



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

**Y Pwyllgor Cynaliadwyedd
The Sustainability Committee**

**Dydd Iau, 8 Hydref 2009
Thursday, 8 October 2009**

Cynnwys
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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Mick Bates	Democratiaid Rhyddfrydol Cymru (Cadeirydd y Pwyllgor) Welsh Liberal Democrats (Committee Chair)
Angela Burns	Ceidwadwyr Cymreig Welsh Conservatives
Alun Davies	Llafur Labour
Lesley Griffiths	Llafur Labour
Rhodri Glyn Thomas	Plaid Cymru The Party of Wales
Brynle Williams	Ceidwadwyr Cymreig Welsh Conservatives
Leanne Wood	Plaid Cymru The Party of Wales

Eraill yn bresennol
Others in attendance

Chris Bond	Ffederasiwn Pysgotwyr Cymru Federation of Welsh Anglers
Max Coventry	Ffederasiwn Pysgotwyr Cymru Federation of Welsh Anglers
Gary Davies	Ffederasiwn Pysgotwyr Cymru Federation of Welsh Anglers
John Watkins	Cyngor Cefn Gwlad Cymru Countryside Council for Wales

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Dr Virginia Hawkins	Clerc Clerk
Meriel Singleton	Dirprwy Glerc Deputy Clerk

Dechreuodd y cyfarfod am 9.06 a.m.

The meeting began at 9.06 a.m.

Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau
Introduction, Apologies, Substitutions and Declarations of Interest

[1] **Mick Bates:** Welcome to this meeting of the Sustainability Committee. As usual, I will make some housekeeping announcements first. In the event of a fire alarm, you should leave the room by the marked fire exits and follow instructions from ushers and staff. No fire alarm test is forecast for today. Please ensure that all mobile phones, BlackBerrys and so on are switched off, as they interfere with the broadcasting equipment. The National Assembly operates through the media of both Welsh and English. Headphones are provided, through which simultaneous translation may be received, on channel 1, and for any of you who are hard of hearing, headphones may also be used to amplify the sound, on channel 0. Please do not touch any of the buttons on the microphones, as this can disable the system. Please ensure

that the red light is on before speaking. I welcome the public to the gallery this morning. I have received apologies from Karen Sinclair and Lorraine Barrett who, as we all know, is on Legislation Committee No. 1. I put on record that we must sort something out with regard to committees; there are so many clashes that there are times when some committees are not quorate. We must ensure that that point is made from all sides.

9.07.m.

**Ymchwiliad i Fynediad i Ddŵr Mewndirol: Sesiwn Dystiolaeth—Cyngor Cefn
Gwlad Cymru**
**Inquiry into Access to Inland Water: Evidence Session—Countryside Council
for Wales**

[2] **Mick Bates:** I welcome John Watkins of the Countryside Council for Wales, and invite him to make some brief opening remarks. As I am sure that you are aware, John, questions from Members will follow. Please introduce yourself and your title for the record and then make your statement.

[3] **Mr Watkins:** Thank you. My name is John Watkins and I work on recreation policy for the Countryside Council for Wales. We welcome the opportunity to be here to discuss our written evidence. We are the Government's statutory adviser on both sustaining natural beauty and wildlife and on the opportunity for outdoor recreation and enjoyment in Wales and its inshore waters.

[4] In relation to access to inland water, it is our view that nature conservation considerations are locally important, but they are not significant issues on most inland waters, particularly when combined with appropriate management, raising awareness and suitably targeted codes of conduct. We also believe that there is currently an unmet demand for water-related recreation from the population of Wales, and that seeking to address this demand is a worthwhile pursuit because there is ample evidence that outdoor recreation is good for personal health, human development and quality of life and that it is a significant economic generator.

[5] I will highlight some key points and recommendations to the committee, as outlined in our written evidence. The five tests of securing sufficient quality, extent, permanency, clarity and certainty are legitimate tests when considering access to inland water. We believe that a clear proposal of desired outcomes is required if meaningful evidence against these tests is to be collated and that the cost benefit of meeting them through different approaches can be properly evaluated. We would recommend that there is further exploration of the latent demand that is suggested in the Welsh outdoor recreation survey of 2008, so that we can properly understand the nature of supply that is required for the resident population. Also, any alternatives to the current approaches that the National Assembly for Wales may wish to advocate should build on the typologies and consultations contained in the review of international approaches conducted for CCW in 2007. We also believe that a consistent and integrated approach to the use and promotion of codes of conduct, geared around acquiring appropriate outdoor skills, has the potential to simultaneously mitigate negative impact and promote increased participation.

9.10 a.m.

[6] **Mick Bates:** Thank you for your paper and the appendix. We received some of that evidence in our opening scrutiny session in Builth Wells. I now invite Alun Davies to start the scrutiny of your evidence.

[7] **Alun Davies:** Thank you, Mr Watkins. That was useful. You describe, in your written evidence, the current legal position in relation to access as being complex and, at the very least, disputed. Why do you believe that that is so?

[8] **Mr Watkins:** The nature of the petition, what it has raised, and the debates that have subsequently arisen—over positions taken about voluntary agreements and so forth—points to there being a fair bit of debate and argument about who can go where to do what and so forth. While there is much within the legislation, such as various assertions from common law positions, statutes and so forth, it points to the fact that there is complexity out there.

[9] **Alun Davies:** As to where you believe that we should be, you used the words ‘clarity’ and ‘certainty’ in your presentation and in your evidence. How do you believe that that can be achieved?

[10] **Mr Watkins:** Fundamentally, it comes down to what one is trying to secure at the end game. Those tests arose out of the debates leading up to the Countryside and Rights of Way Act 2000 about access to open country. They were applied against a desired outcome; that is, the wish to see access on foot to so many thousand hectares of open country, and how those five tests of quality, extent, permanency, clarity and so forth, be met in relation to that proposal. Therefore, it is possible to judge against the specific proposal. It is much more difficult to present a conclusive view as to how those tests could be met if there is no proposal that states that we want access to so many rivers, so many lakes and so forth. If it is an open-ended proposal in relation to access to inland water, it is difficult to apply in relation to what should be pursued for what. You could argue that there is already an attempt to provide clarity from the Assembly Government’s perspective in that it is pursuing increased opportunities through a voluntary approach based within the existing framework as it understands it. That is an attempt to say, ‘where there are agreements, that is where there will be clarity’. It all depends on the nature of the proposal.

[11] **Alun Davies:** That is a commentary rather an answer, is it not? We might not understand where we are, but we understand this issue broadly. You can say that it is as long as a piece of string, but it does not answer the question. I would have anticipated CCW to have a firmer grasp of policy in this area.

[12] **Mr Watkins:** As I say, it comes down to what one is trying to achieve. Much of our work to date has been geared around the implementation of the Government’s priorities in relation to the Countryside and Rights of Way Act, and there is a tangible proposal upon which to build.

[13] **Alun Davies:** Does the CCW have any proposals or views on the current legislation or statutory regime?

[14] **Mr Watkins:** We are neutral in relation to where we are at the moment. Our view is that we work within the existing frameworks as we are required to, through our remit letter. The Minister has made it clear that although there is interest in increasing access opportunities, that is to be done through non-statutory means via the existing frameworks.

[15] **Alun Davies:** Would you like to see any change to legislation?

[16] **Mr Watkins:** As I said, we are reasonably neutral in the sense that activity can take place now in relation to increasing access to inland water, as shown by our work with the Environment Agency and others on the Splash Water Recreation Challenge Fund, and work that we have done to date. It is an issue on which we would never say ‘never’, and it is a process that can be started and run in parallel with existing activity. It would be fair to say that all legislation needs to be kept under review as to whether it is meeting current needs.

[17] **Alun Davies:** Is it meeting current needs?

[18] **Mr Watkins:** There is also some debate around that in relation to our Welsh outdoor recreation survey.

[19] **Alun Davies:** Are you going to answer any question this morning? Let us cut to the quick—we are investigating a matter here. We understand the position, Mr Watkins, and we do not need commentaries and descriptions; what we want is analysis and answers to questions. Does the current statutory framework meet the needs that you say are unmet?

[20] **Mr Watkins:** A spectrum of opportunity is required. The evidence that you have heard and will hear is pointing to there being a conflict and some debate about where you can go and what you can do, and so on. Whether current legislation is meeting that or not is a moot point.

[21] **Alun Davies:** It is not a moot point; it is a central point of this debate. Can you give me a ‘yes’ or ‘no’ answer? Is the current statutory framework meeting the needs of users?

