



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

**Y Pwyllgor Deisebau
The Petitions Committee**

**Dydd Iau, 4 Rhagfyr 2008
Thursday, 4 December 2008**

Cynnwys
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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Andrew R.T. Davies	Ceidwadwyr Cymreig Welsh Conservatives
Michael German	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Bethan Jenkins	Plaid Cymru The Party of Wales
Val Lloyd	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)

Eraill yn bresennol
Others in attendance

Ashley Charlwood	Cymdeithas Canwio Cymru Welsh Canoeing Association
Richard Harvey	Cymdeithas Canwio Cymru Welsh Canoeing Association

Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol
Assembly Parliamentary Service officials in attendance

Alun Davidson	Dirprwy Glerc Deputy Clerk
Joanest Jackson	Cynghorydd Cyfreithiol Legal Adviser
Siân Phipps	Clerc Clerk
Bethan Webber	Clerc Clerk

Dechreuodd y cyfarfod am 12.30 p.m.
The meeting began at 12.30 p.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Val Lloyd:** Good afternoon and welcome to this afternoon's meeting of the Petitions Committee. Channel 1 on the headsets can be used to listen to the translation from Welsh to English; channel 0 will amplify the sound. We are not expecting a fire drill this afternoon, so, if you hear the alarm, please make your way to the exits. I have not received any apologies or notifications of substitutions for this afternoon's meeting. We will move shortly to take evidence from our first group of petitioners.

12.31 p.m.

P-03-118 Cymdeithas Canwio Cymru
P-03-118 Welsh Canoeing Association

[1] **Val Lloyd:** Good afternoon, gentlemen, and welcome to the committee. Please start by introducing yourselves.

[2] **Mr Charlwood:** My name is Ashley Charlwood from the Welsh Canoeing

Association.

[3] **Mr Harvey:** Good afternoon, I am Richard Harvey, chief executive of the Welsh Canoeing Association.

[4] **Val Lloyd:** You are very welcome. I will briefly outline the procedure. You will have up to 15 minutes in which to make your case; this time when I talk does not count. After you have finished, Members will want to ask you some questions. We also try to limit ourselves to 15 minutes, but we sometimes finish sooner. Whenever you are ready, please start.

[5] **Mr Harvey:** I take it that you received the evidence that we submitted along with our petition. The evidence shows that the Welsh Canoeing Association and various other governing bodies have tried mechanisms to generate access to and along inland water for over 50 years. We are here today to suggest that it is time for a change in emphasis; otherwise, we will come away with similar results that do not work not only for canoeists, but also for other parties and other riparian owners who are present on the waterways, or for the environment and the interests of sustainability. I will hand over to Ashley to expand on this.

[6] **Mr Charlwood:** Thank you for the invitation to be here today. We welcome the opportunity to give evidence on behalf of the petitioners. While the Welsh Canoeing Association is the national governing body for paddle sport and is made up of technical experts in the field, one must remember that the petitioners are not just our members, or canoeists, but members of the public.

[7] The WCA is here to represent this issue, because canoeists come across it more regularly, and are generally more obvious users as it is difficult to conceal a 14 ft boat on the top of a car. Lack of clarity about access to and along inland water exists in only a few countries, Wales being one of them. This has led to a polarised view against access for canoeists in Wales, which exists virtually nowhere else in the world. We have met the argument many times that swimming on the rivers on which our members wish to paddle is not a problem, but it seems that floating in a canoe is. We firmly believe that the problem is not one of polarised perceptions, but of clarity about rights and environmental obligations.

[8] The polarised view makes a convenient argument by attempting to minimise the scale of the problem by reducing this to a two-party issue: that of reconciling the interests of angling and canoeing. That is not the case, but it may be helpful to examine some statistics. Canoeing is an ancient form of transport, but it has evolved since the 1980s as a 'stealth sport'. Participants often go unnoticed on the waterways, but rarely gain a welcome and so actively pursue ways of minimising their presence. The Countryside Council for Wales estimates that 10,000 people enjoy paddle sport per weekend in Wales. Canolfan Tryweryn, the national white water centre, sees 100,000 participants annually in its own right. We expect this number to continue to rise as this year we have removed any form of charging for recreational access to the facility. The section of the Wye on the Welsh border has clarity over navigation rights and experiences in excess of 70,000 people. It would seem likely that CCW's estimate is, if anything, conservative.

[9] Angling and canoeing exist in other parts of the world and they also exist harmoniously and on a non-exclusive basis in Wales on rivers where navigation rights have been made clear. They also co-exist in the Welsh marine environment, largely because the rights issues are clear, and sea angling, at present, is free from licence charges. However, angling on fresh water in Wales requires a licence to be bought from the Environment Agency. The total number of licences sold in 2007 is just over 71,122. Of that total, 6,982 licences are sold per annum to permit game fishing.

