

**Consultation on the Appointments to the Navigation Committee
and Broads Authority**

Report by Head of Governance and Executive Assistant

Summary: In accordance with the provisions in the Norfolk and Suffolk Broads Act 1988 the views of the Committee are sought on the recommended appointments to the Navigation Committee made by the Selection Panel following the interviews held in January 2015. The Committee's recommendation for two Co-opted members to be appointed to the Authority and the term for such future appointments is also sought.

1 Introduction

- 1.1 Members will be aware that, at its meeting on 25 January 2008, the Broads Authority adopted a set of principles and processes for the appointment of members to the Navigation Committee from June 2008 onwards.
- 1.2 The Authority agreed that the principles of merit, independent scrutiny, equal opportunities, probity, openness and transparency, and proportionality should guide the process.
- 1.3 At its meeting on 20 September 2013, the Authority agreed to invite Mr John Edmonds to chair the Selection Panel again, that the term for the 2015 appointments be for four years until March 2019, and that the maximum aggregated term for co-opted members would be eight years. This followed the Navigation Committee's support for the process and terms of appointment when it was consulted on 5 September 2013. This report sets out how this process has been implemented, and provides the recommendations of the Selection Panel.

2 Process

- 2.1 An advert was placed on the Authority's website, with a closing date of 11 December 2014. An advert was also placed in the Eastern Daily Press on 20 November 2014 and within the Broadsheet sent to all toll payers in October 2014. At the same time a letter was sent to over 30 organisations, in accordance with paragraph 9 of the Norfolk and Suffolk Broads Act, inviting them to submit nominations for the appropriate categories. A list of the organisations which were consulted, following the Navigation Committee amending this list on 4 September 2014, is included at Appendix 1.
- 2.2 A total of 29 applications were received by the closing date. These were scrutinised by the Selection Panel comprising:

- Mr John Edmonds, Chairman;
- Dr Stephen Johnson, Chairman of the Broads Authority;
- Prof Richard Card, Chairman of the Norfolk and Suffolk Boating Association; and
- Mr Alan Morgan, representing the British Marine Federation.

2.3 The Selection Panel decided to invite 13 candidates to attend for interview. Interviews were held over two days, on 15 and 16 January 2015, and included a short presentation by each candidate. The recommendations of the interview panel are set out in paragraph 3 below. The Authority agreed that, in accordance with the provisions in the 1988 Norfolk and Suffolk Broads Act, the views of both the Navigation Committee and consultee interest groups should be sought on these recommendations, prior to a final decision being taken by the Broads Authority at its meeting on 20 March 2015.

3 Recommendations

3.1 After due consideration, the Selection Panel agreed to recommend that the following candidates be appointed to the Navigation Committee (where appropriate, reference is made to their nominating body/bodies):

Category A: After consultation with bodies representing the owners of pleasure craft available for hire or reward (two members).

- James Knight (nominated by the BHBF and BMF)
- Michael Whitaker (nominated by the BHBF and BMF)

Category B: After consultation with bodies representing nationally the owners of private pleasure craft (one member).

- Nicky Talbot (nominated by the NSBA and RYA)

Category C: After consultation with bodies representing the owners of private pleasure craft which use any part of the Broads (one member).

- Brian Wilkins (nominated by the NSBA and RYA)

Category D: After consultation with bodies representing persons who are likely to be required to pay ship, passenger or goods dues (two members).

- Linda Aspland
- William Dickson

Category E: After consultation with bodies representing other users of the navigation area (one member).

- Max Heron (nominated by British Rowing and the Eastern Region Rowing Council)

Group F: After consultation with the Great Yarmouth Port Authority (one member).

- Alan Goodchild

4 Consultation on Appointments

- 4.1 Details of the recommended appointments have been sent to the organisations, in accordance with paragraph 9 of the Norfolk and Suffolk Broads Act, requesting comments. Comments received by the report deadline are detailed in Appendix 2 to this report, together with proposed responses. Additional comments received prior to the meeting will be verbally briefed to the Committee.