[22] **Mick Bates:** You cannot have time out from this question. [*Laughter.*]

[23] **Rhodri Glyn Thomas:** And you cannot phone a friend. [*Laughter.*]

[24] **Mr Watkins:** In parts it is, but, in others, it may not be. If we were to go back to those tests of permanency, clarity and so on, then one can point to some of the voluntary agreements—some of the feedback that we received from John Powell’s research showed that people felt that there were weaknesses in that system. Similarly, there was an opinion that there would be weaknesses in any statutory approach. When we have given advice in the past, for example on access to open country, which was against a fixed proposal, there has been a conclusion that a rights-based approach is usually the best way forward in meeting those five tests of permanency, clarity and so on.

[25] **Mick Bates:** In your paper you note that the Government has not requested since 1999 any advice on access to waterways. You have obviously had discussions with the Government, but we are struggling here to get a direct answer. Why have you not suggested to Government that, since the CROW Act, there is a need to examine access to waterways?

[26] **Mr Watkins:** We have not been asked to specifically advise on a statutory approach, although we have been advising the Government in relation to increasing opportunities and so on. The instruction was to advise on how best to go ahead and promote opportunities within the existing framework. That is the basis upon which we have been involved in the strategic plan, throughout the water-related recreation matters—both the Splash fund and the exemplars that we did. It has all been within the context of the advice that has been sought.

[27] **Mick Bates:** I find it difficult to imagine that, when you discussed the Splash fund or anything else with the Government, you did not look at the statutory basis, and the confusion that Alun is pointing to, and did not subsequently say that we need some legislation to clarify the situation.

[28] **Mr Watkins:** We have not been that explicit in our advice in terms of saying that it needs to be one way or the other. We have tried to—

[29] **Mick Bates:** That comes over clearly from these opening remarks. Alun, do you want to press further? If not, I will bring in Rhodri Glyn and then Brynle.

[30] **Alun Davies:** In assessing the unmet need, I believe that you have been analysing results of the Welsh outdoor recreation survey. Have you drawn any conclusions from that survey?

[31] **Mr Watkins:** We have not drawn any in-depth conclusions from that, because we have only just received the data set, but we have done limited analysis for the purpose of submitting this evidence. There are some interesting findings, most notably the reference to there being some latent demand for the kinds of activities that would be covered by the access that this discussion considers. Alongside that, to put in the context of outdoor recreation as a whole, it seems to be pointing at there being much stronger participation in activities, whether those activities are lower-involvement—by which I mean that you do not need much specialist equipment, acquired skills, and so on. It could be pointing to greater demand for access to water and water space, because that comes out as an important destination feature of a visit. That could well be an interesting discussion on what the proposal—

9.20 a.m.

[32] **Mick Bates:** My colleague Brynle Williams will be asking about access. If you are happy with the answer, Alun, we will move on to Rhodri Glyn and then Brynle.

[33] **Rhodri Glyn Thomas:** I understand your wish to be impartial in this and not to support one side or the other in this debate about access. You admit that there is confusion—and you used the word ‘conflict’—about the debate on access, and you are talking about unmet demand. Surely, without supporting either side of the argument, you have some specific suggestions as to how the situation could be improved and clarified in relation to access. That is what we are looking for. We are not asking you as an individual, or as a representative of the Countryside Council for Wales, whether you support the anglers or the canoeists in this; we are asking you how you think the situation can be improved.

[34] **Mr Watkins:** There are examples of other types of recreation where there are wider rights of access and specific provision, such as that for mountain biking and off-road cycling, where there is a right to ride on bridleways, and so on, and access to a wider part of the countryside. However, over the last 10 years, with the creation of the Forestry Commission’s mountain bike centres with purpose-built trails, and so on, there has been quite an increase in the profile of Wales as a destination for mountain biking, as well as increased participation rates in the activity. That is an example of where there are wider rights of access in existence, where there has been a concerted attempt to create destinations, raise awareness, clarify where people can go and what they can do, and create a welcoming environment. There is similar provision from Welsh Water and others at some of their reservoirs, where there are facilities, promotion of activities and so on. That can provide the confidence and clarity that may be lacking in relation to some stretches of open water. Again, the National White Water Centre at Bala provides a facility that is an obvious destination for these kinds of activities. Without entering into the debate about providing such clarity across all waterways and bodies of water, there are ways that one can at least try to address the supply that is out there, and attempt to meet the demand that exists in a way that people find welcoming, so that they can be confident that they can pursue their activity in a given area.

[35] **Mick Bates:** We will leave that there and move on to access.

[36] **Brynle Williams:** Good morning, Mr Watkins. As the Chair said, we will move on to access and agreements. We have received conflicting evidence with regard to the effectiveness and success of voluntary agreements. What are your views on the voluntary agreement system?

[37] **Mr Watkins:** One of the keys for voluntary agreements is discussion and debate—the

opportunity to get the parties around a table to start talking and negotiating about the issues that they face, and what is particularly pertinent to that local environment, whether it is a river, lake, or whatever. If you can at least get discussions going you can consider the kind of meaningful management that needs to be put in place to secure access, and how to ensure that various activities do not impact upon each other, or on the environment. On the other side, the weaknesses provide the impetus for a discussion and a debate, and then to enter into an agreement. It is vulnerable because it depends on parties fully participating. That can mean that if some participants are not in it, key areas are left out of any agreement, and so on. So, while it has flexibility for local areas, it is also vulnerable in that if there is not a willingness in some areas to enter into such agreements, then the status quo is maintained and that might not address the issue.

[38] **Brynle Williams:** If the legislation regarding access has changed, do you believe that the agreements would still have a part to play? If so, what form do you think they should take?

[39] **Mr Watkins:** There certainly needs to be a distinction between the securing of access and the subsequent management of it. Securing a right of access does not remove the requirement to manage the activities that ensue as a result of acquiring the rights. That is something that has been borne out in all international approaches. There is no change to the need for continued dialogue between parties afterwards. Therefore, if the legislation was changed, there would still be a role for local arrangements so that the key stakeholders for the water in question can continue to discuss its management requirements. That has been borne out more recently by the examples in the Scottish legislation, where a right has been acquired, but the dialogue between parties has continued and needs to continue in order to ensure that responsible recreation continues to the satisfaction of all of the parties that are involved.

[40] **Mick Bates:** On that point, who would be best placed to police any new legislation?

[41] **Mr Watkins:** It depends on the nature of the legislation. As it stands, if the legislation was to go down the line of the Countryside and Rights of Way Act 2000 in relation to walkers and open country and so on, then it is a less formalised piece of legislation than a piece of legislation on water that puts canoeing on a par with angling, with regard to licensing and so on, where the Environment Agency is currently involved in both the regulation and enforcement of such provision. If the legislation was more akin to the Countryside and Rights of Way Act, then it is less formalised and less regulated, and so on. At the moment, that is—

[42] **Mick Bates:** So, who would police it? That was my question.

[43] **Mr Watkins:** As I said, the level of regulation for the activity in terms of licensing permits and so on would suggest that it goes towards the Environment Agency a lot more, whereas if the legislation was broader and was more in the family of the Countryside and Rights of Way Act and public rights of way legislation, then it would probably lean more towards the local authority and other countryside services and the parks authorities.

[44] **Mick Bates:** Thank you, that is useful. We will move on to the environmental impact.

[45] **Leanne Wood:** The committee has received evidence from many people opposed to the opening up of access rights as they believe that certain users could have adverse effects on the environment. However, the evidence provided by the Environment Agency Wales states that there is no evidence that users have a significant impact. What are your views on this?

[46] **Mr Watkins:** Conservation matters are locally important, but it is not a general barrier to increasing access. It is not a point of principle in the sense that because of nature conservation, we could not accept any kind of change. Again, that is borne out in some of the

examples in Scotland in that you can allow for increased access to waterways and put in the safeguards. So, it is not a blanket consideration where the same things apply. We would want to ensure that there are sufficient and appropriate safeguards in place to allow for those sites where it is locally important or those sites that would experience high numbers.

9.30 a.m.

[47] **Leanne Wood:** You just mentioned Scotland and you mention it on page 7 of your paper. Can you tell us what the situation is there? Has there been any impact on conservation since the land reform?

