

4.0 Action for Government

4.5 Ensure no loss of public amenity or the conservation value of inland waterways sand their banks through sale or transfer

Where public waterways and/or their banks are being considered for disposal, there must be a clear commitment under any new management to secure them for future generations. The waterways must be maintained in a way that continues to provide and protect natural value and the public interest.

4.6 Ensure use and outdoor recreation remain a priority for local authorities

There is a need to ensure the footpaths and rights of way are maintained as many of these are the means by which canoeists and others access the water. This is in addition to the great use made of them by walkers and other users.

4.7 Understand personal risk in outdoor recreation and occupiers liability

Visitors when using the outdoors should exercise responsibility for themselves. Therefore it is essential that government policy initiatives are based on the need to encourage people to participate in outdoor actives and to gain a sense of freedom and adventure, rather than imposing restrictions for fear of liability. Health & safety requirements should be proportionate and practical.

4.9 Support greater use of agricultural subsidies to secure opportunities for use

Where public funding is used to support land management there should be greater public access opportunities. For example where public money is used to enhance a waterway and/or the surrounding area the waterway should be made available for public use. Public funding equals public use.

5.0 Additional Information

I. Watersports and Leisure Participation Survey 2010

Canoeing continues to be the most popular watersport with over 1.8 million adult and children participating. Regular monthly participation has shown significant increases in England from 122,000 to 150,000 in the last 2 years. Active People Survey 5/2.

II. Water based sport and recreation: the facts 2001

A report prepared for the Department Food Rural Affairs by the University of Brighton complete with tabulated data for English rivers and lengths (km) with and without rights.

From Tables 4.1 & 4.2

Major rivers	14862
Minor rivers	42740
Total	59909
Rivers with public navigation rights	2001
Canals are not this equation	2001/59909 = 3.4%

III. Putting Pilot Voluntary Access Agreements in Place, Final report 2006, University of Brighton.

Produced for Department Food Rural Affairs and Environment Agency

The University of Brighton have also produced a series of regional studies for the Environment Agency on the strategic planning of water recreation. The studies can be viewed at – www.brighton.ac.uk/recreation and identify the restrictive policies and positions taken against water recreation and poor provision of rights to use inland waters.

Canoe England Position Statement - Access Arrangements & the use of non-tidal waters by manually powered craft.

Copies of You, Your Canoe and the Environment along with further environmental information can be found on the Canoe England website www.canoe-england.org.uk

IV. The review recommends that

“Department Food Rural Affairs and Environment Agency (DEFRA) should consider ways of moving towards a system where there is a general statutory right of access to inland water for recreational purposes.

www.sportandrecreation.org.uk/news/22-03-2011/red-card-red-tape-launched

V. Historical research has concluded:-

- All rivers which were physically usable were legally usable.
- There is a high probability that each section of a river which is now physically usable was usable by small boats in the period 1189-1600.
- On the balance of probabilities each section of a river which is now physically usable was used during that period.
- There is, therefore, a public right of navigation on all unregulated rivers that are physically usable.

About Canoe England

As a division of the British Canoe Union (BCU), the national governing body for canoeing and kayaking in the UK, Canoe England is the membership body for canoeists, clubs, centres and associates in England. For more information about Canoe England visit www.canoe-england.org.uk

