

**Openness and Accountability Consultation - Appendix C**  
**THE WATERWAY OMBUDSMAN SCHEME**

ID Number	Respondent	PROPOSALS				
		5 - The powers of appointment, remuneration, oversight and dismissal of the Waterways Ombudsman should be placed in the hands of an arms-length Ombudsman Committee	6 - BW to continue to fund the Ombudsman Scheme, but via the Committee	7 - The core term of reference of the Waterways Ombudsman shall be "to investigate complaints of injustice arising out of maladministration"	8 - The exclusion of consequential losses is removed and compensation payments to be capped at £75,000	9 - Businesses with a turnover (own or group) in excess of £500,000 should not have access to the Ombudsman scheme to resolve disputes with BW
1	Medway Ports	Unsure.	No view expressed.	Agree.	Unsure.	Disagree.
2	Witham Fourth District Internal Drainage Board	No view expressed.	No view expressed.	No view expressed.	No view expressed.	Disagree.
3	Haringey Council	No view expressed.	No view expressed.	No view expressed.	No view expressed.	No view expressed.
4	Safe Anchor Trust	Unsure.	No - a third party.	Agree.	Disagree.	Disagree.
5	Inland Waterways Association	Agree.	No - Defra funded via the proposed Ombudsman's Committee.	Generally agree, but 'maladministration' should be widened and well-communicated.	Agree.	Disagree.
6	Residential Boat Owners Association	Agree.	No - Defra funded.	Agree, with reservations.	Agree.	No direct implications for RBOA.
7	Manchester Bolton & Bury Canal Society	Agree.	No - Defra funded via the proposed Ombudsman's Committee.	Generally agree, but 'maladministration' should be widened and well-communicated.	Agree.	Disagree.
8	National Association of Boat Owners	Agree, with reservations.	No - funded by the appropriate Government-sponsoring department.	Agree, but the definition of 'maladministration' should be determined independently after consultation with User Groups.	Welcomed, but disagree on level of proposed cap.	Disagree.
9	Robert Wynn & Sons Ltd	Agree.	No view expressed.	No view expressed.	Welcomed, but disagree on level of proposed cap.	Disagree.
10	Inland Waterways Amenity Advisory Council	Agree, but independence should be assured, and not through the establishment of yet another (separate) administrative function.	No - Defra funded.	Disagree - the remit is not wide enough.	Welcomed, but disagree on level of proposed cap.	Welcomed, but disagree on level of proposed cap.
11	Calder Navigation Society	Agree.	No - Defra funded.	Agreed. Greater publicity and explanation welcomed on any proposed Terms of Reference.	Welcomed, but disagree on level of proposed cap.	Disagree.
12	Scottish Inland Waterways Association	Agree, but with modifications needed to take into account Scottish devolution.	No - Scottish Executive funded.	Agree.	Welcomed, but disagree on level of proposed cap.	Further clarification required.
13	Association of Waterways Cruising Club	Agree.	No - Defra funded.	Agree in principle, but with further clarification needed.	Agree.	Agree in principle, but refinement of process needed.
14	Cathiron Marina Ltd	Agree.	No.	No view expressed.	Welcomed, but disagree on level of proposed cap.	Disagree.
15	Royal Yachting Association	Agree.	No - an external body.	Agree.	Agree.	Disagree.
16	Waterways Ombudsman	Agree.	Agree.	Agree, but provision for considering 'unfair treatment should also be made.	Welcomed, but disagree on level of proposed cap.	Disagree.
17	Association of Pleasure Craft Operators	Agree, with reservations.	No view expressed.	No view expressed.	Agree.	Disagree.
18	Falkirk Council	No view expressed.	No view expressed.	No view expressed.	No view expressed.	No view expressed.
19	Birmingham Friends of the Earth	No view expressed.	No view expressed.	No view expressed.	No view expressed.	No view expressed.
20	Willowtree Marina Ltd.	Agree, with reservations.	No - Defra funded.	Agree, but provision for extending these Terms should be made.	Welcomed, but disagree on level of proposed cap.	Disagree.
21	Ramblers' Association	Agree.	No view expressed.	No view expressed.	No view expressed.	No view expressed.
22	The Manchester Ship Canal Company	Agree.	Agree.	Agree.	Agree.	Agree.
23	The Kennet & Avon Canal Partnership	Agree.	Agree.	Agree.	Welcomed, but disagree on level of proposed cap.	Disagree.
24	The Steam Boat Association of Great Britain	Disagree.	Disagree.	No view expressed.	The proposed cap appears generous.	The proposed cap appears generous.
25	West Dunbartonshire Council	No view expressed.	No view expressed.	No view expressed.	No view expressed.	No view expressed.
26	The Yacht Harbour Association	Agree.	Agree.	Agree, but with reservations.	proposed cap.	Disagree.
27	The British Marine Federation	Agree.	No - Defra funded.	Agree.	proposed cap.	Disagree.

