



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

**Y Pwyllgor Cynaliadwyedd
The Sustainability Committee**

**Dydd Iau, 5 Tachwedd 2009
Thursday, 5 November 2009**

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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynddi 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)
Alun Davies	Llafur Labour
Rhodri Glyn Thomas	Plaid Cymru The Party of Wales
Brynle Williams	Ceidwadwyr Cymreig Welsh Conservatives
Leanne Wood	Plaid Cymru The Party of Wales

Eraill yn bresennol
Others in attendance

Sarah Andrews	Cymdeithas Tir a Busnes Cefn Gwlad Country Land and Business Association
Paul Henderson	Dŵr Cymru Welsh Water
Dafydd Jarrett	Undeb Cenedlaethol Amaethwyr Cymru National Farmers Union Cymru
David Jones Powell	Cymdeithas Tir a Busnes Cefn Gwlad Country Land and Business Association
Rhian Nowell Phillips	Undeb Amaethwyr Cymru Farmers' Union of Wales
Andrew Stumpf	Dyfrffyrdd Prydain British Waterways
Dusi Thomas	Dŵr Cymru Welsh Water
Richard Vaughan	Undeb Amaethwyr Cymru Farmers' Union of Wales

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

Dr Virginia Hawkins	Clerc Clerk
Aled Jones	Gwasanaeth y Pwyllgorau Committee Service
Meriel Singleton	Dirprwy Glerc Deputy Clerk

Dechreuodd y cyfarfod am 9.08 a.m.
The meeting began at 9.08 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

[1] **Mick Bates:** Bore da. Good morning. Thank you all for your attendance at this morning's Sustainability Committee meeting. I have the usual housekeeping arrangements to announce before we begin the proceedings. In the event of a fire alarm, you should leave the room by the marked fire exits and follow the instructions of the staff. There is no test forecast for today so, if it goes off, it will be the real thing. Please ensure that mobile phones, pagers and BlackBerrys are switched off as they interfere with the broadcasting equipment.

[2] The National Assembly for Wales operates through the media of the English and Welsh languages. Headphones are provided, through which the simultaneous translation may be heard. The translation is on channel 1, and the amplification is on channel 0. Please do not touch any of the buttons on the microphones as that may disable them.

[3] I have received apologies from Karen Sinclair, Lesley Griffiths and Angela Burns.

9.09 a.m.

Ymchwiliad i Fynediad i Ddŵr Mewndirol: Sesiwn Dystiolaeth Inquiry into Access to Inland Water: Evidence Session

[4] **Mick Bates:** I welcome our witnesses for the first of three sessions this morning. For this first item, we will take evidence from the farming unions and the Country Land and Business Association, in the second session, from Welsh Water and, finally, from British Waterways.

9.10 a.m.

[5] I thank the witnesses for their written evidence, which was concise, and both the additional papers that the CLA provided were very informative. I hope that your responses to our oral scrutiny will be equally concise and helpful to our scrutiny of this issue. As you are aware, we will be making recommendations on access to inland waterways some time in the new year, once we have scrutinised the Minister responsible for this area. As you are also aware, we have taken extensive evidence and will be taking further evidence by using the Assembly bus to tour north, mid and south Wales over the weekend of 20 to 21 November.

[6] Starting with Dafydd Jarrett, I ask you to introduce yourselves across the panel, and I will give you the opportunity to make an opening statement for a couple of minutes, highlighting what you consider to be the most relevant points that you would like to bring to our attention. I ask you to first introduce yourselves to the committee.

[7] I work as a policy adviser with the National Farmers' Union Cymru, and I cover all the Welsh counties.

[8] **Mr Vaughan:** I am Richard Vaughan from Pall Mall farm in Towyn. I am here as chairman of the land use and parliamentary issues committee of the Farmers' Union of Wales.

[9] **Ms Nowell Phillips:** I am Rhian Nowell Phillips, and I am a senior policy officer for the Farmers' Union of Wales.

[10] **Ms Andrews:** I am Sarah Andrews, and I am an assistant director for the Country Land and Business Association.

[11] **Mr Jones Powell:** I am David Jones Powell. I am a member of the CLA and a riparian owner and ex-operator of the Usk agreement.

[12] **Mick Bates:** Welcome to you all. Dafydd, would you like to make your brief opening statement?

[13] **Mr Jarrett:** We welcome the opportunity to come before you, because this is a hugely important issue for our members. We have consulted widely with members from all counties across Wales. We are not against access, but 100 per cent of our members would favour voluntarily managed access between two agreed ingress and egress points on a lake or river. There is no question that there should be a statutory right of access.

[14] The other point that we want to make strongly and which we hope the committee will take into account is that it is not the being on the river that creates the problems, but the going into and getting out of it. I hope that you consider the river and the surrounding area as one entity. How it is accessed is hugely important in this regard.

[15] Many Welsh rivers have a high conservation value. You may ask what interest we have in that as landowners. We have an interest in it because, if it is a site of special scientific interest, although the Countryside Council for Wales is responsible for it, we are jointly responsible, as landowner and occupier. CCW has a list of notifiable operations. If a landowner sees any notifiable operations going on on his land, he must inform CCW. That could be an issue.

[16] **Mick Bates:** Thank you. Richard is next, and I ask him also to brief.

[17] **Mr Vaughan:** Thank you for the opportunity to come before you. I came because of our members' strength of concern about this issue. I do not want to repeat what Dafydd has just said but, at the end of the day, there is a conflict of interest. There has been plenty in the press highlighting issues between anglers and people using the water for recreational purposes, and that is because of the conflict that can arise if things go too far.

[18] **Ms Andrews:** As you know, the CLA represents a wide range of members, from landowners and riparian owners to rural businesses. Many of our members benefit widely from the countryside and the business opportunities that access to it provides, and that has a bearing on how they run their farms or estates. Access to rivers in all its forms can provide benefits for them. Our members are very concerned about retaining control over how that access is used. As there is such a wide range of uses, they are not all compatible. Many people's businesses, whether their income comes from fishing or a canoeing centre, rely on having that ability to manage and run their operation as they see fit, without having free access imposed on them. That is one of our major concerns.

[19] **Mick Bates:** Thank you for being concise in your opening remarks. As you are aware, the committee will now ask a series of questions in five main areas: public rights, access agreements, environmental impacts, regulation and finance, and examples from elsewhere.

[20] Alun Davies will ask the first questions, which will be on public rights.

[21] **Alun Davies:** Thank you for your opening statements and written evidence. We have been here before, have we not? We had a similar debate on the legislation with regard to access to the countryside, and heard similar statements then. As far as I am concerned, it seems to be working reasonably well. We have created a statutory right of access, which seems to be working reasonably well. We are legislating at the moment in respect of a coastal path around Wales, and we have had a similar debate on that. Access to inland waterways is

another piece of the jigsaw, which does not involve a major difference in points of principle. It is about managing the public's right to access different land areas in Wales.

[22] **Mick Bates:** Could I start with the Country Land and Business Association? I will invite each organisation in turn to lead on each question.

[23] **Mr Jones Powell:** Sorry; I thought that we were going to go in order, but do not worry. We have immediately reached a crucial point, which is the public right of access. I thought that, by now, the committee had established that there is no public right of access above the high-water mark of every river. Most rivers in Wales have about a quarter of their length below the high-water mark. So, there are already substantial lengths of river that are publicly navigable. Above the high-water mark, long-established law—it is common law; it has nothing to do with legislation—says that there is no public right of navigation above the high-water mark. I am sorry, I was not really listening to your question, because I thought that it was directed at National Farmers Union Cymru. Have I answered your question?

[24] **Alun Davies:** No, you have not, I am afraid. We are examining your evidence; we understand the current legal situation, but we might propose changes to it.

[25] **Mr Jones Powell:** Of course. It is wrong to talk about a present public right. That is just inaccurate.

[26] **Alun Davies:** I am trying to establish where you are coming from in this debate. You have all made statements saying that additional rights of access would create real problems for businesses, owners and so on. The point that I am making is that we had this debate a decade ago, with regard to access to the countryside. The points that were being made then were not borne out by the reality, once the law had been changed. Why is it different today?

[27] **Ms Andrews:** When the right of access to open countryside came in, it was a right for people to walk on land that was being used for a very different purpose. We are talking about trying to combine, potentially, two recreational uses of one area. For example, if you have somewhere that is being let for fishing and someone is getting an income from that, there is real potential that allowing uncontrolled access for canoeists could disrupt that income, business or opportunity. Similarly, one of our members in north Wales runs a canoeing centre, but if there is free access to the area where it is run, that person's business is totally disrupted.

[28] **Mr Jones Powell:** May I add something?

[29] **Mick Bates:** I will come back to you in a minute, so that each organisation has a chance to speak. I will take you in turn. Would the Farmers' Union of Wales like to come in?

[30] **Ms Nowell Phillips:** Obviously, we have members who are riparian owners and who are involved with fishing. The difference between access to open country, the debates that we had about that and the current situation is that that related to open country and uncultivated agricultural land. Over recent years, we have seen increased liability. In the last year or so, in particular, in relation to incidents with cattle, much of the farmland that abuts rivers is much more intensive and productive agricultural land and these will be areas in which farmers will put their cattle, because they think that that is the safest place to put it.

9.20 a.m.

[31] There are areas in Wales where there is trespass by people coming off the rivers in canoes. Our concern is that a statutory right will make it even harder for farmers to keep livestock unless there is some sort of managed access and then you are more likely, with the

landowner, to get someone to create voluntary access if the access on the river itself is managed and voluntary.

[32] One of the problems that may arise from a statutory right of access in open country is that farmers are less likely to want to look at voluntary access because they feel that they have already had statutory access imposed upon them.

[33] **Mr Jarrett:** This is an important issue. However, I will remind you what open access to the countryside was about: it was access on foot for quiet enjoyment. I put it to you that it is hugely different to what is proposed here. Voluntary access agreements work. We have had them with anglers for decades and we are not sure why they cannot work with other organisations. There is a huge difference here. You said that there are no problems with open access; there is no problem with open access on foot, but we have huge problems, such as a dog problem. The open access has increased the dog problem hugely in areas of Wales.

[34] That brings me on to my next point, which I did not have a chance to include in the summary: once this is introduced, who will manage any problems? The dog issue is one. We cannot see much support for getting this managed. Once legislation is introduced and money is spent on it, we always find that there is no back-up money to help to manage that access afterwards. This is the concern that our members have with this statutory right.

[35] **Alun Davies:** Do you not agree that we need to clarify the situation? I am sure that Mr Jones Powell will say that the situation in law is clear. We all understand that the situation in law is clear and there is no dispute about that, but the operation of the law is different from what is written in law. Do you not agree that there is, at the moment, enormous confusion? If, for example, I walked across the field with my daughter to a certain part of the river and put her into the river for a swim during the summer months, I would be committing trespass and breaking the law. People do not see it as such; that is the reality. Given that the law is virtually un-policed and almost impossible to police in many places, in many ways there is a situation that exists in law and another in reality. Those are different, which leads to confusion about the law. Do you not accept that, as a consequence of that, there is perhaps a requirement to create a new statutory framework that is both understandable and enforceable?

[36] **Mick Bates:** FUW, would you like to lead on that one please? I would like to keep it in order, unless Members would like to ask a question of a particular organisation.

[37] **Mr Vaughan:** I would like to go back to the original question. As has been highlighted, the Countryside and Rights of Way Act 2000 was about access on foot. Access aside on this issue, there is conflict of usage. For example, the national rugby team playing a second half in the Millennium Stadium on Saturday and the Welsh football team coming on at the same time and wanting to play the second half as well; that is what is going to happen if you have anglers and canoeists trying to use the same stretch of river at the same time. I am sure that you have all seen the letters in the press about some of the very hostile situations that have arisen and the threats that have been made. You must have seen them. The conflict of usage is a big issue, and some people do not seem to have realised that.

[38] **Mick Bates:** Thank you. Would you like to comment on the Member's question about the confusion that still exists about how the public can access water? The Member's point was that, if he were to take his daughter to swim in a river, it could count as trespass. What is your view on access?

[39] **Ms Nowell Phillips:** It could be trespass from a landowner's perspective. If you go across a field, then you may have committed trespass, and there are issues of duty of care. Even with issues of access by foot or horseback, there is de facto access. It is one thing if, at the riverbank, someone takes a paddle when no-one is fishing nearby, but if you allow a child

or your dogs to dive in while fishermen are lined up on the bank, having spent hours waiting for it to go quiet, that has the potential to cause conflict.