5 Summary of Appointment Process

- 5.1 The overall standard of the applications was very high. It was therefore a challenging task for the Selection Panel to reduce the 29 applications to a shortlist of just 13 and select just eight candidates.
- 5.2 Both the shortlisting and the interview process were thorough and robust, and were designed to ensure that all the candidates were given equal opportunity. This was enhanced by the fact that two members of the Selection Panel were from outside the area (the Chair of the Selection Panel and the BMF representative) and that three of the members could demonstrate an impartiality external to the Broads Authority. Though some comments have been received, proposed responses have been provided to address these. Taking these into account, the process has been considered to be extremely successful, and one which should provide the Authority with a strong, committed, knowledgeable and challenging Navigation Committee over the next four years. The views of the Navigation Committee on the recommended appointments are sought.

6 Appointment of Two Co-opted Members to the Broads Authority

- 6.1 The current two co-opted members of the Navigation Committee appointed to the Authority will cease their term on 20 March 2015. It is therefore necessary for the Navigation Committee to recommend the appointment of two co-opted members to the Authority on 20 March 2015. These appointments will be for an interim period until the Broads Authority meeting on 15 May 2015, to provide the newly constituted Navigation Committee with the opportunity to recommend the appointment of two co-opted members to the Authority at the 23 April 2015 Navigation Committee meeting; which may involve a recommendation to continue the appointments. These arrangements will facilitate continued appointments to the Authority, whilst enabling good governance in allowing the constituted Navigation Committee to recommend

the appointment of the two co-opted members. The Committee's recommendation in this regard is sought.

- 6.2 Consideration also needs to be given to whether future appointment of the two co-opted members to the Authority is for a term that is equal to the co-opted term of appointment, or whether this should be for a period of one year; to be recommended by the Navigation Committee each April and appointed by the Authority each May. The Navigation Committee's views on the appointment term is also sought.

Background papers: Nil

Author: John Organ

Date of report: 12 February 2015

Broads Plan Objectives: None

Appendices: APPENDIX 1 – List of Organisations Consulted
APPENDIX 2 – Comments from Consultative Bodies

APPENDIX 1

List of organisations to be consulted on the appointments to the Navigation Committee and the relevant paragraph under Section 9 of the 1988 Norfolk and Suffolk Broads Act (as amended by the Navigation Committee on 4 September 2014)

Anglers Trust (E)
Association of Freight Transport (D)
British Canoe Union (B)
British Marine Federation (A, D)
British Marine Federation – East Anglia (D)
British Rowing (B)
British Waterski (B)
Broads Angling Strategy Group (E)
Broads Canoe Hire Association (A)
Broads Hire Boat Federation (A, D)
Broads Reed and Sedge Cutters Association (D, E)
Canoe England (E)
Chamber of Shipping (D)
East Anglian Waterways Association (C)
Eastern Region Rowing Council (C, D)
Eastern Rivers Ski Club (C, D)
Great Yarmouth Port Authority (F)
Great Yarmouth Port Users Association (D)
Hickling Windsurfers (E)
Hoseasons Holidays Ltd (A, D)
Inland Waterways Association (B)
Inland Waterways Association – Eastern Region (C, D)
National Association of Boat Owners (B)
Norfolk Anglers Conservation Association (E)
Norfolk and Suffolk Anglers' Consultative Council (E)
Norfolk and Suffolk Boating Association (C, D)
Norfolk and Suffolk Pleasure Boat Owners Association (A, D)
Norfolk Broads Day Boat Owners Association (A)
Passenger Boat Association (D)
Royal Yachting Association (B, D)
Sport England (E)
Suffolk County Amalgamated Angling Association (E)
Transport on Water Association (D)
UK Windsurf Association (E)

Categories:

A = such bodies appearing to the Authority to represent the owners of pleasure craft available for hire or reward as it considers appropriate;

B = such bodies appearing to it to represent nationally the owners of private pleasure craft as it considers appropriate;

C = such bodies appearing to it to represent the owners of private pleasure craft which use any part of the Broads as it considers appropriate;

D = such bodies appearing to it to represent persons who are likely to be required to pay ship, passenger or goods dues imposed by it as it considers appropriate;

E = such bodies appearing to it to represent other users of the navigation area as it considers appropriate; and

F = after consultation with the Great Yarmouth Port Authority.