**Openness and Accountability Consultation - Appendix C  
THE WATERWAY OMBUDSMAN SCHEME**

ID Number	Respondent	QUESTIONS	
		Do you think the Ombudsman Committee arrangement will give sufficient independence to the Ombudsman?	Do you think that (1) the cap of £75,000 for compensation payments and (2) the cap of £500,000 of turnover for businesses to have access to the Ombudsman are each pitched at the right level?
1	Medway Ports	Unsure.	No view expressed.
2	Witham Fourth District Internal Drainage Board	No view expressed.	No to both (1) and (2).
3	Haringey Council	Yes.	No view expressed.
4	Safe Anchor Trust	In general, yes.	No to both (1) and (2).
5	Inland Waterways Association	In general, yes.	Yes to (1) no to (2).
6	Residential Boat Owners Association	In general, yes.	Yes to both (1) and (2).
7	Manchester Bolton & Bury Canal Society	In general, yes.	Yes to (1) no to (2).
8	National Association of Boat Owners	In general, yes.	No to both (1) and (2).
9	Robert Wynn & Sons Ltd	Yes.	No to both (1) and (2).
10	Inland Waterways Amenity Advisory Council	Yes, but IWAAC should administer it.	No to both (1) and (2).
11	Calder Navigation Society	In general, yes.	No to both (1) and (2).
12	Scottish Inland Waterways Association	In general, yes.	No to both (1) and (2).
13	Association of Waterways Cruising Club	In general, yes.	Yes to (1), no to (2).
14	Cathiron Marina Ltd	Unsure.	No to both (1) and (2).
15	Royal Yachting Association	In general, yes.	Yes to (1), no to (2).
16	Waterways Ombudsman	Yes.	No to both (1) and (2).
17	Association of Pleasure Craft Operators	In general, yes.	Yes to (1), subject to periodic adjustment. No to (2).
18	Falkirk Council	No view expressed.	No view expressed.
19	Birmingham Friends of the Earth	No view expressed.	No view expressed.
20	Willowtree Marina Ltd.	In general, yes.	No to both (1) and (2).
21	Ramblers' Association	In general, yes.	No view expressed.
22	The Manchester Ship Canal Company	Yes.	Yes to both (1) and (2).
23	The Kennet & Avon Canal Partnership	Yes.	Yes to (1), but with reservations. No to (2).
24	The Steam Boat Association of Great Britain	No view expressed.	No - both are too generous.
25	West Dunbartonshire Council	No view expressed.	No view expressed.
26	The Yacht Harbour Association	Yes.	No to both (1) and (2).
27	The British Marine Federation	Yes.	No to both (1) and (2).

## Openness & Accountability Consultation – Appendix C WATERWAY OMBUDSMAN SCHEME

### Do you have any other suggestions for improvement to the Waterways Ombudsman Scheme?

#### 1. Medway Ports

It is important that the Ombudsman remit and terms of reference are clearly defined and publicised.

#### 2. Witham Fourth District Internal Drainage Board

No view expressed.

#### 3. Haringey Council

No view expressed.

#### 4. Safe Anchor Trust

No view expressed.

#### 5. Inland Waterways Association (IWA)

The scheme should be funded by Defra, with remuneration arrangements made by the proposed Ombudsman's Committee. Proposal 9 should be abandoned. It excludes too many companies, waterway bodies (IWA for example), organisations, etc. The definition of 'maladministration' should be widened and publicity improved, and in general the role of the Ombudsman should be more clearly defined.

#### 6. Residential Boat Owners' Association (RBOA)

While the proposal to improve the definition of 'maladministration' is welcomed, examples of cases that can and cannot be considered should be made readily available. Alternative arrangements should be available for when a complaint falls outside of the Ombudsman's remit. Equally, businesses with a turnover in excess of £500,000 should have the opportunity for their complaints to be heard and adjudicated on.

#### 7. Manchester Bolton & Bury Canal Society (MB & BCS)

Support the suggestions of IWA.

#### 8. National Association of Boat Owners

All arrangements for the Waterways Ombudsman should be completely separated from BW. Equally, the scheme should be extended to cover all UK Navigation Authorities and be entirely independent of these. Funding should be the responsibility of the appropriate Government department. The IWAAC could be involved in the Ombudsman Committee, appointing members and overseeing all Ombudsman-related activities. Core Terms of Reference should be independently drafted and agreed through consultation with User Groups and then widely published. The Ombudsman remit should cover all associated undertakings, in BW's case activities such as Waterscape.com, Boat Safety Scheme, The Waterways Trust, etc. The upper limit for consequential loss claims should be £150,000 and reviewed periodically by the Ombudsman's Committee. Businesses excluded from the scheme should be determined by a recognised benchmark such as that used by the Inland Revenue and other Government departments.

#### 9. Robert Wynn & Sons Ltd.

Access to the Ombudsman should not be restricted by size of turnover, and the upper level of consequential losses available should be set independently. The scheme in general should be better publicised.