[40] It is up to the riparian owner or the landowner as to whether they tolerate someone taking a child for a paddle, and I am sure that most people, if it is quiet, and if you have not walked through a field of cattle, crops or whatever to get to the river, will not take you to task. So, there are degrees of tolerance, and many farmers do 'tolerate' de facto access, because it does not cause them problems. We advise them to ensure that they tell people that they are allowing it, but that there is no access, so access will not be deemed to have been created further down the line. We certainly would not want a situation in which everyone is pedantic about what you can and cannot do. We only have to look across the sea to Ireland, where they have no statutory right of access, and yet the tolerance level for people on farmland is quite high, because they have never been in the situation where anything has been forced on them, or where it could be forced on them in the future. It is almost the case that, the more you legislate, the more you create barriers, because people start looking to save rights in the future and ensure that you are not creating higher rights of access. If you can work to a voluntary approach, you will find people far more receptive, and they work with all sides, because—

[41] **Mick Bates:** We will come to access agreements in a moment. Alun, do you have anything further to ask on this topic? Sorry, we will just wait for the NFU Cymru to answer.

[42] **Mr Jarrett:** The point that I would make is that we are not starting from point zero. There are many pressures on our rivers from different directions, and it seems that a statutory right for one activity would be totally and fundamentally wrong. It is our firm belief that, if you were to have a statutory right, because of a lack of policing, the problem situations will not improve. In fact, they could get a lot worse. That is, basically, our concern.

[43] I would just remind you that we sent a letter to the Minister about this. My apologies to the committee for quoting the Minister, but I think that it is relevant to what we are discussing. In her reply, she said that,

[44] 'at this stage, however, the Welsh Assembly Government's view is that new legislation in this area would be both complex and controversial'.

[45] That is my point.

[46] 'Instead I favour an approach based on supporting practical action to improve public access to Wales' superb and extensive water resources (rivers, lakes, reservoirs and canals), for healthy recreation',

[47] and this is the important bit,

[48] 'and for the benefit of all recreational uses.'

[49] We would add to that, 'and of people who farm on land adjoining rivers'. We are not starting from point zero.

[50] **Mick Bates:** However, not your daughter, Alun.

9.30 a.m.

[51] **Mr Jones Powell:** If I could go back to Mr Davies's last question on the de facto access point and the CRoW Act, it is perfectly true that that was a big topic of discussion in the 1990s—I was part of that discussion—but it is not a fair parallel. The CRoW Act affects very large areas of extensively farmed hill land with masses of entry points and, in the past at

least, a number of absentee landlords. In any case, the rights over it are different because the commoners' rights are very different to the landowners' rights. I am well aware that the tenor of your questions is that de facto access is being established, but unfortunately for that point of view, there are still agreements on various rivers—the most notable, or best publicised, is the agreement on the Wye and Usk—which is de jure and not de facto. I will shut up in a minute, but I must just read this to you from a very entertaining and witty man—he is not witty in this—Lord Justice Bowen, a good Welshman. He said:

[52] 'Nothing worse can happen in a free country than to force people to be churlish about their rights for fear that their indulgence may be abused, and to drive them to prevent the enjoyment of things which, although they are matters of private property, naturally give pleasure to many others besides the owners, under the fear that their good nature may be misunderstood.'

[53] I would say that that is an answer to your question, as well as the fact that to try to catch a canoeist is almost impossible. I cannot say that I have tried to catch one, but they are at home on the water and most people or most farmers are not. I suppose that somebody could buy a speedboat to catch them. That is the real problem.

[54] The law of trespass grew up in a pretty quiet society where everybody knew everybody else and if there was someone trespassing regularly, you went to the law. The law is an expensive, heavyweight thing, so you would not have bothered about people sticking their toe in the water or that sort of thing, but you would have bothered about litter. The law of trespass grew up in a different age and it did not take into account strangers dressed in canoeing gear, sitting in canoes. The invention of plastic is the reason why we are sitting here today.

[55] **Alun Davies:** We will not go on to discuss the invention of plastic this morning. Let me be absolutely frank with you and share one thing that is put to me by people when having this debate. We know that there is a latent demand for access to inland waterways in Wales and elsewhere. One thing that is said to me is that taxpayers spend a lot of money supporting the agriculture industry and farming, and part of the unspoken contract is that they must have a relationship with the businesses that they support and that they must have access to it as part of that. That has been put to me by a lot of people. How would you respond to that?

[56] **Mr Jarrett:** May I respond with an example? There was an agreement up until last year—

[57] **Alun Davies:** Will you respond to the question?

[58] **Mr Jarrett:** I will respond to your question with an example. The example is that there was an agreement up until last year with canoeists on the upper Conwy, which ran from the end of September to the beginning of April. It was a voluntary agreement and it worked well. It allowed people to access the river and to take something out of the river from our member's land. The reason that the agreement ran for that period was that if people went there in the summer, it would interfere with our member's farming practice because he had young cattle with calves on that river.

[59] **Mick Bates:** We will come on to discuss access in a moment. The question is about taxpayers' money and what the public can demand.

[60] **Mr Jarrett:** That is the point because that farmer was providing access. He was not getting anything in his pocket, but he was providing access to that river.

[61] **Mick Bates:** He was not in receipt of any subsidy?

[62] **Mr Jarrett:** He was not in receipt of anything at all. He had to close it in the summer because of problems with cattle. The canoe association said, that it was not happy with that agreement, and as a result, there are huge problems as canoeists go there throughout the year. He was trying to comply, but was getting nothing back from it. You can get that through a voluntary agreement, so why do you need a statutory agreement?

[63] **Alun Davies:** That is because people do not believe that voluntary agreements work.

[64] **Mr Jarrett:** Voluntary agreements have worked with fishermen for decades. Why are these people—

[65] **Mick Bates:** The question was specifically about public goods in return for taxpayers' money. However, we will come to access in a moment because Rhodri Glyn has a question on that. If I could return to the public goods issue, does the CLA want to come in on that?

[66] **Ms Andrews:** I am not sure about the suggestion that one small group should have this unlimited access in return for a payment for public goods. Much of the funding that goes into the countryside is producing the environmental goods, which is why a huge number of our rivers, for example, are designated as sites of special scientific interest and special areas of conservation. That is the result of all that work going into them. However, that has not only been funded by taxpayers' money; as you say, a huge amount of the work, not only on rivers, but on farms and in the countryside is done by the landowners, the farmers and the managers, who do not only rely on taxpayers' money to do that. Government funding goes into a range of things and it does not give us all access to every factory in south Wales that has received Government subsidies. Similarly, you would not expect to have uncontrolled access to someone's factory, even if it were a rural farm. That is just as much their workplace and a huge amount of access has already been provided through public rights of way and open access.

[67] **Mick Bates:** Finally, on this issue, does the FUW wish to respond?

[68] **Ms Nowell Phillips:** The public goods argument is one that is often bandied around, but at the end of the day, the consumer gets cheap food because our farmers receive subsidies. In order to do so, they are given opportunities like environment payments. As Sarah has pointed out, the fact that we, and those who come into Wales, enjoy the countryside is largely due to the fact that our farmers have not intensified. So many designations have been made over the years because there has been traditional farming practice within Wales. That argument about public goods and the fact that the canoeists should have access does not then answer the question: what about the fishermen? They may buy or rent the land off a landowner and might have bought it themselves, but they have not received any public money, so why should they then be in a different situation from the canoeist? This is all about different users. The argument on the landowners and the trespassers is one that we will deal with at a different point, but we have to consider the fact that it is not only farmers who own this land because there are many fishing associations who do so and who do not receive any taxpayers' money.

[69] **Mick Bates:** There are local authorities as well. I should point out at this stage that you are referring to one particular user in the form of canoeists, but many other people also wish to have access to inland waterways for recreation. I would like to move on to the issue of access agreements.

[70] **Rhodri Glyn Thomas:** Yr ydych i **Rhodri Glyn Thomas:** You have all stated gyd wedi datgan yn eich tystiolaeth in your written and oral evidence that you

ysgrifenedig ac ar lafar eich bod yn ffafrio cytundebau mynediad gwirfoddol ac yr ydych wedi honni bod y cytundebau gwirfoddol hyn yn gweithio. Fodd bynnag, y bore yma, yr ydych wedi dweud bod gwrthdaro a bod hwn yn fater sy'n peri gofid mawr i'ch aelodau. Mae hynny'n awgrymu i mi nad yw cytundebau gwirfoddol yn gweithio.

favour voluntary access agreements and have claimed that those agreements work. However, this morning, you have said that there is conflict and that this matter causes great concern to your members. That suggests to me that voluntary agreements are not working.

9.40 a.m.

[71] Yr wyf yn meddwl mai'r hyn yr ydych yn ei ddweud yw bod cytundebau gwirfoddol yn gweithio gyda physgotwyr, ond nid ydynt yn gweithio gydag unrhyw un arall. Felly, nid ydynt yn gweithio oherwydd er mwyn iddynt weithio, mae'n rhaid eu bod yn gweithio i bawb. Ni allwch eu gorfodi oherwydd maent, o ran eu natur, yn wirfoddol ac os yw pobl yn gwrthod cydymffurfio â'r cytundebau, ni fyddant yn gweithio. Sut y gallwch ddweud bod cytundebau gwirfoddol yn gweithio ac mai dyma'r ateb i'r broblem?

I think that what you are trying to say is that voluntary agreements work with anglers, but not with anyone else. Therefore, they do not work because in order for them to work, they must work with everyone. They cannot be enforced because they are inherently voluntary and therefore if people refuse to co-operate with the agreements, they will not work. How can you say that voluntary agreements work and that they are the answer to the problem?

[72] **Mr Vaughan:** I was referring to instances involving people who were not in voluntary agreements. I was not pointing to the ones within voluntary agreements because those agreements work; I was pointing to the ones who are outside them.

[73] **Rhodri Glyn Thomas:** Y pwynt yr wyf yn ei wneud yw os ydych yn mynd i ddweud bod cytundebau gwirfoddol yn gweithio, mae'n rhaid iddynt weithio i bawb.

Rhodri Glyn Thomas: The point that I am making is that if you are going to say that voluntary agreements work, they must work for everyone.

[74] **Mr Vaughan:** Yn hollol.

Mr Vaughan: Exactly.

[75] **Rhodri Glyn Thomas:** Ni allwch ddweud eu bod yn gweithio i un elfen yn unig oherwydd byddai hynny'n golygu nad ydynt yn gweithio.

Rhodri Glyn Thomas: You cannot say that they work only for one group because that would mean that they do not work.

[76] **Mr Vaughan:** Mae'n rhaid ichi gael bob parti i'r cytundeb gwirfoddol i gydweithio. Mae'n rhaid ichi gael cyfathrebu a chydweithio rhwng pawb.

Mr Vaughan: You must get every party to the agreement to co-operate. You must ensure that everyone communicates and co-operates.

[77] If you have one party that will not co-operate or does not want to communicate, it is never going to work.

[78] **Ms Nowell Phillips:** This is why, with the best will in the world, Mr Chairman, I accept that there are many people who use the waterways, but we are here now because the canoeists decided to withdraw from voluntary agreements or were advised to withdraw. I am also aware that many canoeists still work within the voluntary agreements that exist. The problem is that if one group decides to pull out of discussions in order to try to test

agreements in law down the line, it becomes very difficult because if there is legislation just for them, I can understand why the anglers would then think, 'Why do we have to pay for a licence to fish and for the land, if it can be rented or bought?'. It seems to me that the whole system would then fall apart because everyone would become entrenched and nobody would work together. Surely, if people get around the table to discuss it and try to seek a partnership and adopt a proactive approach, everyone will gain down the line.

