

Feedback from group sessions – Access to water Builth, 5th September 2013

Y nodiadau hyn yw testun yr holl sylwadau ac awgrymiadau oddi ar y siartiau fflip a ysgrifennwyd gan gyfranogwyr yn y gweithdy hwn. Maent felly yn cynrychioli barn y cyfranogwyr, ac ni ddylid eu dehongli fel barn Llywodraeth Cymru. Mae pob ymdrech wedi ei wneud i atgynhyrchu'r testun gwreiddiol yn gywir. Lle mae'r ysgrifennu yn annarllenadwy mae yn cael ei nodi gan *****.

These notes are the text of all the observations and suggestions written on the flipcharts by participants at this workshop. They therefore represent the opinions of participants, and should not be interpreted as the view of the Welsh Government. Every effort has been made to reproduce the original text. Where writing is illegible this is indicated by *****.

Table 1

Session 1 - Challenges	<p><u>Cultural</u></p> <ul style="list-style-type: none"> • Not taught from a young age about how to behave in the countryside. Needs to start from young age. • Generational education. • Understanding your impact on other people and your surroundings. • There is a disconnect between the majority of people and the environment. • A disconnect is causing polarisation between managers and users. They don't appreciate or understand the value of the resource/environment. <p><u>Owner/Occupier's Liability</u></p> <ul style="list-style-type: none"> • Needs reducing to reduce conflict. <p><u>Law is untested</u></p> <ul style="list-style-type: none"> • 2 polarised opinions – start position suggests that there is a public right of navigation. • Common law case 1976 undefended – awarded damages for trespass but did not rule on navigation, therefore 2 opinions held by 2 ***** user groups – constantly creates conflict. • Lack of clarity. <p><u>River Wye</u></p> <ul style="list-style-type: none"> • Minister stressed fairness, quality of life, what makes it worth living. All involved in job. They are all now being taken away. <p><u>Funding inadequate</u></p> <ul style="list-style-type: none"> • Unless adequate funding is ID to manage provision and enforcement then culture will not change.
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	<p><u>Catchment Management</u></p> <ul style="list-style-type: none"> • Recreational use of water must be part of a catchment approach under European legislation. • Enforcement problem of public right of navigation above Hay – constant trespass. (Believe there’s an agreement in place – Wye/Usk supports river users).
Session 2 - Solutions	<p><u>Cultural</u></p> <ul style="list-style-type: none"> • It is embedded into National Curriculum early on and throughout children’s schooling. It needs to be appealing. • It should be integrated into sustainable development and social interaction. • “Nature deficit disorder” – redress. • Community involvement – local angling gives access to the local community. They are open clubs available to anyone – governance within local community. • Include in the guidance the sort of outcomes that the access to the river should be creating. • Need to embed a level of mutual respect and standards of decency. <p><u>Trespass</u></p> <p><u>Stage 1</u></p> <ul style="list-style-type: none"> • The drawing up of a definitive map showing where there is a right of navigation. • Clarity on the legal position as regards navigation is required. • Clarity on the general public’s rights as regards access to water is also required. <p><u>Stage 2</u></p> <ul style="list-style-type: none"> • Is there some way that you can have a legal requirement for an agreement between recreational users. • Should be part of an overall catchment management plan. • Need to define a <u>competent authority</u> to lead on issue. <p><u>Stage 3</u></p> <ul style="list-style-type: none"> • Agreement must be maintained and enforced with adequate penalties applied to offenders. <p><u>Liability</u></p> <ul style="list-style-type: none"> • Legislation needs to reduce owner/occupiers’ liability for both (built man-made) and (un-built natural) environment. • General public need to be educated to accept their own risk.
Evidence	<ul style="list-style-type: none"> • DEFRA has stated that the law is unclear in relation to navigation non tidal/of inland waters. <p><u>Trespass</u></p> <ul style="list-style-type: none"> • Legal position in Wales is clear: (Sustainability Committee Report) <ul style="list-style-type: none"> ○ The soil in the case of non tidal rivers is vested in the riparian owners.

	<ul style="list-style-type: none"> ○ Unless a public right of navigation exist, or owner of river bed or fishing right has given permission, anyone travelling along stretch of water is trespassing, therefore any access user needs consent. <p><u>River Wye</u></p> <ul style="list-style-type: none"> • Previously good fisheries are in decline due to other used ref – figures – catch stats. • Assets that fishermen had are now being restricted to early morning and early evening. • Leases on certain sections of river are reducing in value. • There are now other access users moving in on the river which has an agreement locally managed in previous – now external groups using it as well. • Lack of clarity re legal situation on this stretch of river. • DEFRA have said legal situation is not clear, • So little provision elsewhere that compares. <p><u>Funding inadequate</u></p> <ul style="list-style-type: none"> • Most LAs don't manage their ROW adequately. • Nothing needs to be done to manage the countryside, but everything needs to be done to manage the people who visit the countryside.
Other	

