



Time for Wales to  
go with the flow?



# Canoeing is a healthy form of sport and recreation. Environmentally friendly, it is an Olympic sport, a vehicle for education, and a creator of employment and tourism.

Wales is the UK's jewel in the crown for paddlesport. For the first time in centuries, Welsh politicians have the power to legislate for Welsh people. An opportunity exists for Wales to take centre stage and the solution is easy.

By creating and enshrining access rights to land and inland water in Wales, the Welsh Assembly Government will be:

- Sustaining the environment and educating users
- Safeguarding the use of natural resources and nature's outdoor facilities
- Encouraging healthy recreation
- Promoting safe and sustainable participation
- Removing existing conflict and barriers to participation
- Giving the opportunity for secondary spend to take place in rural communities throughout the year
- Taking "Climbing Higher" & paddling forward

## “People like to be on or around water”

According to the Environment Agency, half the population of England and Wales, 30 million people, enjoy spending time on or around water<sup>1</sup>. Water is a magnet for activity.

However participation in water-based activity is severely restricted in Wales. Until they encounter conflict, many members of the public are unaware that their enjoyment of this resource is not a legal right in this country<sup>2</sup>.

## Laws leaving us lagging behind the rest of the world

Globally, Wales and England are the ‘poor relations’ in terms of access to water. The root cause of this problem is the antiquated ‘English Land Law’ and the way that this has been interpreted, manipulated and imposed.

## Attitudes and legislation

Legal frameworks in British colonies such as Australia and New Zealand were based on the English legal system. However, with autonomy both countries have not allowed barriers to public access to water.

## Scotland the Brave

Anomalies exist on our own small island. Although the Celtic nations suffered from the imposition of an antiquated and unclear access position, Scotland legislated in favour of public access in 2003. This successfully protected private rights and enshrined public right of access bound by a statutory code of conduct.

From 2007 Wales will have the ability to change for the better<sup>3</sup>.

<sup>1</sup> “A Better Place to Play”-Environment Agency 2006

<sup>2</sup> Trespass in its basic form is a civil wrong (a tort) not a criminal offence. Trespass can be seen as an invasion of another’s property rights without consent. Trespass is actionable per se and it is irrelevant whether the owner actually suffered any damage. It is simply sufficient to show that the trespasser is or was there without consent. Entry on to another’s land (or access to or along water) without permission is a trespass; this is the case whether or not the entrant knows that they are trespassing.

<sup>3</sup> Government of Wales Act 2006 received Royal Assent on 25th July 2006



# Wales Can Do It!

## Taking things forward

The key issues faced by canoeists in Wales are faced by the public at large. The Welsh Canoeing Association is encouraging a sensible solution to accommodate the vast and dynamic needs of outdoor enthusiasts in Wales. This requires the introduction of legislation promoting a presumption in favour of access.

## The key issues

Until the following are addressed, conflict, elitism and barriers to participation and tourism are being preserved through procrastination:

- The presumption that there is no right of access to inland water.
- Large numbers of people accessing water on a de facto basis despite the possibility of committing a trespass.
- Regular challenges to agreed and de facto access rendering the issue of access to water fragile and uncertain.
- Ancient legislation restricting access for modern sports and leisure patterns.
- The lack of acceptance in Welsh government agencies of conflict caused by escalating demand.
- The missed opportunities to promote Wales as a watersports destination, thereby losing secondary spend.
- The perception amongst outdoor enthusiasts that those in power don't recognise paddlesport's ability to contribute to widespread health, social inclusion, education, tourism and rural regeneration agendas.

- The lack of an honest and impartial champion in government agencies with the power and/or the substance to tackle the issue of access to inland water.
- Inability to participate, train or compete due to lack of access to water across Wales. This is the major block for the sports development pyramid both for Welsh residents and those who want to train in Wales.
- Continued advocacy for the use of voluntary means to secure access to water, despite being of limited use for water-based and water-side sports both present and future
- The need of participants for real time data regarding water levels to make an informed decision about appropriate conditions for their activity; this is comprehensive in most of Europe including Scotland but is lacking in Wales.
- What should paddlers do whilst there is not enough access?
- Should paddlers and other water users stop?



Canoeing is an environmentally benign pastime. For some it is an informal active recreation for the whole family, for others it is a competitive and elite level sport. Canoe slalom was one of the most popular spectator sports from the 2004 Athens Olympics, and yet our home-grown talent is effectively prohibited from using local natural resources to further their skills.

This lack of access forms a barrier to participation at all levels. These barriers make no distinction between the junior beginner and the Olympic hopeful. These barriers just exist.