[79] **Mr Jarrett:** Diolch yn fawr am y cwestiwn. Maent yn gweithio, ond mae'n rhaid ichi gael trefniadau yn eu lle cyn y gwnânt weithio. Dyna pam yr wyf yn dweud bod yn rhaid ichi gael lle i'r canwau fynd ar yr afon ac i ddod oddi ar yr afon. Lle mae hynny'n digwydd, mae'r cytundebau'n gweithio'n iawn. Nid ydynt yn gweithio pan fo pobl yn mynd i unrhyw le y mynnant. Rhoddais esiampl o'r hyn oedd yn digwydd yng Nghonwy. Yr oedd y cytundeb yn gweithio yn ardderchog am ran o'r flwyddyn, ond yn awr mae pobl yn mynd yno drwy ddringo dros ffensys ac yn y blaen. Mae'n rhaid ichi gael trefniadau yn eu lle. Rhaid imi fod yn onest yn y fan hon a dweud mai gwlad fach yw Cymru ac ni allwn fod yn bopeth i bawb. Ni allwn gael canwau ar bob afon yng Nghymru—ni fyddai'n ymarferol. Rhoddaf enghraifft ichi lle nad yw hyn yn gweithio. Mae cytundebau wedi eu gwneud sy'n nodi os yw lefel yr afon yn mynd yn is na hyn a hyn o ddyfnder, nid ydynt i fynd â'r canwau ar yr afon. Mae'r rhan fwyaf yn cydymffurfio â hynny, ond nid yw pawb. Mae'r ychydig o bobl hynny yn difetha popeth i bawb arall. Os oes gennych gytundebau sy'n gweithio, mae angen pobl sy'n fodlon eu plismona. Er enghraifft, mae'r cytundeb ger Canolfan Tryweryn wedi gweithio ers rhai blynyddoedd ac os oes problemau yn y fan honno—mae problemau'n codi o dro i dro—mae'r ffermwyr lleol yn mynd i'r ganolfan i'w datrys. Cytundeb gwirfoddol yw hwnnw. Felly, maent yn gallu gweithio, ond mae angen gwaith arnynt ac nid ydynt yn addas ym mhob man.

Mr Jarrett: Thank you very much for the question. They work, but you must have arrangements in place to ensure that they will work. That is why I say that you must have access for the canoes to get on and off the river. Where that happens, the agreements work well. They do not work where people go anywhere that they choose. I gave an example of what happens in Conwy. There was an agreement that worked wonderfully for part of the year, but now they go there over fences and so on. You must have these arrangements in place. I have to be honest here and say that Wales is a small country and we cannot be everything to everyone. We cannot have canoes on every river in Wales—it would not be practical. I will give you an example of where this does not work. Agreements have been reached that if the level of the water in the river falls below a certain depth, they will not take canoes onto the river. Most will conform to that, but not everyone. Those few people are spoiling it for everyone else. If you have agreements that work, you need people who are willing to police them. For example, there is an agreement around Canolfan Tryweryn that has been in operation for some years and if problems arise in that area—problems do arise from time to time—the local farmers go to the centre to sort them out. That is a voluntary agreement. So, they can work, but they need work and they are not suitable for all areas.

[80] **Mr Jones Powell:** The suggestion seems to be unconditional access for all. That cannot work. Different groups have different needs. If you say, 'Open for picnicking', then you surely have to tell the picnickers, 'No stone throwing'. My experience tells me that that is the last thing that picnickers would agree to, but it is likely that a fisherman, a canoe or a raft will come past. That is just an example. Different groups have different needs and the riparian owner has to somehow hold the ring between them, and the riparian owner provides a very cheap service. Instead of having a series of wardens who can only be in one place at a time, if the riparian owner is interested in his or her river—and many are—he or she is there all the time to see that things are happening properly. It is wrong to think of one size as fitting all—that is much too easy.

[81] **Rhodri Glyn Thomas:** With all due respect, that was not the question. The question related to the fact that you are all saying that the answer to this problem is voluntary access agreements, yet you are telling us that there is conflict and that certain people do not want to enter into voluntary access agreements, and, therefore, that they do not work. What I want you to do is to convince me that they can work and that they can answer this problem. I fully take the point that one size does not fit all—I take note of your examples about that—but I want to be convinced by you that voluntary access agreements can work and can answer this problem.

[82] **Mr Jones Powell:** To jump completely to another subject, murder is illegal but people still commit murder. Voluntary agreements are voluntary, but there are still people who will break their terms; it is inevitable. Our society is full of law-breakers of one type or another. I ran the Usk agreement for 23 years, when I was also a busy solicitor. I did not have the time to monitor what happened. Parts of that agreement worked brilliantly—people wrote in, and I have worked out roughly how many people over a period of five years; it was an average of 77 requests over five years, totalling 770 individual canoeist requests over those five years. I was aware that people were going down the river in a canoe who had not asked me permission, and some of those who had asked were in breach of the conditions in the agreement, but I had other things to do. If you are going to run this properly, you will need a pretty big police force—otherwise, it is a farce.

[83] **Rhodri Glyn Thomas:** I am still not getting the answer that I am looking for—it may be my fault. You are telling me that the answer to this situation is voluntary access agreements, but no-one has yet been able to convince me that they work, because you are saying that they do not work.

[84] **Mr Jones Powell:** I can tell you why. These access agreements have been made with associations of people—I do not know whether there are any lawyers in the room; I know that Rhian is a lawyer—but they were not binding their members; they cannot bind their members. That is why things do not work, and this is possibly an opportunity to get agreements that work. However, much more detailed effort must be put into it. I know everyone who is involved in my stretch of river, from Sennybridge to Brecon, but I doubt that anyone else does. Over the years, you get to learn—everyone on each stretch of river knows their neighbours, but we have not been asked at all; it has gone totally over our heads and been dealt with in Cardiff or elsewhere. These things are announced on television, and some of the people involved had not even heard of it.

[85] **Mick Bates:** To clarify, what have you not been asked about?

[86] **Mr Jones Powell:** I was on the working group of the Wye and Usk agreement. I resigned on the last day of it—

[87] **Mick Bates:** What issue have you not been asked about?

[88] **Mr Jones Powell:** To give you an example, I am sure that my neighbouring farmer has no idea that people have been agreeing things over his head.

[89] **Mick Bates:** Are you suggesting that these voluntary agreements are not inclusive of all riparian owners?

[90] **Mr Jones Powell:** I am.

[91] **Mick Bates:** So, we may need a change in the law that says ‘all parties to be consulted’.

- [92] **Mr Jones Powell:** No, you just need a bit more effort.
- [93] **Rhodri Glyn Thomas:** I thought that it was a very simple question, and I am not getting an answer to it from anyone.
- [94] **Mick Bates:** So, the breakdown of voluntary agreements is because a select, elite club makes them; is that what you are suggesting?
- [95] 9.50 a.m.
- [96] **Mr Jones Powell:** I am sorry, I did not catch that.
- [97] **Mick Bates:** The voluntary agreements are subject to only a few people agreeing them, so it is a form of elitism.
- [98] **Mr Jones Powell:** Yes, I am afraid so.
- [99] **Ms Andrews:** Some studies have been done by the Environment Agency in England under the—sorry, I am just trying to find the details. It undertook some pilot studies on voluntary agreement on the Mersey, the Teme, the Waveney and the Wear. Quite a lot of funding was put into that, with a toolkit of agreements and help to put those agreements in place, with some standard wording and so on. It proved to be hugely successful—99 per cent of the landowners and riparian owners involved were willing to consider or allow canoeing access and they ended up with 100 per cent agreement on those rivers. David's point is that these voluntary agreements work and enable the situation to be tailored to fit the circumstances on the particular river, so you can put in conditions about when people can and cannot canoe, which a blanket right does not permit. The point is that if some effort, organisation and support, perhaps by the Environment Agency, or whichever body it might be, is put into those voluntary agreements, they can produce successful results. This resulted in over 70 km of additional access for canoeists on rivers, specifically tailored to the stretch of river. That is what can be achieved with a voluntary agreement, but that background work and support is needed.
- [100] At the moment, groups of individuals are trying to put these agreements in place, but one side is pulling back from them completely and saying, 'Oh, they don't work'. You cannot possibly get a working agreement if one party does not want to come to the table. That is the situation that we are in at the moment.
- [101] **Mick Bates:** Rhodri, I need to move on. Do you have a further question?
- [102] **Rhodri Glyn Thomas:** No, I am happy. I got the answer in the end.
- [103] **Mick Bates:** Yes, we have got there. It seems to me that voluntary agreements are a bit elitist—*[Interruption.]* I am sorry, we have to move on. I introduce Lorraine, who has questions on environmental impacts.
- [104] **Lorraine Barrett:** The committee has received evidence from many people who are opposed to the opening up of access rights, as they believe that certain users can have adverse effects on the environment. However, in the evidence provided by the Environment Agency Wales, it says that there is no evidence that users have a significant impact. Do you have any views on this?
- [105] **Mick Bates:** Can the NFU start on this particular question?

[106] **Mr Jarrett:** It is not evidence as such, but returning to what I said originally, a lot of these rivers are sites of special scientific interest. The use of landcraft and so on on these rivers would be a notifiable operation. Whether the organisations know that any canoeing goes on on these rivers is questionable. The effect on salmon spawning and on fish such as lamprey has been clearly shown. A lot of the scientific interest in these rivers is potentially at risk from increased activity on these rivers.

[107] The other point that I would make is that a lot of the Welsh rivers are spate rivers. Spates last an hour or two hours at the most. The damage that can be done if you canoe during non-spate times can be substantial. We have seen that on the Eden in particular. It is a rocky river and canoeing affects the river habitat.

[108] **Mick Bates:** Does the CLA wish to comment on environmental impacts? You do not have to.

[109] **Mr Jones Powell:** My only comment is that I was here when the Countryside Council for Wales gave evidence and I was surprised that there was no mention of SSSIs and special areas of conservation. A lot of rivers in Wales are subject to those designations. I know that written evidence has come to you that is not publicly available. There were several references to it in the CCW evidence; there were several instances of thanks for the written evidence and the note coming on the international situation. I cannot read this, but I hope that Sarah can—

[110] **Mick Bates:** Could you clarify which bits of evidence that we have had are not available to the public? Have I understood your comment correctly?

[111] **Mr Jones Powell:** I have it all written down somewhere.

[112] **Mick Bates:** All of our evidence is available on our website.

[113] **Mr Jones Powell:** I have made a note, 'Where is the written evidence?', with reference to CCW, on paragraph 5, page 4; paragraph 25, page 6; paragraph 47, page 9; paragraph 88, page 13; and the—

[114] **Mick Bates:** If it is the case that there is an accusation that we are not publishing evidence, in view of the time, and that you have a long list, could you please write to me about that?

[115] **Mr Jones Powell:** It is in the evidence.

[116] **Mick Bates:** Can we return to the issue of environmental impacts, please?

[117] **Ms Andrews:** This relates to the SSSI designation for the River Usk—the upper Usk. One of the conditions, under fishing and recreation, which allows hunting, shooting and fishing practices that are already in place to continue—this is one of the notifiable operations—is that other types of recreation permitted by owners and occupiers may require consultation, such as allowing canoeists access to the water which would cause damage or disturbance.

[118] That is in many of the citations for the designation of rivers as SSSIs. It is acknowledged by the Countryside Council for Wales, therefore, that access by canoeists will cause damage or disturbance. Many of the rivers in Wales are important salmon and sea trout rivers. The salmon and sea trout come quite some way up the river and there are fine spawning beds and so forth. Disturbance of those is critical to the whole lifecycle.

[119] **Mick Bates:** The National Farmers' Union also mentioned salmon, in particular. If you have references that contain evidence that access to the water by users causes an environmental impact, particularly for salmon in this case, could you please forward them to us? I am afraid that we have to move on rather rapidly to the Farmers' Union of Wales on environmental impacts.

[120] **Ms Nowell Phillips:** Many of our rivers have SSSI and SAC designations and the requirements of SSSIs mean that the landowner is responsible for not allowing activities such as canoeing. Also, many of our members are in agri-environment schemes, some of which may involve fencing off parts of a river. Where people come out of the river and hoist canoes and so forth over fences and damage them, that may then also allow livestock to go to areas where the agreement might preclude livestock from going. Farmers have cross-compliance obligations, some of which will be water framework directives and on water quality. Agencies such as the Countryside Council for Wales have already recognised the environmental impact. No matter what they say, when it comes to the landowner, they place those obligations on them. Therefore, they must see that there is potentially an environmental impact.

[121] **Mick Bates:** Thank you. Are there any further questions?

[122] **Lorraine Barrett:** Could you let us have any information—not now, but at some point—about the damage that is done to salmon? What can you do? Do you report it if you see users, such as canoeing clubs, doing this, and to whom do you report it? Do you feel that any action is taken afterwards? However, we do not have time to discuss that now.

[123] **Mr Jarrett:** Members would report it to the Environment Agency.

[124] **Mick Bates:** Thank you very much. I would like to move on now to Brynle, who is going to ask about regulation and the financial issues involved here.

[125] **Brynle Williams:** In oral evidence to the committee Canoe Wales stated that it believes that all users, including anglers, should have unfettered access to waterways without having to pay for a licence. What are your views on this?