Table 2

Session 1 - Challenges	<p><u>Legislation</u></p> <ul style="list-style-type: none"> • Licensing – Bailifing for illegal anglers not adequate. • Licensing – Income from any license to be used to employ more bailiffs. This to include paddlers as well as anglers. • ID on other water users? • Licence of craft? • Participation Data – National Water Safety Forum. • There are more outdoor swimmers than any water craft users. • Equitable distribution of resources (compromise). • Punishment – Loss of access. • Arbitration (independent). Action against ombudsman. • Aquatic right to roam – obligation on all potential water users to negotiate local access agreements. “Code of Conduct”. <p><u>Invasive Species</u></p> <ul style="list-style-type: none"> • Care of how kit is used. • Obligation with charities. • Cross over – Code of Conduct – NRW. • Licensing – anglers need licence, permit etc. Paddlers do not. • Lack of licensing? • Clear – Current legislation – non enforceable trespass – civil not
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	<p>criminal offence.</p> <p>(Issue proceedings – but expensive). At the moment, does not provide water access for some groups. Difficult to enforce – angling. Confusing – paddling.</p> <ul style="list-style-type: none"> • Access VAA • Voluntary • Glyn Neath – access with permission – anglers could not get onto river – Density? • Spread of invasive species. • Permissive path – access trespass by scrambler bikes. • Environmental issues being addressed by volunteer groups, eg Rivers Trust, which includes non anglers, contribution by anglers re environmental matters not always seen. • Salmon and Freshwater Fisheries Act. <p><u>Urban</u></p> <ul style="list-style-type: none"> • Green parks on outskirts of urban areas, eg Caerphilly, under-used by local people.
Session 2 - Solutions	
Evidence	<ul style="list-style-type: none"> • Possibility for future site specific issues. % small – ASB? • Not enforced, not only in relation to paddling. • People do not follow at the moment daily trespass on LIAA waters (Llandysul Paddlers). • Seems unworkable for all. • Problems on Taff. • Negotiating – broke down June-October no cover. LLAA
Other	

Table 3

Session 1 - Challenges	<p><u>River Condition</u></p> <ul style="list-style-type: none"> • Not always in right condition 365 days – activity depends on condition – need different levels. • Hazardous conditions need to take account. • Need management to Welsh river (specific). • River difference/character. • Trespass – on land access and egress in anecdotal evidence and defacto method without formal agreement. • Clarification of existing right. • Differing opinions about what is allowed. Dispute. • Landowner liability – leads to reluctance to engage – undue burden on landowners. • Conservation issues, some seasonal, perennial and different designation status + EPS, eg disturbance spawning fish – ancient features – concern re other users. • Lack of consistent information and communication of that information. Needs to be site and river specific. • Quantifying demand and participation – lack of good evidence for
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	<p>access to water – need to know how many it affects.</p> <ul style="list-style-type: none"> • Tourism – lack of use/not providing information for tourism to benefit for paddling. • Equitable access – anglers pay for access, canoeists currently don't. • Problems for landowners – stock, people coming out in wrong place, litter. • Difficulty setting up agreements/arrangements – VAA, parties taking attitude not to enter into agreements. • Competitions – angling and canoeing – special situation with unique problems. • Booze cruises – stag parties etc on the Wye. • Conflict – landowners • Every river is different. <p><u>Key Point – Education and Communication</u> – about existing rights, about sensitive areas, river levels. National website, local sites, real time info.</p> <ul style="list-style-type: none"> • Spawning beds – know where they spawn – identify those areas – so have a restriction on access based on river levels at those sites – as happening on River Glaslyn. • Some feel water level should be the only restriction. • Education – about where they can go and what they can do. About existing legislation – needs to be better promoted prior to site visit. Real time information needed to inform. • Start at the most popular rivers – different interventions will be needed elsewhere. • Co***** agreement – arrangement.
Session 2 – Solutions	<ul style="list-style-type: none"> • Rod licences. <p><u>Legal rights/trespass</u></p> <ul style="list-style-type: none"> • NAW Sus com **** • Recommendations 1-4 should be revisited. VAA – not uniformly supported by groups. • Address what is trespass and clarify liability (shouldn't be landowner) -1a. • To resolve access/egress issue - use CROW model. • Landowner liability (natural/man-made features should be clarified and reduced). • Formal consultation with LAFs – about local issues - not uniformly supported by group. • Any new legislation would need to deal with users equally, ie free access for all – if one group gets free access all should – ref to cost of fishing rights already required at considerable experience. <p><u>Conservation</u></p> <ul style="list-style-type: none"> • Have a plan for every river to account for conservation. • Better information/research needed into effect of any river activities on spawning fish and the environment and migrating fish. • Transfer of INNS (invasive non-native species) along rivers. • Better dissemination needed of existing information.