APPENDIX 2

Comments from Consultative Bodies

Consultative Body Comment	Proposed Response
<p>British Marine Federation</p> <p>Thank you for your letter dated 23 January, confirming the individuals that have been recommended for appointment to sit on the Broads Authority Navigation Committee and for the opportunity to comment on those proposed appointments.</p> <p>The BMF were pleased to contribute to the selection process and play an active part on the interview panel. However, I would welcome clarification on one aspect of the selection process and the roles of those appointed, with particular reference to “Category D”.</p> <p>The BMF and a number of other commercial organisations were invited to put forward the names of individuals we believed were suitable to represent the interests of that category. As was the case with all other categories, those who were nominated by a consultative organisation (commercial or not) have been recommended to represent that sector on the Navigation Committee, however, this does not appear to be the case under “Category D”, for those paying ship, passenger or goods dues.</p> <p>The BMF would welcome clarification as to how and why a private individual, who has not been nominated by a consultative organisation and without links to these commercial groups, is able to sit and represent businesses which fall under “Category D”.</p>	<p>Category D refers to Section 9 (5) (d) of the Norfolk and Suffolk Broads Act 1988 and states that “two shall be appointed after consultation with such bodies appearing to it to represent persons who are likely to be required to pay ship, passenger or goods dues imposed by it as it considers appropriate”.</p> <p>Broads Authority is a “harbour authority” for the purposes of the Harbours Act 1964.</p> <p><u>Section 57 of the Harbours Act 1964 states:</u></p> <p>“harbour authority” means any person in whom are vested under this Act, by another Act or by an order or other instrument (except a provisional order) made under another Act or by a provisional order powers or duties of improving, maintaining or managing a harbour</p> <p>In relation to the definition of “ship, passenger and goods dues”, Section 57 <u>of the Harbours Act 1964 states:</u></p> <p>“ship, passenger and goods dues” means, in relation to a harbour, charges (other than any eligible by virtue of section 29 of this Act) of any of the following kinds, namely,—</p> <ul style="list-style-type: none"> (a) charges in respect of any ship for entering, using or leaving the harbour, including charges made on the ship in respect of marking or lighting the harbour; (b) charges for any passengers embarking or disembarking at the harbour (but not including charges in respect of any services rendered or facilities provided for them); and