[126] **Mick Bates:** The Country Land and Business Association will start on this round of questions.

[127] **Ms Andrews:** The rod licence that all anglers have to pay goes to the Environment Agency. I do not know the total amount that that produces but I know that that money goes towards river maintenance. It also enables a system whereby information can be passed out. We know all of the people who have rod licences. We very much advocate a system of licensing canoeists and everyone who wants to use the water, so that everyone is making a small contribution to the maintenance. Anyone who wants to use the river, whether they want to canoe it, fish on it or take a raft up it, should have a licence and pay for the privilege of being able to enjoy the river. Fishermen buy rod licences but they also pay to fish on the land, or they may pay to canoe on it.

10.00 a.m.

[128] If you run a canoeing centre and you do a lot of work putting in poles and all the rest of it, then people expect to pay to come to the centre to receive training and use of the facilities. Similarly, if fishermen come to the centre and make use of the clubhouse to store their fishing rods or whatever, then they would also expect to pay for that. That can be part of someone's business and is very important to the rural economy. If you are a landowner or a farmer, you use your land as an asset to produce an income, just as you would use your factory or offices to produce an income. If part of that income happens to come from rent for

fishing, then that is part of your legitimate business. So, I do not see any reason why canoeists should not contribute as well.

[129] **Ms Nowell Phillips:** I understand that the Environment Agency works on a cost-recovery basis, and I assume that the money from licences goes back to fund riparian improvements, and so on. So, if anglers did not have to pay for a licence, there would be a funding gap for certain things. Is Canoe Wales looking at not buying fishing rights as well, because, obviously, that would be in addition to the licence? Does it want fishing rights to be free? I am not sure where that suggestion has come from.

[130] **Mick Bates:** It has been suggested by some people.

[131] **Brynle Williams:** What I am getting at is that that will devalue the fishing rights of riparian owners, which will push the burden, unless other users are prepared to contribute. Do you agree that that will push the landowners, because they will not be able to maintain riverbanks and riverways?

[132] **Ms Nowell Phillips:** That is true; they would then have to depend on entering into something like Glastir, which covers water framework directive obligations. We know that the Environment Agency is currently running on very tight budgets, and also has huge commitments to deliver in terms of the water framework directive. So, in an ideal world it might work, but, in reality, someone must pay for the obligations that we have signed up to under the water framework directive.

[133] **Mr Jarrett:** Frankly, I cannot see it working. How would you balance the interest of all of these interest groups working with each other? It would be an impossible task. One positive thing that we are pleased that the Environment Agency has done is the sustainable fisheries project, which brings back fish into our rivers, allows the fencing of rivers and makes contributions to that. Who would stop canoeists using those stretches of river, for example? If everyone were to pay for this licence, I assume that they would expect access at all times on all rivers, and I think that you would be destroying what we have in Wales if you did that. We cannot be all things to all people, and, to me, that suggestion stinks of that. We must look at this more holistically and have certain areas that are suitable for some things, and other areas that are suitable for other things. This is where the voluntary agreements come in; if there are good voluntary agreements in place in some areas that work well, then they will have to live with that.

[134] **Brynle Williams:** That is what I am trying to get at. If the fishermen do not pay for maintenance—and there is an awful lot of river maintenance to be done—then someone else must pay for it, because it cannot be borne by the landowner.

[135] **Mr Jarrett:** No, it cannot.

[136] **Brynle Williams:** I will now move on to my next question, although you have answered part of it. What are your views on all water users being required to be registered and to pay a fee to use the water? If this was implemented, how would you wish to see the money used?

[137] **Mick Bates:** I will ask the FUW to kick off on that question.

[138] **Ms Nowell Phillips:** We have no formal policy that everyone using the water should pay. We believe that everyone needs to be brought together around the table. I take the point that the Chair made earlier that perhaps there is a need for the Environment Agency toolkit, which I believe is now available on its website, in order to look at how the voluntary management agreements are formalised. My concern, as someone representing landowners, is

the trespass aspect of this, and the impact that it has on productive farming—particularly because a lot of our rivers in Wales run through some of the most significant livestock farming areas. However, we have no formal view on charging every user.

[139] **Mick Bates:** Does anyone have a formal view on charging every user? Otherwise, we will move on.

[140] **Mr Jarrett:** Licensing is a possibility, but then we come back to the issue of policing. How many canoeists are members of Canoe Wales? I would suppose that it is very few, so how do you monitor whether canoeists have licences? It would be difficult. It would mean additional work for the Environment Agency, I assume, to get involved with that.

[141] **Ms Andrews:** I do not think that our official answer would be that everyone should pay for every bit of river that they use, but a system similar to that for licensing fishing rods—which is totally different from paying for your fishing on a daily basis—would be a big step forward. I do not see that it would be particularly difficult; the rod licence system is already set up, and people understand that they can buy those licences from the Post Office, or online. You might never have your rod licence checked, but there are people who check them, and the majority of anglers understand and comply with that; it is all a matter of education. There is no reason why a responsible canoeist cannot buy a licence, or people who use rafts, or whatever it is that they want to take on the water. They could have a sticker on the front of their boat, and the Environment Agency, or whichever agency is responsible, would have their e-mail address and could send them information, codes of practice, and details of places where they can canoe. It is an easy way of starting to disseminate information, and it would also deal with the issue that canoeists raise about not knowing where they can go. If there was a central point where information was kept, such as the Canoe Wales website, you could start to build up information on voluntary agreements, river levels, and so on.

[142] **Mick Bates:** There is general agreement on the principle of payment. Alun, can you make your point briefly?

[143] **Alun Davies:** I just wanted to come back on an earlier point that you made, Ms Andrews. We have been trying, as a committee, to avoid falling into the trap of simply having a debate between anglers and canoeists; that is not what this committee is about, and I do not think that any of us want to fall into that kind of destructive debate. We are talking about access to rivers and inland waterways; we recognise the context for this debate, but let us not fall into that trap.

[144] You spoke about a licence for river users, or water users, and you mentioned canoeists. Is it practical to have a licensing system that would mean that my 11-year-old daughter, for example, would need a licence to go swimming? Is that a practical policy response to the issue that we face? If people want to use the waterways for recreation on an irregular basis—and witnesses have told us that there is a great, latent demand for that—then is it practical to expect them to have some sort of access-to-water licence, or is that an unrealistic response to the issue?

[145] **Ms Andrews:** I think that it is realistic. There would be the occasional user, like your daughter, who just wants to go swimming, and in reality no-one would expect her to have a licence to swim. However, the majority of people that we are talking about here, and the people who are pushing this issue forward, are those who canoe regularly. I have a rod licence, and I fish about twice a year. If I had a canoe, I might only use it that often. However, I know that there is a licensing system, and if I want to use the river in that way, I have to spend my £15, or whatever it is. It is not a huge amount of money, but the point is that I understand that that is my obligation, whether I want to fish once or 365 days a year. The same should apply to other uses of the waterways. You gave the example of your daughter

going swimming, but that is clouding the issue, because it is trying to bring into the debate a use of water that is not in question. The occasional swim or paddle in a river that goes past a public car park is not the issue that we are debating here.

[146] 10.10 a.m.

[147] **Alun Davies:** To clarify, the only recreational activity on waterways that you would want to see licensed is that of canoeists?

[148] **Ms Andrews:** It is crafts. In reality, people are not swimming great lengths of rivers. There may be one or two who do that, but the people we are talking about are those who want to take some sort of craft up the river. I am not interested in whether it is a canoe or a rubber dinghy; the point is that there is a craft going up the river. The issue of people who paddle occasionally or go for the odd swim does not need to cloud the debate.

[149] **Leanne Wood:** We have heard from other witnesses that the legal situation in England and Wales is an anomaly and that in many other countries throughout Europe there is an established right to roam. That is the case in Scandinavian countries, France and now Scotland. Do you think that the legislation in Scotland can be used as a good example of an approach that should be implemented in Wales? I suspect that you will say 'no'. If that is the case, can you explain why?

[150] **Mr Jarrett:** No, I do not think that it would work. We are a small but beautiful country. We have a population of 351 people per square mile. There are about 160 people per square mile in Scotland and about 20 people per square mile in Scandinavian countries. That is a huge difference to start off with. With regard to visitors, the figure for Scotland is about 1,400 per square mile, while the figure for Wales is about 2,000 per square mile. So, there is a huge difference when it comes to what we can offer in Wales. The rivers in Wales are short, spate rivers, not wide rivers. There is a multitude of landowners and occupiers, probably more than in any other European country. For those reasons, I cannot see an equivalent of the Land Reform (Scotland) Act 2003 working in England and Wales.

[151] **Leanne Wood:** Do you accept that the legal situation for England and Wales is an anomaly?

[152] **Mr Jarrett:** It is different, and I do not think that we should use this to change it.

[153] **Ms Andrews:** As Dafydd said, there is a wide difference in the population. There is also a considerable difference between the rivers in Scotland and Wales. Many Scottish rivers are big, wide rivers, where it is probably easier to canoe and fish at the same time. A great deal of Scotland's open water is made up of lochs and the rivers are not used in such an intensive agricultural way as they are here. The introduction of the Act in Scotland has not been a panacea, and it has not all gone smoothly. It is not without its problems, and there have certainly been quite a lot of reports of issues on major salmon rivers such as the Tay and the Spey, where there has been real conflict between the two groups of users, which has caused a lot of problems. There has been a particular problem with commercial raft businesses that have disrupted fishing to a large extent. Some hotels have lost considerable custom, because they rely heavily on fishermen coming to the area. They stay in the hotels and bring money to the local area, but many of them have just not been going.

[154] **Leanne Wood:** Do you know whether there is a mechanism in the Scottish legislation to intervene when this conflict arises? What happens in such cases?

[155] **Ms Andrews:** No. In some places, they are trying to reach a voluntary agreement. *[Laughter.]*

[156] **Mick Bates:** The circle is complete.

[157] **Ms Andrews:** The difficulty is that they are trying to come to a voluntary agreement in the face of the fact that there is free access. They are trying to reach a compromise with the commercial operators so that the two can co-exist, so they have gone full circle.

[158] **Mick Bates:** There is a code of conduct, which is part of this.

[159] **Ms Andrews:** It is going to be a huge education process, and it will take many years. It relies on a responsible attitude to access at the end of the day.

[160] **Ms Nowell Phillips:** As Dafydd and Sarah have said, we have a high population density and, in high season, a high visitor density; because we market Wales as the beautiful place it is, we get a lot of visitors. The legal situation in another country will not necessarily work when transposed here. I totally agree with you. Our legal system full stop is very different from those in other parts of Europe, and that does not stop at land tenure and land ownership. However, that is what we have, and sticking more legislation on top because that is done in another country will not necessarily answer the specific problems and the conflict between users that we have at the moment.

[161] **Leanne Wood:** I understand the arguments that you are putting forward about population and visitor number density in high season as compared with Scotland. How do we compare with France?

[162] **Mick Bates:** Does anyone have any comparative data?

[163] **Mr Jarrett:** The rivers of Wales are very different from the rivers of France.

[164] **Leanne Wood:** The rivers in France are wider, too?

[165] **Mr Jarrett:** Yes. They are very slow-flowing rivers, such as the Seine. We have spate rivers, although there are a few exceptions.

[166] **Leanne Wood:** Do our rivers compare with any other country's rivers?

[167] **Mr Jarrett:** Not really. We have very short rivers. In Europe as a whole, because it is a continent, the rivers are particularly long, and we do not have that in Wales. The Severn and the Wye, which are our longest rivers, are not entirely in Wales. In European terms, even those two are very short.

[168] **Leanne Wood:** So, there is nowhere else in Europe or the rest of the world that we can learn lessons from and take that approach in Wales, because there is no country that has rivers that compare with ours.

[169] **Mr Jarrett:** From my experience, it would be very difficult to do that.

[170] **Mick Bates:** Does anyone wish to add anything on that?

[171] **Mr Jones Powell:** It is a totally different system of law, historically. You have common law here and in America and the Napoleonic code in Europe, because of our friend, Napoleon. Incidentally, I met a French fisherman on the river who had heard about this inquiry. He was horrified at the suggestion in the petition and, I am told, wrote a submission but that has not appeared on the list either. I am not bothered about it, but he was horrified. He says that it does not work in France, but then he is only one person. You would have to

ask a Frenchman.

[172] **Mick Bates:** It seems that you already have. For me, the access and exit points remain a critical issue. In Scotland, grassland was excluded from the exemptions for access and exit, because it is not a crop. Would it make any difference to control if grassland were to be classified as a crop, were that possible? Does the CLA have an opinion on that?

