



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

**Y Pwyllgor Cynaliadwyedd  
The Sustainability Committee**

**Dydd Iau, 28 Ionawr 2010  
Thursday, 28 January 2010**

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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**

Lorraine Barrett	Llafur Labour
Mick Bates	Democratiaid Rhyddfrydol Cymru (Cadeirydd y Pwyllgor) Welsh Liberal Democrats (Committee Chair)
Angela Burns	Ceidwadwyr Cymreig Welsh Conservatives
Rhodri Glyn Thomas	Plaid Cymru The Party of Wales
Joyce Watson	Llafur Labour
Brynle Williams	Ceidwadwyr Cymreig Welsh Conservatives
Leanne Wood	Plaid Cymru The Party of Wales

**Eraill yn bresennol**  
**Others in attendance**

Rachel Evans	Y Gynghrair Cefn Gwlad Countryside Alliance
David Griffiths	Cymdeithas Eog a Brithyll Genweirwyr Cymru Welsh Salmon and Trout Angling Association
Stephen Marsh-Smith	Sefydliad y Gwy a'r Wysg Wye and Usk Foundation
Jane Pritchard	Swyddog Mynediad, Cyngor Perth a Kinross Access Officer, Perth and Kinross Council
Tony Rees	Cymdeithas Eog a Brithyll Genweirwyr Cymru Welsh Salmon and Trout Angling Association

**Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol**  
**National Assembly for Wales officials in attendance**

Dr Virginia Hawkins	Clerc Clerk
Meriel Singleton	Dirprwy Glerc Deputy Clerk

*Dechreuodd y cyfarfod am 1.04 p.m.*  
*The meeting began at 1.04 p.m.*

**Cyflwyniad, Ymddiheuriadau a Dirprwyon**  
**Introduction, Apologies and Substitutions**

[1] **Mick Bates:** Welcome to this afternoon's meeting of the Sustainability Committee. I will begin by making the usual housekeeping announcements.

[2] In the event of a fire alarm, you should leave the room by the marked fire exits and follow the ushers' instructions. There is no fire alarm test forecast for today. Please ensure that all mobile phones, pagers and BlackBerrys are turned off, as they interfere with the broadcasting equipment. The National Assembly for Wales operates through the media of Welsh and English; headsets are provided, through which simultaneous translation may be

received. For those who are hard of hearing, the headsets may also be used to amplify the sound. Interpretation is available on channel 1 and the verbatim can be heard on channel 0. Please do not touch any of the buttons on the microphones, as doing so can disable the system.

[3] I have received apologies from Karen Sinclair and Irene James.

1.05 p.m.

**Cynnig a Wneir o dan Reol Sefydlog 10.37 i Benderfynu Gwahardd y Cyhoedd  
o'r Cyfarfod ar Gyfer Eitem 3**  
**Motion under Standing Order 10.37 to Resolve to Exclude the Public from the  
Meeting for Item 3**

[4] **Mick Bates:** We are today going to conclude our inquiry into access to inland water. We will be taking evidence from the Welsh Salmon and Trout Association, the Countryside Alliance and the Wye and Usk Foundation. However, under Standing Order No. 10.37(vi), I would like us to resolve that we exclude the public from the meeting for item 3, which will be our discussion of the recommendations of the report into flooding. Therefore, I move

[5] *that the committee resolves to exclude the public from the meeting for item 3, in accordance with Standing Order No. 10.37(vi).*

[6] I see that the committee is in agreement.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 1.06 p.m.  
The public part of the meeting ended at 1.06 p.m.*

*Ailymgynullodd y pwyllgor yn gyhoeddus am 1.36 p.m.  
The committee reconvened in public at 1.36 p.m.*

**Mynediad i Ddŵr Mewndirol: Sesiwn Dystiolaeth**  
**Access to Inland Water: Evidence Session**

[7] **Mick Bates:** I thank the witnesses for their patience. We have been discussing our report on flooding. I welcome you to this afternoon's meeting, and ask you to put on the record your name and the organisation that you represent. Then we will move into questions from Members. As you are all aware, we have travelled all around Wales conducting this inquiry into access to inland water, and have tried to contact as many people as possible. I am, therefore, pleased to welcome you to this latest scrutiny session. I will start on the left and ask you to introduce yourselves.

[8] **Mr Marsh-Smith:** I am Stephen Marsh-Smith of the Wye and Usk Foundation.

[9] **Ms Evans:** I am Rachel Evans, the director for Wales for the Countryside Alliance.

[10] **Mr Rees:** I am Tony Rees, and I represent the Welsh Salmon and Trout Angling Association.

[11] **Mr Griffiths:** I am David Griffiths, and I am also representing the Welsh Salmon and Trout Angling Association.

[12] **Mick Bates:** I thank you for your written evidence—we have received a lot of evidence—and I thank the Wye and Usk Foundation for the booklet, ‘The Wye and Usk Passport’, which is now being distributed to Members around the table. It is my pleasure to invite Joyce Watson to ask the first questions. I will give each witness an opportunity to answer, starting in this case with Stephen.

[13] **Joyce Watson:** Good afternoon. Thanks for your paper and for coming here today. I will start with a catch-all question: should the current legislation regarding access to inland water be changed?

[14] **Mr Marsh-Smith:** I would say ‘no’, and one of the reasons is that I believe that it is possible to resolve this by negotiation. From Wales’s perspective, solving this thorny problem in this way would lead to a longer-lasting peace than any imposed justice.

[15] **Ms Evans:** I would also say ‘no’, because I believe that much more can be done at a local level before we venture down the road of legislation.

[16] **Mr Rees:** I feel exactly the same. The legal position is perfectly clear, as indicated by the three Ministers. Their submissions indicated that there was no need to change the legislation.

[17] **Mick Bates:** Thank you, particularly for your reference to previous scrutiny sessions with Ministers. David, if you wish to add anything, please do.

[18] **Mr Griffiths:** I would agree with my colleagues here. We had agreements in the past that worked well over many years. They were broken, as you well know from evidence, two years ago. If we could get those agreements back in place, I am sure that we would have a starting point to find a resolution to this problem.

1.40 p.m.

[19] **Mick Bates:** I admire the use of the word ‘resolution’ in your reply. Joyce has the next question.

[20] **Joyce Watson:** Moving on, you do not think that there is a need for legislation, so do you believe that the current situation with regard to access to inland water in Wales is sufficient for all users?

[21] **Mick Bates:** Rachel, I invite you to answer this one first.

[22] **Ms Evans:** Going back to what was just mentioned, there is a lot of water that can be accessed already, which is tidal. The Conwy is 23 km long, although the whole river plus the significant tributaries is 90km long. The Tywi is 24 km long, and the Dyfi is 16 km long. There are already areas that can be accessed, which could be used more, as well as being used more efficiently. That is why I think there is sufficient access to water at the moment. Providing further access would be good, but that should be done under local access agreements.

[23] **Joyce Watson:** I am not sure what you are saying. I think that you are saying—and I want to be clear on this—that you think that there is sufficient access for people, but it is restricted to certain places, and that there is not free access to all people in all cases, but restricted access to some people in some places. I am not sure.

[24] **Ms Evans:** There is room for improvement—absolutely. There is no reason why

more people cannot enjoy the waters that are already being used by other users, but that needs to be done in a sensible way. We could use tidal waters to create canoe trails and so on, as well as hubs for recreation, so that we have a good model to move forward to all inland waters.

[25] **Mr Rees:** There was sufficient access to the waters in Wales until one party refused to sign the access agreements. I think that there were over 20 access agreements around Wales in relation to which there was a refusal to sign. It was not the anglers who did that. If we could go back to that position, there would be plenty of access for people to the waters of Wales. I cannot say much more than that.

[26] **Mick Bates:** Thank you. That is fine.

[27] **Mr Marsh-Smith:** We have also found, with regard to the scheme that you have in front of you, that there was very limited access for anglers as well. That was simply because a full survey had not been made of what is available either in the context of angling or canoeing. The other problem is that people have great expectations of what a river can deliver. I live on the banks of one, and 50 per cent of the time it is in high flood, and the other 50 per cent of the time the level of it is dead low, but for a space in between there is an opportunity for whatever sport is designated for that time.

[28] **Mick Bates:** Are you satisfied, Joyce?

[29] **Joyce Watson:** Yes.

