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The Scottish Parliament
Edinburgh
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By post and email - petitions@parliament.scot

26 October 2018

Dear Sir/Madam

PETITION PE1693 CALLING FOR A WATERWAY OMBUDSMAN FOR SCOTLAND

Background to the Inland Waterways Association

The Inland Waterways Association is the membership charity that works to protect and restore the 6,500 miles of canals and rivers in England, Scotland and Wales. IWA has a network of volunteers and branches who deploy their expertise and knowledge to work constructively with navigation authorities, government and other organisations. The Association also provides practical and technical support to restoration projects through its Restoration Hub.

IWA thanks the Scottish Parliament for the opportunity to comment on the petition for a waterway ombudsman in Scotland.

Petition PE1693 - 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.*

If the Scottish Parliament was minded to recommend that a waterway ombudsman be established in Scotland then IWA would support this. In the light of the number of issues that IWA is concerned about on Scotland's canals, IWA considers that some process is needed to hold Scottish Canals to account in order to ensure the waterways in Scotland, and particularly the restored Lowland Canals, have a more secure future than would otherwise be the case.

There may, however, be other ways that issues on the Scottish Canals' waterways can be scrutinised and their actions held to account, and IWA would support alternative solutions that would meet the three bullet points in the petition, as detailed later in this response.

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Background to the Scottish waterways

150 miles of canal in Scotland are managed by Scottish Canals, the operating name for what remains of the British Waterways Board after their waterways in England and Wales were transferred to Canal & River Trust in 2012. The Crinan Canal and the Caledonian Canal have remained navigable as coast to coast routes, while the Monkland Canal is currently derelict. The Forth & Clyde and Union canals (the Lowland Canals) were restored as a Millennium project, with funding from the Millennium Commission, European Regional Development Fund, Scottish Enterprise and local authorities. To complete the picture, other navigable rivers and lochs are managed by other navigation authorities, which along with some derelict canals give a total of 500 miles of navigable or once-navigable inland waterways in Scotland.

The restoration of the Lowland Canals demonstrated that waterways can build and renew communities, through improved health and leisure opportunities, social cohesion and integration, regeneration, trade, heritage and tourism.

The ERDF grant included conditions that the canals must be maintained to cruising standard for at least 25 years from completion. The canals were reopened in 2001, just 17 years ago.

As recently as 2011 the Scottish Government re-classified the Lowland Canals as Cruising Waterways, which places a statutory duty on the Board to maintain them for cruising vessels. Scottish Government said at the time: *“The statutory requirement for the canals to be maintained is also important to parties involved in regeneration along the canal corridor, as it offers reassurance that the canals will be maintained in their current state in the future, and not allowed to deteriorate again.* (Ref. Executive Note to SSI 2011/118)

Current areas of concern

As a campaigning organisation, IWA raises areas of concern with all navigation authorities in England, Scotland and Wales, as issues arise. Over the last two years, IWA has had cause to write to Scottish Canals seven times, about a variety of matters including: increases proposed (and already implemented) in a licence and mooring pricing consultation (October 2016), proposed loss of navigable canal width in the Union Canal Towpath Study (September 2017), reduction in availability of the Falkirk Wheel for boats as a result of the proposed Rotate Project (March 2017), the potential end of hire boating on the Lowland Canals (March 2017), the closure of Ardrishaig Pier (June 2017) and the closure of two lift-bridges on the Forth & Clyde Canal (February 2018).

IWA’s key current concerns about the waterways run by Scottish Canals are:

- Asset Management Strategy - published by Scottish Canals in June 2018 - includes the suggestion that whole sections of the Lowland Canals could face closure.
- The closure of the Forth & Clyde Canal as a through route for most of 2018. The additional funding from Scottish Government has enabled contracts to be let with work due to start in January 2019, nearly a year after the two bridges failed in February 2018.
- The number of locks and other lift bridges in desperate need of maintenance – such as the poor condition of lock gates and bascule bridge operating mechanisms. The current tally of broken infrastructure amounts to five inoperative bridges and one inoperative lock on the eastern end of the Forth & Clyde Canal where the waterway descends to the Kelpies and Grangemouth.