[10] It is worth noting that the restrictions imposed on canoeing by fishing clubs over the

past 40 years are to protect game-fishing revenue. Today, Welsh Assembly Government-sponsored projects on the Wye and Glaslyn restrict public access during the game fishing season due to the one-sided view that public access and game fishing are not compatible in Wales. Even these figures are minimal when all participants are introduced. The Environment Agency states in its strategic document, 'A Better Place to Play', that half the population enjoys being in, on or around water for recreation and that the socio-economic and health benefits of this type of recreation are well documented. This, then, cannot be reduced to a canoeing versus angling argument—it is a public issue.

[11] What will be done to provide for rafting, wild swimming, gorge walking, canyoneering, river surfing and any other recreations that come in future? Several new Welsh guidebooks are published annually for water recreation, and the benefits of this type of tourism are not being harnessed at present. This is at the very heart of the petition. We believe that this issue should be addressed by those who can give clarity to the public. Since 1892, countries around the world have been bringing clarity to the public on their right to enjoy water. Europe achieved this largely in the early 1900s, with Scandinavia enshrining tradition in the 1990s, and with Scotland being the latest in 2003. In effect, this leaves England and Wales as the only countries that maintain a position of ambiguity. The reasons behind the ambiguity now need to be explored.

[12] In Wales specifically, there is a long history of waterways being utilised, which is both documented and anecdotal. Compelling arguments include the finding of boat skeletons in the upper reaches of rivers near Builth Wells, extensive coracle use across the whole of Wales with specific designs utilised on different catchments, and gentlemen's diaries of uncontested journeys along waterways. That is best illustrated by William Bliss in the late 1800s with regard to the Wye, Usk and Teifi as well as journeys in 1934 from Bala to the sea along the Dee. Records of events known as 'festivals of water' are commonplace in the archives of the National Library of Wales and some pieces of statute that create opportunities for railway provision cite the need to maintain navigability on the rivers that they cross. However, post-war, there has been a stated position by sporting rights holders that has gathered popular support that any use of the rivers is trespass.

[13] Until two years ago, that view was subscribed to by the Welsh Canoeing Association, but we can now see that we were wrong. Ironically, it was the formation of the Wye Navigation Order 2002 that began to open our eyes wider. In the formation of that Order, the Environment Agency, as the navigation authority, examined what rights may exist on the Wye in Wales and came away wanting. The modern Order repeals all previous legislation apart from three specific ancient Acts that give clarity over navigation rights on all of the upper Wye and its tributaries; rather unhelpfully, the 2002 Order goes no further on bringing clarity and states that,

[14] 'Nothing in the Order shall be construed as implying that there is, or that there is not, a public right of navigation over the upper rivers and the tributaries, or any part of those rivers and tributaries.'

[15] Further examination of statutes shows that the Statute Law (Repeals) Act 1969 left four articles of Edward I's confirmation of the Magna Carta as current statute. One of these articles applies to navigation and states:

[16] 'And the city of London shall have all its ancient liberties and free customs, as well by land as by water; furthermore, we decree and grant that all other cities, boroughs, towns, and ports shall have all their liberties and free customs.'

[17] The history of the charter is well known to have strongly influenced the formation of modern law across Europe and the world as well as being strongly supported by Prince

Llywelyn the Great. Perhaps this one article is the reason why customary use of the waterways around the world is commonplace. Regrettably, this is not so well understood in Wales. Although Welsh residents and those travelling to Wales have customarily used the waterways since the Stone Age as a mode of transport, to support a way of life and for recreation, it would appear that existing statute already confers a right that is in desperate need of clarification and modernisation.

[18] When approaching the current interpretation in law, scrutiny is placed on the ownership of the river bed, and we accept that. It is the analogy of public footpaths crossing private land that describes the customary right conferred in law that is yet to be examined in Wales. To our knowledge, in Wales, examination of public rights on water has never been undertaken. In previous sessions of the Assembly, Ministers have recommended that a definitive map be produced that echoes the rights of way map for terrestrial activities. This has not been done and the information is not available. Without this basic knowledge, it is possible that well-meaning practical actions by the Assembly Government may be ignoring or even eroding public rights. This uncertainty over existing rights is an issue that requires clarity on a pan-Wales basis. Clarity is being sought on specific stretches of river; responses from WAG on whether a public right exists place a massive burden on the participant.

12.40 p.m.