[30] **Leanne Wood:** What do you think about the idea of a presumption of access, with stated exemptions? That would mean that some waterways would be used just for fishing and some just for canoeing. Would that be a system with which you could work?

[31] **Ms Evans:** No. There is room for everyone on the water, but not for everyone at the same time. A system needs to be created to accommodate everyone.

[32] **Mick Bates:** That was an interesting point. Would anyone else like to comment on that?

[33] **Mr Rees:** Yes, I wish to comment, Chair. Zoning is already something that angling clubs do. We, as an angling club, have stretches on the Usk for salmon fishing. It is not a system whereby everyone is there at the same time; we have a booking system and people book to go there. We find that that works very well. Also, we have what we call 'pegs' on coarse fishing lakes. People sit in their zone, and they can fish 10 metres either side of their peg. So, that is also zoning, and it ensures that everyone does not pile on a lake at the same time. You have to look at this by considering that there is plenty of room for everyone, but there may need to be some restrictions or zoning areas, or areas where people cannot go at all.

[34] **Leanne Wood:** Those two positions could work at the same time—a presumption of access for everyone on all water courses, with the exception of certain areas such as the zones that you are talking about. Could that work for everyone?

[35] **Mr Rees:** I do not think that that would work. That would be like a field being used for rugby and hockey at the same time.

[36] **Mr Griffiths:** I agree. There is room for access, as long as it is responsible access. I agree with Tony that fishing clubs and angling associations have carried this out for many years. Sometimes we lease a stretch of water, but only so many anglers can use that piece of water at any one time. That is at the discretion of the owner of the water. We have to comply

with those rules. If you try to put another sport into the mix, it will not work. Zoning has to be carried out. You also have to give consideration to the other users on the river. That is where the problem will arise if you try to mix and match. As Tony said, you cannot play rugby and football on the same field at the same time. It does not work.

[37] **Mick Bates:** I have watched many clubs who think that they are the same. [*Laughter.*] We move to Rhodri on access agreements.

[38] **Rhodri Glyn Thomas:** Byddai'r rhan fwyaf o bobl yn dweud mai cytundebau gwirfoddol yw'r ffordd ddelfrydol i symud ymlaen. Dyna oedd y dystiolaeth a glywsom gan Weinidogion Llywodraeth Cymru yn ein cyfarfod diwethaf. Yr ydym wedi cael tystiolaeth sy'n awgrymu nad yw'r cytundebau hyn yn gweithio, nad oes modd iddynt fod yn effeithiol, a, phe bai'r cytundebau hyn yn gweithio'n effeithiol, na fyddem yn cynnal yr ymchwiliad hwn. Beth yw eich ymateb i'r dystiolaeth sy'n dweud nad oes modd creu cytundebau effeithiol?

**Rhodri Glyn Thomas:** Most people would say that voluntary agreements are the ideal way of progressing. That was the evidence of the Welsh Government Ministers at our last meeting. We have heard evidence that suggests that these agreements do not work, that they cannot be effectively implemented and that if these agreements were already working effectively we would not be holding this inquiry. What is your response to the evidence that suggests that there is no way of creating effective agreements?

[39] **Mr Griffiths:** We have proved in the past that agreements can work, but all agreements have two parties that can get together to talk about them. The angling clubs, as this committee has heard many times in the past few months, have invested a lot of time and money into the waters. Most of it was money that had been received from their membership, which means from the people of Wales. The waters have been leased from people in Wales—from farmers and landowners and so on. That has to be taken into account when you enter into an agreement. You cannot have someone coming along, as we did on the Teifi when we tried to make an agreement with local canoe clubs, saying that the only agreement that they will sign up to is a 365-day total access agreement. That is not a negotiation, but a fait accompli.

[40] **Rhodri Glyn Thomas:** We have had this discussion, David, so, just to clarify: a voluntary agreement by its nature means that people have to sign up to it voluntarily. What do you do in a situation where you have a user of waterways in Wales that is not prepared to sign up to an agreement voluntarily?

[41] **Mr Griffiths:** If they cannot sign the agreement then they do not deserve to be party to it. If they will not sign it under any circumstances, that is not a negotiation. You cannot negotiate with people who are so intransigent that they will not move from their stance when you offer them everything you think that they might need—out-of-season access, access according to water levels, access on application. I do not think that there is one angling club in Wales or anywhere in the country that would refuse access to people who wanted to use the river if they were asked and if it was at a time when it could be granted. Why would they refuse? When the fishing is not good, when the waters are too high or too low, there is no reason to refuse. The problem is that the angling clubs are not being asked, and it is creating this atmosphere of antagonism.

[42] **Mick Bates:** I will ask other witnesses to comment on your question.

[43] **Mr Marsh-Smith:** We have had to face that issue on our two rivers. We had agreements set up in 1974, 1990 and more recently in 2007. The early agreements were made with the Welsh Canoeing Association, as it was known then. This time we found that it was not prepared to sign an agreement, so we treated the navigational side of things as we do with

fishing—it is a right inherited by the owners.

1.50 p.m.

[44] We formed an arrangement where the owners allowed people to canoe under pre-set terms and conditions, which included access points and so on. In addition to that, we fitted the river with a number of webcams and gauges so that we could make the best use of high water for canoeing and low water for fishing, and so on. By and large, that has worked. There have been attempts to scupper it by people going down at the wrong time, but we find that the majority of individual canoeists, the outdoor centres and even the universities are playing the game. They are coming down and using the system according to the plans that we have set up. We are talking about quite substantial volumes of canoeists—even 100 or more in a day.

[45] **Mr Evans:** We feel that the local access agreements do work and they have worked well in the past on many Welsh rivers. I know that it has been demonstrated through other evidence-taking sessions, and you have mentioned it again today, that the withdrawal of those agreements has been slightly one-sided. I have paperwork here—of which I am sure you have received a copy, but, if not, I have a copy with me if you would like one—which clearly shows the disappointment of the Tawe and Tributaries Angling Association at the withdrawal of such agreements. I have received a couple of papers, along the same lines, from various angling clubs. So, access agreements do work and, to be quite honest, from whichever side—whether an angler, swimmer or canoeist—if you are not prepared to come to the table and have a go at these local access agreements, then you should not reap the rewards that could be beneficial to you in your own sport, whatever that is.

[46] **Mick Bates:** Rhodri, you have a specific question for the Wye and Usk Foundation.

[47] **Rhodri Glyn Thomas:** Yes. I have a question for Stephen. You state in your written evidence, and you referred to it again just now, that you do not believe that Canoe Wales necessarily represents the majority of canoeists in Wales. You just suggested that it is quite possible to come to an agreement with individual canoeists and that they are quite happy to respect the kind of regulations that they would have to adhere to in order to use the waterways. Are you saying that Canoe Wales is not representative of its own sport?

[48] **Mr Marsh-Smith:** I think that Canoe Wales includes around 15 per cent of all the people who might want to canoe in Wales, which is scarcely representative. There are other canoeing bodies. We set up our agreements with the assistance of the local outdoor centres. There are four or five of them in our area, who know the river well and know the conditions. Their jobs and livelihoods depend on having a satisfactory arrangement. With people like that around, you can move forward. Canoe Wales has become entangled with the notion that if it holds out, it will eventually get a law passed that will change things permanently and, unfortunately, that has kind of excluded it from what could now be the current business, namely sorting out a proper arrangement for Wales.

[49] **Rhodri Glyn Thomas:** So, do you have a working relationship and agreement with these outdoor centres?

[50] **Mr Marsh-Smith:** Yes, we have a steering group that meets around five or six times a year just to discuss how access is working, to listen to suggestions and to hear feedback from people using it and so on.

[51] **Rhodri Glyn Thomas:** I will use your foundation as an example of a situation where voluntary agreements can work, and certainly the Ministers were doing that in our last session. We have to accept that we are talking about two of the largest rivers in Wales; I think that the Wye and the Usk are the second and fourth largest rivers. Is that something that can



be replicated throughout Wales when you think about some of the smaller rivers? I can see that David is already shaking his head. However, that was the example given to us by Ministers last week.