Rivers Access Campaign

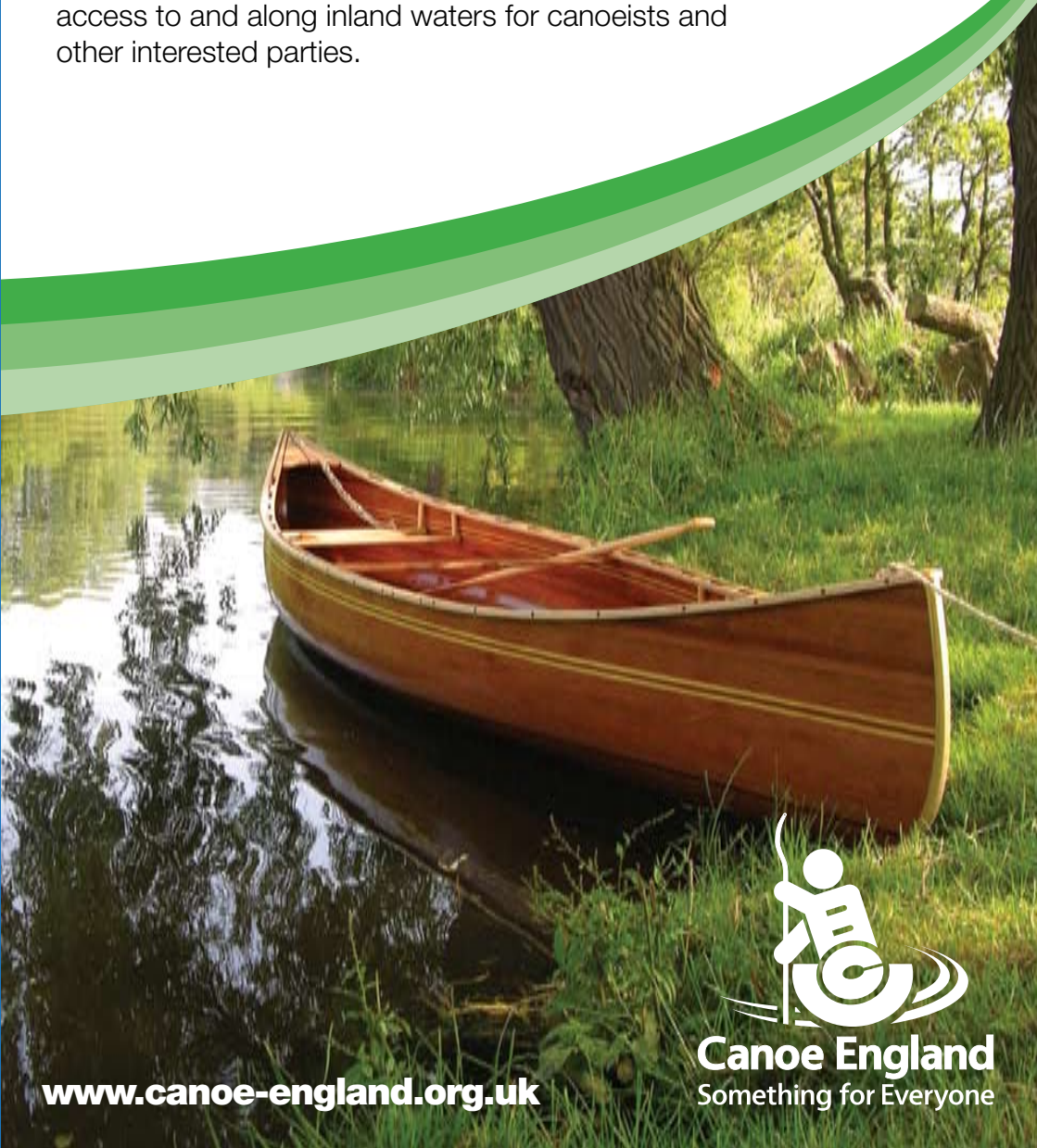
Canoeing continues to increase in popularity and under 4% of inland waterways has a recognised right of navigation. Canoe England is campaigning to increase access to and along our inland waterways and sees legislation similar to the successful Land Reform (Scotland) Act 2003 supported by an access code as a way forward.

Canoe England recognises that canoeing is an environmentally benign activity and promotes good practice and respect for the environment through coaching syllabuses and publications.

www.canoe-england.org.uk

Waterways and Environment Charter

Principles and proposals for government action on access to and along inland waters for canoeists and other interested parties.



Canoe England
Something for Everyone

www.canoe-england.org.uk

1.0 Background

This Charter sets out the views of Canoe England concerning the legal situation and environmental use of the waterways of England.

Canoe England is the representative body for over 1,800,000 canoeists, in England and it protects the freedoms and promotes the interests of all canoeists, from the recreational participant through to the international athlete.

Our activities bring significant benefits to the countryside, users, local communities and society in general.

The Charter calls on political parties to develop an integrated package of measures that will further secure and enhance sustainable public use of the waterways.

For over 50 years Canoe England (part of the British Canoe Union (BCU)) has tried to secure sustainable use of inland waterways in ways that do not threaten their natural beauty or wildlife. It has also lobbied for changes to, and implementation of, primary legislation in order to ensure permanent use of inland waterways as well as the English coastal waters.

The canoe is a traditional craft used throughout the world for exploring wilderness areas and quietly observing wildlife and flora. It causes no erosion, noise or pollution, and leaves no trace of its

2.0 Introduction

Over the last 60 years there have been several pieces of legislation which should have, if the powers had been enacted appropriately, provided the opportunity or greater use of the routes to and along the inland waterways and coastal waters.