[19] For example, the Assembly Government's response with regard to the Afon Glaslyn was that it could not provide the definitive statement that we were seeking, and that it was a matter for the courts to decide. On the Welsh section of the Wye not covered by the 2002 Act, the Navigation Authority expressed its stated policy that its support and instigation of access agreements on rivers where rights to navigate may or may not exist do not constitute a comment on whether such rights exist. It said that such agreements are a pragmatic approach to securing recreational opportunities for the public and that it was not currently its policy to seek to investigate any such rights on the Upper Wye. It went on to say that it is open to individuals or organisations to assert a right that they believe they have and, were any such rights to be challenged, to seek their confirmation via a legal process. The authority also said that were any rights to navigate on the Upper Wye to be confirmed by the courts, it would give due regard to any such judgement.

[20] Therefore, is it sound practice to produce and invest in such a mechanism without first clarifying who has rights and whether the public has precedence over the proposed arrangements? This clarification process is an everyday part of due diligence that takes place during conveyancing on property sales. The fact that it is difficult to determine public rights on water is not a good enough reason to omit it from a process using the public purse. If, therefore, the Welsh Assembly Government believes that individuals should make their own decisions without basic information, is the appropriate way forward one in which individuals test rights on a case-by-case basis for in excess of 300 rivers and many lakes?

[21] In the hope that clarity would be provided, for more than 40 years, canoeists have sought to negotiate permissive access for themselves with a network of volunteers and paid officers. Despite huge officer hours, the needs of canoeists could not be met. Membership of the national governing body does not necessarily reflect the end user, meaning that membership agreements were impractical and that a wider mandate was required for public access agreements. Furthermore, as no-one can definitively say there is no right to be there, participants choose to believe that they are permitted. As the governing body, we now recognise that, without evidence, meaningful and sustainable mechanisms cannot be introduced for providing access.

[22] As illustrated in our petition evidence, the Department for Environment, Food and Rural Affairs commissioned Brighton University in 2001 to research the scope of access to

inland water. In 2003, Brighton University was again commissioned to provide research on the scope of canoe access. It used similar processes to those used by the governing bodies over a period of 40 years, supported with significant financial resource and the gravitas of Government endorsement. In 2006, the delivery of access was attempted in the form of four projects. Two projects managed to consolidate existing access but, after an extended two year period, two projects failed to deliver access for canoeists. In fact, local paddlers assert that the involvement of their local rivers in negotiation has led to increased levels of conflict and a loss of de facto access.

[23] The 2006 Brighton University report branded itself a success and produced a list of recommendations on how to negotiate an agreement. However, the information on pages 43 to 46 of the same report submitted to the committee in previous evidence clearly shows that the process of negotiation cannot deliver effective access. The best example of this is a river rising in Wales where a target of 110 km of new access was set for the river Teme. The result was 1.6 km, which has yet to be formalised into an agreement after five years of negotiation. This contradicts the report's executive summary and shows that voluntary access fails where met with opposition.

[24] Although the process did not produce results that were acceptable to canoeists, from our point of view, the exercise was useful as it demonstrated the limits of what can be achieved given the current perception of the legal system and the fact that many will prefer to adopt de facto access than to invest time in securing something that will not meet their needs. Since the report, representation from several stakeholders, including national angling associations, has said that the Brighton process is neither transferable, marketable or welcome in Wales. However, since 2006, the Welsh Assembly Government has unsuccessfully attempted to deliver different results using a virtually identical process.

[25] It is our submission that the exemplar projects run at Government department level did not cover the needs of canoeists, let alone the needs of other water-based recreations, the environment or management practicalities. In 2007, the Countryside Council for Wales produced a report on international approaches to delivering access to inland water. The conclusions concur with our experience that sustainable access cannot be provided by negotiation but that it may be a management mechanism to reduce conflict where participant rights are equal and clear.

[26] Negotiation has always been a first step in creating access to the natural assets of Wales, but, as happened with the coast and countryside before, this approach will not meet the needs of the public. When access to the countryside was delivered under the Countryside and Rights of Way Act 2000, it was a statutory approach that created a marketable and tangible benefit to Wales, despite nervousness about change and incorrect perceptions of the countryside being overrun.

[27] **Val Lloyd:** You have a minute left.

[28] **Mr Charlwood:** Okay. It would appear that, where applied, the mechanism has largely been successful. As the coastal access agenda of the Act moves forward, WAG has found that terrestrial rights cannot be delivered in a sustainable manner through negotiation. Instead, for coastal access, Wales is looking to Whitehall and the Marine and Coastal Access Bill for framework powers to pursue statutory access to the coast with confidence that a statutory approach will meet the stated ideals that quality, clarity, certainty and permanence all have a huge bearing on the usefulness of access on the ground.

[29] Twenty years ago, it would have been unthinkable that cycling could be such a valued asset to draw in tourism. By using its own forestry land, Wales led with mountain biking centres, and it is now recognised as a fantastic way of securing local engagement, and of

encouraging visitors and healthy recreation. Unfortunately, despite exemplar projects attempting to replicate this with water-related recreation on the same public estate, access cannot be facilitated due to a lack of clarity over rights and a perceived view of incompatibility by some—

[30] **Val Lloyd:** I have to ask you to draw to a conclusion now. Can you just finish your sentence?