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- Ongoing and long-term issues with operating the locks means that user-operation is difficult. Scottish Canals' staff have to operate many of the structures, and in recent years have imposed more restricted opening times which don't take into account tide times at sea locks, and make it difficult for boaters to actually use the canal.
- The lack of dredging which puts off deeper draughted sea going boats using the Forth & Clyde Canal as a coast to coast route.
- Weed and vegetation is now starting to choke up the canal, not helped by the lack of boat movements.
- The impact on the hire boat trade and tourism as a result of the restrictions and closures this year.
- With sections of canal closed for significant lengths of time, other structures such as nearby locks and other moveable bridges will deteriorate through lack of use, resulting in even more funds required for repairs in the future.

Scottish Canals has argued that the coast to coast route is not being used sufficiently to justify it being kept open, but a lack of dredging and poor maintenance – together with recent closures and restrictions – will have contributed to a reduction in use. In IWA's view the level of use should not be a significant factor for deciding to close a canal to navigation, as a vibrant waterway is one which has boats using it, and this in turn brings benefits in terms of improved health and wellbeing for the local population, as well as income through recreation, tourism and regeneration.

IWA supports Scottish Canals' view, outlined in their Asset Management Strategy, that an extra £11m capital funding is required in the 2019-20 budget.

Waterway Ombudsman in England & Wales

The proposed remit for a Scottish waterway ombudsman as per the petition would be a far more proactive role (safeguarding the waterways and ensuring that navigation is maintained) than the current role of the Waterway Ombudsman in England and Wales, which seems a good approach and one that IWA would support.

A strong argument in favour of an ombudsman scheme for Scotland being set up is the fact that it used to have one. The Waterway Ombudsman was established in 2005 and until 2012 covered Scotland's canals as they were part of the British Waterways Board's waterways. A number of cases relating to Scotland were considered by the Waterway Ombudsman between 2005 and 2012. When Canal & River Trust was created in 2012 to take over management of the British Waterways Board's waterways in England and Wales, the Waterway Ombudsman remit was restricted to the activities of Canal & River Trust and its subsidiaries, leaving complaints about Scottish Canals to be referred to the Scottish Public Services Ombudsman.

The role of the Waterways Ombudsman in England and Wales is to investigate complaints about the Canal & River Trust and any of its subsidiaries. The Waterway Ombudsman is an appointed individual, whose work is overseen by a committee. This excerpt from "Rules of the Ombudsman Scheme" explains its principal power and duties:

"20. The principal powers and duties of the Waterways Ombudsman shall be: a) to receive complaints of injustice suffered by a complainant that arise from maladministration or unfair treatment by the Trust, or any of its subsidiaries, in carrying out their activities; b) to determine whether such complaints are eligible to be

considered under these Rules; c) subject to these Rules: i) to investigate such complaints and/or facilitate their resolution or withdrawal; and ii) if not resolved or withdrawn, to determine whether the complaint is well founded; and if so, iii) to make (to the extent the Waterways Ombudsman considers necessary and appropriate) such recommendations or Award as the Waterways Ombudsman considers to be fair and reasonable in all the circumstances; and d) to act in a fair, reasonable and rational manner at all times.”

Further information about the Waterway Ombudsman can be found on its website:
<http://www.waterways-ombudsman.org/>

Inland Waterways Advisory Council

Another possible solution might be to reinstate IWAC in Scotland.

The Inland Waterways Advisory Council (IWAC), formerly The Inland Waterways Amenity Advisory Council (IWAAC) was established under the 1968 Transport Act and existed until 2012, when it was disbanded following the creation of Canal & River Trust. IWAC was a cross-border body which provided advice to Government and other interested persons on matters considered appropriate and relevant to Britain’s inland waterways.