[52] **Mr Marsh-Smith:** We have extended the agreement, since I wrote that paper, as far up as Llangurig, and anyone familiar with the Aberystwyth road will know how small the Wye is up there. However, I am not suggesting that the agreement should be transposed across the whole of Wales in its current form. The key point is to find people who want to form agreements and for them to form them and make them voluntary. No river is perfect—they are always too high or too low, whether you are a fisherman or a canoeist. In the case of half of January, my river was completely frozen over, so no-one got to use it. There has to be an acceptance and an understanding that a river is a trial in itself and that we work around the natural conditions. So, in great deference to you as the lawmakers, you cannot impose the ideal river conditions on anyone.

[53] **Mick Bates:** Angela, could I bring you in at this point?

[54] **Angela Burns:** Yes, because Rhodri has talked about some of the things that I wanted to raise. If there is no legislation in place and a group of people choose to flout any voluntary arrangement, or refuse to come to the table to set up a voluntary arrangement, and then just carry on using a river as they wish, what action can you take against them? You cannot fence it all off, can you?

[55] **Mr Marsh-Smith:** Under Schedule 25 to the Water Resources Act 1991, you could form any bye-law that you wanted to regulate what happens on the river.

[56] **Angela Burns:** When you say ‘you’, do you mean the Assembly Government?

[57] **Mr Marsh-Smith:** Yes, you would probably do it through the Environment Agency. For example, Schedule 6 deals specifically with navigation on the bits of river that are already navigable. Sections 1 and 2 deal with fisheries. Section 1 is a bye-law-making power that, in theory, allows you to make any control or regulation that you choose to make.

[58] **Angela Burns:** This is quite interesting because I have been trying to work out how you would make a voluntary arrangement happen. You are saying that you could make a bye-law for a particular area or river if any angler, canoeist, swimmer or doggie-paddler chose not to come into a voluntary arrangement. You could make a bye-law and that would be the ultimate sanction that Government could use to ensure that people came to the table.

[59] **Mr Marsh-Smith:** Indeed.

[60] **Angela Burns:** We need to be able to twist arms on all sides, to get people to enter into voluntary arrangements. We do not want to finish this inquiry and then have people refusing to talk. We are looking for a mechanism that would enable us to ensure that people sat down and talked.

[61] **Mr Marsh-Smith:** That is there. Another part of the process that we have been very fortunate with is the ability to access funds from both the Splash fund and the Minister’s exemplar fund to set it up. Arranging signage and drawing up agreements with all the owners is not impossible—it can be done—but it requires a bit of time and expenditure, I am afraid.

[62] **Angela Burns:** What is the punishment under a bye-law? Is it a fine?

[63] **Mick Bates:** Does the punishment fit the crime? [*Laughter.*]

- [64] **Mr Marsh-Smith:** The punishment fits the crime, exactly.
- [65] **Angela Burns:** I was wondering what the sanction is. How much of a sanction can a bye-law impose?
- [66] **Mr Marsh-Smith:** You could have imprisonment, fines, community service and so on.
- [67] **Angela Burns:** We have enough people in our prisons as it is.
- [68] **Mick Bates:** Do you have an example of where this legislation has been used?
- [69] **Mr Marsh-Smith:** It has only been available for a short time, but the Lower Wye, which runs through England, downstream, is now subject to bye-laws that can be made by the Environment Agency under certain conditions. It has made one or two.
- [70] **Mick Bates:** Could I again clarify the issue? You mentioned that the Environment Agency had used legislation to make a bye-law. Would that power exist for an organisation such as yours?
- [71] **Mr Marsh-Smith:** No, the power has to be invested in a Government agency.
- [72] **Mick Bates:** Thank you. We will check on the legal side of that.
- [73] **Mr Marsh-Smith:** I have a copy of this document for you.
- [74] **Mick Bates:** Thank you; that would be very useful.
- [75] **Brynle Williams:** You said that people have made agreements in the past. Is this just about canoeists or have there been agreements with swimmers and so on? Is there one specific group that will not come to agreement while everyone else—the swimmers, the rafters, the fishermen and so on—all get along? I am just trying to find out who exactly is responsible for breaking the agreements in the first place. You said that the agreements have been there for many years. Can we identify one specific group that has broken those agreements?
- [76] **Mr Marsh-Smith:** Yes. I think that it was called the Welsh Canoeing Association. It is now Canoe Wales, but it was called something else previous to that. That is who the written agreement was drawn up with and they told us that their trustees would not allow them to form any arrangement or agreement that did not allow them to canoe 365 days a year, save for any environmental conditions. That was not going to be acceptable to the fishermen or riparian owners.
- [77] **Mr Griffiths:** Following on from that, I know that Angela, in one evidence session, asked about taking a dog to the river and asked whether you would need a permit if the dog jumped in the river. I think that that was the result of certain people who were giving evidence to this committee throwing up smokescreens and saying that swimmers could not swim and so on.

2.00 p.m.

- [78] Again, like Tony and the rest of the people here, I do not think that any club on any river in Wales, be it for angling or anything else, would object to people or their dogs swimming in the river because there are places on the Teifi, such as the pool below Cenarth falls, where people swim regularly. That is also a very good spot for fishing, but the two things never happen together because, when the fishing is good, the swimmers do not want to

be in the water. They do not want to swim during high water, which is when there are lots of fishermen about, and vice versa. There is always room for everyone. I cannot speak for all fishing clubs—though Tony and I would like to, I am sure—but by its nature, a fishing club is regulated. Anglers are regulated to the hilt. We have bye-laws coming out of our ears about what we can do, when we can do it, how we can do it, how long we can do it for, what season we can do it in, and how many months of the year we can do it for.

[79] **Angela Burns:** I have a question—

[80] **Mick Bates:** Yes, I know. I would like to come back to you, and then Leanne would like to come in.

[81] **Angela Burns:** Leanne, is yours on a specific point? If it is, I will ask my question after you.

[82] **Leanne Wood:** Yes. Very quickly, where those bye-laws exist, such as the one that you described earlier affecting the bottom of the Wye where it goes into England, do they apply to the whole stretch of a piece of river, or are they limited to certain sections? How do they work?

[83] **Mr Marsh-Smith:** It is what is called ‘principal waters’. In 1682, a public right of navigation was declared on the Wye below Hay. More recently, because of the ancient companies that had disappeared or got lost, the Environment Agency took over the role of authority in charge, and it also has bye-law making powers.

[84] **Leanne Wood:** So, that only applies to the Wye, then. It is not applicable to others.

[85] **Mr Marsh-Smith:** No. Under the Water Resources Act 1991, you can make a bye-law on any waterway, but that is the only place where it has been done.

[86] **Leanne Wood:** Okay; thanks.

[87] **Angela Burns:** This is a question for Rachel. In your paper, you talk about the fact that you believe that it is possible to have rivers used by everybody eventually, and yet somewhere—forgive me for not remembering whose paper I read it in—I understand that there are only a couple of rivers in Wales that are wide enough for fishers, canoeists and all the rest. We always talk about the fishermen and the canoeists, but there are other people who would like to use the water. How do you think we can allow more people to enjoy this natural resource? There is no point if the only time you can ever use a river as a canoeist or a swimmer is at midnight on Sundays or something. How do you see it happening?

[88] **Ms Evans:** As David mentioned, this already happens on a village-to-village basis. You see kids swimming in the summer when the water is low. Local agreements already exist. I do not think that I have ever heard of somebody hauling a bunch of kids out of the river because they are having fun during a good summer, which we rarely see now anyway. I have this horrible vision in my mind when people are on about sharing a stretch of water. If I picture the Towy, which is not that wide in comparison with the rivers in Scotland that have been compared with ours before, I just have a horrible vision of somebody casting a fly off the bank over the head of a swimmer who is trying to dodge a canoeist. It cannot all happen at the same time. How do you go about sharing the water? We must not forget that the fish also need to share the water as well as everything else that lives in and around it. They all have to work together, yes, but not everything can happen at the same time on a particular stretch of river, and the rivers of Wales are quite narrow, they are shorter and they are not as deep as others. Yes, there is room for everybody, but we cannot all get on there.

[89] **Angela Burns:** Could you give us an idea of how we might be able to split the time up? You talk about river gauges and things like that, Stephen. Is that the only way of doing it, do you reckon?

[90] **Mr Marsh-Smith:** Are you talking to me?

[91] **Angela Burns:** I will talk to anybody who will give me an answer.