[31] **Mr Charlwood:** We understand that, in accepting this petition, the committee has begun the process of gaining framework powers that would ultimately allow the Assembly to create a Measure if it saw fit, and although the position remains unclear over public rights to inland water, canoeists will continue to be the tip of the iceberg of those who enjoy using Wales' water asset.

[32] **Michael German:** Thank you very much for your presentation. You painted a picture of a legislative jungle in which the only solution for clarity in the law is through new powers. You have suggested that using any route short of legislative powers to do the work that you think is important would fail. You cited the recent experience in a number of European countries that have been working in this sphere. I would like to ask about the Scottish experience. My question concerns the type of legislation that you want, because the Scottish legislation changed the terms of access to land, not just to non-tidal waterways. Is that what you are seeking as well, namely that the scope of your legislative competence Order would give access to land as well as waterways?

[33] **Mr Charlwood:** The fit is probably slightly more difficult in that Scotland started with a blank sheet, but we have already spent £76 million on the Countryside and Rights of Way Act 2000, looking at mountain, heath and moorland. Everything has to tie into our existing legislative framework. At this stage, we are not in a position to describe how the legislation should look. There are public rights of way that allow people to get to the water at the moment. A lot of negotiation needs to be done if clarity over linear access on the water is to be achieved in order to maintain or improve access. There are certain areas of rivers where having a 2m strip to allow people to go around waterfalls may be appropriate, but, during the drafting of the legislation, that will need a wider consultation and an understanding of the existing framework. We are stating that the rights along rivers at the moment are unclear. How it fits into the jigsaw of existing legislation is—

[34] **Michael German:** Your term 'linear access' is probably more helpful than 'access', which I presume means 90 degrees—in other words, it permits navigability, as you call it, along the river. So are you talking about land access insofar as it permits linear access along the river?

[35] **Mr Charlwood:** No, it is about clarity with regard to the action of navigation—that, once you are in the river, you are entitled to navigate along it. CROW has sub-sections under section 16, on dedication of land as access land, that allow people to describe public rights as getting from one public highway or right of way to another point. So, in effect, that exists. The question of clarity is with regard to whether you can go from point A to point B once you are in the water, and that is the point of contention.

12.50 p.m.

[36] **Michael German:** The Scottish Act did not incorporate the Countryside and Rights of Way Act 2000, but, are you aware of any waterway access difficulties that have arisen subsequent to that 2003 Act in Scotland?

[37] **Mr Charlwood:** There are localised issues in Scotland that can be solved by

negotiation, but the reason they can be solved by negotiation is because people are on an equal footing and they are entitled to be there. So, it is a much more level playing field in negotiation. I know that there are sections on the Tay that have been heavily used by commercial rafting. Those commercial interests have come to a local voluntary agreement on how they should undertake their activity, but the fundamental point is that the public has a right of informal access to and along the waterways that they seek to enjoy.

[38] **Michael German:** So, the context in Scotland is that there is a framework right, an outlying right, which allows negotiations to take place. Is that the process?

[39] **Mr Charlwood:** It removes the ambiguity that sits in Wales. In Scotland, people go to the waterways, and they know their rights and responsibilities in relation to protecting other people's interests around the river as well as the environment in its own right. We are painfully aware that the waterways in Wales are a relatively fragile environment, and yet people are going on a de facto basis. We would submit that there has to be the opportunity to hand a yellow or red card to people who might be impinging on environmental issues. At present, that does not exist in Wales and yet it exists in Scotland under rights of responsible access. If you move away from the issue of conflict and look at how you manage recreational activity in line with the environment, other people's interests and rights, and commercial rights, you see that it is very difficult to reconcile that when there is no framework to do it. We feel that that would be very welcome in Wales, so that we could move forwards in harnessing the opportunity.

[40] **Mr Harvey:** We firmly believe that the Scottish model, which is enshrined in the code of conduct, aims to put everyone on a level playing field, realistically, so that everyone can bat for the same side. Our concept would be that it is for the sustainability of the environment and for everyone to enjoy it within environmental constraints.

[41] **Bethan Jenkins:** You are calling for access to the waterways, but have you had support for this from any other organisation, such as the British Mountaineering Council or the Ramblers' Association, to extend the arguments that you are giving here today?

[42] **Mr Charlwood:** We have had discussions with other national governing bodies and the associations that you mentioned, along with other groups, such as the Association of Heads of Outdoor Education Centres. At the moment, they have a very live issue with the coast and terrestrial pedestrian access, which has a massive impact on them. Their focal point is not as obvious at this stage. The Ramblers' Association recognises that access alongside rivers is probably of massive benefit to its members, and it is a massive participation area for it in that its members seek to walk alongside the water and look at it from their perspective. They are probably watching Richard and me swimming along the river. [*Laughter.*] There is the public interest of being around rivers.