#### 10. Inland Waterways Amenity Advisory Council (IWAAC)

IWAAC could operate a sub-committee of its main function to serve as an Ombudsman's Committee. The remit should be as wide as possible, and consideration given to extending the remit to incorporate the concept of 'fairness'. Promotion of the Ombudsman's remit and activities should be tackled immediately through measures such as the establishment of an Ombudsman's website. Greater co-operation between different Ombudsmen should be encouraged to help consider cases more fully and speedily. Independent advice should be sought when setting consequential loss and turnover levels for access to the scheme.

## **Openness & Accountability Consultation – Appendix C WATERWAY OMBUDSMAN SCHEME**

### **11. Calder Navigation Society**

The consequential losses cap should only apply to notional costs; costs incurred that can be substantiated financially should have no upper limit. Any settlement made by the Ombudsman should not preclude a complainant's right to take the matter to a court of law.

### **12. Scottish Inland Waterways Association (SIWA)**

BW should confirm that the Ombudsman's scheme will include investigations that relate to complaints, relating to inequity, irrespective of the English or Welsh legal positions.

### **13. Association of Waterways Cruising Clubs (AWCC)**

The Ombudsman's Committee should comprise a minimum 50% membership by stakeholders. While the proposed consequential losses cap is about right, it should be periodically reviewed. A more refined formula should be developed for the purposes of excluding businesses from using the scheme.

### **14. Cathiron Marina Ltd**

No member of British Waterways should sit on the Ombudsman Committee.

### **15. Royal Yachting Association (RYA)**

A limit of £1m turnover should be set in relation to Proposal 9.

### **16. Waterways Ombudsman**

The scheme should meet all criteria set out by the British & Irish Ombudsmen Association. IWAAC should take on the role of the Ombudsman Committee. A greater number of members are required for the Ombudsman's Committee. The concept of 'unfair treatment' should be brought within the Ombudsman's remit. A cap of £100,000 should be applied to any consequential loss claims, while the limit of £1m should be used to exclude businesses from using the scheme. The Ombudsman should be able to recommend compensation for distress and inconvenience up to a limit of £5,000.

The current "legal interpretation exclusion" applied to the Ombudsman should be abandoned. The Ombudsman alone should decide whether a case falls within the scheme's remit, while its Terms of Reference should be published. BW should abide to a time limit in responding to a request for evidence and case histories as requested by the Ombudsman. Proper provision should be made to cover unexpected absences by the Ombudsman, and for the increased workload that adequate publicity is expected to bring.

### **17. Association of Pleasure Craft Operators (APCO)**

The Ombudsman's Committee should have a greater number of members to make it more inclusive to the wide range of waterways-related User Groups.

### **18. Falkirk Council**

No view expressed.

### **19. Birmingham Friends of the Earth**

In our opinion BW currently fails to make clear, either innocently or deliberately, its correct and proper function. By making its function transparent to all waterways stakeholders 'improper' actions can be easily identified and therefore brought forward for the Ombudsman to consider. In view of the foggy over policy, altering the Ombudsman scheme has to be, on our view, a low priority relative to other issues.

### **20. Willowtree Marina Ltd.**

The Ombudsman's Committee should have a minimum of six members and a maximum of 12. If funding of the Ombudsman Scheme was not available independently, i.e. from Defra, BW could agree to underwrite the scheme as decided by the Committee. Greater consideration should be given to extending the terms of the Ombudsman beyond just that of investigating complaints of injustice arising out of maladministration. Equally, much more information is required to determine what is and is not within the Ombudsman's jurisdiction.

## **Openness & Accountability Consultation – Appendix C WATERWAY OMBUDSMAN SCHEME**

### **21. Ramblers' Association**

The Ombudsman's Committee should have a greater number of members than is currently proposed - a minimum of three stakeholders. Awareness of the Waterways Ombudsman scheme could be raised through highlighting its existence within other Ombudsman's literature.

### **22. The Manchester Ship Canal Company**

No view expressed.

### **23. The Kennet & Avon Canal Partnership**

The consequential losses cap should be subject to regular and fundamental review by the Ombudsman's Committee and adjusted annually according to an agreed index. Exclusion for businesses to use the Ombudsman's scheme should be based on profit and not turnover.

### **24. The Steam Boat Association of Great Britain**

The proposals for selection and employment of the Ombudsman appear complicated and potentially expensive.

### **25. West Dunbartonshire Council**

No view expressed.

### **26. The Yacht Harbour Association (TYHA)**

We are still concerned that the definition of 'maladministration' may be used in some instances by managers to narrow the range of complaints brought to light. All complaints unsatisfactorily resolved within the ICP should automatically be passed to the Ombudsman. The capping limit on consequential losses should be set at £300,000. The turnover limit on businesses using the Ombudsman's scheme should be set higher than proposed, at £2,000,000.

### **27. The British Marine Federation (BMF)**

Much better publicity material on what constitutes 'maladministration' should be encouraged. We are not content with the current levels of consequential losses cap and the limit on businesses using the scheme with a turnover of over £500,000. Both of these should be raised.