[48] **Mr Watkins:** It is potentially too early to say because the kind of impact that recreation would have is unlikely to be immediate and catastrophic in the same way as a pollutant, or something of that nature. We are aware that Scottish Natural Heritage, our sister agency, is involved in the recreation side as well as the nature and conservation side to ensure that there is understanding of what constitutes responsible recreation in terms of safeguarding conservation features. That seems to be progressing well in that there is debate on it and a presumption that there will be access and that that discussion therefore needs to be held.

[49] **Leanne Wood:** The Chair asked earlier about the policing of any legislation. How is the situation policed in Scotland?

[50] **Mr Watkins:** The overarching policing, although that word is potentially a bit too strong—

[51] **Leanne Wood:** Do you mean ‘enforcing’?

[52] **Mr Watkins:** Yes, enforcing is being done predominantly through the Scottish Outdoor Access Code in terms of prevention rather than cure. So, that tries to raise awareness of what responsible recreation is—of its potential impact and of any conflicts that might arise—so that we can avoid anything that might come up in the first place and to try to raise awareness of appropriate behaviour regarding outdoor recreation in the first instance.

[53] I could not comment on the detail of policing individuals and so on because I am not aware of how this is done. However, on area-based access, where there may be concerns, as we alluded to earlier, voluntary management agreements can be used to mitigate any negative impacts. So, on Mr Williams’s point about the position of a voluntary agreement or a group that puts together such agreements, those still exist, but they are now focused on management.

[54] **Leanne Wood:** If access rights were expanded and the number of users on the water every year increased significantly, would there be significant impacts in hot spots?

[55] **Mr Watkins:** Increased participation increases the potential for impact. We would certainly look for some kind of safeguards that would allow us to continue to deploy the kinds of management arrangements that we are currently putting in place to safeguard some of the protected habitats and species out there. For example, we are involved in fencing off river banks to allow the vegetation and so on to recover. Any kind of access legislation would need to include measures where our ability to still protect river banks as habitats for the otter and so on—

[56] **Leanne Wood:** Do they have that in Scotland under the legislation?

[57] **Mr Watkins:** It includes provision that allows for conservation management to take place, as well as powers for Scottish Natural Heritage to put up signs on what constitutes responsible recreation in particular areas and so on. So, those safeguards still need to be there.

[58] Again, depending on the exact nature of the proposal, we would need to look at exactly what could potentially be useful, because what is in place, and why, would need to be easy to explain to a user. Anything that was too complex in terms of managing that access would probably not work on the ground—and we allude to that in our section on codes of conduct in our written evidence—because it is important that we are quite clear about what constitutes responsible recreation and how access is secured and managed in relation to impact. We know that, for example, the National Whitewater Centre at Tryweryn is highly designated and highly used, and the nature conservation issues there are minimal. Part of that relates to the fact that canoeing takes place at a particular river level. So, there are those kinds of things that one can regulate in a place such as Tryweryn, but less so in a wider countryside setting.

[59] **Angela Burns:** One of the things that is coming across to me is that this is a sort of piecemeal approach. You are basically saying, if I understand you correctly, that any of the environmental impact on rivers would be negligible, but every now and again you will have a special place that you would like to protect, and therefore, you would like to put some kind of management system in place there. However, I am not convinced of the efficiency of that argument. How do you intend to police that one small area? If you say to people, ‘You can ride all over a mountain, but not on this one hectare, acre or 20x20 sq ft’, people are not going to hoist that in. I would like you to try to reinforce that argument as to how it would work. I have read your codes of conduct element and I do not see that being terribly successful. Please convince me otherwise.

[60] **Mr Watkins:** To a large extent, some of this is already happening in terms of there being specific areas where there are concerns or particular features and where we would wish to see access either reduced or moved along a little bit. Part of that can be done if the proposal for the securing of access allows for access and egress points to be properly signposted, put in place and formalised. It is then much easier to move those around in relation to any features of interest. We have an example where there is a current promoted access point adjacent to a freshwater pearl mussel area. In an informal setting, it is very difficult to move that because the channels are not necessarily there, although it does take place in terms of informal discussions with the local stakeholders. However, with the age of communication as it is, once the information that you can get in at this point is out there, then it is very difficult to try and do anything around that unless you can physically alter things on the ground.

[61] Historically, codes of conduct have been deployed as ways of encouraging discussion among users about what is appropriate and what is not. They have probably worked among those stakeholders who are involved in drafting them, but their impact in terms of influencing behaviour on the public has probably been less effective. We have seen an increased awareness of the countryside code since we have been involved in promoting the revised version subsequent to the Countryside and Rights of Way Act 2000, but that is about key headlines of behaviour and is nothing compared with the tome that is the Scottish Outdoor Access Code. Any distance measure, if you like, of trying to influence behaviour is quite difficult and would need to be reinforced locally on site.

[62] In terms of influencing behaviour, it is just one of the things that a countryside manager, be that a landowner or a countryside service, can deploy to try to influence behaviour when visitors are on the ground. I agree that if it was a hectare on a mountain it would be very difficult to get that communicated to a wider audience, especially with regard to some of the more specialist activities. For example, the outdoor survey points to the fact that a huge percentage of the population goes walking, but only a small percentage of the population probably says, ‘I am a walker’. It is probably much easier to try to target information among those walkers, but they are smaller in number in relation to the percentage of the population who would just go for a walk and who would not necessarily seek out information before visiting. Ultimately, it would be quite difficult to get any kind of general

messages out to the broader public, but our view is that, on the whole, the consequences of the impact are not sufficiently serious to warrant the effort of doing that in the first place.

9.40 a.m.

[63] **Angela Burns:** That is fine. I am just surprised that our rivers are not as environmentally sensitive as I had thought.

[64] **Mr Watkins:** They are environmentally sensitive, but not necessarily to the kinds of impact that would be caused by recreation. There are greater concerns about diffuse pollution, abstraction and so on, which could have a far greater impact on the habitats and features that are protected through legislation than that of recreation. However, we feel that there is potential to add local management to safeguard those areas where there could be an impact, whether because of the particular sensitivity of a site or the volume of use.

[65] **Mick Bates:** In answering, you pointed to the difficulties of communication. There are many other organisations that would help to spread the word about any codes of conduct. Rhodri is next on regulation and finance.

[66] **Rhodri Glyn Thomas:** We have gathered from the evidence that you have given this morning that the Countryside Council for Wales believes that its role is to work with any arrangements for access that are taken up by Government, and that you feel that it is not really your responsibility to tell us which ones would be the most effective. Let me put a scenario to you. One possible answer to this is for all water users to register and pay a fee to gain access to the waterways in Wales. Do you think that that could work and be effective?

[67] **Mr Watkins:** No, I do not.

[68] **Rhodri Glyn Thomas:** That was a very clear answer. [*Laughter.*]

[69] **Mr Watkins:** I thought that that would be welcome.

[70] There are examples of registration, as British Waterways runs a licensing or permitting scheme for the use of the waterways. However, the activities in question, such as canoeing and other informal water recreation, do not lend themselves to that kind of approach. Coming back to which family of legislative or regulation routes one wants to go down, there is a current example in the form of angling and rod licences, and that takes you down a particular avenue. We could have had a similar debate in relation to the Countryside and Rights of Way Act 2000, going down the route of saying that hill walkers should be considered equivalent to canoeists and should be registered or licensed in one way or another. I do not think that it would necessarily work with the kinds of activities that we are talking about and it would also be prohibitively expensive to try to administer something like that.

[71] **Mick Bates:** Thank you very much for that answer, John.

[72] **Lesley Griffiths:** You have referred to the legislation in Scotland in previous answers, and we have received conflicting evidence as to whether it is working there. You have given us your views on that. Is there anything else that you would like to add?

[73] **Mr Watkins:** I would just say that we listen to the views of our colleagues who work for Scottish Natural Heritage, who believe that the legislation works, from their perspective. We would take their view on it, if you like, and so we pretty much support the evidence that was presented to the Petitions Committee in the earlier stages of this debate at its meeting in Scotland.

[74] **Lesley Griffiths:** Do you have any evidence from any other countries that manage open access?

[75] **Mr Watkins:** In our experience, England and Wales are the exceptions when it comes to how access is secured. There is security of access in many other countries, but they still deploy the countermanagement arrangements, such as codes of conduct, area and time zoning and so on, to manage the resulting impacts. The discussion is not necessarily about the appropriateness of the activity that takes place or the potential impacts of it; it comes down to more of a point of principle as to whether one wants to pursue a rights-based approach or a voluntary one, because it does not remove the need for discussion and consensus on the appropriateness of the management that takes place on it afterwards. That still happens. There is still that discussion in other countries that have a right of access.