<p>The BMF would also welcome further clarification on how these private individuals if appointed to the Navigation Committee, will represent and communicate the interests of organisations that do pay ship, passenger or goods dues.</p> <p>I hope that you will be able to provide clarity on these points in advance of the Navigation Committee's meeting on the 26 February.</p>	<p>(c) charges in respect of goods brought into, taken out of, or carried through the harbour by ship (but not including charges in respect of work performed, services rendered or facilities provided in respect of goods so brought, taken or carried);</p> <p><u>Section 57 of the Harbours Act 1964 further states:</u></p> <p>“charges” includes fares, rates, tolls and dues of every description;</p> <p>Broads Authority tolls are, further to the definition contained within <u>Schedule 7 - section 9(1) of the Broads Authority Act 2009</u>, a charge levied by the Authority under section 26 of the Harbours Act 1964, and therefore the Authority has consistently related this category to all toll payers and not just those with commercial interests. This is reflected in the wide range of organisations which have been consulted by the Authority under Category D, and indeed reviewed and amended by the Navigation Committee at its meeting on 4 September 2014.</p> <p>The courts have indicated that the essence of consultation is the communication of a genuine invitation to give advice and a genuine consideration of that advice. This means:</p> <ul style="list-style-type: none"> (a) supplying the consultee with sufficient information to enable it to tender helpful advice; (b) giving sufficient time to the consultee to enable that to be done; (c) making sufficient time to consider the response to consultation. <p>Proper consultation also involves listening to what consultees have to say. It does not necessarily mean following the advice given but, where it does not do so, a public authority should have good reasons.</p> <p>The Selection Panel was specifically made aware of all the nominations made by consultative bodies and that due regard to these nominations was to be made when sifting the initial application forms and during the interview process. Having representatives from the NSBA and BMF on the Panel, as well as a previous</p>
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	<p>Chair of the IWAC, brought a level of impartiality (external to the Authority) to the appointment recommendation process, with all four of the Selection Panel jointly agreeing on the eight candidates to be recommended for appointment following a fair interview and selection process which had due regard to nominations from the consultative bodies.</p> <p>Navigation Committee members are also expected to be properly prepared for any debate on issues across the full range of the Authority's navigation responsibilities and part of the member development programme in the past has been to provide opportunities for members to accrue a better understanding of commercial boating activities to allow them to be aware of the issues when debating matters. It is anticipated that these opportunities will continue to be offered going forward which should allow all members of the Navigation Committee (and indeed the Authority) to have a wide understanding of navigation issues from different sectors and provide the interaction to allow the sectors to be able to approach members on issues that concern them.</p>
<p>British Marine Federation – East Anglia</p> <p>Following your letter dated 23 January, confirming the individuals that have been recommended for appointment to Navigation Committee, we would welcome some clarification on the selection of those appointed with particular reference to 'Category D'.</p> <p>BMF East Anglia whom I represent as well as a number of other commercial organisations were invited to put forward the names of individuals we believed were suitable to represent the interests of that category. As was the case with all other categories, those who were nominated by a consultative organisation (commercial or not) have been recommended to represent that sector on the Navigation Committee, however, it appears that Ms. Aspland and Mr. Dickson do not appear to have any commercial interests on the Broads nor fit into 'Category D' ie; paying ship,</p>	<p>Category D refers to Section 9(5)(d) of the Norfolk and Suffolk Broads Act 1988 and states that "two shall be appointed after consultation with such bodies appearing to it to represent persons who are likely to be required to pay ship, passenger or goods dues imposed by it as it considers appropriate".</p> <p>Broads Authority is a "harbour authority" for the purposes of the Harbours Act 1964.</p> <p><u>Section 57 of the Harbours Act 1964 states:</u></p> <p>"harbour authority" means any person in whom are vested under this Act, by another Act or by an order or other instrument (except a provisional order) made under another Act or by a provisional order powers or duties of improving, maintaining or managing a harbour</p> <p>In relation to the definition of "ship, passenger and goods dues", Section 57 <u>of the Harbours Act 1964 states:</u></p>

passenger or goods dues. We would welcome clarification as to how and why a private individual, who has not been nominated by a consultative organisation and without links to these commercial groups, is able to sit and represent businesses which fall under “Category D”.

We also wish to take this opportunity to request that the Authority urgently review its position on the Structure, Term of Office and Appointments process for the Navigation Committee as part of an ongoing process of improved working relationships with both private and commercial navigation interests. I believe the Chairman and John Packman met as long ago as 2011 with Howard Pridding of the BMF and a representative of the RYA when issues of governance were discussed and it was agreed that the constraints to which the Navigation Committee would be able to function as an independent representative advisory committee would be looked at. As for the Term of Office limitation which has been imposed is not in the Act. John Packman with whom I spoke about this matter recently indicated that this condition was put in place by DEFRA, but there is no evidence to demonstrate this fact. Indeed, neither the Term of Office nor the Appointment Process devised by officers and approved by the Authority are legally sound nor in the spirit of the Act.