The summary of responses to the consultation on Government proposal to abolish the Inland Waterways Advisory Council published in 2012 stated that:

“As set out in the Defra consultation document ‘A New Era for the Waterways’ published on 30 March 2011, the proposal to move British Waterways in England and Wales into civil society in 2012 outside of Government control and management and to set up a new waterways charity – the Canal & River Trust (CRT) – means that there will no longer be a need, in the Government’s view, for a statutory body to provide advice for policy development. The UK Government is clear that policy development is the role of Ministers, who are accountable to Parliament.

“In Scotland, it is not proposed to change the status of British Waterways, which will remain in the public sector as a body operating only in Scotland. When the assets of British Waterways in England and Wales are moved into civil society, British Waterways Scotland will commence operation as a self-standing public organisation. In light of the changes planned in England and Wales, the benefits of a cross-border advisory body are eliminated. Scottish Ministers have therefore agreed that IWAC should be abolished in Scotland, and intend to rely on the informal advisory network which has developed.”

In 2013 the Scottish Parliament’s Infrastructure and Capital Investment Committee reported on the abolition of IWAC, quoting the Scottish Government position, as follows: “... *the Advisory Council’s activities in recent times have been almost wholly focused on work which was relevant to England and Wales but not for Scotland.*”

And “*Ministers are of the view that there is a strong network of advisory groups well placed to provide advice on inland waterways and that there is consequently no need to retain the Inland Waterways Advisory Council.*”

Unfortunately, this “informal advisory network” has diminished over the years since then (although a newly created alliance – Keep Canals Alive! – has been established in response to the current situation on the Lowland Canals).

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The BW Scotland Group which included user representatives was wound up on the split of BWB; the salt-water and fresh-water consultative groups were wound up in 2012; and the Lowland Canals Users Forums have been reduced in frequency and scope.

Unlike an Ombudsman scheme, IWAC was able to make recommendations on matters of policy. As part of the petitioners' case is the perceived failure of Scottish Canals' policies towards maintaining the navigations, something like IWAC might be a better way of reviewing policies, perhaps in addition to an enhanced Scottish Ombudsman scheme that can deal with individual complaints.

Of the other principal inland navigations in Scotland, some are managed by Port Authorities which may not be classed as public sector, and therefore beyond the reach of an Ombudsman. Other navigable waterways, including some lochs, are managed by local authorities, water companies and trusts. If an Advisory Council were re-formed it would be sensible to have the leisure aspects of all navigable waterways included in its remit, and a list, taken from IWA's Inland Waterways Directory, is included as appendix 1.

Navigation authorities in England and Wales

Most, if not all, of the navigation authorities in England and Wales and certainly the larger ones that IWA deals with the most, all hold regular user group meetings for representatives of different boating and other organisations to attend, where issues can be raised and answers/responses expected. In the case of the two largest navigation authorities (CRT and EA) these take place at national and local level.

It would seem that this type of forum hasn't been taking place recently in Scotland, leaving the various local user groups feeling that their voices are not being heard. We would suggest that Scottish Parliament should urge Scottish Canals to hold regular, open forums for all users of the waterways to raise issues and ask questions (and we note that the new CEO has recently re-established such meetings).

Canal & River Trust are required, as a condition of their Grant Agreement from DEFRA to assess and report annually their asset management performance against a suite of defined measures. Three of these measures are used to determine the payment of the conditional element of the DEFRA Grant.

In contrast to Scottish Canals' Asset Management Strategy, the equivalent document produced by Canal & River Trust takes an approach based on how they will improve asset conditions over the next 5 years:

“The AMS sets out our asset management approach for the next 5 years to help realise the value from our waterways for generations to enjoy now and in the future. Whilst the emphasis of the AMS is on the management of physical assets, our activities are focussed on attaining benefits from waterways for our customers, visitors and stakeholders. Providing good customer service and a positive customer experience is central to our asset management approach.”

