



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

Petitions Committee



Access along Inland Water

April 2009

Report of the Petitions Committee's Short Inquiry into Access along Inland Water

1. The National Assembly's Petitions Committee agreed on 27 January to carry out a short inquiry into a petition we had received from the Welsh Canoeing Association. The petitioners were calling for legislation to establish a statutory right of public access to and along non-tidal water in Wales, along the lines of the Land Reform (Scotland) Act 2003:

"The Welsh Assembly Government is urged to consider and implement a Bill to benefit Wales that would enshrine access rights and responsibilities for the public to and along natural resources in the same way that the Scottish Land Reform Act encourages co-operative use of the outdoors for healthy, low impact recreation.

"This Bill must provide and permit access to and along non-tidal water in the face of the massive lack of legal clarity and restrictions that exist at present, which act as a barrier to sport and recreation and the promotion of Wales as a place to visit for adventure tourism."

2. The Committee's short inquiry consisted of two discrete case studies: a fact-finding visit to the River Teifi in Carmarthenshire/Ceredigion to establish the key issues involved with different uses of the water; and a formal meeting in the Scottish Parliament in Edinburgh to take evidence on the effectiveness of the Scottish legislation. This report summarises the findings of our two visits and includes our conclusions and recommendations.
3. We should like to thank all those organisations and individuals who participated in our short inquiry and who made our visits possible. We are grateful for the benefit of their expertise and for the time and effort they devoted to responding to our requests for information.

River Teifi Fact-Finding Visit, 9 February 2009

Summary of Findings

4. We chose to study the River Teifi in West Wales because it is host to a variety of different users including canoeists, outdoor activity providers, swimmers, boatmen and anglers. The river contains stretches where canoeing and angling co-exist and stretches where they do not. Coracles, one of the oldest used vessels for navigation, are still found on the river and the National Coracle Centre is located in Cenarth. There is undisputed navigation on the Teifi estuary and a long history of attempted litigation against recreational users further up-river.
5. Our overall objectives were to establish, by talking to a diverse range of interest and user groups:
 - The main issues of concern / agreement / contention among different users; and
 - The views of all bodies on the merits and demerits of how shared use on inland water can be most effectively controlled, ranging from voluntary access agreements to the petitioners' preferred option of a statutory right of access.
6. We held six sessions throughout the day, at **Llandysul Paddlers Outdoor Education Centre, Cenarth** and **Cenarth Falls**. The key issues to emerge were:
 - We heard some passionate views, on all sides of the access debate.
 - All groups agreed there was a lack of clarity and understanding about legal rights and responsibilities (e.g. fishing rights, riparian ownership rights, rights of access and of navigation), which significantly contribute to the many different perceptions and assumptions regarding access rights on the river. The best description we heard during the day was that the whole situation is a "dog's dinner."
 - Lack of clarity and understanding about legal rights is putting at risk – and calling into question – the investment of public resources in promoting and developing recreational participation and recreational facilities along the river.
 - We heard about examples of conflict and poor relationships between different user groups (especially in certain "hotspots") - from abusive behaviour and language, to ignorance and lack of tolerance, to claims of disturbance of fish spawning grounds and damage to fish stocks.
 - Yet there were also examples from other parts of Wales of where people have worked amicably together to achieve mutual objectives, such as voluntary access agreements.
 - Both canoeing and angling make an important contribution to businesses in their local area.
 - Both groups also contribute to the amenity value of the river, and both draw significantly on voluntary action from their different communities.

- Fishing suffers from the lack of one overall advocacy organisation, although the Federation of Welsh Anglers has recently been established to provide a more united voice for the angling sector.
- Most canoeists are not members of the governing body for the sport, the Welsh Canoeing Association, and are therefore outwith a framework of control.
- Statutory bodies such as the Environment Agency and Countryside Council for Wales do not currently have sufficient powers to regulate different uses effectively.

