

Broads Authority

24 November 2023

Agenda item number 9

Proposed navigation charges for 2024/2025 in the navigation area and adjacent waters

Report by Chief Executive, Director of Finance and Collector of Tolls

Purpose

Following a briefing for all Members on 13 October 2023 and consultation with the Navigation Committee on 2 November 2023, this report seeks the Board's decision on the level of navigation charges in the navigation area and adjacent waters for the coming financial year.

Broads Plan context

All strategic actions under Theme C: Maintaining and enhancing the navigation.

Recommended decision

To consider the information and the options set out in this report and the recommendation of the Navigation Committee and decide on the appropriate level of navigation charges for 2024/2025.

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1. Introduction

- 1.1. High levels of economic and social uncertainty complicate the preparation of the Broads Authority's draft budget for 2024/2025 and the setting of navigation charges.
- 1.2. A small reduction in boat numbers can have a significant impact on income. The Broads Hire Boat Federation does not anticipate any significant change in the number of hire boats and a similar assumption has been made for the private fleet.
- 1.3. Inflation has remained high in the last few months, however it is forecast to drop. Recent world events are having an impact on oil prices and consequently inflation in the UK. It is difficult to assess the effects of cost-of-living pressures on domestic tourism and private boat ownership.
- 1.4. CPI and RPI are not an accurate reflection of the inflationary pressures on the Broads Authority. The increase in salaries for the current year equates to 6.45% (1.45% above budgeted amount), and 5.9% is assumed for 2024/2025. Increased repairs and maintenance costs are significantly higher e.g. for Mutford Lock, new gauge boards, repair, maintenance and fuel for the launches, higher legal and insurance costs and audit fees. These inflationary pressures are summarised in Table 1.
- 1.5. If the Authority wants to continue to deliver its current level of maintenance and patrolling of the waterways, and to contribute to the earmarked reserves for the purchase of vessels and equipment and the maintenance of property and premises (e.g. the Dockyard), then an income of £4.604 million from tolls will be required. Assuming no reduction in the number of hire or private boats, this would mean a 10.2% increase in tolls in 2024/2025.
- 1.6. Alternative options for lower expenditure with smaller increases in tolls of 8.9%, 8.5%, and 6.9% have been developed for Members to consider.
- 1.7. One of the important factors when considering these options is that lower toll increases in one year result in the need for higher charges the following year if services are to be maintained.

Table 1
2024/2025 Inflationary Pressures on Navigation Expenditure

Inflationary Pressures	£	Reason
Increased income compared to 23/24 LAB	368,820	Based on 10.2% increase
Navigation Salaries	205,832	+ £1,925 per Full Time Equivalent member of staff
Mutford Lock	10,600	Increased repairs & maintenance costs
Gauge Boards	15,000	£10k for new gauge boards
Launches	11,400	Increased repair costs and fuel
Yacht Station income	53,050	Delay in lease agreement for Reedham. Income will need to be shared with BDC
Legal	10,000	Increase in legal costs incl MO & prosecutions
Moorings	6,300	Increased rent following leases being agreed
Finance	28,291	151% increase in external audit fees
Insurance	8,260	More kit purchased with capital funding requiring insuring
Yare House	6,715	Increased FM recharges for shared areas, shred station increases
Other items	13,371	Amounts less than £5,000
TOTAL	368,820	

2. Navigation Income and Expenditure 2023/2024

- 2.1. Navigation income from tolls has been lower than expected. At the end of the financial year, it is predicted that income from hire boats will be £10,219 down (-0.7%) and that from private boats £74,357 down (-2.6%). While 2.6% off target does not sound very much, a £74,000 loss of income is significant.
- 2.2. Fortunately, the lower-than-expected income from tolls was offset by higher income from interest on the Authority's balances¹. In addition, the completion of the European CANAPE Programme has delivered a larger return to Reserves because of the positive exchange rate for the Euro against the Pound.
- 2.3. Table 2 shows that anticipated income for the year is £22,076 below the budget. (Note: Finance Performance and Direction report agenda item 10, contains the consolidated

¹ Investment interest is allocated at year-end not just to the Navigation Reserve but also to the ear marked reserves.

figures to 31 October). Expenditure is above projected levels by £40,526 because of inflationary pressures on salaries, fuel, and materials.