I would appreciate you reporting the above content to the Navigation Committee as well as the Authority with our wish to discuss these issues further. In any event, a response in advance of the Navigation Committee on the 26th February would be appreciated.

“ship, passenger and goods dues” means, in relation to a harbour, charges (other than any eligible by virtue of section 29 of this Act) of any of the following kinds, namely,—

- (a) charges in respect of any ship for entering, using or leaving the harbour, including charges made on the ship in respect of marking or lighting the harbour;
- (b) charges for any passengers embarking or disembarking at the harbour (but not including charges in respect of any services rendered or facilities provided for them); and
- (c) charges in respect of goods brought into, taken out of, or carried through the harbour by ship (but not including charges in respect of work performed, services rendered or facilities provided in respect of goods so brought, taken or carried);

Section 57 of the Harbours Act 1964 further states:

“charges” includes fares, rates, tolls and dues of every description;

Broads Authority tolls are, further to the definition contained within Schedule 7 - section 9(1) of the Broads Authority Act 2009, a charge levied by the Authority under section 26 of the Harbours Act 1964 and therefore the Authority has consistently related this category to all toll payers and not just those with commercial interests. This is reflected in the wide range of organisations which have been consulted by the Authority under Category D, and indeed reviewed and amended by the Navigation Committee at its meeting on 4 September 2014.

The courts have indicated that the essence of consultation is the communication of a genuine invitation to give advice and a genuine consideration of that advice. This means:

	<p>(a) supplying the consultee with sufficient information to enable it to tender helpful advice;</p> <p>(b) giving sufficient time to the consultee to enable that to be done;</p> <p>(c) making sufficient time to consider the response to consultation.</p> <p>Proper consultation also involves listening to what consultees have to say. It does not necessarily mean following the advice given but, where it does not do so, a public authority should have good reasons.</p> <p>The Selection Panel was specifically made aware of all the nominations made by consultative bodies and that due regard to these nominations was to be made when sifting the initial application forms and during the interview process. Having representatives from the NSBA and BMF on the Panel, as well as a previous Chair of the IWAC, brought a level of impartiality (external to the Authority) to the appointment recommendation process, with all four of the Selection Panel jointly agreeing on the eight candidates to be recommended for appointment following a fair interview and selection process which had due regard to nominations from the consultative bodies.</p> <p>Navigation Committee members are also expected to be properly prepared for any debate on issues across the full range of the Authority's navigation responsibilities and part of the member development programme in the past has been to provide opportunities for members to accrue a better understanding of commercial boating activities to allow them to be aware of the issues when debating matters. It is anticipated that these opportunities will continue to be offered going forward which should allow all members of the Navigation Committee (and indeed the Authority) to have a wide understanding of navigation issues from different sectors and provide the interaction to allow the sectors to be able to approach members on issues that concern them.</p> <p>It should be noted that a comprehensive report was taken to the Navigation Committee on 5 September 2013 following concerns being raised by a member of the Navigation Committee concerning the timings of the appointment of co-opted members. This report provided proposals to address all the issues raised, which included bringing the terms and timing of appointments more in line with those for</p>
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	<p>Secretary of State appointed members; including the maximum overall term of eight years which could currently be served by Secretary of State members. It should be noted that all of the proposals within the report were considered and supported by the Navigation Committee on 5 September 2013 and subsequently approved by the Broads Authority on 20 September 2013.</p> <p>The process is therefore considered to be legally sound.</p>
<p>Broads Hire Boat Federation</p> <p>In reply to your letter of 23rd January I would initially wish to remind the Authority that the BHBF, together with other consultees, has protested since 2008 that the Authority's interpretation of Part II, 9.-(5) of the Norfolk & Suffolk Broads Act is contrary to its intentions. Furthermore we continue to maintain that neither the term of office limitation imposed nor the Appointment Process devised by officers and approved by the Authority in January 2008 are legally sound or in the spirit of the Act.</p> <p>Against this background and in relation to the current recommendations for appointment, whilst we have no reason to doubt that those listed for Category D are able and knowledgeable people, we question their selection in this category. In accordance with your Appointment Process all others have been nominated by relevant bodies, but it appears that Ms. Aspland and Mr. Dickson have not, and our own nominations for Category D have not been selected.</p> <p>It is also a fact that in previous appointment rounds, despite your current insistence that "persons who are likely to be required to pay ship, passenger or goods dues" can be regarded as "all tollpayers", you have appointed commercially interested persons such as Mr. Paul Greasley</p>	<p>The Authority has applied the provisions on the Norfolk and Suffolk Act 1988 with regard to the appointment of the co-opted Members of the Navigation Committee in a consistent and fair manner in line with the Government's guidelines on public appointments and after consultation with the Navigation Committee at the appropriate time.</p> <p>The process was modernised in 2008. The objective was to use a more open and transparent process, than had been the case in the past, to appoint the best possible Committee to advise the Authority on navigation matters consistent with the requirements of the Broads Act, meeting the best practice standards expected in public appointments and giving users of the navigation the confidence that the appointees were representing their interests.</p> <p>The process therefore had to meet the following guiding principles from the Commissioner for Public Appointments:</p> <ul style="list-style-type: none"> • Merit: <i>All public appointments should be governed by the overriding principle of selection based on merit, by the well-informed choice of individuals who through their abilities, experience and qualities match the need of the public body in question.</i> • Independent scrutiny: <i>No appointment will take place without first being scrutinised by an independent panel or by a group including membership independent of the department filling the post.</i> • Equal opportunities: <i>Departments should sustain programmes to deliver equal opportunities principles.</i>