7. More detail on each of our discussions is summarised below.

Llandysul Paddlers Outdoor Education Centre: Session 1

Ashley Charlwood	Access Development Officer	Welsh Canoeing Association*
Marion Bryant	Director	Llandysul Paddlers
Fioled Jones	Member	Llandysul Paddlers
Jethro Moore	Proprietor	Adventure Beyond
Cllr Keith Evans	Llandysul Town Ward	Ceredigion County Council

* Also in attendance were Richard Harvey and Nigel Midgley, Welsh Canoeing Association

8. The Llandysul Paddlers Outdoor Education Centre is funded by Carmarthenshire County Council. We heard about the origins of the Centre; how the paddlers club was founded 25 years ago by families involved with local cubs and scouts groups; and how the Centre has been developed over the years through grants from the Foundation for Sport and the Arts and from the European Union. Some of the founding members are still actively involved with the Centre and several members of the club have achieved national and international success in their sport.
9. However, canoeing has a fragile existence on the River Teifi. Although Llandysul Paddlers Centre has the support of both Carmarthenshire and Ceredigion County Councils - the Centre provides an important resource for young people in the area - and it attracts canoeists from all over Britain (15,000 visits last year), the right to canoe at Llandysul is still reliant on a lease from the Llandysul Anglers who gave the paddlers a 25-year access agreement along a 700m stretch of river. Even in areas where landowners have consented to access by canoeists along the river, paddlers quite often experience hostility from anglers who have the fishing rights, and have been threatened on a number of occasions with court action. There was some concern as to the future of the Centre when the lease runs out.

Llandysul Paddlers Outdoor Education Centre: Session 2

Gareth Bryant	Water Sports Development Officer	Carmarthenshire County Council
Allison Rees	Sport Development Manager	Carmarthenshire County Council

10. We heard how the local authority has a five-year Leisure Vision for Carmarthenshire¹ that encourages young people and adults to take part in outdoor recreation and enjoy the natural environment. The Council has made a significant investment in the Llandysul Outdoor Centre over the years and wishes to see people enjoy their sport there. We were told that it was an aspiration to enable canoeist groups to paddle from Llandysul to Newcastle Emlyn during the summer months; yet despite having the permission of landowners at Newcastle Emlyn, access was still being challenged by local anglers. The local authority seemed unsure over its legal rights and thought that a change in the law would achieve clarity and prevent conflicts between users. At the moment, all it can do to manage different users is to avoid taking sides; try and negotiate time or place zoning to avoid sensitive areas or times; and “keep the peace”. There had been bizarre cases of the authority buying fishing rights it did not want (and giving them to anglers) in order to secure access for canoeists, even though the authority was not even sure that its fishing rights gave canoeists the right to paddle. In a subsequent letter it was confirmed that regardless of the need for clarification, the local authority insisted that any activity it sponsored on inland waterways required the permission of the landowner.²

Llandysul Paddlers Outdoor Education Centre: Session 3

Tim Greenslade	Riparian owner	Llanfihangel-ar-arth
Tonlas Evans	Secretary	Llandysul Angling Association
Ian Thomas	Chairman	Llandysul Angling Association

11. We heard how much members and visitors to Llandysul Angling club paid to fish on the river (several hundred pounds each) and how the club had supported the Llandysul Paddlers in the early days. The relationship had deteriorated, however, because of the involvement of the Welsh Canoeing Association and its “ambitious” plans for the Paddlers Centre. It was argued that the quality of local fishing had also deteriorated, that the number of angling club members had declined, and that the two were linked.

12. We were told that the anglers, through the Teifi Rivers Trust, were working hard to improve the welfare of the river - both financially and on a voluntary basis - and that they were happy to share the river through agreements. However they believed that “existing laws were unenforceable” and they

¹ Carmarthenshire Leisure Vision 2007-2012

² Letter from Ian Jones, Head of Leisure and Sport, Carmarthenshire County Council, dated 18 March 2009

felt in a “cleft stick” as the police were not interested in pursuing civil action against trespass.

13. In contrast, we heard from a local riparian landowner who supported the paddlers in principle and who allows them to launch from the river bank opposite where he lives. He had no strong opinions on wider access issues but thought that “exclusive” rights for any one party would be the wrong decision.
14. The feeling from the Llandysul Anglers was that all canoeists should have an identification number and be required to have a paid licence or permit to paddle. There was great concern that a statutory right of access would lead to a loss of fishing licence revenue, and a need for compensation to make up for the shortfall in income.