[76] **Lesley Griffiths:** If the legislation is not changed, what could be done to ensure an improvement in access and participation?

[77] **Mr Watkins:** We are already working with the Environment Agency and other partners to create incentives for use through Splash, the water recreation challenge fund for Wales. By making improvements to the existing infrastructure as well as by bringing forward other sites, we hope to increase the extent of access, so that is the approach that we need to pursue. We will probably tweak that once we have analysed the demand and the nature of who is participating, and where and when from some of the research that we have done on participation. Within the existing frameworks, however, that will probably be how we will pursue it.

[78] **Mick Bates:** You mentioned Splash, John. What will happen when that finishes?

[79] **Mr Watkins:** Whether it is to continue will be a resourcing decision, and that will be dependent on whether it is seen to be successful in bringing about new opportunities and new access.

[80] **Mick Bates:** You have told us that registration will not work, and that was an answer that we were all hanging on. So, it is all down to Government to fund access. Is that the answer?

[81] **Mr Watkins:** It is not all down to Government. There are clear examples of other activities provided for by the private sector, and that brings us back to the example of mountain biking. While many of the forest centres are run by the forestry commission and, therefore, by Government, the centre in Llandegla is run by UPM Tilhill, which has gone into it as a commercial venture. Similarly, on access to the water environment, there is potential for commercial interests to get involved.

[82] **Mick Bates:** I accept that, but can you confirm that there is no rod licensing in Scotland? Is that true?

[83] **Mr Watkins:** I am not sure.

[84] **Mick Bates:** Okay, thank you. Alun, do you want to finish off on this?

[85] **Alun Davies:** Yes, thank you. You used an interesting phrase in answer to my colleague Lesley Griffiths earlier. You described England and Wales as 'exceptions' in relation to access. Could you explain exactly what you meant by that? It might be useful if you were to provide the committee with a note on how CCW sees access agreements working in other countries—and I mean other states and jurisdictions rather than simply Scotland, Northern Ireland and the like.

[86] **Mr Watkins:** I cannot remember in which context I used the word ‘exceptions’.

[87] **Mick Bates:** You said something along the lines of England and Wales being exceptions when it comes to access to inland water.

[88] **Mr Watkins:** Okay. That was one conclusion of the study that was carried out. On the whole, a rights-based approach is taken to the use of water in most of the other countries that we looked at, rather than—

[89] **Alun Davies:** Did you take a Europe-wide approach?

[90] **Mr Watkins:** It included Europe, North America and—

[91] **Mick Bates:** It was in the original evidence, of course.

[92] **Mr Watkins:** Yes. So, England and Wales are exceptional in the sense that, at the time, they were pursuing a purely voluntary agreement approach to these areas.

[93] **Mick Bates:** Will you provide a concise note on access?

[94] **Mr Watkins:** Yes.

[95] **Mick Bates:** Thank you. That will be useful for us.

[96] Are there any further questions from committee? I see that there are not. In that case, I thank you very much for your written and oral evidence, John, and we look forward to receiving a concise note on international comparisons, although we do have some information on that. A draft transcript will be sent for you to examine, so please let us know whether you are satisfied with it.

9.50 a.m.

**Ymchwiliad i Fynediad i Ddŵr Mewndirol: Sesiwn Dystiolaeth—Ffederasiwn
Pysgotwyr Cymru
Inquiry into Access to Inland Water: Evidence Session—Federation of Welsh
Anglers**

[97] **Mick Bates:** It is the committee’s pleasure to welcome these three gentlemen from the Federation of Welsh Anglers to the table: Chris Bond, Gary Davies and Max Coventry. As is usual with our witnesses, we thank you for your written evidence in the two papers. I invite you all to give your name and position for the record, and then perhaps one of you could make some brief opening remarks for a couple of minutes about your position on this issue. The committee then has a series of questions to ask, to scrutinise your evidence.

[98] **Mr Coventry:** Good morning. My name is Max Coventry, and I am from north Wales. The first thing that we must achieve this morning is to establish with complete clarity and to agree on the law in relation to these matters. Without that consensus, I cannot see that we can ever put in place a solution to the problem that is likely to be long lasting. I believe that I have the evidence to convince everyone here of the exact legal position.

[99] I also want to demonstrate the depth of support for the current law among Welsh country people. In my opinion, those on one side of this argument have been extremely loud and voluble, while the anglers and riparian owners have been so reticent as to be almost

invisible. I wish to give a voice to their valid opinions.

[100] I wish to show how voluntary access agreements worked well for many years. They were perfectly satisfactory for decades until the Welsh Canoeing Association, now Canoe Wales, broke those agreements. Most importantly, I want to propose a solution to the problem that we think is fair to both sides, and make a suggestion as to how this committee can start the process of putting it in place. I hope that we can answer all your questions clearly and without ambiguity.

[101] **Mick Bates:** Thank you very much. Will the other witnesses state their names and position within the federation for the record?

[102] **Mr Bond:** My name is Chris Bond, and my role is angling development manager for the Federation of Welsh Anglers.

[103] **Mr Davies:** My name is Gary Davies, and I am the voluntary chair of Merthyr Tydfil Angling Association.

[104] **Mick Bates:** Thank you very much for that opening statement, and I look forward during the scrutiny session to examining some of the issues that you raised in those opening remarks and in your papers. I invite Alun Davies to talk about the legal position.

[105] **Alun Davies:** Thank you for your opening statement. I hope that you can clarify the situation with the certainty that you suggested, Mr Coventry, because that would make you unique.

[106] **Mr Coventry:** I am quite confident. I do not want to get into case law, as I am sure that you have Assembly lawyers to deal with that. Very briefly, however, I want to give a few quotes from the main most respected legal books that deal with this matter. Probably the most respected is *Halsbury's Laws of England*, which includes Wales. The 1973 edition states the following.

[107] 'General absence of public right of navigation. The public right of navigation that exists on tidal waters does not apply to non-tidal waters and in consequence there is no general common law right of public navigation either in non-tidal rivers or on inland lakes. The soil there is not vested in the Crown but prima facie, in the case of non-tidal rivers, is vested in the riparian owners.'

[108] The 1992 edition of *Wisdom's Law of Watercourses*, which is probably the most respected legal book on this area of law, states the following.

[109] 'Navigation on non-tidal watercourses. In general the public have no right at common law to navigate on non-tidal waters... Where no right of navigation exists in relation to inland waters, the use of those waters for the purposes of navigation will amount to a trespass'.

[110] The 1990 edition of *Water and Drainage Law* by John H. Bates states the following.

[111] 'Navigation on non-tidal waters. The distinction drawn between the automatic right to navigate over tidal waters and the limited right over non-tidal waters rests on the ownership of the bed of the waters. Above the flow of the tide the land beneath a river or stream is privately owned so that while the public can acquire navigational rights over such waters they cannot have them as of right. A river may be navigable in fact but the right to use it will, unless otherwise shown, remain with the riparian occupier.'

[112] **Alun Davies:** Okay—

[113] **Mr Coventry:** I am sorry, may I complete this by briefly referring to a final, well respected book by Carty and Payne? The book states that, in tidal waters, there are rights of navigation for the public. In inland waters, there are no such general rights.

[114] **Alun Davies:** I understand what is written in legal textbooks, but the reality is that that bears no relation to what happens week in week out.

[115] **Mr Coventry:** Yes, it does. It bears relation to what is done by the people who abide by the law, namely the riparian owners and the angling clubs. The people who do not abide by the law, unfortunately, are the canoeists.

[116] **Alun Davies:** That is quite a sweeping statement and represents a big difference between the two sessions. The point that I am trying to make is that, in your written evidence, you have this position, which exists in the legal libraries, of the land, and then there is the reality that exists on rivers up and down Wales on a day to day and week to week basis. You have described the legal position in your written evidence, with which I would not necessarily disagree, but it is almost irrelevant.

[117] **Mr Coventry:** That is not right. There is unanimity in the legal position—

[118] **Alun Davies:** We understand that, Mr Coventry, but what I am trying to say to you is—

[119] **Mr Coventry:** That unanimity—

[120] **Alun Davies:** Excuse me, what I am trying to put to you, Mr Coventry, is that there is a difference between theory and reality.

[121] **Mr Coventry:** No, there is not. The theory and the reality are the same for riparian owners and angling clubs. The riparian owners own the river beds and the rights to the rivers. The angling clubs lease those rights from the riparian owners. They abide by the law, because that is the law and its structure, but, unfortunately, canoeists do not; they just come onto the rivers whenever they want to, wherever they want to and they trespass. The discrepancy between practice and theory is simply to do with paddlers. The angling clubs and riparian owners abide by the law.