<p>and Mr. Lorne Betts. And the schedule of organisations to be consulted on appointments in Category D recognizes its “commercial” intent with eleven out of the sixteen listed clearly representing business interests.</p> <p>We therefore feel that the selection panel has not been properly guided and cannot support its recommendation for the appointment of Ms. Aspland and Mr. Dixon.</p> <p>We also wish to take this opportunity to request that the Authority urgently review its position on the structure, term of office and appointments process for the Navigation Committee as part of an ongoing process of improved working relationships with both private and commercial navigation interests. The Chairman and Chief Executive met as long ago as November 2011 with the Executive Director of the British Marine Federation and the Legal & Government Affairs Manager of the RYA when issues of governance were discussed and it was agreed that there were constraints on the extent to which the Navigation Committee was able to function as an independent representative advisory committee for the Broads Authority’s activities as a whole.</p> <p>I would be grateful if you would report these comments to the Navigation Committee and the Broads Authority together with our wish to discuss these issues further with Broads Authority officers and representatives of the NSBA and other bodies with interests affected by management of the navigation.</p>	<ul style="list-style-type: none"> • Probity: <i>Board members of public bodies must be committed to the principles and values of public service and perform their duties with integrity.</i> • Openness and transparency: <i>The principles of open government must be applied to the appointments process, its working must be transparent and information provided about the appointments made.</i> • Proportionality: <i>The appointments procedures need to be subject to the principle of proportionality, that is they should be appropriate for the nature of the post and the size and weight of its responsibilities.</i> <p>Category D refers to Section 9 (5) (d) of the Norfolk and Suffolk Broads Act 1988 and states that “two shall be appointed after consultation with such bodies appearing to it to represent persons who are likely to be required to pay ship, passenger or goods dues imposed by it as it considers appropriate”.</p> <p>Broads Authority is a “harbour authority” for the purposes of the Harbours Act 1964.</p> <p><u>Section 57 of the Harbours Act 1964 states:</u></p> <p>“harbour authority” means any person in whom are vested under this Act, by another Act or by an order or other instrument (except a provisional order) made under another Act or by a provisional order powers or duties of improving, maintaining or managing a harbour</p> <p>In relation to the definition of “ship, passenger and goods dues”, Section 57 <u>of the Harbours Act 1964 states:</u></p> <p>“ship, passenger and goods dues” means, in relation to a harbour, charges (other than any eligible by virtue of section 29 of this Act) of any of the following kinds, namely,—</p> <p>(a) charges in respect of any ship for entering, using or leaving the harbour, including charges made on the ship in respect of marking or lighting the</p>
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	<p>harbour;</p> <p>(b) charges for any passengers embarking or disembarking at the harbour (but not including charges in respect of any services rendered or facilities provided for them); and</p> <p>(c) charges in respect of goods brought into, taken out of, or carried through the harbour by ship (but not including charges in respect of work performed, services rendered or facilities provided in respect of goods so brought, taken or carried);</p> <p>Section 57 <u>of the Harbours Act 1964 further states:</u></p> <p>“charges” includes fares, rates, tolls and dues of every description;</p> <p>Broads Authority tolls are, further to the definition contained within <u>Schedule 7 - section 9(1) of the Broads Authority Act 2009</u>, a charge levied by the Authority under section 26 of the Harbours Act 1964 and therefore the Authority has consistently related this category to all toll payers and not just those with commercial interests. This is reflected in the wide range of organisations which have been consulted by the Authority under Category D; and indeed were reviewed and amended by the Navigation Committee at its meeting on 4 September 2014.</p> <p>The courts have indicated that the essence of consultation is the communication of a genuine invitation to give advice and a genuine consideration of that advice. This means:</p> <p>(a) supplying the consultee with sufficient information to enable it to tender helpful advice;</p> <p>(b) giving sufficient time to the consultee to enable that to be done;</p> <p>(c) making sufficient time to consider the response to consultation.</p> <p>Proper consultation also involves listening to what consultees have to say. It does</p>
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	<p>not necessarily mean following the advice given but, where it does not do so, a public authority should have good reasons.</p> <p>The Selection Panel was specifically made aware of all the nominations made by consultative bodies and that due regard to these nominations was to be made when sifting the initial application forms and during the interview process. Having representatives from the NSBA and BMF on the Panel, as well as a previous Chair of the IWAC, brought a level of impartiality (external to the Authority) to the appointment recommendation process, with all four of the Selection Panel jointly agreeing on the eight candidates to be recommended for appointment following a fair interview and selection process which had due regard to nominations from the consultative bodies.</p> <p>Previous appointments to Category D have included candidates from a commercial background, but this would have been due to the candidates being judged by the Selection Panel as being the best candidates during that appointment round, rather than because they came from a commercial background.</p> <p>It should be noted that a comprehensive report was taken to the Navigation Committee on 5 September 2013 following concerns being raised by a member of the Navigation Committee concerning the timings of the appointment of co-opted members. This report provided proposals to address all the issues raised, which included bringing the terms and timing of appointments more in line with those for Secretary of State appointed members; including the maximum overall term of eight years which could currently be served by Secretary of State members. It should be noted that all of the proposals within the report were considered and supported by the Navigation Committee on 5 September 2013 and subsequently approved by the Broads Authority on 20 September 2013.</p> <p>The process is therefore considered to be legally sound.</p>
<p>Broads Reed and Sedge Cutters Association:</p> <p>BRASCA has no comments on the proposed appointments.</p>	<p>Noted</p>