[92] **Mr Marsh-Smith:** Swimming is another activity. We do not find many swimmers in February, March and April, but when the water drops away, particularly on the Wye, there are some lovely pools that people take advantage of, and it just so happens that it is not possible to swim in them until the best of the fishing season is past. That is low water, in other words. If you look under Llansteffan bridge, which you have probably all passed if you have gone north, that is one of the favourite places. You can swim there and stay in one place for an hour at a time.

[93] **Mick Bates:** Are you suggesting that this occurs more by accident than management?

[94] **Mr Marsh-Smith:** It is by accident, in that case, except that we generally find that no-one would want to swim at times other than the summer.

[95] **Angela Burns:** I am slightly confused, because people want to plan their leisure time. So, if I wanted to fish or canoe and I had to travel two hours to get to a particular river on my own or with a gang of friends to spend the day there, how would I know, before I got there, whether I would be allowed in or out of it? If I were a canoeist, I would not know when I could and could not jump into the water.

[96] **Mr Marsh-Smith:** In our case, we have a website on which all that is published.

[97] **Ms Evans:** This could be useful with individual angling clubs having their own water centres, not only with the website, but through automatic text messaging, such as that used by Vodafone quite often to contact me. There are huge advantages to technology. Not everyone may have access to the internet, but most people have a mobile phone. So, you could warn of obstructions, if there has been high water, with trees and so on blocking the rivers in the case of canoeists, or, in the summer, you could inform people that there is a specific area for paddlers and that there will be no interference between block A and block B.

[98] **Angela Burns:** This is my final point, Chair. The difference that I am looking for is this, when I lived in Pembroke, I knew that I could jump into my car with my children and go up to the Preseli mountains any time that I wanted. They were always there, totally immovable, and I knew that I could walk there. Now that I live in the Preseli mountains, I know that I can do the reverse—I can go down to the beach and walk, because it is there. We are saying that with those kinds of things, you can come from far away to enjoy them, but, for these agreements to work, it is about localism, is it not? It is about local people, which makes it tough on people who are coming in from far away to enjoy a resource.

[99] **Mr Griffiths:** May I come in?

[100] **Mick Bates:** Of course, David, then Stephen and then Rachel.

[101] **Mr Griffiths:** The angling clubs would relate that back to angling. If I wanted to go and fish on the Spey, I would not just go and fish on the Spey. I would have to contact the relevant people first and find out whether I could buy a permit for the day. I would then have to make my travel arrangements. I would not do it. If I wanted to go and swim in the Spey, then I could go because if I could find somewhere where there is access, I could swim there as

that is voluntary. There would be no need to get permission from anyone or to get any sort of permits. You must also remember that this sort of activity does not take place on the river from the top to bottom. It takes place in specific locations. Large parts of our rivers are wild, to which swimmers would never go unless they were gorge walkers or whatever. If that were the case, they would have to get a permit first or get some sort of permission to be there through an access agreement.

[102] **Mr Marsh-Smith:** Set against that, we find that most of the canoeing groups come from incredible distances away. Kent is an extraordinarily long distance to travel to mid Wales, but people will do that in a day. In fact, the last group that went down the Usk was from Cornwall. The locals were doing something else, I expect.

[103] **Angela Burns:** That is good, because it is making us understand this. You are asking us to make decisions, and we need to understand the practicalities of going one way or another. There is no point in doing anything unless you know that you can enforce it and get everyone to agree to abide by it, otherwise it is a complete waste of everyone's time, which is why it is important to understand how people can use this resource. You have all said that everyone can use it at certain times, but it is about understanding what those certain times are, how people will know about them and how you will get people who are going to the river at the wrong time off it and so on.

[104] **Mick Bates:** Rachel, do you wish to add to this?

[105] **Ms Evans:** The local agreements should not be perceived as some sort of local elite club, but as a way to use local knowledge to ensure that these events can happen successfully.

[106] **Leanne Wood:** Before I come back to the voluntary access agreements issue, I am trying to understand how we could make voluntary access agreements work if they are negotiated on a local level, but half of the river users are coming from far away. How could those people who come from Cornwall be expected to fully sign up to an agreement that was signed up to locally?

[107] **Mr Marsh-Smith:** In our case, we do not have any particular discrimination over who comes. Anyone who looks at our website can come. The permission is on a sign: 'If you pass this point, you agree to our terms and conditions of how the thing is set up.' This was an exemplar project. We wanted to try to do something different. We listened to the complaints about previous agreements and we had to send postcards and all that sort of thing. We thought that we would just give it a try to see whether we could cut through all that.

2.10 p.m.

[108] **Leanne Wood:** Has it worked?

[109] **Mr Marsh-Smith:** It has, I think.

[110] **Ms Evans:** If people come from afar, it is a matter of how this could all be marketed. One thing that the petition and this inquiry has done is clarify the legal side of things. Therefore, if the British Canoe Union or Canoe England and so on used their websites as they are doing now, so that people know that there is a good spot in west Wales, and that they have this, that and the other set up, you can use links from websites. A lot of it is about marketing what is available here, within the law.

[111] **Leanne Wood:** Who would be responsible for that? Do you think that it should be for the canoe clubs to tell their members which bits of river are okay to use? Do you think that anyone else has a role to play in that?

[112] **Ms Evans:** You need a variety of people to come to the table on this issue, and you should use organisations such as the Countryside Alliance to reach their membership to encourage participation, for one thing. You need to use a lot of different areas, organisations, clubs and backgrounds to make it work.

[113] **Leanne Wood:** Okay. I will move on to the evidence that we have received about people's experiences of voluntary access agreements, to try to understand why they have not worked up until this point. We had evidence from the Pembrokeshire Coast National Park Authority, which said that, it can make things difficult in Wales because there are often a number of different riparian owners. Dealing with just one landowner is fairly straightforward and simple, but if there are several of them, there can be problems. The whole agreement can break down if only one of them pulls out. If that is the case, and the whole process can be stopped by one individual party pulling out, how do you envisage voluntary access agreements proceeding when they are so susceptible to being dismissed?

[114] **Mr Rees:** To go back slightly, on the information that you are asking for, normally, if an angler wants to go away to fish a river, there is usually someone in that area the angler can contact to ask about the river conditions. If you had a local agreement with a canoe club—and that is what we seem to be talking about—I anticipate that there will be someone in the area who can inform those people whether it was worth coming to canoe, or whether canoeing was not allowed on the river at the time. I see that as the way forward with the agreements. It is a local matter and must be kept local.

[115] **Leanne Wood:** I can see how that works well when you have anglers organised in clubs and then your club can contact another club, but what about canoeists who are not in a club?

[116] **Mr Rees:** If they want to canoe on a river and there is a local canoe club that has the rights or an accepted agreement, that is the club to contact. In fact, that gives some form of control because the club looks after that aspect of the river. That is what angling is all about; each angling club looks after its own 'patch', for want of another word. If it does it well, it can do a good job. I could take you to my Merthyr angling club, as I think that we have done a good job over the years on the Taff. I can only say that that is what I think is needed. It is a matter of locality. In fact, you could have people from away booking to do some canoeing, and if by some chance the river were to get out of condition, they could be contacted so that they would not have to come all the way only to find nothing for them to do. I see that working. You also have tourist information centres that could be involved in this sort of thing.

[117] **Mick Bates:** There is a decreasing number of them, unfortunately. At this point, I will move on to Leanne's question about voluntary agreements. If one person—a riparian owner, for example—disagreed with the agreement and withdrew, would the whole agreement collapse? Is it binding in any way? I think that that is the gist of what she wanted to ask.

[118] **Leanne Wood:** Yes. Do you think that all interested parties should be involved in the drawing up of an agreement, and should it be agreed by everyone? Is there any way in which it could work in different circumstances to that?

[119] **Mr Marsh-Smith:** I will go back to something that I said earlier. There is no point in attempting to make an agreement with a canoeing organisation that does not want anything other than access 100 per cent of the time. We tried on the upper Wye, from Llangurig downstream, to resolve that problem that you are talking about, namely hundreds of little ownerships. We had people going from farm to farm. There were fields with a frontage just as wide as this room, and there were some 38 different ownerships from Llangurig down to

Marteg. We got them all to agree. Owners just want peace and something that works, and if you can put a reasonable arrangement to them, they will go with it.

[120] **Leanne Wood:** Putting all this together sounds like an awful lot of work.

[121] **Mr Marsh-Smith:** It took two days, that is all. However, it is all set up now. It is there.