- 2.4. The net impact of all these variations means that the current projection for the Navigation Reserves at the end of 2023/2024 is £58,673 below the figure in the approved budget. However, they are above the 10% minimum level agreed by the Authority as prudent against risk and supported by internal and external auditors.

Table 2

Navigation Forecast Outturn 2023/2024

Navigation Outturn 2023/24 vs Budget	Budget	Outturn	Difference²
Income	(£4,327,110)	(£4,305,034)	- £22,076
Expenditure	£4,382,430	£4,422,956	- £40,526
(Surplus)/Deficit	£55,320	£117,922	- £62,602
Transfer of accrued interest to earmarked reserves	£37,500	£75,000	-£37,500
Opening Reserves	(£611,586)	(£611,586)	£0
Closure of CANAPE reserve	(£135,000)	(£176,429)	+ £41,429
Repayment of NP Loan	£50,000	£50,000	£0
Closing Reserves	(£603,766)	(£545,093)	- £58,673
Reserves as % Expenditure	13.8%	12.3%	- 1.5%

3. Options for Charges in 2024/2025

- 3.1. The Authority constantly reviews its expenditure and makes savings where possible. In 2024/25 there will be a reduction in overhead costs by shrinking the office area leased at Yare House. Additional National Park Grant is being used to redesign the office layout to achieve c. 60% reduction in space.
- 3.2. Two options for further reducing navigation expenditure have been examined.

Changes in the level of patrolling

The Authority decided to increase the number of rangers and the level of patrolling in 2021/2022 in response to the MAIB report into the fatal accident at Great Yarmouth and at a time of increased boating activity post lockdown, so that all the launches were out on the rivers every day of the week. This year the rivers and broads have been reported as quieter than usual with income from yacht stations lower than anticipated. However, the number of incidents reported by the Rangers has not decreased.

If Members believe this pattern will continue, one option is to reduce patrolling in 2024/2025 back to 2020/2021 levels to mitigate the rise in tolls.

² A '+' is a favourable variance and a '-' an adverse variance.

Deferring payments to the earmarked reserves

The National Park capital grant from Defra has paid for the purchase of equipment and asset improvements to improve biodiversity that are usually funded by building up earmarked reserves. The annual contributions to these reserves could be paused for a year. The saving to Navigation Expenditure would be £159,225. The Finance, Performance and Direction report sets out the earmarked reserve balances at the end of September 2023. While these balances are currently adequate, a decision not to contribute to them next year may result in the replacement of equipment being deferred with consequent stresses on future budgets.

Table 3

Table of Options

	Option A	Option B	Option C
Expenditure	Maintain current level of patrolling	Maintain current level of patrolling	Reduce patrolling for 1 year
	Contribute £159,225 to Navigation Earmarked Reserves for property plant and equipment	Nil contributions to Navigation Earmarked Reserves for property plant and equipment	Nil contributions to Navigation Earmarked Reserves for property plant and equipment
2024/25 Toll	10.2%	8.5%	6.9%
Income (excl. interest)	£4,604,930	£4,534,930	£4,467,930
2025/26 Toll *	5.0%	5.5%	6.6%

* Estimated figures dependent on a wide range of factors including the performance of the national economy

An alternative to Option B with similar costs for vessels would be to reduce patrolling and maintain the contributions to earmarked reserves. This would allow an 8.9% increase in tolls in 2024/25 and 5.5% in 2025/26.

4. Consultation with the Navigation Committee

4.1. The Navigation Committee gave the options a rigorous review at its meeting on 2 November. Topics debated included the role of the Rangers and the potential for further capital grants from Defra.

4.2. Level of Toll Increase

Two items of correspondence sent to the Chairman of the Navigation Committee were circulated. The first from the Chairman of the Norfolk and Suffolk Boating Association stated the following:

“In the light of last year’s percentage hike of the tolls rate, options A & B are unacceptable. Option C is unpalatable and it or a variant would have to be justified up to the hilt on the basis that all navigation related overheads (or shared NP grant/navigation overheads) have been trimmed to the bone under a comprehensive Spending Review. The reduction in patrolling posited in Option C (presumably by paid

rangers) does not cause a problem because, quite apart from the possibility of using volunteers, frequent feedback from a survey is that rangers are courteous and friendly but are not sufficiently active in performing their navigation related functions. The bottom line of Table 3 (estimated 2025/26 Toll) is a good example of 'jam tomorrow', i.e. a pleasant future event which may never materialise."