<p>Eastern Region Rowing Council:</p> <p>I confirm that Max Heron has the full confidence of British Rowing to represent the interests of the rowing community on the Navigation Committee, and as part of the Whitlingham project those of other water users. Max has many years' experience of the interests of the users of the waterways and will continue to bring that to bear on the Navigation Committee's considerations.</p>	<p>Noted</p>
<p>Hoseasons</p> <p>In reply to your letter of 23rd January regarding the current recommendations for appointment, whilst Hoseasons have no reason to doubt that those listed for Category D are able and knowledgeable people, we would support the members of the Broads Hire Boat Federation and question their selection in this category. In accordance with your Appointment Process all others have been nominated by relevant bodies, but it appears that Ms. Aspland and Mr. Dickson have not, and the BHBF nominations for Category D have not been selected.</p> <p>We therefore feel that the selection panel has not been properly guided and cannot support its recommendation for the appointment of Ms. Aspland and Mr. Dixon.</p>	<p>Category D refers to Section 9 (5) (d) of the Norfolk and Suffolk Broads Act 1988 and states that "two shall be appointed after consultation with such bodies appearing to it to represent persons who are likely to be required to pay ship, passenger or goods dues imposed by it as it considers appropriate".</p> <p>Broads Authority is a "harbour authority" for the purposes of the Harbours Act 1964.</p> <p><u>Section 57 of the Harbours Act 1964 states:</u></p> <p>"harbour authority" means any person in whom are vested under this Act, by another Act or by an order or other instrument (except a provisional order) made under another Act or by a provisional order powers or duties of improving, maintaining or managing a harbour</p> <p>In relation to the definition of "ship, passenger and goods dues", Section 57 <u>of the Harbours Act 1964 states:</u></p> <p>"ship, passenger and goods dues" means, in relation to a harbour, charges (other than any eligible by virtue of section 29 of this Act) of any of the following kinds, namely,—</p> <p>(a) charges in respect of any ship for entering, using or leaving the harbour, including charges made on the ship in respect of marking or lighting the harbour;</p>

