

MINUTES

Of the meeting of the **British Water Ski & Wakeboard Board** held on **Thursday 20th October 2022** via **Video Conference Call**

1. To Record Attendance and Apologies for Absence.

Present:

Martin Winter
Steve Sopp
Peter James
Michael Lock
Margaret Curtis
Clare Lobb
Nick Fellows
Patrick Donovan

Kylie Cooper (not present for Item 6)
Keir Boissevain (not present for Item 6)
Cathy Hughes (Item 7a)
James Timothy (Item 7e)

Richard Snelling – Menzies (Item 6a)
Janice Matthews – Menzies (Item 6a)
Kathryn Balls – Menzies (Item 6a)

2. Declarations of Interest.

There were no changes made to the register of members interests.

3. To Approve the Minutes of the Meeting Held on 1st September 2022.

The minutes of the previous meeting were unanimously approved by those who were present at that meeting.

4. Matters Arising not Covered by this Agenda.

a) Racing / Health & Safety Consultant – As an update it had recently been highlighted to the Racing Committee (and the risk assessment author Gallowglass) that their risk assessment did not provide the BWSW board with the wider and accessible safety report it needed regarding as to whether BWSW could reasonably sanction racing in the context of the risks and insurance position and in the context of other potentially more dangerous sports e.g. horse riding and motor sport. The risk assessment clearly identified many of the risks involved but there was a significant concern that it did not show as a practical matter how these risks were addressed in practice and simply passed all responsibility from the Racing Committee to BWSW which did not reflect reality.

Action: Patrick would clarify with our consultant the port marine risk assessment model on which it had previously been stated that the Gallowglass risk assessment was based. It was unclear whether the model referenced was an actual template document or simply a general approach / methodology applied. Patrick would forward to all Board members the note sent to the Racing Committee in relation to the above.

[Note – post meeting it was clarified that there was in fact no actual port marine risk assessment template in existence, the reference to a model simply referred to an approach / applied method]

Steve Sopp stated he was going to the November E&A dinner in November. The board agreed that he should seek every opportunity to stress the board's view that the E&A and IWWF rules

regarding insurance in relation to Racing were very unsatisfactory in (i) permitting “no competitor to competitor insurance” and (ii) not sufficiently recognising the issues relating to obtaining insurance for international racing in relation to non-resident competitors. What the “no competitor to competitor insurance” rule permitted was for a boat crew to race without insurance in relation to claims made by other competitors i.e. successful claims made by another crew or its skier against a driver/observer/skier in the event of death or personal injury. This meant, if there was no such insurance, that a racing competitor, at least as a matter of English law, raced with all their assets on the line (and could mean that a claimant with a valid claim had no effective means of redress given the potential insufficient financial substance of the defendant). This insurance issue had caused the board to seek a safety report which had not yet been produced in satisfactory form. These rules had been previously raised with E&A / IWWF but, given they were still in place, it was agreed a copy of this minute be passed to the IWWF secretary general and the equivalent at E&A for consideration by their respective boards as it was considered to be an issue in many jurisdictions. The inability to exclude liability for negligence resulting in death or personal injury in the UK and a number of other jurisdictions, via a waiver, needed to be noted again in this respect.

b) Board Appraisals – Nick outlined that Steve had since responded on this point.

c) Membership Numbers – currently 5,714 paid up subscribers with 591 additional E-members which provided additional communications reach rather than actual income (compared to 6,063 paid up subscribers at the same point last year) with only very limited additional take up via coaching and driving qualifications over the autumn period. The Racing issue ongoing and two named clubs accounted for the majority of the loss in numbers with one club reaching the end of a relatively short lease and more limited future access available. Any loss of unique and scarce facilities was a particular cause for concern. The loss of membership was disappointing and Martin stressed the need for all affiliated clubs to sign up their members.

d) Volunteer Recruitment Drive re Advisory Council – Steve outlined that of the three members who had responded positively two persons had been invited to assist with Waterski Committee matters. A person who responded from the Cable Wakeboard discipline was in conversation with the Chair of Cable Wakeboard re assisting with the profile of grassroots competitions and assisting at such events.

e) Voluntary Club Insurance Scheme / Personal Accident Scheme for Members – a meeting was planned with Bluefin and a legal advisor for next week on this matter particularly in terms of the communication on the detail of the cover and recent queries on the stated scope of cover in BWSW summary documentation.

5. To Note Items for AOB.

None recorded.

6. Accounts & Audit.

a) Menzies Audit Team Report – our auditors were welcomed to the meeting with Richard providing some summary overview of the audit process which had taken place in July. There was a brief update on performance and forecasts to include membership income, the situation with Sport England funding (which provided 5 years of stability but was historically not indexed) together with audit findings / significant risks and any key changes within the organisation and its strategy. The cost of living crisis, the shift in the focus of the funding in terms of tackling inequality presented new challenges and the organisation was currently in a transition phase to align its internal resources accordingly with some new expertise recruited to assist.