[122] **Ms Evans:** These types of agreements between riparian owners, landowners and anglers have been in place for years, so they have a good grounding in all this. If you offer enough for each party concerned, there should not really be a valid reason for them to turn it down.

[123] **Mr Griffiths:** I was about to say more or less the same thing. The angling clubs are a sample, because this is already happening with them on the rivers. An angling club would have arrangements with the riparian owners of the water that it leased or used. It would not be too difficult a step—and I am sure that Stephen would agree—for the angling clubs to get the agreement of their landowners and riparian owners to arrange access agreements, because they already agree to the angling club using the river. So, it would just be an extension of that, and those who were not included could be visited separately.

[124] **Mr Rees:** I have been to several meetings to discuss this issue, particularly with regard to the Wye, and one landowner said that she was quite prepared to allow the canoeists to go through on the river, as long as they did not actually set foot on her land. Landowners have to think about that, because allowing people to set foot on their land will, after a time, set a precedent that can be claimed in law. So, they are pointing out that if there were proper access and egress points along the river, but no landing points, many landowners would say that that was fair enough. They are happy for them to pass through the land as long as they do not set foot on it.

[125] **Lorraine Barrett:** I have a brief question. Do you feel that an independent body should be set up to be in charge of drawing up these voluntary access agreements?

[126] **Mr Marsh-Smith:** The Minister has offered to hold a round-table discussion as a means of kicking off and perhaps determining what that body may be. However, there is certainly a need for some degree of independence.

[127] **Lorraine Barrett:** Where would the responsibility for monitoring such an agreement lie, once set up? Should that be by an independent body or by the users?

[128] **Mr Marsh-Smith:** It should be monitored locally.

[129] **Mick Bates:** Rachel, do you have an opinion about an independent body that may act as an arbiter in cases of conflict?

[130] **Ms Evans:** I give thanks that it is not the Countryside Alliance today. *[Laughter.]* You need to have a proper mix of people representing all interests involved in this, and there should not be one decision maker. However, everyone who is affected by this—the swimmers, the farmers, and even the chap who owns just a couple of acres on the banks of the River Bran, which is a very small river in Wales—should be fairly represented. We need to bring them all to the table.

[131] **Mick Bates:** Do I take from that answer that you are in favour of an independent body?

[132] **Ms Evans:** I understand that you must have a governing body. My concern is just that everyone should be represented on it.

[133] **Lorraine Barrett:** I should have said earlier in my question that any body should ensure that everyone has an equal weighting, to be fair to everyone.

[134] **Ms Evans:** Yes, absolutely. Anglers are already self-monitoring, as they are asked to produce their licence on the riverbank. That culture needs to be nurtured among the other sports that have been mentioned in this inquiry.

[135] **Mr Rees:** A consultation is currently out with the Environment Agency for a voluntary registration agreement on the lower Wye, and it will be interesting to see how that develops. That is a voluntary agreement, but it may be that we will need to carry licences, like the anglers do, or canoeists may need to have numbers on their canoes. It is those sorts of things that need to be considered when this committee has made its decision and puts it to the Welsh Assembly Government. Until that happens, we are still in limbo and wondering what is going to happen.

[136] **Mick Bates:** Our recommendations may be helpful—when we make them.  
[*Laughter.*]

[137] **Mr Rees:** Quite.

[138] **Brynle Williams:** Canoe Wales, in its evidence, stated that it believes that it should have unfettered access to rivers. It also does not believe that there should be any charge, not even for anglers. What are your views on that?

2.20 p.m.

[139] **Mr Griffiths:** The easiest thing to say is that they would say that, would they not? It is not practical; you cannot do that. If this thing has to be managed, as angling is managed, it has to be financed. If you introduce some sort of registration so that you can identify anyone not abiding by the bye-laws, that will have to be paid for by a registration fee like that paid by anglers. I know that we keep saying this, but you already have an example in the form of the anglers using the river now. You just have to transpose what happens with angling clubs to the other sports. Anglers have to have licences, have to produce them on demand, and have to be identifiable. They have to have permits, and access agreements with riparian and land owners, and so on. Everything that these angling clubs do should be replicated for others using the river. The angling clubs can be helpful in setting that up, because they already do it.

[140] **Mick Bates:** I will come on to you in a moment, Rachel, but Stephen has a point first, on the unfettered access and licensing issue.

[141] **Mr Marsh-Smith:** That is just a dream, a notion, and a very selfish one, too. Compare that with the stance of landowners and anglers, who are prepared to share the river, in some cases at no cost. It is a hopeless idea, I am afraid.

[142] **Ms Evans:** No-one has 365-day access to the river—only the fish and the other creatures living in the water. That is how I feel it should be. On registration, anglers are identifiable by their licence, but those who paddle or swim, for example—because this inquiry is supposed to encapsulate all inland water users—do not have anything to identify them. You can recognise that a canoeist is in a vessel, for example, but it has no registration number. That might go part of the way towards resolving any animosity between the two interests. Splash funding will not last forever, and it is not a bottomless pit. If Canoe Wales has 7,000 or so members, and they were all to pay for a licence on a par with what anglers



pay—and an angling licence is around £70—that would give you £490,000 a year to contribute towards making that sport sustainable. So, registration would help to create a level playing field, to disseminate information about the river, and to assist with codes of conduct and relevant bye-laws. Really, the main issue is identifying the problem users: a small minority is spoiling it for a lot of people.

[143] **Brynle Williams:** So, you would say that canoeists should have some sort of registration or identification of their craft, whether they are charged or not.

[144] **Ms Evans:** Yes, and vessel registration and local access agreements would also help us to measure the demand for the sport, because at the moment we cannot tell whether the demand is real or perceived. We feel that a financial contribution needs to be made in some way, not only for access and egress points, but for the protection and conservation costs attached to the resource that they want to use.

[145] **Leanne Wood:** It has just struck me that registration could make everything a lot worse. If you had a canoeist who was intent on causing problems, they would not register and would just use the water without displaying a registration number. What happens then? Would there be some kind of vigilante action?

[146] **Ms Evans:** Not at all. I am not too clued-up on the bye-laws issue that Stephen mentioned. I have not researched that myself, but perhaps they could be incorporated into a registration scheme. It is the same with fishing—you get rogue anglers who will not buy a licence, and who poach.

[147] **Leanne Wood:** What happens to them?

[148] **Ms Evans:** The anglers would be better placed to answer that.

[149] **Mr Griffiths:** It is accepted among anglers that any angler can ask any other angler to produce his licence and his permit for being where he is.

[150] **Leanne Wood:** You have developed that culture.

[151] **Mr Griffiths:** Yes, it is part of the culture. Any angler on the river can ask any other angler, politely, to show their permit. ‘Here is mine; can I see yours?’. If the other angler does not have a permit, it is an offence because he is not paying for the benefit. If he does not have a fishing licence, you can ring the EA, and it will come along and deal with the matter. It all revolves around these regulations—you can call them regulations or bye-laws. Whatever you want to call them, there has to be some sort of management system that allows people who should be there to be there, and identifies the ones who should not be there.

[152] **Leanne Wood:** I can see a problem with what you have just described. If someone does not have a licence with them, and a fellow angler has checked that out and called the EA, maybe he has not gone far, because he is angling. However, by the time that you have rung to say that a canoeist has gone past without a number, he is miles down the river before anyone can get there.

[153] **Mr Griffiths:** Having any system in place is better than having no system. He will be caught eventually, as anglers are. An angler without a licence might get away with it for a while, but he will not get away with it forever.

[154] **Leanne Wood:** There is only a point in putting in extra rules and regulations if they can be enforced.

[155] **Mr Griffiths:** Again, it works with the angling community. The EA was at a meeting that I attended yesterday. The purchase of licences has gone up dramatically this year. More people are buying licences because more people are being challenged if they do not have one. So, the number of licences is going up. We are policed voluntarily.

[156] **Mick Bates:** That is interesting. I think that we have got the point. Rachel, I can see that you are desperate to come in on this issue.

[157] **Ms Evans:** Going back to the issue of self-policing, I would not dream of fishing without a licence, but if I did not have one, I would certainly not fish on the Teifi, where there might be four or five anglers who I know are able to ask me for my licence, any more than a canoeist would want to paddle past 10 canoeists who have all paid their way. So, it is about self regulation and being part of that culture.