	<p>(b) charges for any passengers embarking or disembarking at the harbour (but not including charges in respect of any services rendered or facilities provided for them); and</p> <p>(c) charges in respect of goods brought into, taken out of, or carried through the harbour by ship (but not including charges in respect of work performed, services rendered or facilities provided in respect of goods so brought, taken or carried);</p> <p>Section 57 <u>of the Harbours Act 1964 further states:</u></p> <p>“charges” includes fares, rates, tolls and dues of every description;</p> <p>Broads Authority tolls are, further to the definition contained within <u>Schedule 7 - section 9(1) of the Broads Authority Act 2009</u>, a charge levied by the Authority under section 26 of the Harbours Act 1964 and therefore the Authority has consistently related this category to all toll payers and not just those with commercial interests. This is reflected in the wide range of organisations which have been consulted by the Authority under Category D, and indeed reviewed and amended by the Navigation Committee at its meeting on 4 September 2014.</p> <p>The courts have indicated that the essence of consultation is the communication of a genuine invitation to give advice and a genuine consideration of that advice. This means:</p> <ul style="list-style-type: none"> (a) supplying the consultee with sufficient information to enable it to tender helpful advice; (b) giving sufficient time to the consultee to enable that to be done; (c) making sufficient time to consider the response to consultation. <p>Proper consultation also involves listening to what consultees have to say. It does not necessarily mean following the advice given but, where it does not do so, a public authority should have good reasons.</p>
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	<p>The Selection Panel was specifically made aware of all the nominations made by consultative bodies and that due regard to these nominations was to be made when sifting the initial application forms and during the interview process. Having representatives from the NSBA and BMF on the Panel, as well as a previous Chair of the IWAC, brought a level of impartiality (external to the Authority) to the appointment recommendation process, with all four of the Selection Panel jointly agreeing on the eight candidates to be recommended for appointment following a fair interview and selection process which had due regard to nominations from the consultative bodies.</p>
<p>Norfolk & Suffolk Boating Association:</p> <p>The Norfolk and Suffolk Boating Association (NSBA) thanks the Broads Authority for the opportunity to comment on the recommendations for appointment to the Navigation Committee. The NSBA is content with the recommendations.</p>	<p>Noted</p>