



Via e-mail  
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18<sup>th</sup> September 2009

To Whom it May Concern

**Re: Response to the Sustainability Committee's inquiry into access to inland water in Wales**

Thank you for giving the Welsh Association of National Park Authorities (WANPA) this opportunity to submit a written response to the Sustainability Committee inquiry examining access to inland water in Wales. The three Welsh National Park Authorities collaborate on pieces of work such as this to collectively promote the interests of Wales' three National Parks. This particular piece of work has been arrived at through discussions between the access officers for the three National Parks in Wales.

Section 62(2) of the Environment Act 1995 is central to the delivery of the National Park purposes (identified below). A duty is placed upon all relevant authorities, including the National Assembly for Wales, to have regard for the National Park purposes when exercising or performing any functions in relation to a National Park. A wide range of agencies beyond National Park Authorities are in a position to influence policies and projects that may affect the future of National Parks, we believe that access to inland water is one such issue.

We wish to take full use of this opportunity to engage with the Committee on its inquiry and would be happy to provide oral evidence if Members believed that was beneficial.

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

National Parks in Wales and England were established under the National Parks and Access to the Countryside Act 1949. Section 61 of the 1995 Environment Act updated the National Park purposes:

- o To conserve and enhance the natural beauty, wildlife and cultural heritage of their areas.

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- o To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

National Park Authorities also have a duty to seek to foster the economic and social well being of their communities.

The 1949 Act specifically states that NPAs may:

“carry out such work and do such other things as may appear to them necessary or expedient for facilitating the use of the waterway by the public for sailing, boating, bathing or fishing or other forms of recreation”

(“waterway” means any lake, river, canal or other waters, being (in any case) waters suitable, or which can reasonably be rendered suitable, for sailing, boating, bathing or fishing.)

### Voluntary Agreements

BBNPA and SNPA have experience of voluntary agreements. We believe that:

- o They are not easy to negotiate
- o ‘Casual’ canoeists may not be aware of specific conditions of the agreement
- o Agreements on different sections of the same river may be different causing confusion to canoeists and anglers.
- o In the past, some agreements have been so restrictive that some canoeists ignore them
- o Ignorance or disregard of conditions by canoeists causes frustration and resentment by anglers
- o Due to the linear nature of rivers 1 or 2 owners on a river can effectively make voluntary agreements unworkable. They also prevent alternative arrangements from being identified, unlike paths.
- o Change in ownership or breaches of the agreement by some canoeists may lead to owners removing agreements.

Pembrokeshire Coast National Park reports their experience with permissive paths. They can present a problem in the longer term for both users and landowners, in stark contrast with CROW land, where after a process of designation, the operation is fairly clear and reliable.

### Key issues for recreational access to inland water in Wales

The Sandford principle (<http://tinyurl.com/sandfordprinciple>) states that where there is an irreconcilable conflict between the 1<sup>st</sup> and 2<sup>nd</sup> purposes of National Parks, the first should take precedence.

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Parciau Cenedlaethol Bannau Brycheiniog, Arfordir Penfro ac Eryri yn gweithio mewn partneriaeth  
Brecon Beacons, Pembrokeshire Coast, and Snowdonia National Parks. Working in Partnership.



Our 2<sup>nd</sup> purpose (see above) along with section 13 of the 1949 NPAC Act (<http://tinyurl.com/1949NationalParksAct>) implicitly and explicitly makes the case that NPAs should support, in principle, improved access to inland water for unmotorised craft.

We recognise that a number of landowners and anglers will have concerns that increased water based recreation may have a negative impact on their enjoyment. In addition there may be concerns about financial and conservation implications of increasing access. Improving access should take these concerns into account. Ways should be devised, as far as is reasonably practicable, to identify, minimise and mitigate any adverse effects that may arise.

As a starting point within Wales, and where necessary along a river or canal course across the border into England, we need to accurately map existing rights of navigation on bodies of inland water.

We believe that recreational opportunities should be as fair and equitable as possible for all users and landowners.

Although the statutory agency (CCW) should be mindful of the obvious conservation interests as we would expect. There must be a presumption – to the positive, in relation to access to water. Conservation interests could be managed with seasonal restrictions and/or sensible zonation. This is matter for discussion between the key organisations and individuals involved in the management of waterways.

If a legislative approach to granting a right of access is considered then there should be an adequate system built into that legislation to allow the management of water courses/bodies (as per the CROW Act 2000):

- o Users should be required to adhere to relevant codes of conduct
- o Canoeing, and the use of other unmotorised craft should be dependent on suitable water levels, agreed for all rivers and lakes and should be indicated on site at access points. The type of craft should be carefully worded and indicated within any regulation, not doing so could open the system to abuse from craft and structures such as large pontoons, large inflatables, large boats etc.
- o Adequate facilities should be provided and the planning process should be sympathetic to this (This should include regularised access/egress points).
- o Legal liability (other than normal requirements under 'occupiers liability') should not fall to landowners for: i) trees, vegetation, rock outcrops, wiers, leats, bridges, riverside walls and river beds and should be classed as natural features similar to the CROW scenario; ii) further investigation will be required as to how other fixed river features, e.g

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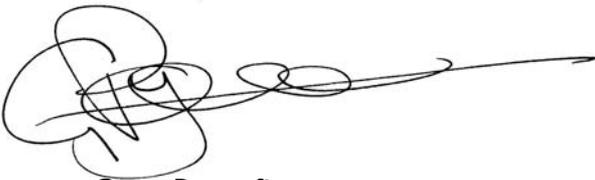


fencing that spans rivers to prevent stock from straying, should be dealt with in terms of Occupiers Liability.

The contributors to this written submission would welcome any further opportunity from the Committee to expand upon the content above, and would be happy to attend an oral evidence session were it considered appropriate.

Should you require any additional information in the first instance please contact Greg Pycroft, Welsh Policy Officer at WANPA.

Yours sincerely



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