Llandysul Paddlers Outdoor Education Centre: Session 4

John Watkins	Head of Recreational Policy	Countryside Council for Wales
Phil Stone	West Region Access Officer	Countryside Council for Wales
Matt Strickland	Recreation & Navigation Adviser	Environment Agency Wales

15. We heard that the Countryside Council for Wales (CCW) had commissioned an extensive review and evaluation of different approaches to managing access, including international comparisons.³ CCW clarified that the evaluations had not looked at statutory approaches as the brief from the Welsh Assembly Government had been to work within the context of existing legislation. Following the meeting, CCW sent us a copy of the evaluation of exemplar water access projects in Wales,⁴ which was initiated in response to Welsh Ministers’ wish to secure greater public access to rivers and lakes in Wales for recreational use – through non-statutory means so far as possible.
16. Environment Agency Wales had recently published a strategic plan for water-based recreation in Wales.⁵ We heard from the Agency that it finds it difficult to license angling within its available resources – some anglers can go several years without being checked. The Agency has no official view on a statutory right of access and currently relies on education as the best way forward. The Agency agreed, however, that it would welcome more powers to manage recreational as well as fishing interests, including an enforceable code of practice, which would make it much easier for staff to police on the ground.
17. We heard from CCW that codes of conduct do exist in Wales but they tend to be voluntary, and appear to work best where users buy into their values or operate a degree of self-policing, e.g. rock climbing.

³ Managing Recreation on Inland Waters in Wales: a Review of Approaches, Countryside and Community Research Unit, University of Gloucestershire, CCW Policy Research Report No. 07/4

⁴ Evaluation: Access to Water Exemplar Projects in Wales, G & L Hughes Ltd, CCW Policy Research Report No. 08/27

⁵ A Strategic Plan for Water Related Recreation in Wales, University of Brighton, 2008

18. Voluntary agreements have been found to work best where public bodies either own the land or the fishing rights, e.g. River Wye and Glaslyn (where the National Trust is the landowner). There are some examples, however, (River Conwy) where agreements are still unresolved after 20 to 30 years.

Cenarth: Session 5

Edward Fitzwilliams	President	Teifi Trout Association
Bob Bird	Chairman	Teifi Trout Association
Edgar George	Vice President	Teifi Trout Association
Jeremy George	Solicitor	Teifi Trout Association
Wayne Bishop	Secretary	Teifi Trout Association
David Griffiths	Conservation Officer	Teifi Trout Association

19. We travelled a few miles downriver (by road) from Llandysul to Cenarth to meet representatives of the Teifi Trout Association. At the beginning of January 2009 the Association had written to all Assembly Members to object, on behalf of a group representing angling clubs, fishery owners and riparian owners across Wales, to the petition by the Welsh Canoeing Association.⁶

20. The Association began by tabling a paper that outlined the history of the Teifi Trout Association (TTA), which has been providing angling facilities for local and visiting anglers for 84 years.⁷

21. The paper also detailed examples of conflicts between canoeists and anglers, which have grown as a result of “large numbers of canoeists and rafters illegally utilising TTA waters throughout the year.” We heard that attempts to reach an agreement with the canoeists to limit paddling to outside the fishing season had failed. In a second paper,⁸ the Association accused Carmarthenshire County Council of “incompetence, ignorance or otherwise” for utilising public funds to set up an organisation that has been “allowed to flaunt the law of the land without any recrimination.” Like the Llandysul Anglers, the TTA wanted to see a system of paid licences for canoeists to use the river and be regulated.

22. The concerns expressed by the TTA were also echoed in a number of emails and letters sent to Assembly Members by other angling groups (see list of other submissions received, below).

