.

#### **2 Independent Water Ombudsman**

An independent water ombudsman for Scotland would certainly be a financial cost but with a remit to protect our heritage and respond quickly to issues. It would be very good value for money as both a constraint and watchdog for SC. The issue of price rises will continue as SC have already stated that within the next few years there will be another pricing review. There are concerns that another set of price increases will lead to less affluent boaters having to leave the canal. At present there are no hardship policies in place, Scottish Canals are a virtual monopoly with the attendant lack of real competition in its practice.

#### **3 The Waterways Ombudsman**

The Waterways Ombudsman was appointed to oversee the operation of the Canal and River Trust (CRT) which manages waterways in England and Wales. The following information is taken from the annual reports for 2018-19 of the Waterways Ombudsman Committee and The Waterways Ombudsman. The water ombudsman provides a service for those who use the services of the CRT or any subsidiaries who may be affected by their activities. It is noted that the plan is that the committee is working to extend the work of the ombudsman into other canals and waterways where the services of an independent water ombudsman would be helpful. As this is part of their mission statement, the Scottish Government might wish to explore this option by contacting Kevin Fitzgerald CMG who is the chair of the Water Ombudsman Committee in the first instance.

In the annual report this year, the Water Ombudsman advised that there had been 48 enquiries but only 12 were eligible for investigation. The procedures are like the Scottish Canals' procedures in that the first stage of the complaint must go through the organisation in the first instance to seek an early resolution. When an investigation is implemented there is a 90-day time constraint to complete the investigation and reach a decision. The Water Ombudsman's decision is open and transparent, the process clearly identified with reasons given for the conclusion. The decision is independent. The report cites several examples. It is of interest that there is an annual conference of the Ombudsman Association where information is shared and networking improved the service.

What the Lowland Canal Associations petition is requesting is an independent water ombudsman with a similar remit to that of the English Counterpart. Their mission statement is easily transferred to a similar body in Scotland, Quote "the purpose of the scheme is to make available a water ombudsman who is independent and accessible, to investigate in an efficient, effective, transparent and fair manner complaints of injustice suffered by a complainant that arise from maladministration or unfair treatment by the Trust or any its subsidiaries in carrying out their activities".

### **Summary and Conclusion**

In conclusion, the L.C.A. agree with Ronnie Rusack MBE who, in his submission of 17th May 2019, stated that "it is imperative to have an independent ombudsman or body to watch over and protect these historical assets". The principle of an Ombudsman is generally to ensure that consumers get a fair deal. The LCA would respectfully request that an independent water ombudsman be given the legal power to act in the best interest of all the users of all the waterways and canals in Scotland. In the past, Scottish Canals were believed by many to be focusing on asset building to the detriment of navigation of the canals. Although there appears to have been a change in leadership with the appointment of the new CEO, we believe that it is essential that pressure to improve the maintenance of the canals must be kept up. There has not as yet been any change in policy. The goodwill is there but a valuable backup for the canal/water users would be an independent water ombudsman. Without this, the voice of the canal users might only be given lip service. An Ombudsman, together with some form of proper scrutiny of policy is the best way forward.

Finally, SC need to give higher priority to their core responsibilities rather than focusing on empire building and visitor centres. The only way to do this is by changing their policies. This may not be pertinent to the petition but it is extremely relevant to the efficient functioning of these historic canals.

The LCA submitted the petition early in 2018 and along with others have brought their concerns to the attention of the Scottish Government. The issues have been complex and multifarious. Thank you for your consideration and we look forward to a positive outcome.