This is a very different approach from Scottish Canals, where there seems to be assumption that waterways could be closed, with their document setting out a strategy for a planned closure and abdicating all responsibility for maintaining navigation.

We recommend that Scottish Parliament requests a copy of Canal & River Trust's Asset Management Strategy so that the two documents can be compared.

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Conclusion

IWA considers that some system by which Scottish Canals can be held to account for its actions is required. At the same time, increased funding for the waterways managed by Scottish Canals is essential in preventing further asset deterioration and waterway closures, in order to preserve our industrial heritage, and optimise the leisure, tourism, health, well-being and economic benefits of these waterways for everybody in Scotland – whether residents or visitors.

Yours faithfully



Neil Edwards
Chief Executive

APPENDIX 1

Excerpt from IWA's Inland Waterway Directory listing all currently navigable waterways in Scotland:

Inland Waterway	Extent	Open		Non-nav		Body with a navigation interest
		Miles	km	Miles	km	
Caledonian Canal	Inverness to Corpach	60.0	96.5			Scottish Canals
Crinan Canal	Crinan to Ardrishaig	9.0	14.5			Scottish Canals
Edinburgh & Glasgow Union Canal	Falkirk to Edinburgh	32.0	51.5			Scottish Canals
Forth & Clyde Canal	Grangemouth to Bowling, including Carron, Netherwood and Glasgow Branches and QEII Canal from Helix Park to Grangemouth	40.0	64.4	1.3	2.0	Scottish Canals
Loch Awe	Ford to Kilchurn	22.7	36.5			Argyll & Bute Council
Loch Katrine	Trossachs Pier to Glengyle	8.6	13.8			Scottish Water
Loch Lomond	Balloch to Ardlui	24.8	39.9			Loch Lomond & Trossachs National Park Authority
Loch Tay	Kenmore to Killin	15.8	25.4			Perth & Kinross Council
Monkland Canal	Townhead to Calderbank, including Calder Ironworks,			13.3	21.4	Scottish Canals

	Langloan, Gartsherrie, Dundyvan and Dixon's branches				
River Annan	Solway Firth to Waterfoot, Annan	1.8	2.9		Annan Harbour Trust
River Clyde	Sea to Albert Bridge	45.8	73.7		Clyde Port Authority
River Clyde	Albert Bridge to Rutherglen	2.5	4.0		Glasgow City Council
River Cree	Creetown to Carty Port	5.0	8.0		
River Dee	Outer harbour limit (Cutter's Pool) to Kirkcudbright	3.9	6.3		Dumfries and Galloway Council
River Falloch	Loch Lomond to Inverarnon	2.3	3.6		Loch Lomond & Trossachs National Park Authority
River Forth	Forth Railway Bridge to Stirling, except Rosyth	62.0	99.8		Forth Ports Authority
River Leven	Dumbarton to Loch Lomond	7.8	12.5		Scottish Water
River Nith	Airds Point to Dumfries	7.3	11.7		Nith Navigation Commission
River Tay	Balmerino to Perth	17.0	27.4		Perth & Kinross Council
River Tay	Sea to Balmerino (Port of Dundee)	13.0	20.9		Forth Ports Authority
Urr Water	Solway Firth to Dalbeattie	8.3	13.4		Urr Navigation Trust
White Cart Water	River Clyde to Paisley	3.3	5.2		Renfrewshire Council

For the purposes of this database, inland waterways have been taken to include:

- all non-tidal waterways where navigation is or has been practised regularly by cargo-carrying craft, passenger craft and/or motorised recreational craft;
- tidal waterways where navigation is or has been practised regularly by cargo, passenger on internal traffics or by significant numbers of recreational vessels without open-sea capability.

The full version of IWA's Waterway Directory can be downloaded from:

www.waterways.org.uk/waterwaysdirectory