

# Taking forward Wales' sustainable management of natural resources

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## Consultation response form

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I am writing in response to the consultation "[Taking forward Wales' sustainable management of natural resources](#)". As our interest relates specifically to the sharing and use of the tidal and non-tidal waters of Wales the responses have been confined to those proposals dealing with these subjects.

### Overview

The proposals align closely with our interpretation of the existing Common Law but are nevertheless welcomed on the basis that they provide clarity and a statutory framework to enable all users of inland waters to share access to, in and on these valuable natural resources and move beyond the entrenched disagreement on points of principle which have sadly characterised attempts by a variety of users to share access on a fair and equitable basis. All users of rivers, lakes and coastal waters value these natural resources and the proposals will provide the necessary opportunity for us all to work together to protect and preserve them to the benefit of all the people of, and visitors to, Wales.

Our comments on the specific proposals are as follows.

### **Proposal 10**

**“To enable cycling and horse riding on footpaths to occur under the same conditions as those provided for cycling on bridleways under section 30 of the Countryside Act 1968. These provisions allow for cycling without placing additional burdens of maintenance and liability on the local authority; and they prioritise the ordinary users of those paths. Whilst it would not place additional liabilities or maintenance burdens on local authorities, it would enable them to plan and implement surface and furniture improvements to routes that would add most value to the rights of way network. It would place the onus of checking the suitability of individual paths on users.”**

Response

We support this proposal and consider it should be specifically extended to include the transportation of equipment necessary for any legitimate recreational (unpowered) activity (including vessels) on any suitable right of way.

### **Proposal 11**

**“To amend or revoke the following list of restrictions on access, provided in Schedule 2 (1) of the CRoW Act 2000:**

- (b) uses a vessel or sailboard on any non-tidal water;**
- (c) has with him any animal other than a dog;**
- (i) bathes in any non-tidal water; and**
- (s) engages in any organised games, or in camping , hang-gliding or para-gliding.”**

Response

We support the removal of these restrictions which are clearly necessary to widen access as proposed.

### **Proposal 13**

**To extend CRoW Act access land to the coast and cliffs.**

Response

We support this which is clearly necessary to widen access as proposed.

### **Proposal 14**

**To extend Part 1 of CRoW Act access land provisions to rivers and other inland waters.**

Response

We fully support this proposal. It should be made clear that this extension applies to all rivers and inland waters, not just those contained within existing access land.

## Proposal 15

**“To establish NRW as the authority responsible for:**

- **identifying appropriate access and egress points;**
- **implementing measures to promote responsible use, including the use of river level indicators; and**
- **mediating between the different user interests to facilitate user access agreements.”**

Response

Whilst we welcome the objectives behind these proposals we are concerned at the creation of unnecessary administrative burden (and therefore expense) on NRW. We believe this risk can be significantly reduced by introducing a clear presumption in favour of responsible access and egress to water from other public rights of way (highways, bridleways, footpaths etc.), from common land and from access land.

In most cases where there is a serious risk of conflicting interests requiring user access agreements we believe goodwill and an equity of rights and responsibilities across user groups will be sufficient to enable any necessary user agreements without the need for significant involvement from NRW. Where such voluntary agreements are not forthcoming the presumption in favour of access should apply unless there is clear factual evidence to the contrary. NRW should be extremely cautious about adopting the role of mediator/arbitrator which could prove counter-productive and facilitate a culture of ongoing conflict. Whilst NRW should have the ability to take on the role where it believes it has the opportunity to play a constructive part, it should have no obligation to do so.

## Proposal 16

**“To establish a statutory caveat on all users to behave responsibly whilst exercising their right to participate in recreation on access land, inland water and on public rights of way.”**

Response

We support this proposal which we believe reflects the existing common law and welcome the introduction of a statutory code of conduct to bring further clarity to the key elements of such responsible behaviour.

## Proposal 17

**“To enable temporary diversions and exclusions to be applied across all accessible land and water where circumstances require them and after the safety and convenience of the public have been considered.”**

Response

We have seen excessive caution regarding the possible safety of certain activities creating an obstacle to those activities. Whilst the safety and convenience of the non-participating public are important considerations, those participation directly in activities with an element of inherent risk must retain the primary responsibility for their own safety.

## Proposal 19

**“To enable the development of one statutory map of accessible areas and green infrastructure. Layers of mapping would initially include CRoW access land (including water), public rights of way and designations, including, National Trails. Legislation would need to allow further layers to be identified and added.”**

Response

The purpose of the map is to maximise clarity concerning where access **IS** available but there is a risk that any absence of such clarity will be interpreted as a presumption that access **IS NOT** available. This should not be the case and any dispute concerning access to locations not sufficiently clarified by the map should be resolved on its own merits rather than on the basis of the absence of clarity from the map.

## Additional Comment

1 The practicality and safety of navigation on rivers and other inland water will depend on many factors which are subject to change (e.g. depending on weather conditions, water levels, rates of flow and the introduction of natural or man-made obstructions etc.) There should be a presumption of a right to portage, or otherwise pass, short distances via neighbouring land to avoid such hazards and obstructions providing this is done in a way that seeks to avoid unreasonable encroachment on private land and interference with the legitimate activities of others.

2 When Parliament previously acted to extend navigation on rivers, it recognised the possibility/likelihood that those opposed to wider public use would seek to frustrate the will of parliament by attempting to restrict and obstruct access to the rivers from public highways, and other rights of way such as footpaths. Parliament chose to legislate to prevent this via Section 16 of [the Countryside Act 1968](#) and I urge the Welsh Government to include similar specific wording in its' own legislation.

## Conclusion

Subject to these comments, River Access For All Ltd, welcomes the proposals of the Welsh Government and looks forward to their early adoption into law.

Keith Day  
Director  
River Access For All Ltd  
1<sup>st</sup> September 2017