Cenarth Falls: Session 6

23. We visited the National Coracle Centre at Cenarth Falls to talk to the owner and manager, Martin Fowler. In his opinion, everyone should have the right to use the river. He had set up the Centre 16 years’ ago, including

⁶ Email from David Griffiths, dated 13 January 2009

⁷ Teifi Trout Association – Canoeists/Rafters Dispute, paper by Edgar George

⁸ Teifi Trout Association – Canoeists/Rafters Dispute, paper by Edgar George, including article by Moc Morgan

the restoration of an 11th Century mill, but he was still unsure exactly what his rights of ownership entitled him - or others - to do. Even though he permitted canoeists to paddle along his stretch of the water, anglers had put up “no canoeing” signs without his permission on the river banks he owned. Coracles, which have been on the river for thousands of years, can be used for fishing on the tidal water of the Teifi, where they are regulated by the Environment Agency. Twelve people currently have licences to fish the River Teifi for salmon and sea trout using a coracle, although the Committee has since received an appeal from coracle fishermen about the increasing cost of those licences.⁹

Other submissions received

1. Countryside Alliance, letter dated 2 March 2009
2. Countryside Council for Wales, position paper by John Watkins, tabled 9 February 2009
3. Crickhowell & District Angling Society, letter dated 20 January 2009
4. Gittins, Michael, Brecon Town Council Fishing Committee, email dated 30 January 2009
5. Marsh-Smith, Stephen, Chairman of Angling Trust, email dated 5 February 2009
6. Merthyr Tydfil Angling Association, letter dated 10 December 2008
7. Moore, Jethro, copies of newspaper cuttings and letters, received 19 March 2009
8. Rooney, Paddy, letter dated 2 March 2009
9. Welsh Rivers Habitat & Angling Federation, email dated 6 January 2009
10. Welsh Rivers Preservation Society, letter dated 17 January 2009

⁹ Email from Mike Elias, Secretary of Carmarthen Coracles, dated 11 March 2009

Scottish Parliament Formal Meeting, 2 March 2009

The Legislative Framework

Before the Act

24. From Philip Smith, Policy Officer with the Scottish Government, we heard that the Land Reform (Scotland) Act 2003 (“the Act”) is,

“one of the most advanced pieces of access legislation in the whole of Europe and is, by and large, working well.”¹⁰

25. We were told by Rob Garner, Policy Officer with Scottish Natural Heritage, that before the Act came into being there was an “uneasy balance”¹¹ between the public not having clear legal rights and landowners or occupiers having very few workable remedies against trespass or irresponsible behaviour. It struck us that there were many echoes between the earlier Scottish scenario and the current situation for inland water in Wales, where, as we had found from our site visit to the River Teifi, the existing legal framework does not provide a sensible or workable foundation for managing people’s different requirements for enjoying the water.

26. We recognise, however, the misgivings that preceded the new Scottish Act: many landowners and individuals with a commercial interest in angling were strongly opposed to the proposal to extend the right of access to inland water. They cited conservation grounds - such as the need to protect fish stocks and sensitive habitats - for opposing access to inland water, much in the same way that anglers on the River Teifi had expressed serious concerns about the threat of access to spawning grounds and fish takes.

27. However, we were told by Scottish Natural Heritage¹² that following a major public consultation before the draft Bill was published in 2001 Scottish Ministers had concluded that the concerns raised about the difficulties of creating a right of access to inland water had been overstated. In addition, they believed that the legal difficulties had proved to be not as great as originally thought.

The Act

28. Part 1 of the Act came into force in Scotland on 9 February 2005. The Act established the right of responsible non-motorised access to most land and inland waterways throughout the country. The emphasis of the Act is on local management of access, so it gave the 32 Scottish local authorities and the two national park authorities - Cairngorm National Park Authority and the Loch Lomond and the Trossachs National Park Authority - duties

¹⁰ Record of Proceedings column 18, 2 March 2009, Petitions Committee

¹¹ Extract from para 3.2.18 of Access to the Countryside for Open-air Recreation, Scottish Natural Heritage’s Advice to Government, 1999

¹² Record of Proceedings column 29, 2 March 2009, Petitions Committee, quoting Draft Bill 2001

and powers to uphold access rights, including a duty to plan a comprehensive “Core Paths Plan” system, to employ local access officers, and to set up Local Access Forums.