[43] **Bethan Jenkins:** So, you have initiated discussions but they have not said anything formally to you in support—

[44] **Mr Charlwood:** They are supportive of the approach, but they are not able to contribute at this stage because their focus is very much on the delivery at the coast.

[45] **Bethan Jenkins:** Would you approach Environment Agency Wales or the Countryside Council for Wales about this petition? I read from our papers that the Environment Agency produced a report after the Welsh Assembly Government initiated that process. However, as you said earlier, I do not think that you are very pleased with the outcome of that.

[46] **Mr Charlwood:** From our point of view, it is a matter of having sustainable

foundations—of knowing what people’s rights are on or around the water—before building a building on top. We work quite closely with the Environment Agency and CCW on a variety of different projects. The most helpful thing that I can say is that they will not be drawn into the applicability of the petition at this stage.

[47] **Mr Harvey:** They will always work to the perception of what their legal system interpretation requires as their operational remit at this moment in time, as well. Possibly, a comfortable way of operating is to work within the existing presumption.

[48] **Bethan Jenkins:** Environment Agency Wales states in its report that it will,

[49] ‘help to create new access for recreation to the coast, canals, rivers, lakes and reservoirs’.

[50] However, you do not believe that that is strong enough yet, and you would say that there is much more work to be done in enshrining the rights, would you?

[51] **Mr Charlwood:** Producing new access rights, as we have outlined, has to be done on a case-by-case basis. Of the 300 rivers and all the lakes, this year, the strategic exemplar projects have managed to reinforce the voluntary agreements that the Welsh Canoeing Association used to have in two cases. We have 150 years of negotiation at the present rate, which is quite a significant amount of resource. From the Environment Agency’s point of view, if we get to a point at which we can clearly state that people do or do not have an entitlement to be in the water, negotiation and stakeholder working becomes more powerful and sustainable, because we end up with something that participants will adhere to. That is the fundamental point at the moment: given that participants do not know whether they can or cannot be in the water, there is no opportunity to inform or modify their behaviour.

[52] If you ask the Environment Agency its position on that same stretch of the Glaslyn river, which the Welsh Assembly Government says that it cannot provide a definitive statement on, it would say that there probably is a right of navigation, but that it comes down to an independent person or body testing those rights. We have looked at this issue for many years, but it would cost around £0.5 million to test those points in court. However, on the Glaslyn river alone, there are four distinct geographically and topographically different sections, so you are looking at £2 million to clarify in court the rights just on one river, before we start on all the other rivers that are already being used. Another thing that must be recognised is that the waterways in Wales are being used at the moment. There are 10,000 people enjoying paddling sports per weekend. No wonder there is conflict if people do not know what their rights and responsibilities are, and there is no way of informing them at the moment.

[53] **Andrew R.T. Davies:** You have answered my question to a point. However, you stated in your presentation that we, as a committee, can start the ball rolling to get framework powers, but we, as a committee, have no power at all to start any such action. We can recommend and we can take information on board, but it is Westminster that decides on the framework powers that it sends down to us, which is different from the legislative competence Order model. You state in your petition that you ‘urge’ the Welsh Assembly Government to consider. However, the Minister has come back to us to say that this is not a priority for the Government, although it recognises the picture that you paint. So, the Government has considered the petition as worded and has come back and stated that it is not a priority for it. What is your view on that? How will you take it forward if the Government is not prepared to? We have heard of the conflicts that go on, but if the Government says ‘no’, it means ‘no’.

[54] **Mr Charlwood:** The wording may be a little lax, but I understand that, under the

Government of Wales Act 2006, the committee can draft a Measure or LCO for scrutiny and discussion by the Assembly. So, while the Assembly Government is not willing to consider it at present, I believe that the committee can put forward a draft piece of legislation for consideration, which can then go down the rubber-stamping route. I would hope that the committee feels that this issue is significant enough and is enough in the public interest to propose that that drafting take place, to take scrutiny and discussion to a further level.

[55] **Michael German:** The committee can propose such legislation only if we have the relevant powers under the Act. This would have to be preceded by a legislative competence Order, which, again, the committee could propose. I just want to be clear that, if the legislative process is not quite as you have described it, is it your intention that the Assembly as a legislature pursues the legislative process, rather than simply makes a statement about what is needed? Any Measure would have to be preceded by a legislative competence Order supplying us with the relevant powers.

1.00 p.m.

[56] **Mr Charlwood:** My hope was that the committee would take ownership of the issue and do anything in its power to raise the discussion in an appropriate manner in the Assembly. We believe that the way forward is to draft a piece of legislation that brings clarity to the issue.

