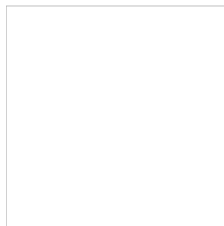


# Sustainability Committee

SC(3)-17-09 (p2): 8 October 2009



## The Federation of Welsh Anglers

### Cynghrair Pysgotwyr Cymru

#### Federation of Welsh Anglers: Summary of evidence for oral hearing 8/10/09

The Federation of Welsh Anglers is the umbrella body for the three national governing bodies for sea fishing, coarse angling and game fishing in Wales, namely, the Welsh Federation of Sea Anglers (WFSA), the Welsh Federation of Coarse Anglers, (WFCA), and the Welsh Salmon and Trout Angling Association, (WSTAA). It is the funded angling body recognized by Sports Council Wales. The Federation is directly representative of its three constituent NGBs but works on behalf of all anglers in Wales through its efforts to promote, develop and safeguard angling in the Principality.

The Federation's representatives presenting oral evidence to the Sustainability Committee will be Chris Bond, Angling Development Manager, who will be accompanied by Gary Davies representing angling clubs from south Wales and Max Coventry from north Wales who will assist with the presentation of evidence and respond to queries from the Committee.

Firstly and importantly, we wish emphasise that as an angling body we recognise others have a need to utilise our wonderful water resources for the purpose of sporting or recreational use and stress we are not anti-canoeing, nor are we against paddlers having access to rivers. What we do object to most strongly is the unrestricted, unlawful access which is happening at the moment on many Welsh rivers, which involves trespass on a large scale, which has resulted in conflict between user groups, mainly anglers and canoeists, and between riparian owners and canoeists, and which, in many instances, is likely to be ecologically damaging to sensitive areas of these rivers.

More than anyone, we would like this unpleasantness and aggravation on the rivers to come to an end so, rather than just perpetuate this argument, we want to seek a resolution. However, in aiming for a long-term solution to the problem we feel some important issues need to be recognised and considered:

1. The law covering access on rivers above the tide is clear and straightforward: with only a couple of rare exceptions, it is unlawful to go on such rivers without the permission of the owner. To suggest that the law is in some way unclear is simply a ruse to try to persuade you to recommend a change in the law to provide clarity. But that clarity already exists; the fact that riparian owners do not actually own the water is quite irrelevant. Every lawyer we have ever taken advice from in this matter is adamant - for instance Simon Jackson, a solicitor specialising in riparian matters has stated: ""the law on unauthorized navigation is straightforward. Provided that the water is not tidal, is not covered by an Act of Parliament and the owner has not granted a right, then passing over land belonging to another is a trespass". It is actually a trespass in exactly the same way as if a group of people you had not invited gained access to your garden every weekend to have a picnic.

To demonstrate the depth of support for the law as it stands, we drew up a Pledge of Support form with the following text:

"We, the undersigned, pledge our support to the laws covering the private ownership of Welsh rivers above the tide and consider that these laws should be maintained and respected. We think that canoeists and others who want to use these waters should enter into access agreements with riparian owners and be prepared to pay for their enjoyment of the use of such assets, in the same way that anglers do".

This was available for signing at various county shows this summer. Without much difficulty and with just one or two of us standing around taking signatures we quite quickly reached a total of over eight thousand signatures. Those signed forms will be available for inspection by committee members when we give evidence. We just emphasise two points: first these are all pen and ink signatures, they were not collected via the internet with the associated lack of controls and accountability; second these are almost all signatures of Welsh citizens and voters.

2. Conservation is a major issue - we maintain that unrestricted access to Welsh rivers would be ecologically very damaging. You have only to look at the photographs of rafters on the Teifi and a canoeist on Merthyr's fish pass to see that this degree of over-exploitation will inevitably lead to degradation of habitat. If the law were changed to allow unrestricted access then this sort of excessive overuse would become common on many rivers which would inevitably lead to ecological damage.

3. Angling makes a major contribution to the economy of Wales, it provides rural employment and angling tourism gives an income

stream to local economies. Very many anglers come from England and Continental Europe to fish in Wales, particularly for our sewin (sea trout) which are a major attraction. Most do not come and go in the same day but tend to stay for a long weekend or even a week or more. This financially benefits many accommodation providers such as riverside hotels, B & B's, guest houses and caravan camps, as well as shops, pubs and local fishing tackle dealers, etc. Some hotels rent or own stretches of river for use by their guests and they will often employ river keepers and ghillies to oversee their waters, take guests fishing, monitor water quality, and so on.

Angling tourism revenue has been estimated at £150 million a year to Wales. If there was free and open access the quality of fishing would deteriorate and there would be a marked decline in revenue from angling and from angling tourism: many businesses would suffer. We very much doubt that this loss of revenue would be offset through an influx of other water users.

Rod licences provide a separate income stream for the Environment Agency Wales. About 77,000 rod licences are bought each year in Wales - a licence to fish with rod and line for salmon and sewin costs £70 per annum. This funding is primarily used for habitat improvement, enforcement and promoting angling participation, this income and this work would decline if angling numbers fell.