[158] **Mr Griffiths:** We have to say that this does not relate to all canoeists; most are fine. It is a very small minority, as Rachel said earlier, who spoil it for the majority.

[159] **Mick Bates:** Thank you. I will shortly have to wind this session up.

[160] **Brynle Williams:** I have one other issue, which may be pertinent. At the moment, canoeists do not have to have any public liability insurance. Is that correct?

[161] **Mr Griffiths:** We do not know, because they would not tell us. I do not think that they do. You can just buy a canoe and stick it on the river.

[162] **Brynle Williams:** Mr Marsh-Smith spoke earlier about a canoeist going across private land. There has been evidence in north Wales that I can speak of—I am not sure about mid and south Wales—where damage has been done to exit and egress points, and to fences and walls. Is this another part that we should be looking at? I understand that you are insured.

[163] **Mick Bates:** I would ask the panel to be brief in their comments. I will start with Tony.

[164] **Mr Rees:** On that point, I am also on the board of the Federation of Welsh Anglers, of which WSTA is a part, and we provide insurance for all the angling clubs that join us. We insist that, if they are part of the federation, they take out that insurance. They are covered in respect of third parties and so on. Even if that was not the cover that you were thinking of, at least it could be looked at and expanded.

[165] **Mr Griffiths:** It could be linked to the registration, as MOTs are linked to motor insurance.

[166] **Mick Bates:** Absolutely. Are there any other questions or comments from members of the committee? I see that there are not. Does the panel wish to add anything to the evidence?

[167] **Mr Marsh-Smith:** I have seen many documents that refer to Scotland as an exemplar. I wish to make a fundamental point about the difference between Scotland and Wales. There are many differences, but the key one in respect of rivers is that Wales has no east coast, and all the big rivers in the UK flow from west to east, leaving small spate rivers on the west side. Wales has a disproportionate number of relatively smaller rivers, while Scotland has five or six massive rivers, the levels of which stay up weeks after a drop of rain. You can canoe across the Tay, for example, and barely see a person on the other side. There is also less potential for conflict there, as they do not fish on a Sunday. Those are two important differences.

[168] **Mick Bates:** We are just about to have a conference with Perth and Kinross Council. That is an interesting point.

[169] **Ms Evans:** I have two pieces of paperwork here, namely letters that have been sent to me from Scotland on the effects of the right to paddle. It is not all rosy there; there are still conflicts, and even with legislation it still has to impose some access agreements. It is the 100 or so rafters that pass in a day that are causing the huge problems.

[170] **Mick Bates:** On behalf of the committee, I thank you for your written and oral evidence today. I am certain that you have represented very responsibly the issues that you have brought to us today. I thank you for your passport book, which I hope that Members will look at to understand the work that has been done with the Government's Splash fund.

[171] **Mr Marsh-Smith:** I have a copy of the Water Resources Act 1991.

[172] **Mick Bates:** We can take them, but we are no longer taking official evidence on the consultation. Thank you; there will now be a short break while we set up a telephone conference with a witness in Scotland.

*Gohiriwyd y cyfarfod rhwng 2.30 p.m. a 2.34 p.m.  
The meeting adjourned between 2.30 p.m. and 2.34 p.m.*

### **Mynediad i Ddŵr Mewndirol: Sesiwn Dystiolaeth Access to Inland Water: Evidence Session**

[173] **Mick Bates:** Thank you, Members, for returning promptly. For our final evidence session, we have a telephone conference with Jane Pritchard, access officer for Perth and Kinross Council. Just so that Members can get used to how this is going to work, I ask you to introduce yourself, Jane, and perhaps give us a brief introduction to your work before Members ask their questions.

[174] **Ms Pritchard:** I am Jane Pritchard, access officer for Perth and Kinross Council, which has the River Tay within its border. The river is well used by both fishing interests and those seeking to exercise their access rights.

[175] **Dr Hawkins:** I think that we have lost the connection.

[176] **Ms Pritchard:** I am still here. *[Laughter.]*

[177] **Mick Bates:** This is the first telephone conference that we have done. Video conferences usually break down after a couple of minutes but I have more faith in the landline; I hope that it will work well. I am sure that it is fibre optic. Thank you, Jane, we will move to questions.

[178] **Joyce Watson:** What changes have been brought about by the Land Reform (Scotland) Act 2003 with regard to accessing the waterways?

[179] **Ms Pritchard:** In Scotland people have always accessed the waterways. Now they perhaps do so with a bit more confidence than they used to. Also, people who were not so sure are now more able to gain access, so a wider body of people feel comfortable accessing water. Commercial companies such as rafting or canoe hire companies have benefited from the Act.

[180] **Joyce Watson:** You have answered my next question, which is on whether you believe that the Act has beneficially increased access to the Scottish waterways.

[181] **Ms Pritchard:** Yes, it has. The Scottish outdoor access code—and other access codes that have been produced by bodies like the Scottish Canoe Association—that clarifies the good responsible behaviour in relation to other users, has largely been adopted. It is in the public domain as a reference document. Not only are more people accessing the water, but those who are in the know have a good set of references to know how to behave in relation to other users.

[182] **Angela Burns:** My name is Angela Burns, I have a few questions. First, what role do local authorities play in implementing and enforcing access to the waterways?

[183] **Ms Pritchard:** I am sure that this varies between access authorities. A number of things happen. First, as you probably know, section 13 of the land reform Act gives councils or access authorities a duty to uphold access rights, which includes the access rights of people using water. For example, people who use canoes report incidents to the Scottish Canoe Association, which copies that to access officers who then log it and possibly investigate it. For instance, if there has been a conflict on the river between someone using the water for recreation and fishermen or a gillie—which is not covered by that Act—then that incident is reported. Also, some access authorities have waterways in their draft core path plans, so some may be given core pass status, though I do not think that many of them have decided yet—

[184] **Mick Bates:** What was that again?

[185] **Ms Pritchard:** Core paths—have you not come across that? A big part of the duties that are given to access authorities from the land reform Act is to set out a system of paths, called core paths, which give the public reasonable access to the land and the water. In Perth and Kinross we have not included the River Tay in the plan. However, in Cairngorms National Park, the part of the River Spey that passes through the authority area has been proposed for core paths.

2.40 p.m.

[186] It has not been finalised yet because it has all gone to a public inquiry. In other authorities, access points to the rivers or to the lochs have been included in the core path network. That is a system that is going through a designation process. Those core paths will be adopted, and so if river or loch core paths, or access points to those waterways, are adopted, they will have increased status as far as the access authorities are concerned.

[187] **Mick Bates:** Who maintains and pays for the capital investment requirement for your core paths, Jane?

[188] **Ms Pritchard:** Access authorities have powers to maintain core paths, and we certainly have the duty of planning a system of core paths. So, the capital investment, which involves the planning, or the community consultation, or the work to get that system of core paths on paper, is taken on by the access authority. As far as maintenance is concerned, that is a power rather than a duty.

[189] **Mick Bates:** Therefore, it still resides with the local authority.

[190] **Ms Pritchard:** As I say, there is a duty to do the planning but not necessarily to put the paths in place. Most of the paths that we are talking about are already there. Most authorities are not including waterway core paths, but it is an issue.

[191] **Mick Bates:** Okay. I will bring in Brynle Williams and then return to Angela.

[192] **Brynle Williams:** Good afternoon, Jane. I am just curious as to who pays your access wardens. Does the local authority or the Government pay their salaries?

[193] **Ms Pritchard:** Do you mean access officers—people like me?

[194] **Brynle Williams:** Yes.

[195] **Ms Pritchard:** Access officers are members of access authority staff. The Cairngorms and Loch Lomond national parks are also access authorities. However, it is generally councils. We do not have ring fencing in Scotland now, so the money comes from council budgets.

[196] **Angela Burns:** I wonder whether you have encountered any conflicts since the implementation of the Act with regard to different users accessing the waterways. If so, how have these been resolved?

[197] **Ms Pritchard:** There have been conflicts, which will continue. Most of these conflicts are between riparian owners and their fishing interests or the fishing clubs, and those that seek to use the water for rafting, particularly commercial rafting, and for canoeing, where there is a lot of canoeing happening in one fishing beat, for example. A lot of that is because fishing has obviously been taking place for a long time, and there is this kind of exclusivity attached to that. The fishing interests do not really like to have their fishing disturbed by other people using the water in a different way. Therefore, there have been tensions, and those have been [*Inaudible*].