[57] **Michael German:** It would be a slightly longer process. That was my point. It may be much longer than you think. It is not just a case of passing an Assembly Measure; that would have to be preceded by securing an LCO. I do not expect you to understand it; it is a very complicated system.

[58] **Val Lloyd:** It is far too complicated. We would all agree with that. However, the committee would not be able to do it. We might be able to undertake an inquiry, but we would have to pass this on for the process to go on after that.

[59] There are two minutes left, if anyone wants to ask any further questions. It appears that there are no more questions, so I thank you for presenting such cogent evidence. I learned a lot. If you would like to retire to the public gallery, we will deal with other business until you are seated so that you do not miss our discussion.

[60] **Mr Charlwood:** Thank you. Diolch yn fawr.

1.01 p.m.

Deisebau Newydd New Petitions

[61] **Val Lloyd:** We move on to the new petitions that we have before us, of which there are two. The first comes from a Mrs Anne Price of Tenby, who collected about 1,000 signatures. The wording is brief, so I will read it out.

[62] ‘We the undersigned, hereby petition the Welsh Assembly Government, to urgently review the concessionary fare policy with regard to the funding of rural bus routes.’

[63] Clearly, we are not the Welsh Assembly Government, but we have this petition before us as a committee of the Assembly. Would anyone like to begin?

[64] **Michael German:** May we ask the Government about its attitude towards this? If I remember rightly, the big problem with the concessionary fare policy for rural bus routes is

whether the Government can fund the sort of minibuses, small buses and routes that are run by voluntary organisations and other bodies, as opposed to statutory bus operators. That has always been a difficulty. Can we seek the Government's view on this?

[65] **Val Lloyd:** I am content with that.

[66] **Andrew R.T. Davies:** It is quite a comprehensive area to cover, with various bodies responsible for delivering support.

[67] **Val Lloyd:** We have a good paper from the Members' research service. The more you read it, the more you realise that there is more to this than meets the eye. That would be a good way forward, initially. We will write to the Deputy First Minister and Minister for the Economy and Transport, and await his reply.

[68] The second new petition is from a residents' group in the Ely valley called NEVAR, which stands for no Ely valley airport road. The petition has collected 400 signatures. I open it up for discussion.

[69] **Andrew R.T. Davies:** I have some comments to make. I would not say that I have a conflict of interest exactly, but I have met the pressure group, although I played no part in writing the petition. It is an ongoing issue, and, as I understand it, the Deputy First Minister will be making his announcement in the spring. The Welsh Assembly Government proposals have undergone a comprehensive consultation exercise over two stages, and the second stage concluded in October. I am led to believe that the Deputy First Minister is now considering the responses to that consultation, which revolves around three different projects to gain better access to Cardiff international airport.

[70] The Deputy First Minister's decision-making process is clear, but the pressure group's objections are compelling, so I am not sure whether we should seek clarification from the Deputy First Minister in the first instance. Alternatively, we could speak to the pressure group to gain an understanding of its concerns. As I said, the decision-making process is well established, but it may be that the committee would benefit from having that process explained by the Minister. That could be the first stage.

[71] **Val Lloyd:** Thank you, Andrew, for shedding light on that. What are Members' views?

[72] **Michael German:** I agree with that. In asking for clarity, can we also seek clarity on the funding issue? The Minister has just made a statement on this matter, and it is not high up the agenda. If it is not going to be on a financial priority list, and the Minister is minded to have it on the back burner, that might be another issue, but we need clarity on it.

[73] **Val Lloyd:** I agree. I think that we need clarity and then we can decide on the optimum way forward in response to the petition.

1.06 p.m.

P-03-118 Cymdeithas Canwio Cymru: Parhad
P-03-118 Welsh Canoeing Association: Continued

[74] **Val Lloyd:** I note that our petitioners are safely in the gallery, so we will return to the petition from the Welsh Canoeing Association.

[75] **Michael German:** It is often the case that, once you look underneath the surface of

what looks like a very straightforward matter, you find that it is complex. We were given a very comprehensive outline of the complexity of the arrangements under legislation relating to this issue of navigability. I have many questions that I would not dare ask Joanest to help me with at this point in time. We need to get a very broad understanding of the issues and their complexity. As you said earlier, an inquiry into this would be very helpful. I think that we described the terms of reference for that. If the outcome of that inquiry were a recommendation from us that a legislative competence Order be sought, who would be entitled to do that? That was the question that I was asking Joanest. I know that some committees are entitled to do that but not others, and I would like to have clarity on that matter at some stage during the course of the discussion.