With the introduction of the Countryside and Rights of Way Act 2000 (CROW) and the Marine and Coastal Access Act 2009 (MCAA), provision for recreational use of the countryside has changed significantly in the last 10 years.

Despite these welcome changes in primary legislation with provisions to use non-tidal waters, the situation is unchanged. Where rights are not recognised and disputed, government promotes a policy for Voluntary Access Agreements³ that has proved not to work and meet a demand.

- 1949 National Parks Act
- 1968 Transport Act
- 1991 Utilities Act
- 1995 Environment Act
- 2000 CRoW Act
- 2009 Marine and Coastal Access Act 2009

3.0 Core Principles

Canoe England has agreed a set of core principles for use which should guide future policy and legislative proposals.

- 3.1 Recognition of the importance of the use of inland waterways

Being able to reach the waters’ edge, as well as being able to canoe along inland waters has wide reaching benefits - from greater recreational opportunities and a better understanding of the natural environment, to increased well being and benefiting the rural economy.
- 3.2 Use of waterways and right of access

The use of the waterways by non powered craft for quiet, informal recreation (where environmentally appropriate) should be a basic right to be enjoyed by all.

We fundamentally believe there should be a right to use all rivers with local management measures covering environmental conditions and the rights of other user interests to be respected.
- 3.3 Responsible use

All who use the inland and coastal waters including the surrounding countryside must respect these environments, the interests of those who live and work in the area; as well as all other users.

Canoe England has produced leaflets You, Your Canoe and the Environment⁴ as well as Canoeing on the Sea which provide guidance for all canoeists when enjoying their sport.
- 3.4 Paying for use

Recreational visitors should not be required to pay to use inland waters, other than is currently undertaken on “managed” navigations for example, the River Thames and the canal network.
- 3.5 Liability

Landowners or occupiers should not incur any liability to protect visitors from personal injury from informal recreation on their land or the waterway.
- 3.6 Public betterment

Large sums of public money are invested in the waterways to improve them. Where public money is used, including Grant in Aid then the public should have a right of access/use. Public money should be used for public betterment.
- 3.7 Freedom to takes risks

Canoeing is accepted as an assumed risk sport and the freedom to take risks and personal responsibility for one’s own safety is an integral part of recreation and adventure sport and must be upheld.

Canoe England recognises that canoeing potentially is an activity with a danger of personal injury or death. Participants in canoeing should be aware of and accept these risks and be responsible for their own actions. The decision whether or not to canoe a waterway is an intentional act and rests with the individual.

4.0 Action for Government

Canoe England calls on the government and its agencies to develop an integrated package of measures to remove restrictive policies and practices by considering the following actions:

- 4.1 Dedicate water to create permanent use rights

Where there are no recognised public rights on non maintained and usable waterways.

In March 2011 the Sport and Recreation Alliance Review 'Red Card to Red Tape' included access to inland waters stating “the lack of clarity and certainty of access acts as a barrier for greater participation in watersports”.⁴

Where there are currently “no legal rights” to use publicly owned water, the government must ensure the right to use is in existence before any watercourses changes ownership.

In the meantime, and in addition, private landowners should be encouraged to use Section 16 of CROW as an appropriate and existing mechanism to safeguard public use and reduce occupiers’ liability.
- 4.2 To investigate both the existence, and seek the restoration of, historic rights of navigation and access to the water’s edge where they exist

Canoe England does not subscribe to the present assumption, by some, of the law that unregulated rivers (where there is no active navigation authority) and usable by boats are private. Magna Carta and the strength of the latest historical research on the law the www.caffynonrivers.co.uk are further grounds for a presumption in favour of access and public rights to inland waters that are physically useable.⁵

Government must investigate and then implement the access rights.
- 4.3 Support existing bodies in the delivery of public use and recreational opportunities

In transferring delivery of use and engagement related work to civil society, the government must utilise the expertise of voluntary organisations like Canoe England who are already encouraging appropriate use, and enhance effective partnerships which avoid duplication and encourage partnership working.
- 4.4 Recognise the importance and value of canoeing and waterbased outdoor recreation in any new planning and landscape designations

There must be an ongoing commitment that new and existing policies, practices and environmental designations for waterways, aimed at protecting England’s natural assets, take account of the importance of recreation within the natural environment. They should not hinder opportunities for use or be improperly applied.