[198] As for how this has been resolved, as I say, it is an ongoing debate to do with the ‘Scottish Outdoor Access Code’, which gives guidance on how people should be using the rivers or lochs responsibly, particularly in relation to their responsibilities to other user groups. Therefore, organisations like the Scottish Canoe Association and the Scottish Rafting Association have brought out codes of practice that relate to how they behave around people who are fishing, and so forth. Also, there are some cases where it has been extreme, and where there is a lot of activity in one stretch of river. The local access fora, which are set up by the councils under the Act, have a role in dispute resolution. It is quite a long story, I am afraid, but, basically, the short story is that they can mediate. In our case, there has been quite a successful voluntary agreement between commercial rafting companies and the riparian owners that are involved in a particular stretch of the river.

[199] **Angela Burns:** We had been given the impression that it was all a bed of roses in Scotland, because your rivers are wider and there is far more room and you do not have the great conurbations coming up to your waterways. The perception is that the system works very well. Is there just a small amount of conflict or is it quite significant?

[200] **Ms Pritchard:** It is a small amount. However, not all of the rivers are wide—obviously, they vary quite a lot. For example, the River Tay is generally quite big. Canoeists and rafting companies want to use big, fast rivers, and you get conflict when a river is low, because when it is wide and there is a lot of water, canoeists spread out and use other rivers, and rafters can also spread out. However, in the summer, when there is less water and when everyone wants to use the rivers, there is more conflict between people who use them for rafting and canoeing, and the fishermen, whose fishing pools are lower. That is when the conflict arises.

[201] Generally, it is a good system, which works and is beneficial for the majority of people. However, along the upper Tay for example, where there is a very short stretch of river

that is around 8 miles long from Aberfeldy, to a place called Grandtully. All the commercial rafting companies use that stretch. However, only a certain number of riparian owners own beats along that river, and they are being affected by the commercial rafting companies. Across the whole of the River Tay, there are few areas of conflict, so, generally, it is good, but there are obviously hotbeds and times when there are flashpoints.

[202] **Angela Burns:** Finally, on the conflict issue, I have read evidence from various riparian owners in Scotland that states that the living that they used to make out of angling has taken quite a dip because of the increase in rafters—who get a particular mention—and canoeists. The evidence maintains that anglers who used to pay substantial amounts of money to go to Scotland, which is famed for its fishing, are no longer doing so, and that there has been a real dip in that industry. Would you concur with that?

[203] **Ms Pritchard:** It is certainly a view held by the riparian owners. I suspect that those people to whom you have spoken are from the same stretch of river that I have just been talking about, because that is where the problems lie. That is the view put forward by the riparian owners. Even though I said that this agreement has been successful, there is now a push to review it. For the last few years, that agreement has stated that the rafters will not raft for three days a week. The idea was that they voluntarily came off the river and did not raft for three days a week in order to leave it clear for fishing interests. Traditionally, those days have been Tuesday, Thursday and Saturday, but the fishermen are now saying that their businesses are going downhill because they cannot let their fishing beats. So, they now want three consecutive rafter-free days, namely Monday, Tuesday and Wednesday so that people can go to fish and not be disturbed at all on those days, and then on Thursday and Friday they can continue to fish, but should expect to see rafts. That view has been held, and I would not necessarily concur with it, but who am I to say that that is not happening? If they say that that is happening, then we can only assume that that is what is happening.

[204] **Mick Bates:** Leanne has questions on voluntary agreements, which is apt at this point.

[205] **Leanne Wood:** Hello, I am Leanne. I want to know where and when these voluntary framework agreements are implemented. Is it only where there is conflict or are they implemented elsewhere? Can you tell us how they are negotiated and who negotiates them?

[206] **Ms Pritchard:** I can only speak for Perth and Kinross, although I know a certain amount about other areas, but I think that it is best if I just speak about Perth and Kinross. The only voluntary agreement that I am aware of—and I think that I would be aware of them if there were others—is the one that I have spoken about between the commercial rafting companies and the riparian owners on the upper Tay.

2.50 p.m.

[207] Prior to the Act, there was a local agreement in place between the commercial rafting companies—about five of them—and the riparian owners. That predated the Act, because there was obviously an issue then as well. After the Act was passed, there was a move among the commercial rafting companies to not stick to the local agreement. One company in particular did not want to be as restricted because it now had new statutory access rights, which also cover commercial enterprises. There was a move away from the agreement and, at that point, the riparian owners came to the council asking for help and went to MSPs and said, 'Look, we want this agreement to be sorted out and put in place'. At that time, when the Act was just coming in, there was a certain period when nobody was very sure what was happening. After that, it came to us and we took it to the forum. The local access fora are groups, set up under the Act, to help and advise the council on matters to do with the land reform Act. They are made up of four parts: landowner, agency, recreational interest and

community. They are balanced and independent of the council. That group has a role under the land reform Act to try to assist in disputes and to help in the resolution of disagreements. That particular agreement went to the access forum. Members of the access forum and I sat down with the riparian owners and the rafting companies and thrashed out a new agreement that everybody signed up to. That is what happened in that case.

[208] **Leanne Wood:** You talked about the local access fora. Does every member come to the table on an equal basis?

[209] **Ms Pritchard:** Yes.

[210] **Rhodri Glyn Thomas:** Hello, Jane. My name is Rhodri Glyn Thomas. I would like to ask you a question about the 'Scottish Outdoor Access Code' that you referred to. You told us that that has led to certain groups adopting their own codes of practice for the waterways in Scotland. How successful do you think the access code has been, by and large, since it was implemented?

[211] **Ms Pritchard:** I would say that it has been very successful. The 'Scottish Outdoor Access Code' is the ideal of responsible behaviour for everybody. Although it includes a lot of words, it has to be everything to everybody, and therefore it does not give enough guidance on particular situations and, for that reason, groups like the Scottish Canoe Association have brought out more detailed guidance on its particular situation. The association has basic guidance on how to behave in respect of anglers in the code, but it has then built on that and it has all been agreed through the national access forum and other bodies. It has all been consulted on and agreed that this is the right way of doing things. There are codes that just expand on the 'Scottish Outdoor Access Code', which is the statutory regulatory guidance. Obviously, the 'Scottish Outdoor Access Code' is a code and does not have any clout in law; it accompanies the Act.

[212] Sorry, but I have lost track of the question. Does that answer the question?

[213] **Rhodri Glyn Thomas:** Yes, it does. I have a supplementary question. If we accept that the code has been successful, do you believe that that is because it was introduced on the back of legislation? Do you think that it would have been as successful had there been no legislation in place?

[214] **Ms Pritchard:** It works very much on the back of the legislation, and I do not believe that it would have worked if it was just a code. The Act is the essential ingredient and that is what people pay attention to. There have been a number of court cases to do with the land reform Act, although not to do with water particularly. For the courts and sheriffs, although they consider the behaviour in relation to the code, it is really the Act that counts.

[215] **Brynle Williams:** Do the people who utilise the waterways have to pay to use or access the waterways at all? Do you believe that it would be beneficial if all users were to pay for access? If not, why not?

[216] **Ms Pritchard:** Nobody pays for access to water in Scotland.

[217] **Brynle Williams:** Nothing at all?

[218] **Ms Pritchard:** There is a statutory right of access. Fishing is not covered by the Act, however, as it is a different activity altogether. Fishermen pay for their fishing and their access. Sometimes, people might have to pay for facilities, such as car parking costs, and toilet or changing facilities and the like, but nobody actually pays for access. No, I do not believe that it would be right if people were to pay for access.

[219] As an aside, part and parcel of the agreement that I talked about—and there is provision in the ‘Scottish Outdoor Access Code’—is that people have the responsibility to set up a fund to help to manage access. For example, under the agreement, the commercial rafting companies are responsible to set up a fund to help to manage the access points or to deal with any problems on the rivers associated with their activities.

[220] **Mick Bates:** Can you confirm that, in Scotland, rod licences are something that you have to apply for and pay for?

[221] **Ms Pritchard:** Fishing?

[222] **Mick Bates:** Yes.

[223] **Ms Pritchard:** That is right. It is not part of what we do; it is not covered by the land reform Act. It is a matter between the riparian owners and the fishing interests.

[224] **Mick Bates:** Could you just clarify what payment an angler would make in Scotland in order to go fishing?