The management report detailed two particular areas requiring attention in relation to VAT turnover reconciliation and a lack of any management accounts being prepared on a quarterly basis. Peter highlighted internal bandwidth and capability as a challenge in managing some of the more complex areas of our finances to include VAT though, and whilst not perfect, there was a good level of internal oversight and simple controls in place. Adjustments made (which were not material) were highlighted as part of the final amendments to the figures. Laws and regulations were highlighted e.g. employment law, health and safety, safeguarding – there

were no breaches within the business, in terms of safeguarding BWSW provided wider oversight and was subject to an annual Child Protection in Sport Unit (CPSU) compliance process. Martin highlighted risks and mitigation as an area in need of some review within the actual financial statement in terms of the level of disclosure and detail which seemed to him to be over extensive. This would be reviewed in the next accounts. Martin also queried note 5 in the accounts indicating the key management personnel were the board. He did not agree with this statement. The management personnel were the CEO and HQ. No director other than the CEO had any formal role beyond their non-executive one, whatever support happened to be given to HQ from time to time. Menzies said this was standard accounts wording. Martin said this needed to be looked at in the next accounts.

Action: Peter and Patrick would provide a response to the two points raised within the management report. Janice would provide the details of risk and mitigation in terms of mandatory reporting requirements so we could revisit the comprehensive narrative provided for next year. Patrick would forward to Kathryn the recent CPSU report outlining this year's rating in terms of our compliance stated as "conditionally met".

The discussion included item 7c in relation to the articles and mutual trading status (see below).

b) Approval of the Final Accounts 2021-22 – following on from any final and minor amendments pending discussed during the meeting the accounts were unanimously approved by the Directors.

Action: Patrick would send the final document to Menzies and request the DocuSign signing process after which Menzies would file the accounts with Companies House.

7. Board Related Matters.

a) EDI & BWSW Developmental Commitments – A section of the Sport England Phase 2 submission document was provided for the meeting outlining BWSW commitments to organisational development across a number of areas to include:

- Values, purpose and strategy
- Understanding people and communities
- Partnerships and collaboration
- Leadership
- Capability and capacity
- Learning and continuous improvement

An aim of the overall new approach was for funded organisations to support innovation and more creative working by fostering a culture of continuous learning, feedback and improvement to support what we do and how we do it from a more informed position in terms of tackling inequalities. Cathy outlined the changes and expectations of funded partners which were less quantitative than in the past and more directly in relation to cultural change. Learning and building confidence and capacity across the sector by those who had influence to deliver change was highlighted as key to progress. COMMS was highlighted as a current area of focus with scheduled dates for particular communications around particular events such as international women's week, black history week and similar planned events.

Action: Cathy had already scheduled a staff training session on EDI within sport for November with HQ staff and was available to do likewise at the November board meeting.

b) Risk Register – a note of thanks to Steve and Kylie for their time in assisting with the update to the risk register.

Action: Patrick would next update the risk management strategy policy accordingly with Martin having some further comments on this document; this would be discussed at a Board Sub-Group meeting in two weeks' time.

c) AGM Notice Related

- Board Rotation – Steve, Nick and Margaret were due to stand for election having completed an additional 3 year term since being elected / re-elected in January 2020. All would consider their intentions / wish to re-stand for election or otherwise at the January 2023 AGM and would

let Patrick know within 10 days.

- Amendment(s) to Articles - In January this year Menzies had highlighted the dissolution / winding up clause in the articles which detailed the transfer of any net assets to an institution with objects similar to the Federation decided by a majority vote. The clause was relevant to the BWSW mutual trading status whereby as a voluntary not for profit organisation investing any surplus back into the development of the sport the Company only paid corporation tax on bank interest and any non-mutual trading aspect. Currently as noted in the HMRC manuals, for a trade to be a mutual trade there must be:

- complete identity, as a class, between the contributors to the mutual surplus and the participators in it; and

- arrangements which ensure that the surplus ultimately finds its way back to the contributors and no arrangements for it to go to anybody else; and

- a reasonable relationship between the amount a person contributes to the surplus and the amount distributed to them on winding up; and

- arrangements that entitle the contributors to the common fund to control it.

As such an amendment to the dissolution clause in the articles was recommended to ensure that the Company continues to benefit from and comply with the corporation tax arrangements moving forward. Martin had provided an initial outline protection clause to Menzies for consideration on this point which Richard had discussed internally. Richard outlined the tax exemptions re mutual trading status and HMRC dissolution requirements; it was possible to specify a 90% majority vote requirement within the articles (and member agreement to this on joining) re any special resolution / dissolution clause relating to the distribution of the assets to members. Menzies would send a note on the Companies Act formalities on entrenchment.

d) Safeguarding re CPSU Annual Compliance - Having previously completed the three safeguarding framework in sport mandatory standards, since 2017 BWSW had been subject to the annual compliance process. Patrick and our Lead Safeguarding Officer Charlotte Wharton had dealt with the annual submission process and attended the meeting. It was reported that the late September meeting had been useful, the feedback positive followed by a very recently received compliance rating of "conditionally met".