4. It is often not appreciated that rivers are businesses. The riparian owner has an asset which he or she almost always rents out for people to use - mostly at the moment for angling and we, as anglers, recognise this right of ownership. Angling clubs are prevalent in Wales and make angling available and accessible to local communities. Membership fees are mostly relatively inexpensive and the clubs are typically made up of local people, but they also make the river available to outsiders. Income from their membership fees and day tickets is used to purchase leases from riparian owners - they pay for the right to use the river. Many also invest in improvements to the stretches of river they are renting, whilst many riparian owners - mostly local farmers - also invest some of their angling income to improve and maintain their waters, thus safeguarding and improving the value of their assets for the future.

In some instances angling clubs have accrued membership fees over many years so as to be able to purchase stretches of river and so have become the riparian owners themselves and have therefore gained the legal right to determine who has access to their waters and to rent these out to other water users if they wish.

This whole economic structure of rivers would collapse if other groups were given open, unlimited access, which would also result in vital habitat work not being undertaken. In this situation, both the angling club's tenancy and the riparian owner's assets would be devalued - it would be a derogation of the tenant's lease. Both landlord and tenant would then - quite rightly - expect full compensation from the Assembly equivalent to the reduction in these values. It is impossible to calculate the sum of these claims for compensation, but they would be very large and very numerous. It was for just this reason that golf courses - another sort of rural business - were specifically excluded from the CRoW Act.

5. The idea that the Scottish Land Reform Act should be imposed upon Wales ignores many fundamental differences between the two countries. The contrast between the size of the rivers and the demographic differences between the density and centres of population are quite well known. Two other factors may not be so obvious but are very important. First, the historical and cultural forces at work when the Scottish Act was passed - many long stretches of famous rivers were part of very large estates often with absentee landlords - this is simply not the case in Wales, where, as already mentioned, most riparian owners are local farmers. Secondly the consequence of the differences between salmon and sewin does not seem to have been appreciated. In Scotland, salmon are the most sought after fish, but in Wales sewin are more important. However, sewin and particularly big sewin, are probably the most wary fish in UK freshwater, this is why anglers tend to fish for them with a fly in the late evening or at night. If a group of paddlers go over a salmon, that fish will be scared but may become catchable again in an hour or so. If those same paddlers go over a shoal of big sewin in the late afternoon or evening then the angler waiting patiently on the bank to fish that stretch may as well pack up and go home. The bigger the sewin the more true this is and visiting anglers don't come from overseas to fish for small sewin.

6. It is agreed by all that there is a right of navigation along all tidal stretches of rivers up to the High Water Mark as well as around coastlines. Canoeists are therefore at liberty to paddle all around the coast and up rivers to the high tide mark as shown on O/S maps. Some might think that these tidal stretches are likely to be quite short, but, as Wales has the second largest tidal reach in the world, many of these are actually very long stretches making up a significant proportion of the whole river. In fact, vastly more river passage is currently available to canoeists than has been claimed. The River Conwy, for instance, has at least 23 km of tidal river as against a whole river plus tributaries length of about 90 km. This means that canoeists already have free access onto over a quarter of the river. Many other Welsh rivers have very long tidal stretches - the Dyfi about 16 km; the Towy about 24 km and so on.

7. Voluntary local access agreements recognise the rights of landowners/riparian owners, they address local requirements and those of the respective user groups and can be tailored to suit each river system. Previous voluntary agreements on rivers worked well for many years. It is known that there were at least 20 such agreements, which, covering many of the most significant Welsh rivers, gave paddlers access to large amounts of water. Some of these agreements were very long lasting - for instance on the River Dee agreements had been operating for over 40 years. The fact that these agreements were once thought more than satisfactory by the Welsh Canoeing Association (WCA) is demonstrated by the cordiality of correspondence up to about 2004 with riparian owners. They also show that, even though there might be quite a number of riparian owners on any one river, because they almost always come together into a river association, there is no difficulty in canoeists' organisations starting a dialogue.

Unfortunately, at around that time, due to a change of management, the WCA decided to adopt a militant position, so that any agreement which did not allow for access 365 days a year was rescinded. When the Usk agreement was broken, the WCA wrote: "... we no longer enter into agreements which restrict canoeing purely on the basis of dates". The Dee agreement was rejected and there has been anarchy on that river ever since. On the Tawe, another agreement was torn up with the WCA writing that they ""... "have issued a mandate not to enter into such arrangements and are undertaking an audit of existing arrangements in place".

Agreement after agreement has been broken by the WCA over the past few years: not by riparian owners, not by angling clubs, but by

the current management of the WCA - which has now changed its name to Canoe Wales.

8. In our opinion, trespass, duplicity, abuse and even threats of violence should not be rewarded. One of the things which has caused most ill feeling over the past few years has been the fact the WCA, having rescinded perfectly good access agreements, then went on to state to the riparian owners that, nevertheless, they were sure canoeing would continue on that river. Not only that, but on the WCA website, ingress and egress points and other information about canoeing on stretches where agreements had been rejected continued to be shown, so inciting trespass.