[225] **Ms Pritchard:** I am not an expert on this at all—as I say, it is not something that we cover. I think that it varies quite a lot. For salmon beats there is quite a hefty price attached to fishing at a particular time of year. I believe that it can be done very cheaply on certain beats at certain times of year, so it is all very affordable. However, I am really not in a position to answer that question.

[226] **Brynle Williams:** [*Inaudible.*]

[227] **Ms Pritchard:** Pardon?

[228] **Brynle Williams:** The fishermen have to pay for a licence to use the water, do they?

[229] **Ms Pritchard:** Yes.

[230] **Brynle Williams:** Yet everyone else can use that water free of charge.

[231] **Ms Pritchard:** For recreation, that is right.

[232] **Brynle Williams:** Why is angling not classed as recreation?

[233] **Ms Pritchard:** I do not know. I think that, when the Act was set up, it was considered, but it was excluded because fishing and angling has such a long established tradition in Scotland, with its own system. It was too complicated to involve that activity. Fishermen have access rights to get to the river, the same as anybody else. Like people who shoot, they can exercise their access rights to get to a shoot or a fishing spot, but when they start shooting or fishing, that is sorted out by payment to the landowner. That is the way that it is in Scotland.

[234] **Lorraine Barrett:** Do you believe that the costs of implementing and enforcing the Act have been returned through revenue raised via angling, tourism and so on?

[235] **Ms Pritchard:** It is probably not fair to include the angling revenue because, as I said, angling is not involved under the Act. I suspect that the cost of implementing and enforcing the Act has not been met, but that it will be in the long term through tourism in particular. There is a huge industry connected with adventure sports in Scotland. As I said,



about six rafting companies operate on the river, and they run a huge number of rafts because people want to do it. That generates income for the companies and for the country as well.

[236] Many people come to Scotland to go hill walking, to climb up Munros or to canoe down rivers, and they can do that because there is not any restriction on them. They can camp by the water, if they want to, as long as they do so responsibly. In the long term, it will be a good thing for the economy of Scotland.

[237] **Lorraine Barrett:** Thanks, Jane. Can you clarify whether those rafting companies have to pay anything for the right to have the rafting company at the edge of the water or near the water, so that they are then able to use the water?

3.00 p.m.

[238] **Ms Pritchard:** I do not believe that they pay anything for the use of the water, although as I said, there is a clause on being responsible, so that there could be an environmental management fund set up. However, with regard to access to the water and using the water for their businesses, there is no payment.

[239] **Lorraine Barrett:** Okay. Do you think that the Scottish approach could be used as a framework for Wales?

[240] **Mick Bates:** That is a leading question.

[241] **Ms Pritchard:** I do not know. Most of the problems to do with water and land access rights arise through cumulative use of the resource, and that is not something that the code is particularly good at addressing. One person, one raft, one canoe or a group of 100 canoes might be responsible, but it is about the cumulative impact. I do not think that anyone minds seeing a few Canadian canoes going down the river when they are fishing, but if commercial rafting companies or groups of people are going down the river all day long, as happens at a site that I know of, it is the cumulative impact that is a problem. So, perhaps you could set up a system that would try to address the cumulative responsibility more effectively than happens in Scotland.

[242] **Lorraine Barrett:** What I am trying to get my head around is hundreds of rafts going up and down the water and people fishing at the same time. Is there no control over that sort of thing? Has open and free access to the water caused that sort of problem, or do you see it as more of a positive than a negative? There must be conflict.

[243] **Ms Pritchard:** I am over-egging the conflict, because that is probably of most interest to you. However, across Scotland, there are very few places where that happens. I do not think that it is as bad as you are picturing it at the moment. The agreements, the responsibilities, the way in which the Act is worded and the safety checks means that access to the river by commercial companies must be balanced with the fishing interests. Whether we have got that balance right at the moment on the upper Tay is debatable. Ultimately, the riparian owners have the opportunity to take that to a courtroom and get a decision on it. If that decision went against the rafting companies, they would have to stay off the river for the prescribed amount of time. At the moment, we have a voluntary agreement, which, in my opinion, is truly equitable, but the riparian owners do not feel that that is the case, and that they need more from the rafters. The rafters feel that they are giving enough, and so on, so it could ultimately be decided in court.

[244] **Brynle Williams:** I am intrigued by the fact that no-one pays for access to or use of the river except for the fishermen. Are there any figures that reveal how much income fishing brings to Scotland and to Wales? Are there any figures to indicate which way the industry is

going? For example, will the decline in fishing continue because of the rafters' and canoeists' use of the rivers, because they do not contribute anything to the maintenance of the river? Is there a balance to be struck here? We can quantify what fishing brings into the principality, but we cannot quantify what other users bring to the equation.

[245] **Ms Pritchard:** There are figures. When the forum met recently to look at the riparian owners' case and the rafters' case, it asked for figures from both parties to demonstrate how well each was doing and what kind of return they were getting. The rafters produced quite a lot of figures, which showed that they were doing well, that they were employing quite a number of people as raft guides, and also the amount that they were bringing into the local economy, into bed-and-breakfast accommodation, hotels and pubs and how much good the rafting side was doing for the local economy. Although the fishing side has figures, it did not produce the goods for the forum. That information is available; I do not have it for you, but I am sure that you could get it. There are also the fishing websites, which show you what the catch returns are on the various beats, so anyone can see from them how many fish are being caught. There are figures, but I cannot tell you that that is measurable, because I do not have that information.

[246] **Mick Bates:** We have that information from a previous short inquiry by the Petitions Committee.

[247] **Angela Burns:** I have a quick question, Jane. Do you have any methods of identification? Anglers must have a licence, because they have paid money, but do you have any means, if there are areas of conflict between anglers, rafters and canoeists, of tracking down the prime parties to then negotiate with them?

[248] **Ms Pritchard:** Yes, that is what we have done. It is relatively easy with the rafters, because there are commercial rafting companies, so we deal with about five individuals who are very responsible. They have come to the meetings, where they stated their case and voluntarily pulled out of the river on three days. They are very responsible. It is different with canoeists. Although there is a body, the Scottish Canoe Association, individual canoeists are members of the public. They might be members of the Scottish Canoe Association or they might not. The Scottish Canoe Association does not have any power over its members, but it puts out information about good practice and responsible canoeists who are members of the organisation will always pay attention to the information that is given to them and will stick to responsible behaviour.

[249] **Mick Bates:** Finally, what is the appeals mechanism, if someone were to dispute whatever the solution was? Is there an appeals mechanism in the law?

[250] **Ms Pritchard:** Anyone can take anyone else to court under the Act, and there have been several court cases. To my knowledge, only one was to do with water and that was not in our area, but up in the highlands. Again, it was to do with the commercial side. One riparian owner was taking money from the various commercial rafting companies for access to the river, but it was about the land access, namely the parking and pulling the rafts over the land and for the upkeep of the riverbank. One of those companies decided it would not pay any more and the riparian owner went to court, there was an injunction against that commercial rafting company, which then paid up. Anyone can take an issue to court if they want to and get a decision that is then enforceable.

[251] **Mick Bates:** There are no further questions. On behalf of the committee, thank you for your clarity and for the concise answers that you have given in this session. As I said, we had never tried this before, but it was extremely successful and I am sure that that was down to the way in which you responded to our questions. I will send you a copy of our recommendations, so that you will be able to see what evidence we have gathered and to what

conclusions we came as a committee. You will also receive a draft copy of the transcript before the final version is published, so if there are any corrections that you wish to make, you will have an opportunity to do so. Thank you.

[252] I was pleasantly surprised by that, after my experience of many video-conferencing sessions in which the connection broke down quickly and we had to use circuitous means of getting information through. So, that went well and I thank Members for the way that that session was conducted, which was excellent.

[253] The next meeting of the Sustainability Committee will be on 11 February, when we will scrutinise Assembly Government-sponsored bodies, starting with the Countryside Council for Wales.

[254] It has been pointed out to me that Members had other things to do at 3 p.m.. This meeting was scheduled to run until 3 p.m., but it is now 3.10 p.m.. Would Members therefore be happy to postpone the last item, which we were to discuss in private, and have that discussion in an informal session? I see that you would. In that case, I will bring this meeting to a close. Thank you for your attendance.

*Daeth y cyfarfod i ben am 3.10 p.m.*  
*The meeting ended at 3.10 p.m.*