Action: Charlotte would address some points raised and incorporate these into the safeguarding action plan as necessary.

e) Advisory Council – James kindly agreed to attend on this occasion as the Advisory Council representative following on from the Council's recent meeting (acting Chair Rod Beattie was overseas). It was agreed that as the minutes of the AC meeting had only just been received that Martin would do a rider, intended to reflect the discussion, for subsequent board approval as an appendix to these minutes. These would be agreed with James Timothy and then be attached to the minutes and circulated to the AC in the normal way.

8. Confirmation of Future Meeting Dates.

Board:

Thursday 24th November 14:00

Some additional meetings may well be required to address ad hoc issues and the proposed time for these meetings is 9am on Wednesday mornings.

Board Sub-Group

Wednesdays 09:00

Advisory Council:

Wednesday 11th January 11:00

AGM

TBC

The meeting closed at 14:20

Minuted by:

Patrick Donovan

CEO

BWSW board response to 12 October AC meeting: approved following 20 October meeting

Safeguarding: Patrick to draw discipline chairs' attention to safeguarding recommendations to consider implementation and request feedback from them

AC representation

Attendance of representatives to be referred to discipline chairs by AC.

Discipline strength and numbers

Boat Owners and the Regions are disciplines under the articles. As with many AC discipline appointments, given the paucity of available volunteers, there has been a need to kickstart the discipline's AC representation by invitation. Ideally these discipline representatives should seek to build up a network within their discipline to enable that discipline to be a conduit from the grassroots to the board. Obviously BWSW should provide all available support but as with many voluntary organisations being effective tends to mean a material degree of self-starting. A network would then enable a democratic process. The very serious practicalities of getting input is recognised. BWSW can put out specific communications to seek volunteers in any capacity. The last effort had achieved 3 responses. BWSW was not always as effective as it might be in following through.

Current structure.

The setting up of the AC structure was the subject of an exhaustive, many months process, involving the widest consultation within the sport. After that consultation and a further member circular the structure was adopted at the AGM in 2016. The above process had led to the firm and widely accepted conclusion that the Excellence and Development Committees had ceased to work some years before. The BWSW board are not currently minded to change an organisational structure which is already a good deal more labyrinthian than eg a listed company with a huge multiple of earnings compared to BWSW. The view is that it is important to have a direct AC report to the board so as little as possible got lost in translation. Patrick was asked to circulate the current organogram with these minutes. It was reiterated that it was considered essential that the board be represented at AC meetings, unless for some exceptional reason, eg lack of confidence in the board, there was a need for separate discussion. The board would seek to find a minute taker at each meeting.

If the AC thought a new structure should be adopted then it was certainly within its remit to put that forward to the board but this should not be reverse delegated based on a brief unpapered discussion, given the existing pressures on board resources. A well-argued paper was needed.

From the board's perspective there were many issues to be addressed and this was not currently top of the agenda. Whatever the structure the real issue was the need to develop resources within the sport and stop membership decline.

Racing

The current impasse arises because the Racing Committee are due to respond to the Board's critique of the Gallowglass Risk Assessment. A safety report had been requested by the Board of the Racing Committee as a precursor to considering sanctioning uninsured activity. The Gallowglass Risk Assessment reflected significant work but did not meet the standard for a report which the board had specified to the Racing Committee and Gallowglass. The board had made its concerns clear in a note attached and this was currently with the Racing Committee. The Risk Assessment clearly identified many of the relevant areas of risk but there was a very significant concern that it did not show as a practical matter how these risks were addressed in practice. It assumed total involvement from BWSW "trained staff" which did not reflect the reality of the BWSW HQ resources. BWSW had a health and safety consultant lined up to give an independent view but the potential costs were in excess of £20k. Before incurring that cost Racing needed to confirm that it was prepared to upgrade the Risk Assessment to meet board concerns in the context of safety and uninsured activity. BWSW were also contacting others in the Racing community not on the Racing Committee to make the same point. As far as the board were concerned the door remained completely open. However enthusiasm to race could not supplant a properly reasoned basis for doing so, not least in the context of uninsured activity.

If, as has been suggested, anyone had held out the Risk assessment as BWSW approved to local authorities then this needed to be corrected. Patrick was taking this up and asking the Racing Committee to obtain relevant acknowledgements. BWSW had previously been assured that no local authority had been told the Risk Assessment was BWSW approved.

The board had firmly expressed the view that there was a need for participants to be told specifically they would be racing with their assets on the line in the event of a successful claim (and as a claimant the possibility of being unable to have a claim met). This also had not been included in the paperwork produced by the Racing Committee.

James Timothy's comments re waivers was endorsed. A solicitor retained by people within the racing community acknowledged this in a video call of 11 March 2022 (note attached). The board found it disappointing that waivers were still being held out as a panacea in any quarter. Waivers had their uses in drawing attention to the risks and encouraging care but they did not get anyone off the hook for established negligence resulting in personal injury or death