The second from the Chair of the Broads Reform Action Group stated:

The 'options' in Appendix 1 in the papers for this week's meeting display a staggeringly limited view and focus only on limiting Ranger patrolling (a blatantly emotive proposal) or plundering reserves. There is no mention of potential economies not impacting frontline Navigation activity. It is this committee's view that there is a plethora of effective cost-saving measures available to any organisation with such a large (74%) wages bill.

- 4.3. If the Authority were to reduce its workforce, it would have a serious and direct impact on frontline navigation activities.

The Chair went on to say that:

"A detailed analysis of tolls increases over the years has yet to be carried out, but one of our members and the owner of the classic wooden motorboat 'Broad Ambition' has kept his own record, which is attached."

- 4.4. The document provided showed how the charges for a 40 square metre private motorboat had risen above the rate of inflation over the last 16 years. The same is not the case for smaller private boats. In November 2016 Members decided to make the tolls fairer at a time when the number of large boats was increasing, and small boats were in decline. Consequently, the current 624 private motorboats of 5 square metres or less would have paid £77.20 in 2007 and £85.10 in 2023, an increase of £7.40 (9.5%). A similar sized sailing dinghy, of which there are currently 349, paid £51.46 in 2007 and £52.00 in 2023, an increase of just £0.54 (+1.0%) over that period.

4.5. **Role of the Rangers**

One of the issues that came up at the Committee concerned the role of the Rangers.

- 4.6. Rangers have an important role as a presence on the water for both safety reasons and as the public face of the Authority, giving advice and information to boaters as well as enforcing the Byelaws. They respond to incidents (including pollution and sunken vessels), carry out checks and small-scale maintenance works to moorings, undertake tree inspections, and remove hazards (including fallen trees) from the river.
- 4.7. They oversee events (power boat racing at Oulton Broad and regattas), monitor river works licences and hire boat and paddle sport licences, and carry out escorts for larger vessels. In the winter months, Rangers carry out bankside tree work and the maintenance and replacement of signs.
- 4.8. 20% of their time is funded by National Park Grant. Under this heading they assist with the fen and conservation work, carry out checks on countryside sites, such as Horstead Mill and Hoveton Riverside Park, and help with the maintenance of rights of way where

these link moorings to visitor facilities. Education and events, funded by National Park Grant, also form an important part of their work.

4.9. **Capital Grant**

Members asked about the likelihood of further capital funding from Defra which could be used to support the maintenance of the navigation area. The grant received in 2023/2024 for biodiversity purposes included funding for equipment, such as the water plant cutter and 360-degree excavators which are used for conservation purposes and also for managing the waterways. This was a pilot scheme for Protected Areas, National Parks and AONBs, and therefore it was considered unlikely that further capital funding would be made available to the Broads Authority soon.

- 4.10. There was no unanimous agreement on a preferred option. Six Members voted in favour of Option C, a 6.9% increase, and four against.

5. Social economic, and environmental implications

- 5.1. Toll payer surveys have shown that the Authority's tolls account for less than 10% of the typical annual costs of owning a boat. The cost-of-living crisis is having an impact on society and its impact on the boating community using the Broads and those visiting on holiday is difficult to predict. Our community of private boat owners is diverse, and some may face difficult decisions regarding their continuing boat ownership.

6. Legal considerations

- 6.1. The Authority has followed its standard process with an informal briefing open to all Members on 13 October followed by the formal statutory consultation with the Navigation Committee at its meeting on 2 November. Appendix 3 contains a detailed legal note prepared by the Monitoring Officer setting the legal framework for the setting of tolls.
- 6.2. If the Board decides on a different option to that recommended by the Navigation Committee, then it is required to "provide full reasons for doing so" in line with the amended Norfolk and Suffolk Broads Act 1988.