[173] **Mr Jones Powell:** It would make an enormous difference in Wales. There are quite a lot of fields that are not arable and for which there is no hope of their ever being. They are very often designated under various schemes, as they have special flora and fauna. I think that you said that, in Scotland, it is excluded from—

[174] **Mick Bates:** Grassland is exempted there.

[175] **Mr Jones Powell:** Are you suggesting including those fields?

[176] **Mick Bates:** I just wondered whether you had a view on whether including them would help to control access and exit in a sensible way.

[177] **Mr Jones Powell:** It would mean that we would pretty much be back to the status quo on access, because it is very rare for a public place to adjoin a river. There is always some sort of strip between the public highway and the river. It is a big problem. Of course, traffic is also a big problem.

[178] **Mr Jarrett:** You are allowed access on grassland in Scotland provided that a crop of silage or hay is not being grown. I think that you need to clarify that.

[179] **Mick Bates:** Yes, that is the qualification.

[180] **Mr Jarrett:** On many rivers, cattle and calves are allowed access. Many of us are now growing maize in south-east Wales close to rivers, so there could be problems there if we had the same regime as Scotland.

[181] **Mick Bates:** Are there any further questions that Members would like to ask, or any further comments that the panel would like to make before I draw this session to a close?

10.20 a.m.

[182] **Ms Nowell Phillips:** One question that our members have come up with is this. If, God forbid, you went down the legislative road, how would you define which stretches of water people would have access to? We have many waterways in Wales, and most farms have waterways of varying sizes, but there has been no mention of the size of the body of water to which access would be granted. It may be a private lake, a stream, or a large stream before it reaches a river, and so on.

[183] **Mick Bates:** Well, the next witness is from British Waterways, and then the witness from Dŵr Cymru will be here after that, so some of those points will be put to them.

[184] **Mr Jones Powell:** I—

[185] **Mick Bates:** I am sorry, but I have to draw this session to a close. I do apologise. If there is anything further that you wish to add following the scrutiny session this morning, please give us that information. One point was raised about evidence from hoteliers in Scotland who rely on the fishing trade and who showed a decline in income. I would be grateful if you could provide us with that, if possible. I thank you for your evidence. You will

be sent a draft transcript to look at before the final version is published.

10.21 a.m.

**Ymchwiliad i Fynediad i Ddŵr Mewndirol: Sesiwn Dystiolaeth—Dyfrffyrdd
Prydain
Inquiry into Access to Inland Water: Evidence Session—British Waterways**

[186] **Mick Bates:** Our next evidence session is with British Waterways. Alun, could you please stand by to begin questioning on public rights?

[187] I welcome Andrew Stumpf from British Waterways. Thank you for your written evidence. Could you introduce yourself and give a brief opening statement about the key issues in your evidence?

[188] **Mr Stumpf:** Thank you for the invitation. My name is Andrew Stumpf, and I am the head of regeneration for British Waterways in Wales. I have worked on waterways throughout the country, and I spent two and a half years working in Scotland. British Waterways is a not-for-profit public corporation, which covers more than 2,600 km of water across the UK. That includes reservoirs and some rivers in England. The waterways in Wales are all canals or artificial man-made waterways.

[189] In the UK as a whole, the waterways deliver around £500 million of public benefits each year. Over the past 20 years, we have seen a renaissance of the waterways. We have seen them recognised as a catalyst for urban and rural regeneration, as a tool for delivering other benefits, including sustainable transport—which these days tends to be walking and cycling, more than freight—renewable energy and flood defence, and as an opportunity for delivering health and wellbeing.

[190] Waterways are ideal gateways to the countryside. They link towns to the countryside, and provide green spaces within towns, and, because the towpaths are flat and level—as is the water, by and large—they are a great way to start to get involved in outdoor pursuits and other healthy activities.

[191] We encourage people to use the waterways safely and responsibly. Most of the use of the waterways is licensed, although there are exceptions in Scotland. We want people to use the waterways and, indeed, they should be seen to be used if the built and social heritage benefits are to be enjoyed. We want people to see the canals as working heritage. They are one of the few elements of eighteenth and nineteenth century technology that are still used in exactly the same way as they were then.

[192] As you mentioned, the legislation in Scotland changed, and there is now free access to land and water. We have seen an increase in the use of the water, particularly by paddlers. In my evidence, I gave the example of the Great Glen Way as a case study. That creates challenges for us as landowners, because it puts pressure on the facilities that we provide without offering the benefit of an income. I am sure that that will be picked up in the questioning that is to come.

[193] **Mick Bates:** Thank you for those opening remarks. I like the phrase ‘the waterways renaissance’ that you use in your paper, particularly in the context of the Montgomery canal—but I am a little biased in that regard. I invite Alun to start the questioning on the legal situation.

[194] **Alun Davies:** I understand that British Waterways is regulated by a legal framework

that is different from that for other types of waterways, so we will take that as read. Your paper is different in tone and nature to others that we have received, particularly those from witnesses in this morning's session. You speak about the great but unfulfilled potential of waterways to give a diverse range of public benefits, and about the extent to which their potential is recognised and valued by society at large, and you then go on to say that unlocking their full potential would require a step change in resourcing. It is a very positive paper. It is almost saying, 'Come on in'. Do you think that our current statutory framework across the range of different waterways, but particularly yours, does enough to encourage that unfulfilled potential?

[195] **Mr Stumpf:** 'Yes and no' would be the easiest answer to that. The current system works, and we work with a range of partners within the existing framework to encourage more people to use the waterways in a different way. Where we have difficulty is that the waterways tend to deliver a lot of a little and therefore there is not one high-profile element that we can link into policy direction or legislation. We sometimes have difficulty finding which niche we fit into. We will go along with a proposal that touches on health, transport, rural regeneration and a variety of other activities, and we will go along to a transport organisation, but it might say, 'No, that is tourism', and so we go along to a tourism organisation but it will say 'No, that is transport'. The situation is similar with health. So, the fact that the waterways do so much can create confusion and can mean that we fall between two stools rather than finding a particular niche.

[196] Does the legislation work? It does at the moment in as much as we license the majority of users where practicable. That enables us to manage that use and to manage sometimes competing interests on waterways that can be quite small and constrained. It also allows us to provide people with information so that they can use the waterways safely and responsibly. We talk about other users and about some of the hazards that may be found around particular structures. We can also give advice on where to get on and off the water, and what facilities are available either on the waterway itself or, perhaps most importantly, outwith the waterway so that people can enjoy the facilities provided by local towns, villages and other communities. It is notable that villages situated alongside waterways often have a thriving pub and a thriving shop because of the additional traffic during the summer. It gives them enough trade to keep them going all year round.

[197] **Mick Bates:** Just to clarify that point, Andrew, British Waterways generally owns either side of a canal river, for example, does it not?

[198] **Mr Stumpf:** We own the towpath and the waterway itself but, quite often, we own only as far as the water's edge on the offside. Rarely do we own beyond the offside edge. That dates back to the time when the canals were built and to the acquisition of the land to construct them.

[199] **Alun Davies:** Thank you for that response. You said 'Yes and no'. In your answer, you seem to have concentrated on the 'yes', so where does the 'no' start?

[200] **Mr Stumpf:** The 'no' bit was that we deliver a lot to a little and therefore it is a matter of knowing where to fit waterways into policy areas. If waterways are not mentioned specifically in a piece of policy, we find that the implementers think about waterways as being about boats and boating and quite often neglect the land uses. In fact, 96 per cent of the use of waterways is land based and 90 per cent of the visitor spend that I talked about in the paper is land based.

[201] **Alun Davies:** So, what changes in the legislation or the statutory framework governing waterways in Wales would you like to see to meet those challenges?

[202] **Mr Stumpf:** We are not looking for a change; we are just looking for more inclusion. Where waterways can deliver the Assembly Government's policy objectives, we ask for them to be mentioned specifically, just to trigger the minds of those who are implementing the policy that the waterways can deliver those benefits. Otherwise, there is a tendency for them to be overlooked.

[203] **Alun Davies:** I understand that and appreciate it. However, what changes do you want to see? You say that waterways should be mentioned in documents, which is fine, and that could be done 1,000 times over, but you mention a step change in your paper, which implies more than textual changes to policy documents.

[204] **Mr Stumpf:** Yes, we are currently looking at that. In England and Wales, we currently come under the Department for Environment, Food and Rural Affairs. It is the subject of a discussion that we are having with DEFRA and with stakeholders. There will be a stakeholder dinner in Wales, which we are in the process of arranging. We are looking at the status of British Waterways and at whether British Waterways as a public corporation is the right way to deliver all the benefits that we deliver, but also to ensure that waterways are understood and that the benefits are shared by as many people as possible.

10.30 a.m.

[205] Going back in history, the waterways are here today because, 40 years ago, communities said that waterways were important, that they were part of our landscape and heritage and that they wanted the waterways to be saved. Volunteers spent a lot of time restoring waterways and lobbying to ensure that organisations like British Waterways were set up.

[206] In many areas, waterways have now become a niche and those same volunteers are concentrating on particular areas of the waterway. We want the communities to reclaim the waterways. We are looking to see whether we should become a third-sector organisation or possibly even a charity, so that there are shared benefits and shared stewardships and so that people will play a bigger role in looking after their waterways and taking a part in managing and maintaining them.

[207] **Alun Davies:** You say that communities need to take control of these things; I accept that that control may not be in legal terms. However, what do you want to see changed in how Government treats waterways?

[208] **Mr Stumpf:** It is about more money. [*Laughter.*]

[209] **Alun Davies:** I am getting a sense that you are skirting around some of these issues. I understand—

[210] **Mr Stumpf:** I think that the short answer would be: how much have you got?

[211] **Alun Davies:** I can understand funding issues and so on, but what changes in the Government's approach do you want to see?

[212] **Mick Bates:** You can write a note to us on that later, if you wish to consider it.

[213] **Mr Stumpf:** Yes, I will, because I think that it warrants more consideration than I can give it in a few minutes in the committee. In short, I would say that we need recognition of all the benefits that the waterways can provide. There are quite a few waterways in Wales that are currently un-navigable and unused. However, for them to fulfil their potential and do what they can in areas such as Newport, Swansea and in the Montgomery canal, of which you

are aware, Chair, they need public funding, not least as pump-priming to bring in other funds. Furthermore, there needs to be recognition in other public authorities of the opportunities that can be created to ensure that the ground is prepared for when areas are regenerated through other means. That probably sounds a bit confusing.

[214] **Alun Davies:** In terms of increasing participation and access, which you have stated in your paper, particularly for beginners—so it is more about amateur enjoyment of waterways—you are saying that more public funding is needed to enable waterways to achieve its potential, but that you are happy with everything else.

[215] **Mr Stumpf:** Yes, but not just public funding.

[216] **Mick Bates:** We will move on to the access agreements, which sound interesting, but if you wish to provide a note on what legal changes you would like, on consideration of the draft transcript, please do so. Rhodri will now talk about access agreements.

[217] **Rhodri Glyn Thomas:** On access, you say that you want more and more people to use waterways in Wales and to have a sense of ownership of those waterways. What is the best way of managing access to those waterways? We have heard a lot of conflicting evidence about voluntary agreements—some are opposed to them and even those who support them and see them as the answer, point to the difficulties that have arisen with voluntary agreements. Do you think that voluntary agreements are the answer?

[218] **Mr Stumpf:** I can only talk about how we manage our canals. On the waterways, we license virtually all uses. The only exception to that is uses on the towpath where it is just impractical. So, the debate that seems to come up time and again in evidence is about canoeists and anglers. With angling, we own the fishing rights so we lease lengths to angling clubs. On unpowered boaters, we have, on the waterway, canoeists, rowers and other users of unpowered boats as well as cruising boats and boats with engines. There have been examples where, for example, the waterway along the Union Canal in Edinburgh, was unused for 35 years. Local rowing clubs and local schools used it as a facility. The water was flat and quite safe to use. Motorboats have been reintroduced to that waterway.

[219] We came to an agreement with the rowers and the other users on how we were going to operate that, so that it was possible for both those uses to continue. During core times, when the schools needed it, we had management arrangements in place so that boats would not go through those sections or would only be allowed through in tranches. In that case, the voluntary agreement did work. I should have checked before I came to this committee whether it is still working with the new access legislation in place, but I have not heard that it is not and I have no reason to think that it is not. In summary, we talk to the various users, we get them in a room together and we thrash out an agreement, but we have ultimate control over what people can do. The waterways are slightly different in as much as they were built as navigations and, therefore, the boating uses predominate.

