

Statement Regarding Accusation of Trespass on the River Dee

16 November 2016

On 24 October Canoe Wales was contacted by a member seeking advice on a letter he had received from angling clubs on the River Dee. The letter accused him of 'trespass and nuisance' and threatened an injunction unless he signed an undertaking not to trespass; not to cause a nuisance; and to comply with the terms of the access arrangement established by the Welsh Dee Partnership. Canoe Wales recommended that the member should seek independent legal advice and that he should not admit to trespass in any undertaking he might choose to sign; and offered to advise the member's legal representative on trespass-related matters if required. While awaiting further contact on how we can help and support our member, Canoe Wales and British Canoeing have taken the opportunity to review jointly their approach to this incident and to make the following statements.

1. British Canoeing and Canoe Wales have worked together in our response to this incident and will continue working together to offer the best advice and support that we can to paddlers facing such threats, by advising their legal representatives and / or providing information and resources relating to rights of navigation as required.
2. We are disappointed that the angling clubs have chosen to take this action, particularly since these clubs are participants in the Welsh Dee Partnership with whom Canoe Wales has been attempting to build a constructive relationship for the last 6 months.
3. We regret that we have been unable to provide immediate legal assistance to the member in this case since we are not legal authorities and do not maintain legal teams, so cannot act in a legal capacity; and since legal or trespass cover was not at the time of the incident available under the third-party liability insurance provided for members by Canoe Wales (although we are pleased to confirm that these have now been added to our new insurance policy which commenced on 1 November).
4. We believe that there is compelling evidence that a public right of navigation exists generally on physically-navigable rivers in England and Wales and specifically that a public right of navigation exists on the Dee.
5. We acknowledge, however, that many angling interests believe that there is no general public right of navigation on non-tidal rivers in England and Wales and that the angling clubs in question believe that there is no public right of navigation on the Dee.
6. We welcome the recent confirmation by the Secretary of State for the Environment, Food and Rural Affairs that "the law regarding the right of navigation on unregulated waters is unclear" and that "only the courts can clarify whether the right of navigation exists on particular watercourses". We also welcome the recent petition by the 'Waters of Wales' campaign group that "calls on the National Assembly for Wales to urge the Welsh Government to implement a Bill to establish statutory public rights of access to land and water for recreational and other purposes".
7. Although we believe there is compelling evidence of a public right of navigation, we consider in the current legal and political climate that arguing about the law will not reduce the difficulties around access on our rivers. We also recognise that, on some rivers, either numbers of users or patterns of use can create legitimate difficulties between user groups. In these cases we believe there can be a role for local partnerships to manage shared use in a way that protects the environment; supports land owners and local communities; and enables all water users to have the fullest opportunity to engage in their chosen sport. For these 'hotspot' locations, such as the Llangollen section of the Dee, we advocate partnership arrangements that include all interested parties, where all views are treated equally and decisions are based on evidence. We wish to work with willing partners, whether the Welsh Dee Partnership or others, to attract responsible river users to the area to support the local infrastructure and support the economy of Llangollen; which is particularly important through the winter period when paddling can contribute significant income. We recognise that this represents a recent change in policy for Canoe Wales and we are engaging actively with members in developing this approach.

8. We do not endorse the current access arrangements promoted by the Welsh Dee Partnership – since they were formed between angling clubs and commercial outdoor companies to manage their use of the river and do not meet our criteria listed above. However, we do welcome recent moves by the Welsh Dee Partnership that have encouraged Canoe Wales to consult members on the likely acceptability of revised management arrangements – although we now fear that the current action by the angling clubs is likely to lessen significantly the likelihood of our members accepting any arrangements offered by the Partnership, since we believe this action will only serve to entrench differences and increase conflict.
9. In view of the close relationship between the Welsh Dee Partnership and the angling clubs who have threatened our member, Canoe Wales is concerned that the Partnership may no longer be regarded as a credible and legitimate body “to promote good relations between anglers and canoeists on the Welsh Dee”. We will therefore propose an alternative forum to establish fair and shared use of the river unless the Partnership can convince us that it is prepared to continue to work with us, with operators and with clubs to improve relationships on the river in the manner we have described above and without continued threats of legal action against paddlers.
10. We wish to remind all paddlers that the decision whether or not to paddle this stretch of river at any time is one for them to make as individuals. However, we recognise that the current arrangements have brought a certain amount of clarity and security to commercial operators on the river, so we ask all paddlers to be aware of the sensitivities involved on the river; to be polite and courteous to other users; and to be aware of the need to work constructively with everyone who has an interest in the river.

Details of our latest information and advice on access arrangements for the Dee may be found at <http://www.canoewales.com/white-water>; and details of the Welsh Dee Partnership arrangements at: http://www.welshdeepartnershipltd.co.uk/river_access. Our guidance to paddlers on trespass may be found at <https://www.britishcanoeing.org.uk/guidance-resources/waterways-environment/access/waterway-access-and-the-law/>.

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