[76] **Ms Jackson:** I can deal with that brief point now. The situation would be similar to that when you considered the petition from Sustrans, which was transferred to the Enterprise and Learning Committee. A committee may only propose an LCO in relation to a matter under its remit. Unlike the remits of scrutiny committees, our remit is not portfolio-based. I refer to the Sustrans LCO as such because it originated with a petition from Sustrans. It was submitted to one of the scrutiny committees to take on.

[77] **Michael German:** So, it would be possible to go through the process with regard to the rationale for why the legislation needs to be changed, and then, having done the work to help the other committee, we pass it on and say, 'Look, here is a case for you'.

[78] **Bethan Jenkins:** I think that we might need to ask the committees involved whether they would be willing to take it on, because we do not want to do all the work for an inquiry for it to go nowhere.

[79] **Val Lloyd:** We would have to do the inquiry to make the case. We would have to have more knowledge. We have had a good exposition today, undoubtedly.

[80] **Bethan Jenkins:** Could we tell the Sustainability Committee that this may be coming up, just to prepare it for the fact that it may have to—

[81] **Val Lloyd:** We could do that. I am sure that I could write, as Chair, informing it that we are considering this and asking it whether it has any observations before we begin.

[82] **Michael German:** It may be that, during the course of such an inquiry, we come to the conclusion that the Standing Orders that we currently have need amending in order to carry out the task, although I do not want to prejudge what we might do. I know that the Sustainability Committee has a lot on its plate at the moment, but I suppose that it would be the right thing to do to say that we are thinking of doing this inquiry and to say that, if the outcome were to be a recommendation under the current Standing Orders, that committee would have the job of taking it forward, and to ask it whether it would be content with that.

[83] **Val Lloyd:** Does anybody want to add anything?

[84] **Andrew R.T. Davies:** That seems like a sensible course of action.

[85] **Bethan Jenkins:** I would like to note that it was great to see that the witnesses were passionate about what they were doing. I think that anything that we can do to help them along the way would be beneficial.

[86] **Val Lloyd:** I thought that the petitioners made a very good case.

[87] **Michael German:** Particularly on examining the Magna Carta. [*Laughter.*]

[88] **Val Lloyd:** It was also very informative and interesting.

[89] **Michael German:** It would be useful for us to have a note on the Magna Carta from Joaneast for our inquiry and on how it impacts on this matter. [*Laughter.*]

[90] **Val Lloyd:** We will write to the Sustainability Committee, informing it that we are keen to start this inquiry and that if we reached particular conclusions, we would have to give it to that committee to take forward.

[91] **Michael German:** That would be in line with the Standing Orders.

[92] **Val Lloyd:** Of course, Standing Orders could be amended. Thank you.

1.10 p.m.

Yr Wybodaeth Ddiweddaraf am Ddeisebau Blaenorol Updates on Previous Petitions

[93] **Val Lloyd:** The first petition is on the Welsh-language daily newspaper. We have, as a committee, considered this petition in April, June, July and October of this year. On 2 October, we agreed to write again to the Minister for Heritage to clarify whether any independent market research had been conducted into a Welsh-language daily newspaper. The Minister has replied, and the reply is before you. Are there any comments on this?

[94] **Michael German:** The point of contention seems to be about the nature of the data, or rather the nature of the market research that Dr Bianchi conducted. Having read the Minister's reply, I wonder whether we could seek clarity that the market research conducted was robust. We need to find out how the research was carried out, how many people conducted it and how robust the data was. We could then, perhaps, reconsider it when we have that information.

[95] **Val Lloyd:** We do need more information. The Minister was quite helpful, and provided a full reply, and we now need to look at the research itself regarding the scope of the data and who was responsible for it. We will write accordingly, if everyone is content. I see that you are.

[96] The next petition is on the Cleddau bridge. We considered this petition for the first time at our meeting on 16 October. We then wrote to the Deputy First Minister and Minister for the Economy and Transport to ask for the Government's current position in relation to this bridge. The Deputy First Minister has given us a very comprehensive response. I now open this petition up for discussion.

[97] **Andrew R.T. Davies:** The response, as you rightly point out, Chair, is very comprehensive. I note the eye-watering figure of £40 million required to take over the responsibility for the bridge. I am sure that quite a few councillors wish that they had an asset that they could get that much for. This is clearly something for Pembrokeshire County Council; we are unable to direct the council or interfere with this issue. Therefore, I cannot see how we can take the petition any further forward.

[98] **Val Lloyd:** I think that that is quite right.

[99] **Michael German:** To be helpful to the petitioners, could we refer the issue to Pembrokeshire County Council, saying that we have received this petition, that we have looked at it and have been told that it wants £40 million, but for us to do that we would have

to repeal an Act—a private Bill, which is always the most difficult to do in Westminster terms? However, we could say to the council that it may wish to consider it itself.