[122] **Alun Davies:** We have been trying, in this inquiry, to stay clear of naming particular groups and putting them in different corners; rather, we are looking at what happens. You referred in your evidence to the

[123] ‘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’

[124] and so on. What you say in that evidence, which is different to what you are saying this morning in your oral evidence, is that you have the law, in theory, and then you have what happens in practice, and that they are two entirely different things. Do you not accept that there is what amounts to unrestricted access at the moment? You can argue whether that is legal or illegal—let us put that to one side—but the fact of the matter is that unrestricted access exists at the moment, because it is unregulated and unpoliced, and that that leads to real confusion about where the law stands. Do you accept that?

[125] **Mr Coventry:** No, the unregulated access at the moment is a trespass. There is no confusion about that. I have read out all these quotations; I could read out more. There is no

confusion at all. The confusion has been put into the public domain by the Welsh Canoeing Association, which has ambiguous comments on its website—

[126] **Alun Davies:** I am not talking about that. I do not care about the canoeists, quite frankly. I am talking to you about the reality of what happens every weekend in Wales; whether it is on a statutory basis or not is almost irrelevant. The fact is that we know, you know and everyone in this room knows that there is almost unrestricted and unregulated access to waterways in Wales.

[127] **Mr Coventry:** That is not the case. Thousands and thousands of anglers have access to rivers every weekend and every day within the law. They are members of clubs, they pay their membership fees to those clubs and the clubs pay the riparian owners in order for them to be legally on the water. That is within the framework of the law. There is no unrestricted access there. The unrestricted access comes from canoeists.

10.00 a.m.

[128] **Alun Davies:** Mr Coventry, we are here to ask questions.

[129] **Mick Bates:** Can you draw this to a conclusion now? I think that—

[130] **Alun Davies:** I am trying to establish whether you accept that there is any confusion about where the law stands in Wales. The answer to that seems to be ‘no’.

[131] **Mr Coventry:** There is no confusion whatsoever in terms of the law. It is crystal clear.

[132] **Alun Davies:** Okay. That is your evidence; that is fine. Do you wish to see any changes to the current statutory framework?

[133] **Mr Coventry:** No.

[134] **Alun Davies:** There we are.

[135] **Mick Bates:** I call on Rhodri to speak briefly.

[136] **Rhodri Glyn Thomas:** Chair, I would like to bring forward my questions on regulation and finance, because I think that they fit in very well.

[137] **Mick Bates:** All right. I am happy for you to do that.

[138] **Rhodri Glyn Thomas:** It seems that you are saying that anyone who wants access to inland waterways in Wales should have to register, pay a fee, and have an agreement with the riparian owners of—

[139] **Mr Coventry:** They have to have an agreement with the riparian owner, because it is private land, in the same way as anyone’s back garden is private land. Exactly the same laws abide.

[140] **Rhodri Glyn Thomas:** When I asked John Watkins of the Countryside Council for Wales whether that was a practical way of trying to regulate access to waterways, he gave what was his only specific answer of the session; he said ‘no’. How would that work? Are you saying that that would work in practice?

[141] **Mr Coventry:** Yes. It worked very well. Voluntary agreements existed on approximately 20 major rivers across the country, giving the water to canoeists, which is what

they wanted. It stopped working when the Welsh Canoeing Association broke those agreements. It is as simple as that. Now, the Welsh Canoeing Association, or Canoe Wales as it is now known, refuses to enter into any agreements that do not give it access 365 days of the year on to someone else's property. Obviously, there are no agreements at present. If it was to moderate its stance, be less militant and intransigent, agreements would come into effect again and water would be available to canoeists.

[142] **Mick Bates:** I will just advise Rhodri that other Members wish to speak, but you may continue for the moment.

[143] **Rhodri Glyn Thomas:** If everyone was registered and paid a fee, there would be a substantial sum of money available from that. How would you see that money being used?

[144] **Mr Coventry:** Are you talking about licensing by the Environment Agency? The licence fees that anglers pay to the Environment Agency go towards improving the habitat of the rivers. As canoeists presumably also benefit by having clean water and good ecosystems, presumably any licence money from them would also go towards that habitat improvement. I think that we have to be very clear to separate licence fees and fees paid to clubs. Anglers pay both sets of fees.

[145] **Rhodri Glyn Thomas:** I understand that.

[146] **Mr Bond:** Licence fees are used for more than just habitat improvement; they are utilised for promoting angling participation, and also for enforcement, which is particularly important. There are many complaints, throughout Wales, that perhaps we do not have enough enforcement as far as angling is concerned—what we used to call bailiffing. If we did have a means of gaining extra income from other water users, this means of enforcement could be expanded to incorporate these other bodies. Then, there would be more money available for this purpose, which is very important.

[147] **Rhodri Glyn Thomas:** If you had a system of everyone registering and being licensed, it would have to be enforced, would it not?

[148] **Mr Bond:** Yes; there has to be some kind of enforcement or regulation.

[149] **Rhodri Glyn Thomas:** Are you confident that that can be done?

[150] **Mr Bond:** I am not saying that it is the entire answer but it would certainly be a valuable asset to the whole process.

[151] **Mr Coventry:** We must be careful not to confuse—

[152] **Mick Bates:** Before I call Angela, and then Alun, I would like to clarify one issue that arose in the last session. What is the situation regarding rod licensing in Scotland?

[153] **Mr Bond:** As far as I know, there are no rod licences in Scotland. I do not know what the situation is as far as the Environment Agency is concerned.

[154] **Mick Bates:** Thank you.

[155] **Angela Burns:** I completely understand your argument about the law—that the law is the law. I also understand your comparison with the back garden. I think that one of the problems is the confusion. Here is a scenario: I park my car in a lay-by and walk down to the river, where there is a towpath or a pathway; I and my dog walk down the pathway and the dog jumps in and out of the water. There is nothing, at any point, to tell me that I cannot do

that, and I would never think otherwise, even though I am a country person. I understand that a field has a fence and a gate, and if I go in, I shut the gate behind me. However, I do not think that people think that way about rivers, because they are out there enjoying themselves and not necessarily thinking, 'I have just walked onto someone else's land'. It is the same for canoeists, paddlers, swimmers or whoever who may be on or in the water. You may have parked your car nearby and got into the water, but there is no feeling that you are breaking the law, because there are no boundaries and no gates. So, most people do not think of that as being illegal. Do you accept that view or not?

[156] **Mr Coventry:** No-one is worried about a swimmer or a dog that jumps into the water. The current worry is the mass trespass by canoeists that inevitably creates a great deal of aggravation. That is at the heart of the problem. Licensing is a rather different matter. You can license a canoeist, but you would not be getting to the heart of the matter, which is their refusal to accept voluntary agreements unless they are given access 365 days of the year. That is the heart of the problem. They withdrew from these agreements, so canoeists do not have water on which to paddle.

[157] **Mick Bates:** May I clarify two things about the rights? Do fishing rights give anglers the same rights as owners of the land?

[158] **Mr Coventry:** No, they do not.

[159] **Mick Bates:** Do fishermen lease fishing rights or the land-ownership rights?

[160] **Mr Coventry:** They lease the fishing rights.

[161] **Mick Bates:** There is no question of any other rights?

[162] **Mr Coventry:** They can buy the fishing rights; Gary can tell you about that.

[163] **Mr Davies:** I should be able to answer this question. Merthyr Tydfil Angling Association has been in existence for 40 years, during which time we have been safeguarding the fishing in and around Merthyr and on parts of the River Usk for the people of Merthyr. So, we have not relied on rental or a lease; we have purchased riparian rights on some 15 miles on the River Taff, and we have purchased 3 miles on the Usk, at tremendous expense, for working men like ourselves—although I am not a working man any longer, because I have a bus pass. *[Laughter.]*

[164] **Mick Bates:** I do too. *[Laughter.]*

[165] **Mr Davies:** Angling clubs in Wales have been purchasing fishing rights and land—we own our own nature reserve, for example. At present, we are negotiating to purchase more fishing rights with more land. We buy the land so that we can then turn it over to the local village, which can then use the land and access the water alongside us. However, what we object to is the characters who just come along and say, 'I am going to do this for free and I do not care what you say'. If they ask us to make an agreement, we will talk to them, but, until that time, we are going to be annoyed, as you would be if they came into your garden and had a barbeque. As a matter of fact, I have a letter here from some canoeists thanking us for all the help that they have received from us over the years, and which they expect in future years.

