

# Sustainability Committee

SC(3)-20-09 (p2): 5 November 2009

## Response from the Farmers' Union of Wales

### Introduction

The Farmers' Union of Wales welcomes this opportunity to contribute to the Sustainability Committee's inquiry into Access to Inland Water in Wales, with particular reference to the effect of the proposals on landowners in Wales.

### Questions

#### What is your interest in the issue of access to inland waterways?

The FUW represents farmers and landowners in Wales, many of whom either own land abutting an inland waterway, own the actual bed of the waterway, manage the fishing rights to the waterway or have environmental obligations to protect the banks of a waterway under the terms of an agri-environmental agreement and or statutory designation.

The Union is also concerned at the impact any increased, unmanaged access to inland waterways will have on adjacent farmland as it is aware of several incidences of trespass across farmland where users wish to reach or leave an inland waterway.

The Union totally opposed to a statutory approach to access to inland waters as it believes there are major farm management issues associated with any such proposal, given the amount of inland water within Wales.

#### Are you a member of an organisation related to your use of water?

Whilst the FUW recognises that many members will be individually involved with relevant organisations related to water use, the Union is not formally associated with any such organisation.

#### Which stretches of water do you own or manage?

The FUW represents the interests of a wide range of landowners who manage all types of inland water, whether it is lake, river, stream or brook.

### Legal Rights

#### Are you happy that your legal rights are clear and well defined?

Whilst it is accepted that no one owns flowing water, in Law, all land including river beds, streams and lakes are owned, whether by private individuals or public bodies, and this land would have no presumptive rights of access without permission or dedication.

Any public right of way along the banks of an inland waterway allows the right of passage to individuals, but anglers and others need to obtain permission from the landowner for fishing or other recreational activities, or it is deemed legal trespass.

The ownership of the land also brings responsibilities and these would include, not obstructing or diverting the flow of water, responsibility for ensuring that no pollution leaks from the land and the expectation that the land itself is likely to flood periodically (increasingly over recent years).

The landowner is also responsible for any debris arising from a flood event and generally takes on the responsibility for maintaining the riverbanks and surrounding fencing.

Many inland waterways in Wales are subject to some form of conservation designation, such as SSSI, SAC's etc which may carry higher management obligations for the land manager.

#### Can you briefly outline your understanding of your legal rights over the stretch of water that you manage?

As outlined above.

#### Would you like to see any changes to your legal rights?

During the course of its internal consultation on the issue of access to inland waterways, many members raised concerns that whilst there were a number of issues pertaining to the use of waterways by recreational users, it was inevitably the adjacent land access issues that created particular concern, given the increasingly litigious society we live in and the recent publicity associated with livestock and public Rights of Way.

The FUW strongly believes that if the Assembly is seeking to improve access to any part of the countryside and want to encourage landowners to participate in voluntary arrangements, it must seriously consider ways in which to reduce the liability burden on farmers.

### **If yes what changes would you like to see?**

Whilst recognising that it is beyond the scope of the Welsh Assembly Government at this time, the Union would like to see a review of liability in respect visitors using the countryside.

### **Are you aware of any legislation that exists in other countries that could be used in Wales?**

The FUW is aware of the Petition's Committee evidence from Scotland and also the Countryside Council for Wales (2007) 'Managing Recreation on Inland Waters in Wales: a Review of Approaches', which outlined a range of policy measures across a number of countries and the strengths and weaknesses of these approaches.

The Union believes that many of the legislative approaches across Europe and indeed Scotland, fails to consider the population density, high levels of environmental designations and the significant investment by anglers and others in the conservation of inland waterways in Wales.

### **Voluntary Agreements**

#### **Do you have any experience of voluntary agreements for access to the stretch of waters you own?**

The Union has many members who are involved with voluntary agreements on rivers around Wales.

Feedback from members suggest that the process has worked well on the whole and that working in partnership and increasing dialogue will prove far more constructive than the introduction of blunt policy instruments which will foster resentment and conflict between all parties.

#### **If yes, please briefly outline the agreements that exist and your experience of how they operate.**

The Union would direct Committee to the more detailed responses from individuals and organisations such as the Wye Foundation and National Trust for more detailed information on how voluntary agreements work in practice.

#### **Would you like to see any changes to the voluntary agreements?**

The FUW believes that negotiations for voluntary agreements must reflect the particular circumstances of the water body concerned.

It is also important to ensure that all relevant parties are involved in discussions to ensure that any agreement reflects any commercial and environmental priorities identified for that particular waterway.

### **Are you aware of any voluntary arrangements in other countries that could be used in Wales?**

There have been a number of examples particularly in England and the FUW is aware that the Environment Agency website contains detailed advice on voluntary agreements and this should be encouraged more widely.

Please can you briefly outline what you think are the main issues for recreational access to inland water in Wales and how you would like to see them addressed?

The Union is aware that this current Inquiry stemmed from a petition to the Petitions Committee on 10<sup>th</sup> April 2008, calling for a 'statutory right of access to and along non-tidal water'.

Despite the Minister's response to the petition which sought to promote consensus building via practical action rather than pursuing legal options, the Petition Committee recommended that 'a further inquiry be carried out with a view to bringing forward legislation in this area'.

The FUW is totally opposed to the introduction legislation and believes that Committee need to carefully consider the impact any statutory right of access will have on the day to day management of livestock farms, conservation and the economic contribution of angling to the rural economy.

The FUW is not opposed to water based activities, indeed it has members involved with diversified enterprises that encourage canoeing, Kayaking etc, through voluntary agreements, provision of infrastructure and access points to and from the water body.

However the FUW is disappointed to note that in order to campaign for a statutory right of access, the main canoeing associations are purported to encourage canoeists not to participate in voluntary agreements.

This raises concern that unregulated activities increase the chances of trespassing, disrupting activities such as angling and also could cause damage to environmentally fragile areas of the riverbanks, which are ultimately the responsibility of the landowner in terms of cross compliance and environmental liability.

The FUW is aware that the Assembly wishes to encourage outdoor leisure activities to improve the general health and well being of the public. Anglers contribute financially to obtain management of the fishing areas they maintain, an economic survey undertaken in 2000 concluded that fishing generated over £75 million to the Welsh economy and the Assembly's own Wales Fisheries Strategy highlights the importance of fishing to the economy.

Many farmers are also actively involved in their local angling associations and much voluntary time, effort and resources are put in by individuals to maintain and enhance the environmental value of the areas they manage.

Similarly, landowners may incur costs in maintaining waterways which abut their property, therefore it would seem only equitable that recreational users who do not wish to be party to voluntary arrangements, should be required to pay a license fee to the Environment Agency, to help them maintain the resource they enjoy.

This method would provide revenue to the Welsh economy, provide security for landowners that licensing comes with a code of practice, which would highlight the need to access or leave waterways on designated rights of way and provide all users a stake holding in waterways which would act as justification to preserve and enjoy.

RNP/MS/S/20

23<sup>rd</sup> September 2009