The Code

29. The Act was accompanied by the Scottish Outdoor Access Code,¹³ which sets out the rights and responsibilities of land managers and those exercising access rights under the Act. Scottish Natural Heritage and the access authorities have a duty to publicise the Code, and Scottish Natural Heritage has a duty to promote the understanding of it. The Code contains practical advice on behaviour by the public and land managers. There are sections which explain how access rights extend to non-motorised water-based activities. For canoeing, rafting, rowing and sailing, for example, it gives guidance on respecting the needs of anglers by avoiding nets or other fishing tackle, keeping noise to a minimum when close to anglers, and keeping a safe distance from anglers on lochs. It also includes a section on fishing that explains that access rights do not extend to fishing and that anglers need to be careful when casting, and so on.

30. New web-based *Guidance on the Management of Access on Inland Water* is being developed jointly by a number of bodies, including the Scottish Canoe Association (Canoe Scotland) and the Scottish Rural Property and Business Association. The guidance is expected to be made available in late spring 2009.

Access Forums

31. Scottish Natural Heritage convenes the National Access Forum, which is a voluntary association of interested organisations formed to keep the Scottish outdoor access code under review and to encourage responsible management of land and water in relation to access. The Forum meets in public twice a year and discusses any and every matter that is brought before it.

32. There are also Local Access Forums that bring together different interests to agree how to develop, manage and promote access locally. These local forums are able to focus on issues of local importance: they advise on access rights, rights of way and the development of Core Path Plans, and they offer assistance in resolving disputes because they often know the individual users personally.

After the Act

33. It was interesting to hear from Anne Gray, Access Officer for the Scottish Rural Property and Business Association, that her post is part-funded by Scottish Natural Heritage in order to assist land managers at a national level with the introduction of the new access legislation.¹⁴ She has been

¹³ Public Access to Scotland’s Outdoors, Scottish Outdoor Access Code, Scottish Natural Heritage, July 2004

¹⁴ Record of Proceedings column 109, 2 March 2009, Petitions Committee

closely involved in developing “sub-codes” or additional guidance aimed at land managers, sometimes in conjunction with recreational bodies, and she responds to members’ queries.

34. Anne Gray told us that the Act “relies quite heavily on common sense.”¹⁵ However, there was a need to build an “access culture” in Scotland.¹⁶ Access legislation in Scandinavian countries has been around for so much longer, people there grow up knowing their access rights as it is instilled in them from an early age. This theme was echoed in the written paper from Eddie Palmer, Board Member of the Scottish Canoe Association (Canoe Scotland) which referred to the long-term commitment to “re-connect the people of Scotland with the land.”

35. The Scottish Anglers National Association Ltd is the governing body for game angling in Scotland, representing 340 angling clubs and 150 individual members (about 31,500 members in all). Ronnie Picken, President and Chairman of the Scottish Anglers National Association, did not mince his words when he told us that,

“the discriminatory situation caused in Scotland by the Land Reform (Scotland) Act 2003...has disadvantaged salmon and trout anglers, devalued proprietors’ property and is currently destroying jobs and much-needed business in angling and other country sports.”¹⁷

36. Mr Picken was not opposed to the legislation itself, however, but how it is interpreted, enforced and policed through the Access Code.

37. Ron Woods, Policy Officer for the Scottish Federation of Coarse Anglers was unable to attend the evidence session in the Scottish Parliament, but in contrast, told us that “the access legislation has had next to no impact on coarse angling in Scotland.” On the one hand, he had no evidence that the legislation had brought any improvement in resolving conflicts with other users where they existed, but equally, he had no real indication that conflicts had increased.”¹⁸

Conflict management

38. We heard from all the Scottish witnesses that there are “hot spots”¹⁹ where inappropriate use or disturbances occur. The Scottish Canoe Association (Canoe Scotland), for example, received 35 complaints on access incidents last year, relating to six rivers and involving around half a dozen people. More cases than that happened, but they were not reported.²⁰

¹⁵ Record of Proceedings column 114, 2 March 2009, Petitions Committee

¹⁶ Record of Proceedings column 132, 2 March 2009, Petitions Committee

¹⁷ Record of Proceedings column 144, 2 March 2009, Petitions Committee

¹⁸ Email from Ron Woods, Policy Officer, Scottish Federation of Coarse Anglers dated 25 February 2009

¹⁹ Record of Proceedings columns 15, 51, 120, 126, 2 March 2009, Petitions Committee