[166] **Mick Bates:** Thank you for that, Gary. What you are saying is that buying the land is your solution; you give access to that land to local communities, but you retain the ownership of the land and the fishing rights.

[167] **Mr Davies:** Yes. Part of the Trevithick tramroad, which we purchased, was upgraded to the tune of £160,000 and then passed over to Merthyr Tydfil County Borough Council.

[168] **Mick Bates:** Thank you for that information.

[169] **Alun Davies:** That is an interesting scenario. I will return to a point that Mr Coventry made earlier in response to Rhodri. You seemed to be saying, following a scenario that Angela outlined in her question to you, that if I took my daughter along the Rheidol or Ystwyth rivers, I would have to register her and me, and would have to pay a fee to be able to do so.

[170] **Mr Coventry:** I did not say anything about registering for swimming.

[171] **Alun Davies:** You did say, Mr Coventry, that people should register and have permits to use water resources.

10.10 a.m.

[172] **Mr Coventry:** No, I did not say anything to that effect. I said that if you swim in a private part of a river, you need an invitation from the owner to do so without trespassing. We discussed licensing with the Environment Agency, to provide funds for it to improve the habitat, and that is a rather different thing; it would be fine, but it does not get to the heart of the matter. If you use someone's river without their permission, then you are trespassing in the same way as if you go into someone's back garden without their permission.

[173] **Alun Davies:** I do not buy the comparison, I must say, but we will have to leave it there. Mr Davies, you made a point about buying up parts of rivers in order to give them to the people of Merthyr; it sounds as if you are almost nationalising parts of that river. I accept that it is limited to Merthyr—

[174] **Mr Davies:** I did not mean just Merthyr—we accept people from all over Wales and Britain in its entirety.

[175] **Alun Davies:** I understand that you would. However, surely it would be easier for you as a club if you had that access by right, rather than being forced to spend a considerable amount of money buying it.

[176] **Mr Davies:** I do not see that at all. I have no right to go into a building and say, 'Right, I am going to live here' as a squatter. Surely it is the same with the land; if we purchase the land, then we are the owners and we can use it as it should be used, for fishing, and other people can use it as well—we have no problem with other people using it. If the weather is warm and someone is swimming in the pool, that does not hurt us at all—we would not be fishing there. When we are fishing it will be so cold that no-one would want to be in the pool anyway. Children can go paddling there, too. At the moment, we are trying to create a park at Dowlais—I do not know whether you know that area at all, but it is at Penywern ponds, next to Asda. We have spent in the region of £40,000 putting car parks there, opening the area up, and not just for fishing, but for the general public. It is all at our behest. The council is helping as well—it is helping a lot, as a matter of fact. The ground belongs to the council. However, if we had not made the move to do this, people would have great difficulty in getting up there. We are very much in favour of saying that we are part of the population; we are not separate just because we are anglers. We want everyone to be in with us, but we do not want some people to ride roughshod over us.

[177] **Alun Davies:** However, the reality is that, if you buy a three-mile stretch of river and open it up to different users at different times, by the same token, you could just close it down

as well.

[178] **Mr Davies:** No, we have no intention of doing that at all.

[179] **Alun Davies:** You could—you would have the right to do that.

[180] **Mr Davies:** Theoretically, yes, I suppose we could, but what would that give us?

[181] **Alun Davies:** I accept that you would not do it yourselves, as a Merthyr club, but the point that I am making is that, in law, listening to what Mr Coventry said, you could just say that the three-mile stretch of river belongs to you, you want it for yourselves, and that is it: no access, no freedom, nothing.

[182] **Mr Davies:** I do not think that anyone in Wales, or certainly no-one that I know of, has that attitude. They are prepared to share, but share in a regulated and responsible manner.

[183] **Alun Davies:** Perhaps you should have a chat among yourselves.

[184] **Mick Bates:** I will just bring Brynle in here.

[185] **Brynle Williams:** I have a few points on access, if I may. The bone of contention seems to be the withdrawal of the voluntary agreement by a specific body—is that right?

[186] **Mr Coventry:** Yes.

[187] **Brynle Williams:** If that could be reinstated effectively, we would not even be sitting here listening.

[188] **Mr Coventry:** That is correct.

[189] **Brynle Williams:** What are the main gripes, if I may put it that way? Are we talking about access to the water, or to the riverbank? You will see where I am coming from in a minute. I am getting the message from certain areas in north Wales that certain bodies of people are creating problems going across the banks and entering and exiting the rivers. There is no problem with the fishing. I am trying to establish whether that is the case, and if it is, should we be looking at registration of all man-powered vessels on the water, or putting facilities in place at entries and exits in certain areas? I do not know. However, I have also heard the argument that fishing clubs, anglers' associations, and what have you, have spent a lot of money, and I agree with Mr Davies—I see the amount of work being done in my village, but that is for the benefit of the community. However, the one bone of contention seems to be the withdrawal of an access agreement.

[190] **Mr Coventry:** That is correct. Riparian owners and anglers, to my knowledge, have never withdrawn from an access agreement. About 10 years ago, there were about 20 such agreements across the county, which gave canoeists the water that they needed to paddle. The canoeists withdrew from those agreements. That is the problem at the moment.

[191] **Brynle Williams:** Canoe Wales has decided not to enter into voluntary access agreements as it believes they are unsustainable and ineffective. What are your views on that?

[192] **Mr Coventry:** My view on that is that it is doing a huge disservice to all its members. It has been clearly shown that many of these voluntary agreements are extremely long-lasting. Some of them lasted for more than 20 years, so they must have been satisfactory. There was one on the River Usk for 23 years and agreements on the River Dee for 35 years. If those had been unsatisfactory, they would have stopped and started, but they did not; they carried on.

That proves that they were perfectly satisfactory to both sides. They can be put in place and they can be satisfactory. Unfortunately, the intransigence of the current management of Canoe Wales has caused this problem by insisting that it needs complete freedom of access all year round. That is the root of the problem.

[193] **Mick Bates:** I wonder whether you can help me here, Max. In the last evidence session, which I think Alun referred to, we heard from the CCW that England and Wales were the exception rather than the rule with regard to rights of access to water. You are probably familiar with the variation in international laws that allow access, but he said that we were an exception. Do you agree with that? If we are an exception, how is it that all other countries can manage to legislate to give equal rights?

[194] **Mr Coventry:** I do not know what the position is in countries outside England and Wales; I know a bit about Scotland. I am sure that other countries have different legal structures, a different history, and a different geography. Everything is different, and their conditions of access may well be different. What interests me are the conditions of access in Wales and ensuring that we have a fair solution here.

[195] **Mick Bates:** That is something that we may share. However, can I clarify that you do not wish to question that we are an exception, as the CCW stated?

[196] **Mr Coventry:** If you say that other countries have different legislative structures for access to rivers, I am quite happy to accept that.

[197] **Rhodri Glyn Thomas:** Mr Coventry, you are very clear about the legal position and the need for voluntary agreements. Are you telling us that if those voluntary agreements were in place there would be no conflict—that it could work?

[198] **Mr Coventry:** I would say that the conflict would be hugely reduced. The voluntary agreements certainly worked; they have been proven to work.

[199] **Rhodri Glyn Thomas:** You feel that anglers and canoeists could live together. Is that correct?

[200] **Mr Coventry:** The solution is staring us in the face. There is a fishing season during which it is legal for anglers to go fishing. On most Welsh rivers, you are talking about 20 March to around the end of October. In practice, because the migratory runs of salmon and sea trout have got later and later, most anglers on most Welsh rivers do not start fishing until around May. So, they are on the rivers between May and October—six months of the year. That leaves the other six months of the year when anglers are not on the rivers. If you ask anglers whether they would be happy for canoeists to be on the river during the other six months of the year, provided that there were some conditions and regulations and that they were responsible, the answer would be 'yes'. So that is the answer.

[201] **Leanne Wood:** They do not want to be out there in the winter; the point is that they want to be on the river in the summer.

[202] **Mr Coventry:** I am not sure that that is entirely correct. Many canoeists like to be on the river in higher water. I know that we have had some high water in the summer, but there is often high water in the winter months. I do not know much about canoeing, but they do not always want to go in the summer and many want to go in the winter. You will see loads of canoeists in the winter on many rivers.

10.20 a.m.