There have been many instances of damage to property, particularly walls and gates, where canoeists, attempting to access a river on which they no longer had a right to paddle, unlawfully trespassed across land and caused damage attempting to get their canoes over obstacles. If the riparian owner tells a group of paddlers on a river that they are trespassing and asks them to leave, the scale of verbal abuse he or she is likely to receive in reply is not for the fainthearted. Just recently, when the wife of the riparian owner of part of the little river Elwy in north Wales challenged a paddler, the Daily Post (3.9.09) reported that the canoeist "became hysterical with rage, threatening to break her neck and she had to phone a neighbour for help".

Many country people are outraged that a Welsh Assembly committee is even considering recommending a change in the law in order to benefit those who have conducted a campaign, on the one hand by trying to show that they didn't have enough water to paddle when it was they who broke the agreements giving them that water; and on the other, by a policy of trespass and law-breaking.

9. Regulation, accountability and enforcement are important considerations. Anglers are by means of licence, regulated and accountable, they also have to pay for their fishing, often through membership of angling clubs, which have invested heavily in the provision of fishing for their members. Canoeists, on the other hand, are unlicensed, unregulated and unaccountable and determined to pursue what they see as a right of freedom to paddle, and clamour for free and unfettered access. Anglers, not unnaturally, disagree with this disparity between the two bodies, believing canoeists and other similar user groups, should also be regulated and accountable, which brings another consideration to the fore, namely, that of enforcement. There is little enforcement of current laws in evidence at the moment, which has contributed to the current conflict situation, any solution or agreement would need to take into account the need for enforcement and the means of providing funding to pay for it.

We suggest those who wish to paddle should be encouraged to form themselves into river or region based clubs which can negotiate with river associations of riparian owners, so as to come to agreements to give them access. Regulation of activity, identification of paddlers and enforcement of rules can be encouraged and achieved by such a club structure, which will also assist with accountability along similar lines to angling clubs' membership rules and regulations. In this situation, rules preventing over use of the water would protect the ecology of the river.

We hope the Committee will recommend that Canoe Wales encourages this process. At present, unfortunately, not only is this organization opposed to voluntary access agreements, it has been active in dissuading any existing local canoeing clubs from entering into such agreements.

10. Despite all the above, we are sure that the problem can be resolved. As a way forward and a solution to these difficulties, we propose the following, which we believe should prove acceptable to the great majority on both sides of this dispute.

On most Welsh rivers the bulk of the angling is for brown trout, sewin and salmon. The angling season for these fish varies from river to river, but in the main is something like March to the end of October. However, because the migratory runs of salmon and sewin have become later and later over the years, virtually no angling is carried out for these fish before, roughly, the start of May. [Although angling does take place in the late autumn and winter months on some of our rivers for coarse fish and for grayling in particular. It's this sort of variety which demonstrates why agreements need to be negotiated on a river by river basis].

Broadly speaking however, anglers tend to be on most Welsh rivers during the six months of the year May to October inclusive: during the other six months, from the anglers point of view, there would be little objection to canoeists using the river in a responsible way - ie November to April inclusive. Angling clubs would confirm to riparian owners that they had no objection to this, so there would be no derogation of their leases and riparian owners would almost certainly want to come to agreements with canoeing organisations so as to put an end to the current aggravation on our rivers.

Of course, there would need to be conditions to the use of the water by paddlers in 'their' half of the year to protect the ecology of the river - just as anglers abide by various rules. As all rivers are different, these would need to be agreed on a river by river basis, but, very likely the maximum number of paddlers on any one day would need to be established and the Salmon and Freshwater Fisheries Act would need to be included for the protection of gravid fish and their eggs and so on. But, provided goodwill was shown and all parties agreed to abide by and respect the law, there is every reason to believe that such agreements would be established on a long- term basis.

Our experience of rivers across Wales indicates to us that associations of riparian owners and angling clubs would be more than willing to negotiate and sign up to such agreements. For this to happen, however, what is needed is for the governing body of paddle-sport in Wales to accept that it is unreasonable to refuse to sign any agreement which does not give them year round access to someone else's property. If Canoe Wales accepted the law as it is and adopted a less intransigent attitude, then these sorts of agreements could be put in place in rivers across Wales and their members (or members of local canoeing clubs) would have ample water to paddle and the current degree of conflict would sharply decline. This would be a fair solution for those on both sides of the problem.

Finally, in effecting any solution, similar to the above, we suggest local agreements will play a major role, it would be helpful to have a basic template with identified components, the agreement tailored to suit local requirements but with a framework which provides

commonality nationally. The Federation has given consideration to components for such a template and would be prepared to discuss them with the Sustainability Committee if helpful to the inquiry.

**Note:**

To accompany this submission:

1. Federation of Welsh Anglers response to Sustainability Committee consultation 'Access to our inland Waters in Wales' for reference.
2. Pledge of Support forms - presented on day of evidence submission to Sustainability Committee
3. Photographs of rafters on the River Teifi and canoeist on Merthyr's fish pass.