7. Risk implications

- 7.1. The risks for Option A, a 10.2% increase, are that an increase above inflation could result in a reduction in the number of private boats.
- 7.2. For Option B, an 8.5% increase, reducing the contributions to earmarked reserves will delay the replacement of key pieces of equipment.
- 7.3. In Option C, a 6.9% increase, in addition to the impact on ear-marked reserves, it would also return patrolling to pre-Covid levels which could be seen as a risk to safety.
- 7.4. Loss of income is identified in the Corporate Risk Register under risk number 4. A 1% reduction in income equates to around £45,000.

8. Conclusion

- 8.1. Rapid inflation and the cost-of-living crisis are making budgeting difficult for families, our boat owners, the hire boat companies, and the Broads Authority. All options set out above are fully deliverable but carry different consequences. It is for the Board to decide which of these options and consequences it wishes to pursue. That requires a judgement about the ability of the hire boat companies and private boat owners to pay higher tolls to generate the income required for the Authority to fulfil its statutory duties to maintain the waterways and respond to safety needs.

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Date of report: 13 November 2023

[Broads Plan](#) strategic objectives: C1, C2, C3, C4.

Appendix 1 – Cost per m2 by Category of Vessel for the Three Options

Appendix 2 – Sample Increases for a Selection of Vessel Sizes

Appendix 3 – note prepared by the Monitoring Officer on the legal framework

Appendix 1 Cost per m² by Category of Vessel for the Three Options

No.	Category – cost per m ² except rowing, canoes etc	Current	Option A	Option B	Option C
1.	Weekly hired motor craft	£38.34	£42.25	£41.60	£40.99
2.	Weekly hired motor craft – electric and hybrid	£26.39	£29.08	£28.63	£28.21
3.	Day hired – petrol/diesel	£58.66	£64.64	£63.65	£62.71
4.	Day hired electric	£40.17	£44.27	£43.58	£42.94
5.	MCA passenger boats and small passenger boats	£50.45	£55.60	£54.74	£53.93
6.	Hired motorised sailing craft – diesel	£31.12	£34.29	£33.77	£33.27
7.	Hired sailing boats & hired motorised sailing - electric	£22.76	£25.08	£24.69	£24.33
8.	Hired houseboats	£19.44	£21.42	£21.09	£20.78
9.	Hired rowing – fixed amount	£85.39	£94.10	£92.65	£91.28
	Hired paddle craft – fixed amount	£42.69	£47.04	£46.32	£45.64
10.	Private motorboats - petrol & diesel	£17.02	£18.76	£18.47	£18.19
11.	Private motorboats electric	£13.01	£14.34	£14.12	£13.91
12.	Private motorised sailing craft - petrol & diesel	£12.59	£13.87	£13.66	£13.46
13.	Private sailing boats & private motorised sailing craft - electric	£10.40	£11.46	£11.28	£11.12
14.	Private houseboats	£6.70	£7.38	£7.27	£7.16
15.	Private rowing, canoes etc. – fixed amount	£42.69	£47.04	£46.32	£45.64

Appendix 2 Sample Increases for a Selection of Vessel Size

Cost per craft

Type of Vessel	Number	Current Charge	Option A	Option B	Option C
5 m ² Private sailing craft	349	£52.00	+£5.30	+£4.40	+£3.60
11 m ² Private sailing craft	124	£114.40	+£11.66	+£9.68	+£7.92
5 m ² Private motor boats	624	£85.10	+£8.70	+£7.25	+£5.85
15 m ² Private motor boats	237	£255.30	+£26.10	+£21.75	+£17.55
22 m ² Private motor boats	307	£374.44	+£38.28	+£31.90	+£25.74
38 m ² Private motor boats	112	£646.76	+£66.12	+£55.10	+£44.46
11 m ² Day hired boats – petrol/ diesel	47	£645.26	+£65.78	+£54.89	+£44.55
11 m ² Day hired boats - electric	23	£441.87	+£45.10	+£37.51	+£30.47
38 m ² Weekly hired motor craft	52	£1,456.92	+£148.58	+£123.88	+£100.70
48 m ² Weekly hired motor craft	57	£1,840.32	+£187.68	+£156.48	+£127.20