#### Case study – effects on sport development

Ladies European Freestyle Gold and Silver medallists (Lowri Davies and Lyndsey Evans) are Welsh but are forced to travel more than three hours to train – despite suitable water being available within minutes of their home. Other Welsh champions who have to travel to find water include Matt Cook, Sharon Derrick and Zoë Anthony (World Canoe Polo Champions).

Some Welsh champions, such as Deb Pinniger have moved overseas to enjoy their sport without conflict.

Many top coaches, like Ray Goodwyn and Bob Timms, have also moved overseas to enjoy better access to the sport they commit their life to, depriving the next generation of Welsh paddlers of their guidance and expertise.

It is also telling that Chris Sladden, author of “The Welsh Rivers”, left Wales to pursue boating in Canada, in a far more welcoming environment!

Without elite athletes here to inspire the next generation of young Welsh paddlers, top coaches to guide them and role models to emulate, the sports development pyramid is weakened, inhibiting the take-up of grass roots paddling.

The Welsh Canoeing Association submits that in the face of research<sup>4</sup> and best practice<sup>5</sup> within the UK, the Welsh Assembly Government must resolve and clarify the situation for members of public wanting to access non-tidal water in Wales. Whilst the situation obviously affects the 2.5 million canoeists<sup>6</sup> in the UK, Environment Agency studies show that 30 million people – half the population of England and Wales – enjoy spending time on or around water. The Environment Agency intends to boost this with an extra two million people by 2011<sup>7</sup>.

#### Case study-When the answer is No.

In 2005, a North Wales canoe club approached the local angling club for one day’s access to the village’s river to host an annual fun day. The angling club declined. The canoe club then asked the angling club whether they would have a junior fishing day instead to create local pride in the river. The angling club declined.

Present case law and the lack of clarity regarding an existing public right of navigation<sup>8</sup> turns what should be a peaceful environment into a focal point for conflict. This exists between those seeking to preserve their presumed exclusivity, and members of the public seeking to enjoy an environment which has historically been the life blood of rural communities for sustainable transport, communication and socialising.

<sup>4</sup> Environment Agency Research and Development document W266 “The effect of canoeing on fish stocks and angling” which found “canoeing has little or no impact on fish stocks”. This report further states that in the “light of this many of the objections to allowing shared access are untenable,” and highlights that the issue now centres around the issue of exclusivity of use.

<sup>5</sup> Scottish Land Reform Act 2003 which enshrines public access to natural resources with a statutory code of conduct.

<sup>6</sup> RYA watersports and leisure participation report 2005

<sup>7</sup> “A Better Place to Play”-Environment Agency 2006

<sup>8</sup> “The Right of Navigation on Non-tidal Rivers and the Common Law”-Douglas Caffyn 2004

There is ignorance about the situation; members of the public don't realise there is no right to enjoy access to water. For 50 years, the WCA has attempted to resolve this issue with voluntary access agreements. This experience of implementing, monitoring and evaluating voluntary access agreements leaves the WCA knowing that, with the sport's evolution, this approach is untenable.

The physical, mental, and emotional benefits of recreation are widely recognised, and are cited in "A Better Place to Play" as an important contributor to reducing the burden on the health service. The Welsh Canoeing Association asserts that until a legal framework for the public to access Welsh non-tidal water is provided, this benefit is being diluted.

A recent report<sup>9</sup> shows that canoeing is the fastest growing boating activity. In fact the only other activities in this report that were faster growing were coastal walking and outdoor swimming. Swimmers are faced with the same restricted access as canoeists, making this issue paramount for consideration to provide sustainable opportunity for recreation. It is clear that the environment has become highly important to the future of recreation and tourism in Wales. The Welsh Canoeing Association is committed to making this environment available for all to enjoy.

If Wales is to truly achieve its status as a "Can do it" country, then surely this barrier, which does not exist in Europe outside England and Wales, must be broken down.



What the Welsh Canoeing Association is requesting is not impossible. To date in the United Kingdom the only sensible mechanism in favour of access exists in Scotland, as a result of its devolved powers.

Preserving exclusivity of use of a natural resource in the face of best practice and advice is naive, defeats government initiatives, sustains conflict, is medieval, and is unacceptable to the public. Residents and tourists who wish to enjoy Wales' waters should have a right to do so within reasonable statutory codes of practice.

The Welsh Canoeing Association submits that a reasonable and marketable solution will not exist in Wales until there is legislative intervention.



"Wales Can Do It"

Produced by the Welsh Canoeing Association  
November 2006.

<sup>9</sup> "Watersports and Leisure Participation Survey, 2005" BMF, MCA, RNLI & RYA





Welsh Canoeing Association  
Cymdeithas Ganwa Cymru  
Canolfan Tryweryn  
Frongoch  
Bala  
LL23 7NU

[www.welsh-canoeing.org.uk](http://www.welsh-canoeing.org.uk)  
[www.canoewales.com](http://www.canoewales.com)