[203] **Mr Davies:** As far as Merthyr is concerned—and I am pretty sure that I am on firm ground in saying this because we have offered this to a canoe club in the past—if they wish to use the river in low-water conditions, in the heat of summer, when we get hot summers, we have no water because we are regulated by reservoirs. Midday is often of more consequence to the angler. He wants to be there in the early morning, up until about 9 a.m., and he will want to be back on the river for what we call evening rise, which is at about 5 p.m.. I am only talking about the upper Taff, where we have jurisdiction. We would have no problem in coming to an agreement with a canoe club about using the river in those circumstances, but we need to be sure that the club is regulated, that we know who it is and that it knows who we are. Canoeists should not just come along and say, ‘I’m doing this. You can stuff what you think wherever you want to stuff it’. Let us be real and use what is available in the best way possible.

[204] **Mr Bond:** Circumstances differ from area to area, and the beauty of local voluntary access agreements is the fact that they take into account the requirements of the riparian owner and water users. Obviously, there has to be negotiation. They also take into account local circumstances and means of fishing. On rivers that are primarily sea trout rivers, for example, if there is disturbance, that fishing is ruined—sea trout is a shy fish that often requires areas of water to be left undisturbed for periods of the day, and fishing can take place, during certain months, at night. During negotiations about access and so on, such matters must be taken into consideration. That is the beauty of local agreements.

[205] **Mick Bates:** Did you want to come in here, Angela?

[206] **Angela Burns:** No, I have a question to ask while we are on impact.

[207] **Mick Bates:** Leanne can ask her question first, and then Angela can follow.

[208] **Leanne Wood:** I want to look at the environmental impact. You say in your evidence

[209] ‘Conservation is a major issue—we maintain that unrestricted access to Welsh rivers would be ecologically very damaging.’.

[210] In written evidence to committee, the Environment Agency stated that, while it is possible for many activities, including recreational activities, to impact on spawning fish and their spawning areas, it did not have evidence that existing users have a significant impact and that it believed that the risk of impact could be removed through good management. What are your views on that?

[211] **Mr Coventry:** The photographs on the page that I am holding up show a tremendous density of paddling—what I would call a gross overexploitation of the river. Our arguments are based on common sense. You cannot have that density of overuse without there being a degradation of the environment.

[212] **Leanne Wood:** This committee is interested in evidence. Do you have any evidence for suggesting that there are ecological impacts and that conservation is a major issue?

[213] **Mr Coventry:** I cannot give you statistical evidence in that way. I can show you these pictures—

[214] **Leanne Wood:** So, it is just a hunch.

[215] **Mr Coventry:** No, it is not a hunch. That picture is a lot more than a hunch.

[216] **Alun Davies:** Is that the exception or the rule?

[217] **Mr Coventry:** These canoeists are trespassing at present. If free access was granted, this would be far more common. This picture is of the River Teifi, which is one of the bigger Welsh rivers. You can imagine the impact of this sort of exploitation on many of the smaller ones.

[218] **Leanne Wood:** We have just taken evidence from CCW representatives who said that the impact would be negligible, but you are saying that you think, on the basis of common sense and that picture, that there would be major damage.

[219] **Mr Coventry:** That is correct.

[220] **Leanne Wood:** In its oral evidence to committee, Canoe Wales stated that if the legislation were changed, it did not believe that it would cause an explosion in the numbers of users and that it could result in a dissipation of numbers in hot spots, or honey-pot sites. Do you agree with that statement and, if not, why not?

[221] **Mr Coventry:** No, I do not agree with that statement. You have to ask how many canoeists are willing to trespass in order to pursue their sport. If you think that 100 per cent are, I would agree that there would be no increase, but I do not think that 100 per cent are. I think that it is a much lower percentage. Many canoeists are not willing to trespass. Presumably, if the law were to change to give them free access, they would come onto the rivers at the same time and increase the scale of exploitation.

[222] **Leanne Wood:** If access were to be established case by case, and if the number of users able to access a river at a particular time was stipulated, would that alleviate your fears about excessive use or overuse?

[223] **Mr Coventry:** One of the provisions in voluntary access agreements normally is a cap on the number of canoeists or paddlers that can use a stretch of river on any one day. So, yes, I would say that that is essential on almost all rivers.

[224] **Leanne Wood:** Thank you.

[225] **Angela Burns:** That brings me neatly back to the question I want to ask. In your evidence, you say that it would help to have a basic agreement template with identified components. Could you run through the components that you would like to see there? Obviously, a cap on the number of users would be one of the components.

[226] **Mr Bond:** We have outlined a number as being desirable. I will read several points. We would like to see written agreements that would be renewed annually, which would be a legal document. Registration and identification would be carried by all craft, by which we mean all those who wish to use a craft on a waterway. Public liability for users is another component. A code of conduct is particularly important, and it should be agreed by all parties. Sanctions for transgression of any part of the agreement would be applied. We recommend setting out dates, times and water levels when access is allowed or disallowed. Locality maps noting access and egress points, and parking and changing areas would be desirable. Conservation, the protection of fish, wildlife and habitat measure should also be taken into consideration. There are one or two other points that perhaps need to be rethought with regard to the number of permits per day for users in a particular area, which you mentioned. Also, recently, we have seen more commercial use being made of our rivers. Commercial firms are coming in and running rafting activities and so on. There may need to be some consideration of commercial use, although we would not recommend commercial organisations being part of any agreements where we are concerned.

[227] **Angela Burns:** Would you see that agreement being applied equally to canoeists and anglers?

[228] **Mr Bond:** Yes, it would have to be.

[229] **Angela Burns:** Even with the public liability and similar issues?

[230] **Mr Bond:** Yes. Most angling clubs these days will be insured against public liability, so their members are covered. That is very important in this day and age.

[231] **Angela Burns:** I just want to establish that you do see it as a completely equal thing. For example, I have what is more of a thin, skinny stream than a river running through my field at home. In theory, I could say that canoeists can jump on to it and anglers can angle there. As I do not do either sport, I would want an agreement that I, as the owner, could give to both parties so that they could go and enjoy themselves.

[232] **Mr Bond:** It must be remembered that anglers are licensed, regulated, and accountable. We just want to see that kind of accountability in the agreement for other users.

[233] **Angela Burns:** Thank you. I am done.

[234] **Lesley Griffiths:** Mr Bond, you touched on this point before, but if there were to be a change in legislation, how would you wish to see the different users held accountable, and how would you envisage this being policed?

[235] **Mr Bond:** The policing of it would be difficult. If it were outside policing, for example, in the case of angling, we have Environment Agency policing and enforcement besides resorting to the law and police forces for various transgressions. Every angling club has a set of rules and regulations that its members abide by. To take canoeists as an example, a similar membership situation, related to agreements, would certainly help in that kind of regulation and enforcement, because a member of an angling club who transgresses has to face the consequences and possible withdrawal of permission to use the club or a stretch of water. Outside of that, I am not sure of the legal situation. Perhaps Max could add something.

10.30 a.m.

[236] **Mr Coventry:** Voluntary agreements would give that control. At the moment, anglers are members of clubs, which have a series of rules. There are also Environment Agency bye-laws, which control how they can fish. So, if voluntary agreements started up with canoeing clubs, then those canoeing clubs equally would have a series of rules and controls, and the agreement with the riparian owners would enshrine them.

[237] **Lesley Griffiths:** In your written evidence, you state that if assets were to become devalued, landlords and tenants would expect compensation from the Welsh Assembly Government. Can you expand on this please?

[238] **Mr Coventry:** Rivers are rural businesses. The usual set up is that the riparian owners rent out their assets to whomever, and it is very often to angling clubs. The angling clubs quite often have a large local membership, which pays money into the angling club, which, in turn, pays money in order to rent these waters from the riparian owner. If the amount of canoeing that takes place significantly increases as a result of a change in the law to give free and open access, then the fishing would be degraded, the angling clubs would lose value and the amount of money that they could pay to riparian owners would reduce and there would be a reduction in the value of the riparian asset. So, both riparian owners and angling clubs would quite rightly want compensation to the value of that loss. There would be a huge

number of claims and they would be of very large value.

[239] **Mick Bates:** Thank you, Lesley. Are there any further points?

[240] **Brynle Williams:** On that point, Chair, are there any figures regarding the cost of policing if this legislation is brought forward? I worked with the Environment Agency in north Wales prior to the announcement regarding this legislation and there is a massive shortage of manpower with regard to the number of river bailiffs. These would be needed to control fishing as well as policing the use of the waterway. Is there a figure available, even a guess, as to what the cost might be? Someone will have to bear this cost; the money for policing has to come from somewhere. Once again, it would be a damn sight easier—excuse the term—if a voluntary agreement could be made between the parties.

