

**Email to Ken Skates,
Deputy Minister for Culture, Sport and Tourism
29th Jan 2015
Correspondence.Ken.Skates@wales.gsi.gov.uk**

Dear Mr Skates,

I am a Director of River Access For All Ltd which exists to research and campaign for recognition of public navigation rights on all rivers in England and Wales, subject only to the physical constraints of the river and the size of the vessels navigating them.

I was surprised to learn from correspondence to Mr Andrew Biddulph from John Watkins, (Head of Landscapes, Outdoor Recreation and Pollinators Branch, Land, Nature and Forestry Division) dated 21st November 2014, that *"the Welsh Government is of the view that the law relating to access to inland waters is unclear."* He goes on to say *"There is little to no evidence to corroborate claims for or against the argument of a general right of access to all users."* This surprised me because of the great wealth of evidence that exists. Most of it is from English sources but, since the *Laws in Wales Acts of 1535 and 1542* extended the benefit of all English law to Wales, the evidence is now as applicable to Wales as to England.

I therefore [attach a document](#) detailing much of the evidence from state records and academic research to demonstrate the existence of public navigation rights. Much of the evidence has been available in published form for some time but I have gone one stage further by providing links to "on line" publications of the source documents. I specifically draw your attention to the case of [The King v Clarke, 1702](#) which shows that *"to hinder the course of a navigable river is against Magna Charta, c. 23, and anything that aggravates the fact, though not directly to the issue, may be given in evidence upon it; as here the taking of money to let people pass. And it is no exception to a witness here, that he contributes to carry on the suit, or that this public nuisance (sic) was to his private nuisance (sic)."*

In this year which celebrates the 800th anniversary of Magna Carta I also show the academic comment confirming that Magna Carta, Clause 33 (23 in post 1215 versions) *"established the principle of free passage along England's rivers" and "extended it to all English rivers."* The evidence from Statutes and the many Royal Commissions dealing with the protection of navigation on a wide variety of rivers throughout the realm (with no limitation based on the tidal or non tidal nature of the river or the ownership or possession of the soil of the beds of rivers) supports the view that the public navigation rights being protected extended to rivers throughout the realm rather than being in any way limited.

It is incontestable that Magna Carta and the associated statutes recognised and protected public navigation rights in all rivers. They did not create these navigation rights which had always existed. The law is clear that public navigation rights can only be amended or extinguished by Parliament (either directly through statute or indirectly through the exercise of delegated powers) and no one has ever pointed to any evidence that this has happened except by individual navigation Acts authorising the collection of tolls in specific circumstances. It therefore must be that the law evidenced by Magna Carta and the associated statutes and commissions remains the law today.

On the basis of this evidence I ask that Welsh Government review its' position and join with the rest of the civilised world in celebrating Magna Carta and its' role in protecting public rights (including navigation rights via Clause 33) through the ages.

Regards

Keith Day
Director of River Access For All