	<u>Education</u> <ul style="list-style-type: none"> • Nesting birds, wintering birds – needs to be managed under existing legislation. • Real time – info on NRW/WG website, people know where to look for the information, with links to local websites.
Evidence	<ul style="list-style-type: none"> • Research 2004. Right of Navigation ***** on rivers.co.uk has been challenged. • Wye River – documented in NRW minutes – Navigation Committee.
Other	

Table 4

Session 1 - Challenges	<ul style="list-style-type: none"> • Agree suitable access and egress points (depends on spawning of fish!!) • Voluntary access agreements – numbers, policing etc (now anarchy – lack of management). • Horseshoe Falls – Llangollen good access - now cannot fish • “We canoe where we want!!” • <u>We need:</u> we don’t have the appropriate tools to manage the equitable/balance (a managed system). • <u>Clarification of:</u> property rights – respect – ideas – (banks, beds) legal situation. • Everyone needs to come around the table. • Canoeists dependent on rights that don’t exist (laws of Hywel Dda). • WAG threatened the Angling Community:- legislation . • Angling Community – willing to discuss – agreement needs negotiation “Intransigence of Canoe Community”. • “Agreements to be made on an equitable basis”. • What is WAG doing about it? (minutes/denial?) (angling club with a canoeing section?) • Responsible use – problem of enforcement. <p><u>Property Rights</u></p> <ul style="list-style-type: none"> • WAG need to protect riparian owners. • Legislate – AGG ted trespass. • Resolve – difference of opinion. • Clarify existing law – also liability. Reduced? • Consensus on what the law is? • Education of all river users in law. • Reasonable compromise to be found. <p><u>Managed System</u></p> <ul style="list-style-type: none"> • Licence canoes and register) • Identification mark.) to • Trained enforcement officers.) pay • Restrict numbers/traffic.) • Agreement on each water body/river (local conditions).
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	<ul style="list-style-type: none"> • Or WAG to pay.
Session 2 - Solutions	<p><u>Everyone around the table?</u></p> <ul style="list-style-type: none"> • An online forum – more people to take part. • “Fish Pal” – online day ticket in Scotland – for canoes. <p>Require an honest broker.</p>
Evidence	
Other	

Table 5

Session 1 - Challenges	<ul style="list-style-type: none"> • Vol access agreement lack of agreement from both parties. • Environmental damage, especially disturbance to fish during spawning. • Double standards, WG grant aid Sports Council for Wales. Lost opportunity with Plas Menai on doorstep. • <u>Economy</u> – recognition of the cost that angling brings for tourism in Wales. Anglers pay for the privilege of doing what they want to do. Loss of revenue if they lose their exclusive rights, Angling Clubs are not for profit businesses. Commercial rafters/canoers shouldn't be using the rivers at all. Wye – money making activities. If you upscale rivers to Commercial level, risk of environmental impact, lot of rivers are designated sites, ie SSSIs. • It's got to be enforceable, ie NRW to work in conjunction with Police Authorities. Resource is a problem. Make it a comparable offence. Devolving powers back to the catchment areas. Why does WG need to be involved? • Legislation – if kayakers transgress they're fined. • In order to facilitate (volunteers access) agreements (all set out and ready to go), both parties need to come to the table. Anglers, in general, want to come to an agreement, paddlers do not. CONFLICT. Democracy has to be done, this is not an issue against paddlers. Continual disturbance of fish during spawning period. Codes that have been published only people that can't make agreement can be prosecuted against this are anglers • Access agreement with Sports Council for Wales and Seiont, Gwynfai worked with outdoor pursuits centre in the area to draw up a business plan for an Angling and Canoeing Centre on the Afon Gwynfair Seiont. Splash Application form completed – application refused on the basis that Sports Council for Wales didn't feel there was a need for it. • Cost for angling clubs – exclusive rights. If you legislate canoeists will not have to pay. £38k paid by an angling club for access and fishing rights (just use land they own and cut membership) – riparian owner. • Who's going to regulate this? Enforcement? • No recognition that navigate on inland rivers. • Two anglers faced with 3 kayakers (2 people in each) aware of current issues, they were provocateurs (anecdotal). Anglers asked then to get out of the water but they refused. Anglers ushered
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	<p>them out of the water. Police were called. Were the anglers being unreasonable? Anglers offered to take them to where they wanted to go – refused.</p> <ul style="list-style-type: none"> • Wider than access to water, access to land as well. Access along the river bank has huge implications. Landowners/farmers invested in nature trails/access on their land – generates income. If you make this a right it takes that income away. Same goes for Angling Clubs’ income. • Bio-security issue, transferring organisms from watercourse to another. • Invasive weeds. • Liability for landowners re livestock – big issue. Duty of care to trespassers. Examples of Access Agreement between British Mountaineering Council and landowners (individuals) to address risk of liability. User groups take the risk.
Session 2 – Solutions	<ul style="list-style-type: none"> • Enforce what the law states in the NAW Sustainability Committee report. • Find a way of enforcing the current law. • ***** LCO – nuisance clause (already within the legislative power)– offences against those who transgress. Message to paddlers – without an agreement they will be committing an offence which they could be fined for. Paddlers should have a licensing scheme. • It is already an offence to “wilfully disturb.....!”. Salmon and Freshwater Fisheries Act – make use of existing powers. • Need to close all migratory fish, spawning areas to invasive activity for the spawning season. • If NRW cannot bring in enforcement on water that they own – what hope is there? If the government had a way to do it, they could. • The withdrawal of W266 EA report and provide proper advice to paddlers that it is an offence to wilfully disturb that fish may be spawning.
Evidence	<ul style="list-style-type: none"> • NAW Sustainability Committee report – p13 – (inquiry into access to inland water in Wales 2010 – this has already been discussed). • All parties need to agree the law. • Environment LCO by Jane Davison legislation exists to protect anglers. • For round this table in land and fishing rights rental, management of river banks and protection and management of wildlife is carried out as a matter of course. Angling community is the greatest participative sport, anglers are a huge percentage of tourism income. • Guidance to water bailiffs. • Anglers likely to prosecute. • Incident number given. This has aggravated the *****. • Successive grants pushed farmers into tourism/outdoor attractions.
Other	