[241] **Mr Coventry:** You are talking about Environment Agency licensing. At the moment, salmon and sea trout anglers pay £70 a year to the Environment Agency, which gives it about £1.4 million a year, which it uses partly for enforcement and partly for habitat improvement.

[242] **Brynle Williams:** What I am getting at is that if legislation leads to free and open access to the rivers, it will have to be policed by someone and the public purse would probably have to pick up the cost of that policing. We are trying to protect the environment, but, looking at the worst-case scenario, it could go the other way because you guys will not be there and the fisherman will not be there to help to maintain the river banks. I am wondering whether there is a figure.

[243] **Mr Bond:** I am not aware of a—

[244] **Mr Coventry:** It would be an impossible situation.

[245] **Angela Burns:** Could you tell me how much an angler would pay to join a club? I understand that it depends on the different types of rivers, but I have no idea what it costs.

[246] **Mr Bond:** It varies. It is certainly far less than the average ticket cost for a premier football match, and that would be for a season of fishing. In Merthyr, with all of the fishing available to the members, it is affordable. I think that membership is £50 per year, is it not, Gary?

[247] **Mr Davies:** Yes, membership costs £50 per year, or £35 per year for a senior citizen, £25 for juniors, and £11 for a junior under the age of 11.

[248] **Mr Coventry:** The sum of £50 would be a good average.

[249] **Angela Burns:** Thank you.

[250] **Leanne Wood:** I would like to come back to a point that you made a little earlier. You said that if open access were to be introduced, fishing would be degraded. Do you have any evidence to support that claim? Do you know whether fishing stocks in Scotland have been degraded as a result of its move to open access? I note that, in your paper, you talk about the difference between salmon in Scotland and sewin in Wales, but is there evidence to suggest that there will be degradation in relation to sewin, which does not happen to salmon in Scotland?

[251] **Mr Coventry:** I do not think that scientific studies have been done, but it stands to reason, as any sewin angler will know, that if sewin are scared by canoeists in the evening or late afternoon, they will not be able to catch them at night, particularly the larger ones. A lot of angling tourists come to Wales from England and from the continent to fish for big sewin;

we have heard the figure of £150 million a year. They come for our national fish, as Moc Morgan has described it. That fishing would be degraded, but I cannot put a figure on it.

[252] **Leanne Wood:** Has that happened in Scotland?

[253] **Mr Coventry:** Scotland is different because anglers do not normally fish for sewin there, but for salmon, which is quite a different fish.

[254] **Leanne Wood:** So this comes down to the type of fish.

[255] **Mr Bond:** Geographically, Scotland is very different in terms of its countryside and the location of large centres of population. Wales is a relatively small country and is on the doorstep of large conurbations.

[256] **Leanne Wood:** So, you think that its geography, and the fact that it has salmon, makes its case different.

[257] **Mr Coventry:** There is another major point in that many of the major Scottish rivers were held in big estates, often with absentee landlords. That is just not the case in Wales. If you think of most rivers in Wales, when they flow through the mountains and moorland, they are in National Trust or Forestry Commission land, but once they reach agricultural areas it is primarily farmers who own the land.

[258] **Leanne Wood:** But who owns the river bed makes no difference to whether or not the fish would be degraded, does it not?

[259] **Mr Coventry:** That is right, but it is the farmers who bear the consequences of fish being degraded.

[260] **Alun Davies:** Because of a loss of income from fishing?

[261] **Mr Coventry:** Yes.

[262] **Alun Davies:** Do you have evidence from any country or any region or territory where this degradation has occurred?

[263] **Mr Coventry:** I have no statistical evidence, so I cannot give you figures on that.

[264] **Alun Davies:** So, you have no evidence at all.

[265] **Mr Coventry:** I have personal evidence, and you can read a lot of evidence, that sewin are scared by canoeists passing over them and will therefore not be catchable for 12 hours or so after that. Given that many anglers come to Wales to fish for sewin, they will not catch them if the fish are scared and will therefore no longer come to Wales.

[266] **Mick Bates:** However, that is an opinion because there is no evidence to support it. Do the witnesses have any further points to make?

[267] **Mr Davies:** I would like to make one point. No-one has mentioned it yet, but there is a red folder in front of us—

[268] **Mr Bond:** I was going to say something about it in my introductory statement because it is quite important from an angling perspective and for us as an angling body—we have referred many times to canoeists in this discussion—to say that we are not anti-canoeing as such. We recognise that canoeists and other water users have a need and a desire to use our

water resources for the purposes of sport and recreation. However, the situation on our rivers is unpleasant and can often lead to conflict, which is mostly verbal. That is totally unsatisfactory and we want to seek a resolution to this problem. We are prepared to work with other groups to that end.

[269] There is recognition that, as far as anglers are concerned, we have to resolve this situation as soon as possible. In our submission, we mention that there is a file of forms, which is in front of us, pledging support for our position. I do not know whether you would like to keep the file or whether we should submit it to you, but it contains over 8,000 signatures—the majority of which are those of Welsh constituents. It is not a petition as such, but a pledge of support that relates to support for the law as it stands, in respect of ownership of Welsh rivers above the tidal reach, and support for the principle of local access agreements.

[270] **Mick Bates:** Thank you. We understand that very well. There is no reason why we cannot accept that here and now.

10.40 a.m.

[271] **Mr Coventry:** May I make some last points, please?

[272] **Mick Bates:** Briefly, please.

[273] **Mr Coventry:** This committee could do three things that would help to put in place a solution to the problem. The first would be to persuade Canoe Wales to put on its website that it agrees with the current law that it is a trespass to go on rivers above the tide without the owners' permission, and for it to tell its members that they should not do that. The second thing that would be hugely helpful would be to encourage local canoeing clubs to come to agreements about the access of their members. Thirdly, it should say to all local canoeing clubs that, when they are coming to such agreements, they should not expect access 365 days a year. If those three things were done, it would break a logjam and we would have voluntary agreements set up across the country.

[274] **Mick Bates:** I remind you that we scrutinise the evidence that we take from witnesses and, on the basis of that, make recommendations to the Government. That is the format of scrutiny committees in the Assembly. As such, we will make recommendations based on the evidence—and I emphasise that. There are plenty of opinions, but it is evidence that we need. We scrutinise that, and then we draw up our recommendations.

[275] I thank you for the clarity of your written evidence and your verbal responses this morning in committee. A draft transcript will be sent to you so that you can examine it before accepting it as a true record of this meeting. I hope that we can find some resolutions, but I must remind you that the ultimate decision rests with the Government. It decides whether to implement the recommendations that we put forward after receiving the evidence.

10.41 a.m.

Papurau i'w Nodi Papers to Note

[276] **Mick Bates:** The first paper to note is the forward work programme. I also draw your attention to the response of the Minister for Environment, Sustainability and Housing to our committee report on the draft flood and water management Bill. I note in her response the intention regarding the Cave and Walker reviews. I draw your attention to those two points. Are there any comments on those two papers?

[277] **Alun Davies:** I would like us to return to Cave and to Walker, even if only for an hour before Christmas, because both those reviews provide us with considerable issues to discuss. It would be very useful for this committee to come to a conclusion on its views on those reviews before Christmas. It may well be that next month's Queen's Speech outlines some legislation in these areas, although I do not know, but I would certainly like to see a resolution or opinion from this committee on the suitability of extending that legislation to Wales.

[278] **Mick Bates:** Thank you very much, Alun. I see that there is unanimous agreement on that. Professor Cave has agreed to come to committee. Do we have a date for Cave's visit?

[279] **Leanne Wood:** What about the Walker review. Is it Anna Walker?

[280] **Mick Bates:** Yes.

[281] **Dr Hawkins:** The final report has not been published yet.

[282] **Mick Bates:** As soon as there is a final report, we will look at that as well. It is my intention to do that. Are there any further points on that? I think that everyone agrees with Alun's point of view.

[283] The next meeting will be on Thursday, 15 October, when we will be scrutinising the Minister for Environment, Sustainability and Housing on her draft budget. We will also undertake our final scrutiny of the Minister as part of our flooding inquiry. Thank you for your attendance. I draw the meeting to a close.

*Daeth y cyfarfod i ben am 10.44 a.m.
The meeting ended at 10.44 a.m.*