Appendix 3 Legal Background

Section 13(1) of the 1988 Act provides that the Authority may determine and recover tolls in respect of vessels moored, used or navigated on adjacent waters as well as in the navigation area. Section 25 defines “toll” as being a charge levied by the Authority under section 26 of the Harbours Act 1964, and includes any charge made in the discharge of the Authority’s functions under Part II of the 1988 Act and any charge levied in respect of a vessel moored, used or navigated on any adjacent waters. Part II of the 1988 Act sets out the Authority’s functions in relation to navigation which include under section 10 and schedule 5 maintaining, improving and developing the navigation area, making and enforcing byelaws. These functions are further set out in part 2 of the Broads Authority Act 2009 which provides a comprehensive framework for the regulation and management of the navigation area, including the enforcement of boat safety standards. Under *Broads Authority v Fry* [2015] EWHC 4139 (Admin) a toll payer does not have to benefit personally from navigation functions for the toll to be payable. Under *R (Fry) v North East Suffolk Magistrates Court* [2013] EWHC 4849 (Admin) the Authority has the power to levy tolls for the navigation of adjacent waters even though it is not a harbour authority for those waters.

Section 31 of the Harbours Act 1964 sets out a process whereby a toll payer or body representing toll payers may object to the level of tolls set by the authority as a harbour authority by making representations to the Secretary of State for Transport who may hold a local inquiry.

Subsection 13(3) of the 1988 Act provides that the Authority shall consult the Navigation Committee before determining the level of any tolls or other charges to be imposed in respect of the navigation area or adjacent waters. Under section 9(9) of the 1988 Act, in exercising its functions the Authority shall have regard to any representations made to it by the Navigation Committee on matters relating to navigation. Where the Authority resolves not to adopt any recommendations made to it by the Navigation Committee, it must provide full reasons for doing so.

Under section 9(1)-(5) of the 1988 Act the Navigation Committee consists of 13 members of whom five are members of the Authority and eight are not such members. Those eight members are to be appointed by the Authority after consultation with bodies appearing to the Authority to represent (in summary) a range of users and interests in relation to the navigation water.

Correspondence received from the Broads Society and the Broads Hire Board Federation in the last year has questioned the extent to which the Authority has complied with common law duties of consultation (sometimes referred to the Sedley or Gunning Principles). These require a public body to consult when proposals are still at a formative stage, give sufficient information to consultees and adequate time and show that responses are taken into account.

The Authority seeks to engage actively with all navigation users and members’ attention is drawn to the correspondence from the Norfolk and Suffolk Boating Association and the Broads Reform Action Group quoted above in this report. However, the Authority’s legal requirement for consultation is through the Navigation Committee which is expressly provided in the 1988 Act to include representatives of a range of navigation users. That

statutory consultation process applies in place of the Sedley / Gunning Principles as indicated by *R(Moseley) v London Borough of Haringey* [2014] UKSC 56

BRAG has also referred to section 3(1) of the local Government Act 1999. That states:-

3. The general duty.

A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

For the purpose of deciding how to fulfil the duty arising under subsection (1) an authority must consult—

representatives of persons liable to pay any tax, precept or levy to or in respect of the authority,

representatives of persons liable to pay non-domestic rates in respect of any area within which the authority carries out functions,

representatives of persons who use or are likely to use services provided by the authority, and

representatives of persons appearing to the authority to have an interest in any area within which the authority carries out functions.

For the purposes of subsection (2) “representatives” in relation to a group of persons means persons who appear to the authority to be representative of that group.

In deciding—

(a) how to fulfil the duty arising under subsection (1),

(b) who to consult under subsection (2), or

(c) the form, content and timing of consultations under that subsection,

an authority must have regard to any guidance issued by the Secretary of State.

If indeed navigation tolls are a tax (and it is doubted that they are), then the Navigation Committee constitutes a group of persons appearing to be representatives of persons liable to pay tolls or who use or are likely to use services provided by the authority. Navigation tolls are not a precept or levy.

Current best value statutory guidance is mainly focused on how local authorities should work with the voluntary and small business sectors, especially when commissioning services. As such, it is not relevant to navigation tolls setting.