[220] **Rhodri Glyn Thomas:** So, in the context of the canals, it does work. However, we have to recognise that that is an easier area of water to manage, is it not?

[221] **Mr Stumpf:** Yes, by and large, because we do it through the licensing system and through the conditions that go with the licences. Where there are competing uses because the space is constrained, we work that out with the individual users.

[222] **Mick Bates:** To clarify, does anyone who puts a boat on your water have to pay a licence fee?

[223] **Mr Stumpf:** Yes, they do.

[224] **Mick Bates:** How much is that fee?

[225] **Mr Stumpf:** It varies according to the boat. For a canoe, it is around £35 a year; however, if you join the British Canoe Union, you automatically get a licence.

[226] **Mick Bates:** Is that because it pays a block fee?

[227] **Mr Stumpf:** We have a block agreement with the British Canoe Union, which includes Canoe Wales and the Scottish Canoe Association, and their membership fee is £28 pounds. It is cheaper than buying a British Waterways' licence. So, there is an encouragement for people to go through the BCU and, therefore, to have a link with the governing body.

[228] **Mick Bates:** Has it continued to action that agreement with you despite its withdrawal from other agreements?

[229] **Mr Stumpf:** Yes, it has. I noticed that, in Canoe Wales' evidence, it said that artificial waters were different from natural waters.

[230] **Mick Bates:** 'Artificial waters' is an interesting description.

[231] **Mr Stumpf:** Perhaps I should say 'man-made waters'.

[232] **Brynle Williams:** I take it that you have no idea how many canoeists are using the inland waterways in Wales.

[233] **Mr Stumpf:** You would have to treat the figures with some caution. We do some sampling work, we used to do a national count up until the mid 1990s and we have an inland waterways day visitor survey. However, because the sample size of canoeists is fairly small, the figures are a little unreliable. Around 100,000 visits are made to waterways in Wales each year—that is the number of visits rather than the number of canoeists, so if a canoeist visits a canal 365 days a year, that would be 365 visits.

[234] **Mick Bates:** We will turn now to the environmental impacts.

[235] **Lorraine Barrett:** The committee has received evidence from several sources that are opposed to the opening up of access rights, as they believe that certain users can have adverse effects on the environment. We heard this morning from the NFU about incidents where salmon beds and so on can be damaged. The evidence provided by Environment Agency Wales says that there is no evidence that users have a significant impact. Do you have any views or evidence on that?

[236] **Mr Stumpf:** Again, I can only talk about canals. Unpowered boats have virtually no impact whatsoever. In fact, on the Montgomery canal, where the environment is particularly sensitive, we are looking at horse-drawn and unpowered boats as a way of increasing the use made of it. Even there, the optimum figure is around 500 powered boats a year. We find that if a canal is unused or underused, you start to get a monoculture, so you actually lose some of the more sensitive species. Therefore, there is an optimum figure for use. However, unpowered boats really do not have any impact at all.

[237] **Lorraine Barrett:** In oral evidence, Canoe Wales—sorry, canoes do go on canals, do they not?

[238] **Mr Stumpf:** Yes, they do.

[239] **Lorraine Barrett:** I was getting my canals and rivers mixed up.

[240] **Mick Bates:** I have paddled down the Montgomery canal.

[241] **Mr Stumpf:** We accept coracles as well.

[242] **Lorraine Barrett:** Canoe Wales stated that, if the legislation was changed, it did not believe that it would cause an explosion in the number of users and that it could, in fact, result in the dissipation of numbers at certain honey-pot sites. Do you think that that would be true?

[243] **Mr Stumpf:** The only evidence that I have is from the Great Glen on the Caledonian canal. I do not have any figures for the lowland waterways where I think that the use is predominantly daily use, with people putting a canoe on the water for just a day. On the Great Glen, the use has increased: in 2005, there were around 400 canoeists using it and now there are around 2,500. So, the numbers are still not vast, but there has been an increase. The Scottish Canoe Association predicts an increase of around 25 per cent a year.

10.40 a.m.

[244] Part of that, however, comes through an increase in people's use of the outdoors generally as well as from the creation of canoe trials. The Great Glen Way is now known as 'Great Glen Ways', because you can walk it, boat it, cycle it, or canoe it, and that latter side of things has probably had as much impact on the increase as the change in legislation.

[245] **Lorraine Barrett:** If voluntary access agreements were to be established on a case-by-case basis, and they were to stipulate the number of users at any given time that could access the water, do you think that they would alleviate fears of excessive usage?

[246] **Mr Stumpf:** May I answer that in a slightly roundabout way? On some of the canals, motor boating has an environmental impact—the Kennet and Avon and the Montgomery canals are examples. We will have to put processes in place to limit the number of powered boats on those waterways. In the south-east, there is such an agreement in place on the Basingstoke canal, which is not a British Waterways canal. So it can be done.

[247] We have found one other thing, and this is anecdotal evidence rather than something from my own experience, as I picked it up from the Forestry Commission Scotland's report, which looked into the Great Glen. The report found that overseas visitors are aware of what responsible access means. They are unaware of the Scottish code, but they are aware what is in the code, and they behave in a way required by the code, because they have grown up to do so and are therefore used to doing that. So I think that it is a matter of education as well, thereby building this approach into our culture, so that people know how to behave in the countryside responsibly.

[248] I am a hillwalker in Scotland, and during the stalking season, there is a service called Hillphones, by which you can phone up to see where the stalkers are, so you know where you can and cannot go. I do not know how well that works, but the walkers whom I deal with make a habit of phoning up to know where they can go and to keep out of the way of others using that ground. If the use is responsible, then it will work.

[249] **Mick Bates:** Before we move from the issue of environmental impact, you referred to boats powered by engines. Have you any research to show whether their impact is negligible or whether the engines cause real pollution?

[250] **Mr Stumpf:** It is not so much the pollution, as the turbidity that they create. John Eaton of the University of Nottingham is the country's expert, and he was involved in looking

at the Montgomery canal and the conservation management strategy that we have for it. That is where the figures for the level of usage and the optimum usage come from.

[251] **Mick Bates:** So, you have no plans to stop the use of motorised boats for, say, electric engines, which would presumably be less polluting.

[252] **Mr Stumpf:** No, we have not, although we are encouraging other types of hull. Some years back, we worked with the University of Strathclyde to develop an eco-hull, which is a low-wash hull, primarily with the view of reducing the erosion of canal towpaths. What we found, however, is that people drove such boats faster. The hire company that operates these hulls has now taken one cylinder out of the engines, so that customers have a two-cylinder engine instead of a three-cylinder engine. While the hulls were developed for one purpose in the 1980s, they are now part of low-energy boats, because they have a smaller engine than other craft. We are also looking at fuel cells and other forms of propulsion; we have a boat in the south that runs on cooking oil.

[253] **Mick Bates:** Fry your chips in it and then put it in a can. There is a financial side to this, however.

[254] **Brynle Williams:** You partially answered one question in saying that you charge for every craft that is put in the water, but in a previous evidence session, we heard from Canoe Wales that it wants totally unfettered access to waterways, with no charge applied. What are your views on this?

[255] **Mr Stumpf:** In its evidence, Canoe Wales did accept that a charge should be made for artificial waters. I would be opposed to craft entering waters without any charge, because we look for a contribution towards the maintenance and management of the waterways. In Scotland, the case is different, as they have unfettered access to waters, so we do not charge, but with the agreement of the Scottish Canoe Association, we license the boats as a means of getting access to the canoeists and providing them with information about where facilities are and how to use the waterways responsibly. We do not, however, have the benefit of the income to pay for the licensing process any more. In fact, we have to put in additional funds to improve facilities for canoeists on the Great Glen, which is good for Scotland and for the communities, because the spend goes into the local communities and supports local businesses, but it creates difficulty for us as managers.

[256] **Brynle Williams:** Would the issuing of licences to paddlers in Wales, as is done in Scotland, be beneficial so that the demand could be monitored and information about safety, other users and the location of facilities could be disseminated? Could it help to alleviate the conflict between the different users?

[257] **Mr Stumpf:** Again, I will restrict my answer to the canals, but the answer is 'yes' to both those questions.

[258] **Mick Bates:** In your reply, you mentioned that you do not have an income stream, as we do here, to provide facilities. Are you able to access grant aids in order to provide those facilities at points of access and exit?

[259] **Mr Stumpf:** We are putting in match funding as part of the European funding bid to provide facilities for the Great Glen Way. We will hopefully invest about £0.66 million in the Great Glen with the Forestry Commission, the local authorities along the route and the Scottish Government.

[260] **Mick Bates:** Can you briefly give us an example of how much money you collect in Wales and what you have spent it on in Wales?

[261] **Mr Stumpf:** I cannot. I do not have the figures for Wales specifically. Across the UK—excluding Scotland—we charge £60,000 for the block licence to the British Canoe Union. We do not sell many other unpowered licences. We sold less than 750 last year. So, the amounts of money are relatively small.

[262] **Mick Bates:** Would it be possible to use those figures to give us an indication of how much is raised and spent in Wales?

[263] **Mr Stumpf:** I am not sure whether I can break it down into postcodes. The other issue is that a lot of paddlers live in England, but come across the border to use waterways in Wales. So, I am not sure whether I can give you a meaningful figure.

[264] **Mick Bates:** If there were any chance that you could; it would be quite useful for us.

[265] **Mr Stumpf:** I have the figure for visitor spend here. Again, it is not a large amount of money.

[266] **Mick Bates:** It is all right, it is in the evidence.

[267] **Mr Stumpf:** I have it here. Visitor spend is about £0.75 million in Wales.

[268] **Brynle Williams:** Briefly, we have heard other evidence of conflict between paddlers and landowners and fishermen. Do you have any experience of such conflict in your inland waterways?

[269] **Mr Stumpf:** Not on the canals.

[270] **Brynle Williams:** Is there none at all?

[271] **Mr Stumpf:** We have a certain amount of conflict between all users because, unfortunately, as you heard during the last evidence session, if you have boaters, walkers, cyclists, anglers or canoeists, there will always be rogue elements. Sometimes, there can be conflict because people do not understand the needs of the other users. The main issue of conflict that we have tends to be between anglers and motor boaters, which is because of a misunderstanding of each other's needs. An angler would like to fish close to a lock, because the water is turbid and there is a lot of activity, so it is easy to catch fish there. That is probably the most inconvenient place for a boater. So, you tend to get challenges of that kind.

[272] We have regular user fora in which we get all the users together to meet face to face and talk to each other. When you see each other, it is much easier to talk about what you are doing and what your needs are than dealing with it in the abstract. So, we work on it in that way. In the evidence, I picked up some conflicts or issues with landowners and free access. That is an issue with free access to the land, rather than free access to the water, and it is to do with wild camping.

[273] **Mick Bates:** Do you employ a counsellor for those meetings or is it achievable by face-to-face contact—

[274] **Mr Stumpf:** From time to time, we have used facilitators to provide a mediation service, which works quite well. That tends to be when there is a much more disparate range of groups with very different needs and expectations. We use the facilitator to tease out what each other's needs are and people's understanding of each other's needs, which can be educational in the first place.

[275] **Mick Bates:** That is interesting. Finally, I call on Leanne to ask about examples from elsewhere.

[276] **Leanne Wood:** You mentioned in your opening remarks that you have worked in Scotland and, from some of your answers, it is clear that you have a lot of experience there. Can you clarify whether you worked in Scotland prior to the legislation coming in or whether you have worked there since?

10.50 a.m.

[277] **Mr Stumpf:** I worked there prior, but I have not worked there since. I was there from 1999 to 2002, which was just after devolution and the access legislation was just in the process of going through. There was quite a bit of debate and I was involved in putting some of the evidence together. We did not want free access to our water or our land when we got it.

[278] **Leanne Wood:** So, you opposed free access.

[279] **Mr Stumpf:** Yes; we did at that time, largely due to the reasons that we talked about here, but also, in terms of the land, it was to ensure that we were not impeded in the maintenance of the waterways.

[280] **Leanne Wood:** Do you think that the legal situation in Scotland is better or worse than the legal situation in England and Wales?

[281] **Mr Stumpf:** I will not say whether it is better or worse because it is a matter for the Government to decide what is required. It is certainly creating challenges for us. In the evidence, I talked about some of the challenges relating to the increase in the use of the water in the Great Glen specifically, but free access to the land and the towpaths has created problems for us because there is allowance for free access for horses and carriages. The towpaths, by their very nature, tend to be quite narrow and small. Our ability to manage those uses is now through the access codes, indirectly rather than directly.