Table 6

Session 1 - Challenges	a) This look at legislating is an about-turn from the original voluntary
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	<p>approach.</p> <ul style="list-style-type: none"> b) Enforcement – legislation needs this c) Problem in understanding (& public understanding) about what ‘responsible recreation’ means – a misnomer – see (b) Education – any effort made to educate in Wales won’t cover visitors from elsewhere d) When at the point of agreeing proposal finalising it e) When different partners won’t talk to each other / talk effectively f) Greater demand for recreation. Used to be 2 parties – canoeing association & anglers but non association users start using free for all (help yourself mentality) g) Demand from canoeists is 24/7. But fishermen are subject to restrictions h) Protecting spawning grounds (criminal offence to damage) i) Lack of (either) codes or good publicity so people aren’t aware
Session 2 - Solutions	<ul style="list-style-type: none"> a) Strong guidance from Minister as to how to proceed with access agreements. Re-state what a positive solution could look like (para 90 & 91) Sustainable Committee doc) saying no to legislation & Scottish model. Also Minister to put pressure on the relevant organisations to communicate (should be a condition of receipt of public money to respond as a reasonable / responsible organisation) b) Need legislative power to enforce. Need an adequately resourced organisation (e.g. NRW) to give confidence that legislation will be effective. Additional (major) enforcement costs will be incurred with any new legislation. c) Education. Promote existing codes of conduct. Publicise / broadcast info (cost) National Curriculum. Compliance with codes should be a condition of grants to governing / user bodies. ‘Responsible’ – different to different people so needs clear definition within the codes. Scottish Code is an example very clearly written. Codes for different activities need to be brought together in one place. Should be ability to add addendums to codes to address local conditions. Consider different codes for individuals, family, commercial? d) Covered in (a) (communications) e) Covered in (a) (communications) f) Legislation – canoeing governing bodies controlling access (knowing who is on the water) & they ensure codes of conduct are used. The governing bodies issue the licences & police it (statutory role). Concerns that these organisations won’t have the resources to do this as they are now. Could splash fund assist with enforcement. g) & h) Restrictions can reasonably be imposed on river access as they are with angling (during spawning etc.) Only use main rivers (except spawning areas) during spawning.
Evidence	<ul style="list-style-type: none"> a) Lack of communication from Minister on voluntary agreements & initiated by Minister. 6/7 b) NRW are looking for volunteers to police the rivers – not enough resources 7/7 c) Verbal & physical attacks & challenges to landowners/other users 6/7

	<ul style="list-style-type: none"> d) Seiont. No steer / view from National Assembly 6/7 e) E.g. Usk – used to have a good agreement then one party scrapped it 7/7 f) E.g. Seiont Llandysul. 15,000 launching in Petition Committee Report. 5/7 g) 90% canoeists will abide by agreements, but there is a militant element 5/7 h) Majority of canoeists will comply but others won't 5/7 i) People misusing the rivers. See photo. (<i>Teifi – an organised group on spawning grounds when fish/eggs are hatching</i>)
Other	