[100] **Val Lloyd:** So, are you saying that we should close the petition? I am sorry; I think that I have misunderstood your intention.

[101] **Michael German:** My intention was to encourage the council to look at it; it would not report back to us, but we could encourage it to consider the issue.

[102] **Val Lloyd:** I agree with that.

[103] **Michael German:** It will probably say that it would cost us £40 million to do away with the tolls.

[104] **Val Lloyd:** The next petition is from the Guide Dogs for the Blind Association, which we considered in June and in October. On 2 October, the committee decided to write to the Minister for Environment, Sustainability and Housing. In her response, she stated that the ‘Manual for Streets’ is non-statutory guidance and that the use of shared spaces requires careful attention to detail. The petitioners have kindly sent us two further communications, which I know you have received. This is not as straightforward as it seemed when we started it. The Department for Transport has announced a two-year research project starting early next year. That is a long time to wait for the response.

[105] **Michael German:** From the letter dated 28 November from the Guide Dogs for the Blind Association, it would appear that the DFT recognises that there are deficiencies in the ‘Manual for Streets’ toolkit. It is doing a research project to see how it can be improved and it will issue guidance at the end of that. The problem is that to have that level of information, which would probably be information that would only apply to Wales, it would mean waiting for two years for the research. In addition to getting the petitioners to come in to see us, it may be possible to find out more about the research project that the DFT is doing, to see what its terms of reference are for this research project, whether it has appointed consultants to carry it out, and whether the consultants have done any work so far, just to get a broader picture of what the DFT’s intention is with regard to its work. I have described it in a particular way there, but it may not be that the ‘Manual for Streets’ is inappropriate—I just do not know.

[106] **Val Lloyd:** I agree. I wonder whether there will be a call for a consultation, in which case, I am sure that the Guide Dogs for the Blind Association would submit its own response. Shall we write for further information? Is the committee content with that?

[107] **Michael German:** Yes, and perhaps we could have the petitioners in after that.

[108] **Andrew R.T. Davies:** This runs parallel with the Sustrans petition that is going through, which we have heard about this morning. This was a key issue of concern for the Guide Dogs for the Blind Association.

[109] **Ms Webber:** To clarify, are we writing to the Welsh Assembly Government Minister to clarify her involvement or—

[110] **Michael German:** No, to the DFT.

[111] **Ms Webber:** I do not know what the Government’s relationship was with that research.

[112] **Val Lloyd:** That is a point. Our Minister might also be contributing to the

consultation. We could find that out too.

[113] **Ms Webber:** I was just wondering whether, as the ‘Manual for Streets’ was issued jointly, the Welsh Assembly Government is feeding into this.

[114] **Michael German:** There may be a recognition that the ‘Manual for Streets’ no longer does the job or that it needs updating or improving and, clearly, it is the same document for us, so, presumably, it has an impact.

[115] **Val Lloyd:** The next petition is that on fuel and road haulage in Wales. We considered this in June and October. The Enterprise and Learning Committee has conducted a short scrutiny inquiry into this petition. The Chair has kindly written to us to say that the committee has laid its report before the Assembly and that Members have requested a Plenary debate on the issues that the committee has raised. So, the committee has asked the Minister for a formal response, and it is happy to share that formal response with us as soon as it receives it. So, shall we put this on hold until we have that formal response? Andrew, you are on that committee, are you not?

[116] **Andrew R.T. Davies:** Yes. It was agreed the week before last. Hopefully, we will have the debate next term.

[117] **Val Lloyd:** That brings us to the last petition. I remind Members that I expressed an interest in this petition and so will not take part in the discussion. It is regarding the Swansea-Cork ferry. We last considered it on 16 October. We wrote to the Deputy First Minister, and he responded; his response is there for you to read. I hand this over to committee for comments.

[118] **Michael German:** Can we find out more about the feasibility study? The port authorities have a feasibility study on the route, which indicates that it is possible. So, it is about what the port operators are going to do with that and what the barriers are to carrying out the recommendations of the feasibility study.

[119] **Val Lloyd:** Is everyone content with that? I see that they are.

[120] **Michael German:** Perhaps we could also ask them in writing for their conclusion on the feasibility study. It is reported slightly third-hand here, of course.

1.20 p.m.

[121] **Val Lloyd:** That concludes our business. I take this opportunity to thank Bethan Webber, who is leaving us for pastures new—another committee. I thank her for her input since she joined us. We have enjoyed your time with us, Bethan, and we have benefited greatly from your advice. We wish you every success in your new role.

[122] **Ms Webber:** Thank you.

[123] **Val Lloyd:** I also take the opportunity to introduce Members to Siân Phipps who, from the next meeting, will take us forward. I now declare the meeting closed.

*Daeth y cyfarfod i ben am 1.20 p.m.
The meeting ended at 1.20 p.m.*