²⁰ Record of Proceedings column 198, 2 March 2009, Petitions Committee

39. The example we heard quoted most often was conflict on the River Tay where there have been local disputes between rafting and fishing interests, and which continue to cause a degree of concern. In the opinion of Scottish Natural Heritage,²¹ these spats are usually caused by “ignorance”, and a voluntary framework agreement has now been negotiated between the Aberfeldy commercial rafting operators and the Upper Tay Riparian Owners Association.²² The view of the Scottish Anglers National Association was that rafting, particularly commercial rafts have virtually wiped out salmon fishing on the Upper Tay.²³
40. The view of the Scottish Government²⁴ was that conflict on inland water was not a land reform issue so much as an issue of anti-social behaviour and one that should therefore be dealt with by the appropriate authorities, chiefly at a local policing level. The view of the Scottish Rural Property and Business Association²⁵ was that they did not want to overstate the occurrence of problematic incidents as they boiled down to a few key hot spots only. The Scottish Canoe Association (Canoe Scotland) felt that the number of problems had been exaggerated.²⁶
41. On the issue of managing potentially conflicting usage, we were interested to hear that the Act enables access authorities to exempt access rights to a particular stretch of water for a short period of time using Section 11 orders. This ensures that high profile, one-off events (such as the World Fly Fishing Championships) can proceed with exclusive use of the water.²⁷

Costs

42. The cost of providing infrastructure to allow increased, better or enhanced access and the cost of maintaining those facilities is met locally by the access authorities. They have received more than £8 million of additional funding from the Scottish Government for access work across the board.
43. The Scotland Rural Development Programme is available for land managers, community groups and organisations to fund local access initiatives, e.g. paths, car parks, signposting and gates. Those funding packages come under Axis 3 of European Union grants. There is also a package of funding available for information and awareness, e.g. leaflets, interpretation and so on.
44. In carrying out its duty to promote understanding of access rights and responsibilities Scottish Natural Heritage has been spending in the region of £1 million a year, although £0.6 million of that has been spent on television advertising. The investment appears to be paying off, however.

²¹ Record of Proceedings column 15, 2 March 2009, Petitions Committee

²² Framework between Aberfeldy Commercial Rafting Operators and Upper Tay Riparian Owners Association regarding the section of the River Tay between Aberfeldy and Grandtully, signed 3 April 2007

²³ Record of Proceedings column 147, 2 March 2009, Petitions Committee

²⁴ Record of Proceedings column 16, 2 March 2009, Petitions Committee

²⁵ Record of Proceedings column 126, 2 March 2009, Petitions Committee

²⁶ Record of Proceedings column 209, 2 March 2009, Petitions Committee

²⁷ Record of Proceedings column 223, 2 March 2009, Petitions Committee

Awareness of access rights among the general population has increased from 30 per cent to over 60 per cent; the understanding of paddlers about canoeing under the Code is in the region of 90 per cent.²⁸

45. As for paying for access, the Scottish Canoe Association (Canoe Scotland) told us that anglers pay for taking fish out of the water whereas canoeists and walkers do not contribute in that way, and whereas anglers pay towards the costs of stocking rivers and keeping them clean, the taxpayer also contributed through investment by the Environment Agency.²⁹

Other submissions received

1. Scottish Anglers National Association, paper by James R Picken, tabled 2 March 2009
2. Scottish Canoe Association (Canoe Scotland), paper by Eddie Palmer, received 18 February 2009
3. Scottish Government, paper by Philip J Smith, tabled 2 March 2009
4. Scottish Natural Heritage, paper by Rob Garner, received 27 February 2009
5. Scottish Natural Heritage, Loch Leven National Nature Reserve Local Access Guidance, June 2006 (tabled 2 March 2009)
6. Scottish Rural Property and Business Association, paper by Anne Gray, received 25 February
7. Sport Scotland, Out There, A sportscotland policy statement on sport and physical recreation in the outdoors, February 2009 (tabled 2 March 2009)