[282] **Leanne Wood:** If Scotland is not a good example of an approach that we could apply to Wales, can you think of another approach from any other country in the world that could be followed here?

[283] **Mr Stumpf:** I am afraid that I do not have enough experience of what goes on elsewhere to give you any information. I am sorry about that.

[284] **Leanne Wood:** Okay. Thank you.

[285] **Mick Bates:** I think that Alun wanted to come in on this.

[286] **Alun Davies:** I am interested in the British Waterways approach to the issue in Scotland. We started this session with you agreeing that there is great unfulfilled potential in the waterways. Surely, one of the ways in which that potential could be fulfilled is by encouraging and enabling more people to take advantage of them. Saying 'We want more funding from Government' seems to be a somewhat contradictory position to take. Every public body says that, which is fine, but they also say that we need to stimulate this great latent demand that is unmet. However, when there was an opportunity to guarantee the public rights of access, you opposed it. Surely, that is contradiction.

[287] **Mr Stumpf:** No; if there is any contradiction, it is in saying that the right of access is the only way to increase more use. We work very hard with governing bodies and a range of partners, from tourist organisations to user bodies, to publicise the waterways and create new

opportunities for them. We are currently working with Canoe Wales on the Montgomery canal, looking at our site at Burgedin, to see whether we can create a facility there for people to learn how to use canoes on flat water—an entry system, if you like—and then they can move on to coastal, estuarial or wild water thereafter. It gives the opportunity to create canoe trails. The research that was done indicated that it is the lack of information and knowing where to go and the lack of support for those facilities that is as much of a barrier as anything else. People are not necessarily stopped from going on the water because they believe that they do not have the right to do so. I think that it is about the information and the understanding of the opportunities that are there for them.

[288] **Alun Davies:** I accept that there has been confusion between what the law is and what people's perception of the law is. That is a fair point.

[289] **Mr Stumpf:** It is a little clearer with the canals because people understand that they need licences.

[290] **Alun Davies:** Surely, the prerequisite to everything that you have said is a statutory framework that enables access. You can do all of the things that you have described but if people do not believe that they have a right to go there in the first place, none of that will happen.

[291] **Mr Stumpf:** To use the towpaths as an example, we do not restrict access to them. You do not need a licence to be on the towpaths, although you did in the 1970s. There is free access to the towpaths and we encourage access to them, yet many people still do not use them or do not know that the canal towpaths are there. Much of that is because they do not know where they go, they do not know how to find them, and they do not know where to get off them. We did some perception surveys in the 1990s with the university of Newcastle. There was a perception that if you got on the canal at London, you could not get off again until you got to Birmingham. Therefore, it is a matter of providing better information. Helping people to realise that there is a facility on their doorstep that is quite easy to use, and giving information on how to use it, will create the use.

[292] **Mick Bates:** Thank you. Are there any further questions from Members, or any further comments from you, Andrew?

[293] **Brynle Williams:** Do you own the whole canal or just the centre? You said that you own the towpath side.

[294] **Mr Stumpf:** We own the towpath and the water but generally, only to the water's edge on the off side. There are exceptions to that but that is generally the case.

[295] **Mick Bates:** So, do you also own the water?

[296] **Mr Stumpf:** Yes, we do, and the fish.

[297] **Rhodri Glyn Thomas:** Andrew told us in evidence earlier that British Waterways has a voluntary agreement with Canoe Wales. I assume that Canoe Wales will be coming back at some point?

[298] **Mr Stumpf:** Sorry, no. We work closely with Canoe Wales. The voluntary agreement—

[299] **Rhodri Glyn Thomas:** Do you have an agreement with it?

[300] **Mr Stumpf:** No, we do not. The example that I used was a canal in Scotland where

we were reintroducing canal boats and where rowers were using the waterway. We came to an agreement, between the two parties, as to how we could use the waterway equitably.

[301] **Rhodri Glyn Thomas:** So you do not have an agreement in Wales with Canoe Wales in terms of its use of your canals.

[302] **Mr Stumpf:** Only through the British Canoe Union, as it is party to that.

[303] **Brynle Williams:** So does Canoe Wales pays the same as everyone else?

[304] **Mr Stumpf:** To clarify, we charge a licence fee for canoeing, but if you are a member of Canoe Wales, the Scottish Canoe Association or the BCU, you are entitled to get a licence automatically, because of the block agreement with the BCU—and Canoe Wales is party to that.

[305] **Rhodri Glyn Thomas:** I would like clarification from Canoe Wales as to the nature of that agreement, and why it has not withdrawn from that agreement as it has from other voluntary agreements.

[306] **Mr Stumpf:** Canoe Wales referred to artificial waterways and natural waterways in its evidence.

[307] **Rhodri Glyn Thomas:** I understand that.

[308] **Mr Stumpf:** It also recognises the need to pay to use artificial waterways because of the need to maintain and manage those waters.

[309] **Rhodri Glyn Thomas:** That is an interesting interpretation.

[310] **Mick Bates:** It is, indeed. May I, on behalf of the committee, thank you very much for an interesting evidence session. A draft copy of the transcript will be sent to you, and it would be most welcome if you could consider whether you would like to respond to one of the earlier questions about what legal changes that you would like to see. It would be useful to have any other evidence on the financial side about your investments, because, access and exit is a critical point in our scrutiny of this issue, particularly now that you cannot collect any fees in Scotland. That would interest us greatly.

10.57 a.m.

Ymchwiliad i Fynediad i Ddŵr Mewndirol: Sesiwn Dystiolaeth—Dŵr Cymru Inquiry into Access to Inland Water: Evidence Session—Welsh Water

[311] **Mick Bates:** I now call the representatives of Welsh Water to the table. I welcome you to the final evidence session of this morning's Sustainability Committee meeting. You will have seen the format of how we are handling this session this morning, so I invite you to introduce yourselves for the record and to give a brief opening statement, after which we will move onto questions.

[312] **Mr Henderson:** My name is Paul Henderson and I am the strategic regulation manager for Welsh Water.

[313] **Ms Thomas:** I am Dusi Thomas and I am the environmental manager for Welsh Water.

[314] **Mick Bates:** Thank you very much. I now invite you to make your opening remarks.

[315] **Mr Henderson:** The committee is probably fairly familiar with Welsh Water, as we have made a number of appearances here recently. It is a not-for-profit company, with no shareholders, and its main objective is to supply clean and wholesome drinking water to our customers and to effectively remove and treat their waste water, and to do so in a manner that is affordable to our customers.

[316] My main responsibility is to ensure that Welsh Water meets its environmental obligations, now and in the future, and to do so in an affordable context. I also have the responsibility for overseeing policy and strategy with relation to access to our waters and lands, of which we have many in Wales. We have set out in our evidence that we get a wide variety of visitors at a number of our facilities around Wales. In allowing access to our assets, we have very strong considerations with regard to the health and safety of visitors to our sites, we strive to protect drinking water quality as our primary concern, and we also have environmental obligations to discharge in delivering that duty, which are paramount in what we set out to do. That is it from me; I do not know whether Dusi wants to say anything.

[317] **Ms Thomas:** I will just give a little background on my role. My role focuses particularly on the delivery of Welsh Water's duties on the protection of the environment, the conservation and enhancement of biodiversity and archaeological heritage, and also the provision of opportunities and facilities at our land holdings for recreational purposes by the public. We are trying to manage these three aspects in an integrated manner.

[318] As you have already seen in the written evidence submitted to the committee, under section 3 of the Water Industry Act of 1991, we have specific duties with regard to the provision of access to our land holdings by the public.

11.00 a.m.

[319] To ensure that we comply with these statutory duties, we put in place our policy and strategy on access and recreation, which are included in the annex to the written evidence. I stress, as stated in that written evidence, that Welsh Water is committed to providing appropriate access and promoting recreational use at our land holdings, as long as there is no significant risk to the health and safety of the public or our staff, and no risk of pollution to the environment or harm to wildlife.

[320] **Mick Bates:** Alun, would you like to start the questioning about the legal position?

[321] **Alun Davies:** Welsh Water is in a different situation from other organisations that have given evidence, because it has a statutory duty to promote access. I think that that is the wording, is it not, rather than just to allow access?

[322] **Mr Henderson:** It is 'promote and encourage'.

[323] **Alun Davies:** How does that affect your ability to deliver on your core duties of providing water and sewage facilities?

[324] **Mr Henderson:** Simply, our core duties come first. There is, essentially, a simple hierarchy, which is to provide clean, wholesome drinking water; to effectively treat waste water, and to do so in an affordable manner; to respect health and safety; to deliver on environmental obligations; and, within that context, to provide access and recreation to members of the public.

[325] **Alun Davies:** Is there a conflict between those duties?

[326] **Mr Henderson:** There is a small balancing act, and cost is always a consideration, but we try our best.

[327] **Alun Davies:** What are the conflicts?

[328] **Mr Henderson:** We would like to spend more money on conservation and recreation, if we could.

[329] **Alun Davies:** The 1991 legislation underpins this area. I presume that that was amending legislation following on from previous legislation. The recreational facilities that Welsh Water provides mainly involve reservoirs, so your statutory obligations do not prevent you from delivering on your core duties or undermine your responsibility to deliver your core duties.

[330] **Mr Henderson:** No, but to give you a simple example, in providing access, we have to be conscious of protecting raw drinking water quality, so we have strong limitations, for example, on the use of petrol-driven motors on reservoirs. We do not want any contaminant spilling into the reservoir causing us a problem with drinking water quality. So the use of motorised craft is very limited, and they must have small fuel tanks and are closely supervised.

[331] **Alun Davies:** Have you found any difficulty in delivering on your access duties?

[332] **Ms Thomas:** We have come across some difficulties, but we tend to resolve them by getting people around a table and having discussions. There has not been anything major in particular. We gave a talk at the British Waterways conference not long ago, and we put to the conference the challenges that we see for Welsh Water in promoting access and recreational activities at our reservoirs. That talk was well received. A lot of people think that, for example, we may be taking health and safety too seriously; certainly, we do take health and safety seriously, but we welcome suggestions for promoting recreational activities on our reservoirs. We are not a leisure company, as you appreciate. We are, as Paul said, a water and sewerage company, and that is where our expertise lies. However, when we are faced with a difficulty regarding access, we tend to sit down with all the parties involved.

[333] **Alun Davies:** Has your statutory obligation to provide access led to any conflicts? One of the themes of the evidence that we have received in this investigation is that statutory freedom of access leads to conflict between different users. Is that your experience?

[334] **Mr Henderson:** There is generally very little conflict. There is nothing that I would describe as being above a trivial level—nothing that we cannot resolve.

[335] **Alun Davies:** My final question is on your current statutory duties, which are still covered by the 1991 legislation. Would you wish to see that legislation amended in any way, and, if so, what sort of amendments would you like to see?

[336] **Mr Henderson:** We are broadly comfortable with things as they are.

[337] **Mick Bates:** Just before we move on, what is the legal situation in respect of the catchment area of your reservoirs?

[338] **Mr Henderson:** It is varied. We own some land adjacent to our reservoirs; some we do not. Our primary concern with regard to the surrounding catchment is, again, the protection of raw drinking water quality. Within that, there are considerations of protected areas. For example, there are management responsibilities that go with SSSIs. It is probably worth mentioning that, at the moment, we are doing a very interesting project with the

Countryside Council for Wales in Anglesey, looking at the catchment management of a peatland area, where CCW has won a major LIFE—L'Instrument Financierere pour l'Environment—project to improve the quality of the peat. We are hoping to see benefits from that work, which we are supporting it on, with regard to raw water quality. We are hoping that it will reduce the risk of discoloured water, which we have to treat and improve for our customers. By looking after the land, we hope that we can achieve a cost benefit for our customers.

[339] **Mick Bates:** I am familiar with the LIFE project. In my constituency, it is Severn Trent Water that operates that. The Vyrnwy estate was one of the first LIFE projects. I was more interested in access to the watercourses that feed your reservoirs. Do you have the same legal duty there as on your reservoirs?

[340] **Mr Henderson:** I do not think that we have as I cannot think of any watercourses where we own or control access.

[341] **Ms Thomas:** There are none that I am aware of.

[342] **Mick Bates:** So, on your property, where there are watercourses, your statutory duty to allow access does not apply.

[343] **Mr Henderson:** I do not think that we have any natural watercourses under our control, although we have constructed channels and so on. None spring to mind.

[344] **Mick Bates:** Rhodri, do you want to ask anything about the access agreements that exist under this different legal position?

[345] **Rhodri Glyn Thomas:** I would like the witnesses to elaborate a bit. You have said that, when there are difficulties, you get people around the table to hammer those out. However, you impose certain conditions. You have talked about the sort of craft that are allowed because of contamination through petrol and so forth. How do you impose those conditions? Obviously, you have to come to some sort of agreement with anyone who wants access to reservoirs in Wales.

[346] **Mr Henderson:** Yes, our larger sites are manned and managed sites, so there is a ranger service at the major sites and therefore access is controlled. For example, at Llandegfedd, there is a user group that comprises members from all the various sports and water activities that take place at the facility. They run the meetings and we attend them. We say, 'Work it out yourselves, and we will do whatever we can to facilitate access for all'. It is mainly a question of timing and people acting responsibly towards each other.

[347] **Rhodri Glyn Thomas:** So, you are comfortable with that situation. You do not have many problems, do you?

[348] **Mr Henderson:** Not a great deal.

[349] **Ms Thomas:** Not really. We manage it.

[350] **Rhodri Glyn Thomas:** Alun made the point earlier that we do not want to get hung up on anglers and canoeists, but they are a large part of the equation, looking at the evidence that we have taken. Can you tell us a bit about the sort of arrangements that you make with canoeists who want to use your reservoirs?

[351] **Ms Thomas:** To give you a bit of background, we have a few reservoirs where we provide access for canoeists. The ones at Llandegfedd, Llys y Fran and Llyn Brenig are those

that I can think of at the moment. It tends to be private clubs that are managed and owned by members who come to use the site. In Llyn Brenig in north Wales in particular, we agree that certain areas of our reservoirs will be used for different activities. Managing members or those interested in using the reservoir is entirely up to the club. There must be a previous agreement or arrangement between the members and the club before they use the site.

[352] **Rhodri Glyn Thomas:** So you do not have people just turning up with canoes?

[353] **Ms Thomas:** We would tell them that they could not use our site. We need to ensure that they have health and safety insurance cover and an agreement with the club.

[354] **Rhodri Glyn Thomas:** So, you have an agreement with the club and the club manages the access.

[355] **Mr Henderson:** Yes.

[356] **Rhodri Glyn Thomas:** This is not relevant to reservoirs really, but do you have a view on voluntary agreements generally?

11.10 a.m.

[357] **Mr Henderson:** I suppose that you could say that we have voluntary agreements in some way. They work well for us.

[358] **Rhodri Glyn Thomas:** However, it is in a managed environment.

[359] **Mr Henderson:** It is in a managed and controlled environment.

[360] **Rhodri Glyn Thomas:** That is a very different situation from that of inland waterways generally.

[361] **Mick Bates:** Lorraine, you have some questions on environmental aspects.

[362] **Lorraine Barrett:** The committee has received evidence from many people concerned that opening up access rights could have adverse effects on the environment, but Environment Agency Wales is quite relaxed about this and says that there is no evidence that users have a significant effect on the environment. Do you have any views on that?

[363] **Mr Henderson:** We have made reference in our evidence to impact on the environment. The bit that we would draw the committee's attention to is that on the special circumstances with regard to special areas of conservation. We have a fair degree of experience now in dealing with the habitats and water framework directives. It seems very clear to us that any plans or permissions for activities in special areas of conservation should go through an appropriate assessment process to demonstrate that there would be no adverse impact upon the protected site.

[364] **Lorraine Barrett:** Do you have any evidence that damage is done to the environment?

[365] **Mr Henderson:** We have suggested that the agency should undertake such assessments, and that is a formal process.

[366] **Lorraine Barrett:** If access rights were expanded and the number of users using the water annually was to increase, would there be a significant impact on the environment, specifically with regard to Dŵr Cymru being able to monitor and minimise the different

contamination risks in particular?

[367] **Mr Henderson:** We would have to look at drinking water safety plans. I do not think that, generally, unmotorised craft would be a major consideration for us, although we have some bank-side abstractions, where we take water out of the river, so there are health and safety considerations there. If we are sucking water out of the river under pumps, we would want people to keep away and we may have to think about putting in a suitable warning and perhaps barriers to keep people away from any danger.

[368] With motorised craft, we would have to assess the risk, and we would go through a formal process to do that. We would hope that there would be responsible use by all and minimal use of contaminants.

[369] **Mick Bates:** You have mentioned an environmental impact assessment of users. Is there a standard document that you give to people who would like to use one of your reservoirs?

[370] **Mr Henderson:** We have our own processes for health and safety and environmental assessment, so we would look at anything that could potentially cause a risk to protected sites under our control. Dusi knows more about that.

[371] **Ms Thomas:** We have a clear procedure for health and safety and drinking water safety assessments and, as Paul said, environmental assessments, in particular for those sites that have specific designation status, such as SSSI or special area of conservation status.

[372] **Mick Bates:** Is this environmental impact assessment document confidential?

[373] **Ms Thomas:** It is not confidential. I can have a look and, if we have it in place, we can provide you with it. However, you must appreciate that most of the activities that take place on-site are well established—they have been there for a long time—but we review the impact in terms of health and safety and drinking water safety.

[374] **Mick Bates:** That would be very useful, because this issue has been raised in much of the evidence. In Scotland, are reservoirs exempt from the free access arrangements?

[375] **Mr Henderson:** I am not entirely sure. Our business is entirely in Wales. We could find out for you by asking our Scottish colleagues. I am not in a position to comment on the water industry in Scotland, I am afraid.

[376] **Mick Bates:** Thank you for that offer, Paul. If it is possible to do it, that would be most welcome. Lorraine, are you happy with that?

[377] **Lorraine Barrett:** Yes, thank you.

[378] **Mick Bates:** Brynle, would you like to talk about the financial side? That may be of great interest.

[379] **Brynle Williams:** In previous evidence, Canoe Wales stated that all users, including anglers, should have unfettered access to the water without having to pay for licences. What are your views on that, and what would be the knock-on effects for Dŵr Cymru if that facility was provided?

[380] **Mr Henderson:** We currently charge a modest fee for access. You will see from our evidence that we certainly do not make a profit on our recreational activities. We would not be at all keen on unfettered access, but that would be entirely on the grounds that Dusi

outlined earlier, namely that you want to make sure that people are safe and responsible in the use of our waters. We would oppose unfettered access on that basis.

[381] With regard to the finance, the money has to come from somewhere. It would be in the form of a subsidy from all other customers to a smaller group of customers. That would be the consequence.

[382] **Brynle Williams:** If access rights were expanded, what effect would that have on Dŵr Cymru, which has responsibilities under health and safety legislation, with regard to liability?

[383] **Mr Henderson:** We have set out in our evidence our responsibilities under health and safety legislation, which we take very seriously. We would not want to allow unfettered access because we would want to assess the risk to any users of our water areas, as well as the risk that those users might pose to others. When we do allow canoeists access to our reservoirs, as Dusi said, it is under controlled conditions, and we insist on people having proper safety measures and training in place. We would very much like to see that situation continue.

[384] **Rhodri Glyn Thomas:** Have you had any representations from canoeists who are unhappy with the fact that they have come through the club with which you have an arrangement? Did anybody approach you and say that they did not want that, but that they wanted to have the right to—

[385] **Ms Thomas:** I am not aware of anyone having done that.

[386] **Mr Henderson:** Over the years, this has happened on occasion. We do come across unauthorised use of our reservoirs. There are one or two places where, for example, people are jumping into the reservoir from the side of the road with a jet ski, which, as you can imagine, we are not too keen on.

[387] **Rhodri Glyn Thomas:** By and large, are people quite happy to come to an arrangement with you on access to the reservoirs?

[388] **Mr Henderson:** Yes. We explain the risks involved with reservoirs. There are many risks associated with reservoirs that you do not have in rivers: submerged structures, the cold, machinery, and so on. We find that once we explain those to people, and say, 'It is because of that,' they say, 'Okay, I understand. Let us do it the sensible way.'

[389] **Ms Thomas:** It is our asset and our property. We make it clear that we put the rules in place to ensure the health and safety of the person wanting to use the reservoir, as well as the health and safety of the public, who is using our water supply.

[390] **Rhodri Glyn Thomas:** I understand that they are different to inland waterways; I am trying to establish—and I believe that you are telling me this—whether, in those circumstances, with regard to reservoirs specifically, canoeists, or anyone wishing to use a craft of any kind on reservoirs, are by and large quite prepared to have voluntary arrangements, or contracts, as they are to all extents and purposes.

[391] **Mr Henderson:** We have found that the vast majority of our customers and users are open to reasonable conversation.

[392] **Brynle Williams:** I see that you are now, regrettably—and there was an incident at Llyn Brianne—having to introduce bye-laws. If granting open access to waterways goes ahead, are we likely to see many more such incidents?

[393] **Mr Henderson:** Thankfully, what happened at Llyn Brianne was the result of a unique set of circumstances. For those who are not familiar with it, it was a case of extreme kayaking down a 330 ft spillway at an angle of about 45 degrees.

[394] **Mick Bates:** That is the extreme.

[395] **Mr Henderson:** The reservoir was spilling. The incident is, famously, on YouTube; the guys took pictures of themselves doing it and then put it on the web. The reservoir was spilling at the time they took their kayaks down from the top of the spillway. They were obviously enjoying themselves on the way down, but they then catapulted off the end. We saw that and went white—it is not a situation that we want to see. We took immediate measures to deal with that: we simply let some water out of the bottom of the reservoir to stop it from spilling. We became spoilsports, perhaps, but it allowed us to sleep soundly at night.

11.20 a.m.

[396] We are now putting bye-laws in place to prohibit such activities. We feel that there is a need for bye-laws because while we are open to trespassing regulations once people leave the site, my understanding is that the trespass is discharged. The bye-laws will enable us to prosecute people for inappropriate use after they have left the site. So, if we can identify them, take their names and addresses and tell them that they will not do that again because we would prosecute, they will be discouraged from repeating the event. It will also discourage others. It is a measure of last resort and we would prefer not to use it.

[397] **Mick Bates:** Before we move on from the financial position, in your paper you state that you spend £2.2 million on recreational activities and that you raise £1.3 million from activities such as ‘forestry etc’. Could you provide us with more detail on your £1.3 million income stream because that is quite a lot of money and, from what you have said, I do not see how you can raise a lot of that from voluntary agreements with canoeists, for example?

[398] **Mr Henderson:** I do not have the figures to hand, but our largest income stream is fishing—we issue fishing permits for many of our reservoirs. We have a variety of charges that are detailed in these leaflets, which we will leave with you. They are modest fees because we like to keep things accessible; they are therefore set at gentle rates. That is where the majority of our income comes from, but there are also other income streams around the sides, such as forestry. For example, people occasionally ask us for filming rights in our more scenic spots. If it is for charity or not for profit, we will freely give permission, but if it is for commercial use, we will charge a fee. That is our general attitude. There are a variety of other things on which we make a few bob here and there.

[399] **Mick Bates:** Would it be possible to provide us with more detail on that? It would be useful to see the type of charges that you set.

[400] **Mr Henderson:** I will have to check with my commercial colleagues because of commercial sensitivity issues.

[401] **Mick Bates:** I understand the confidentiality issue.

[402] **Mr Henderson:** In principle, we will do what we can.

[403] **Mick Bates:** Thank you. Leanne, did you have a question on this?

[404] **Leanne Wood:** No, Chair, my question has been answered.

[405] **Mick Bates:** It would also be useful if you could talk to your colleagues about what happens in Scotland. For example, are you exempted from access there?

[406] **Mr Henderson:** Would you like us to write to you on that?

[407] **Mick Bates:** Yes, thank you; that would be useful. Do Members have any other points to raise with Welsh Water? Do you have any comments or questions before I close the session? I see that you do not.

[408] Thank you both for your attendance and evidence. Hopefully we can clarify a few of the issues raised on the income streams and on the Scottish situation. You will be sent a draft transcript of the meeting so that you can check your evidence for factual accuracy.

11.23 a.m.

Papur i'w Nodi
Paper to Note

[409] **Mick Bates:** There is only one paper to note, which is correspondence from Gary Davies of the Merthyr Tydfil Angling Association.

[410] Our next meeting will be held on Thursday, 12 November. I thank you all for your attendance.

Daeth y cyfarfod i ben am 11.23 a.m.
The meeting ended at 11.23 a.m.