²⁸ Record of Proceedings column 65, 2 March 2009, Petitions Committee

²⁹ Record of Proceedings column 215, 2 March 2009, Petitions Committee

Conclusions

46. We agree with a number of witnesses that the rivers of Wales are a natural “gift” that should be within everyone’s right to enjoy. We therefore believe that all people should have the right of access to inland water in Wales. Access should not be based on the vagaries of permissions bestowed or ability to pay but on the fundamentals of equity and social justice.
47. It is likely that recreational use of Welsh rivers will only increase over time, especially when organisations such as the Environment Agency and local authorities have developed strategies to promote water use. Over 20,000 people go canoeing in Wales every week, and the sport grows by 9% a year. We conclude there is therefore a need for current access arrangements to change to adapt to new patterns and levels of demand.
48. We believe there is much complexity and confusion over the many and varied rights in respect of inland water (sporting, fishing, riparian, possessory, access, navigation) and which right has priority over another.
49. We accept that voluntary access agreements can work. We heard of examples on the Wye and Glaslyn (see also the submission by CLA Wales)³⁰ but they can also take some time to secure; it may take several years to bring all sides together into one room, let alone into one agreement.
50. We agree with virtually all the witnesses who gave evidence to this inquiry that the current situation in Wales is untenable and unworkable. Quality, clarity, certainty and permanency should be the watchwords for the future. We conclude there is a case for reforming the current framework so that there is a legal right of non-motorised access along inland water in Wales.
51. We believe that the mechanisms and processes of the Land Reform (Scotland) Act 2003 go a long way to providing clarity and understanding of the situation within Scotland. At the very least, the Act has effectively established and equalised statutory rights and responsibilities; it has clarified local authority powers and duties; it has created local access forums to facilitate discussion between parties; it has encouraged education to promote awareness and understanding of people’s rights and responsibilities; and, importantly, it has led to investment in recreational and environmental capital. We believe that the clear balance of rights in Scotland has inherently moved the access debate forward onto a more productive footing. Parties have been able to “leave behind cul-de-sac positions concerning who has which legal rights on their side”³¹ and to develop communication and dialogue over practical management solutions, joint-working arrangements and monitoring. We therefore suggest it provides a useful model for Wales to copy and adapt.
52. We understand, however, why certain groups may fear change and are opposed to the introduction of new access laws in Wales. We recognise

³⁰ Letter and attachments from Julian Salmon, Director CLA Wales, received 5 February 2009

³¹ Record of Proceedings column 39, 2 March 2009, Petitions Committee

that it will take some time to reach a proper level of understanding and expectation about access rights and therefore would underline the importance of instilling awareness and education from an early age. There is a real need to develop mutual respect and better communication between all sides of this debate.

53. We recognise there is a particular difficulty with policing conformity with the Scottish Outdoor Access Code because not all canoeists belong to the governing body, the Scottish Canoe Association (Canoe Scotland). In the same way, not all canoeists in Wales belong to the Welsh Canoeing Association. The anglers on the River Teifi suggested to us that all canoeists should have an identification number and a paid licence to paddle. There is merit in that approach, but would it be enforceable? We heard from the Environment Agency that it finds it hard enough to license just angling within its existing resources. A system of identification or licensing is also difficult because people lend canoes to others. Difficulties aside, however, we believe that there should be some attempt to identify, at the very least, canoeing groups and commercial operators.
54. We acknowledge that both the Sustainability Committee and the Communities and Culture Committee have responsibilities in the area of access to inland water in Wales, and we will write to the Chairs of both Committees in relation to our two recommendations below.

Recommendations

55. A new statute would ensure everyone has access to inland water in Wales, and on an equal footing; it would provide clarity, certainty and permanence and we believe that the Land Reform (Scotland) Act 2003 provides a basis from which a unique Welsh model may be developed. **We recommend** that a further more wide ranging inquiry be carried out with a view to bringing forward legislation in this area, which would give all stakeholders the opportunity to submit evidence.
56. Statutory access will not work, however, without enforceable codes of conduct for inland water so that environmental and other conditions can be built in and common sense can prevail. **We recommend** that a full scrutiny inquiry should also consider introducing a mandatory code to accompany the legislation in order for a new right of access along inland water in Wales to be managed and regulated, including some attempt to develop an identification system for regular water users.