

Waterways and Environment Department Frequently Asked Questions

(Updated 8th June 2012)

1. What does the Waterways and Environment Team do?

The former Access and Environment Department became The Waterways and Environment in July 2011 because of the changing nature of the roles and responsibilities it has. Waterways and Environment' better describes the wide range of activities that the team engages with, extending into regulation, legislation, liaison with agencies, navigation authorities and other organisations; plus the growing area of environmental management.

Access to and along water remains a key and challenging issue. Existing access arrangements have been maintained and efforts to gain access and resolve difficulties on inland, tidal and coastal waters.

The national team assisted by the voluntary Waterway and Coastal Advisors teams in each region provide support and advice to colleagues, members and other organizations. The work of the voluntary advisors is invaluable and provides the local knowledge for the Waterways Information Service and the growing portfolio of canoe trails. They also act as Canoe England representatives with external organisations.

There are a multitude of aspects with inland and coastal waterways that can require the attention of Canoe England. Much of this work is to provide opportunities to increase access and participation through more places to paddle and to counter any threats to our sport. Working with members, partners and developing relationships with external organisations is important.

2. Why is there an access to rivers issue?

- Problems for canoeists and others who want to navigate along waterways or even wade in them can be said to stem from a legal commentary published in 1830 by HW Woolrych. Woolrych's commentary is used as the basis for the understanding of the law to this day on the ownership of rivers. Woolrych contended all non-tidal rivers are private unless made public by statute, immemorial use or dedication. He is also attributed to asserting there was little public use of the waterways to establish a pre-existing right. At no time has parliament passed legislation for gifting such private rights. Historical research has determined that prior to 1830 there was a generally accepted public right of navigation on all rivers which were physically navigable and Woolrych's commentary as a mistaken opinion/position. The legal position is therefore contentious.
- In the England and Wales the canoeist does not have an automatic right to launch on to any river. The legal situation is different from all other countries in the world, where canoeists are generally able to paddle large and small

non-tidal rivers without seeking permission, as the beds of these rivers are not considered to be privately owned and not controlled by riparian owners. Where local authorities control waters there may be environmental restrictions applied (eg water levels).

- Access to water was not included in the Countryside and Rights of Way Act 2000 despite the efforts of the BCU in the reading stages of the Bill passing through Parliament. Subsequent representations were made on this omission by the BCU to ministers who recognised this as an issue. The government of the day subsequently commissioned a series of studies by the University of Brighton.

3. How much access to rivers have we actually got according to the Brighton work?

Several studies have been commissioned by DEFRA in to considering access to water for canoeists. We have labelled them Brighton 1 to 3 as the same organisation has not only been commissioned to research them but also implement them.

- **BRIGHTON 1 - WATER-BASED SPORT AND RECREATION: THE FACTS**
- **BRIGHTON 2 - WATER BASED SPORT AND RECREATION - Improving Access for Canoeing on Inland Waterways – A Study of the Feasibility of Access Agreements**
- **BRIGHTON 3 – Improving Access for Canoeing on Inland Waterways implementing the findings of Brighton 2**

The Government commissioned report "Water-Based Sport and Recreation – the facts" published in December 2001 established:

- There are 68,310 kilometres of rivers in England and Wales
- 2179 kilometres of these rivers have navigation rights.
- There are over 66,000 kilometres of rivers with NO ACCESS
- Less than 4% of the linear river resource in England and Wales has any public access or right of navigation

Note: Canoes and other small craft can use narrower waters and in fact the smaller streams often offer the most interesting and challenging water so the true figure for navigable rivers is substantially greater and the percentage available substantially less.

4. What are the Brighton Reports?

The government agreed to look more closely at rivers access, commissioning Brighton University to research the issues in the following report:

Potential Solutions – BRIGHTON 1 "Water-Based Sport and Recreation – the Facts" as published in December 2001.

The report considers the 8 following scenarios for addressing user wishes and the problematic issues associated with water-based sport and recreation:

- ☐ Minor development of current planning policy and strategies.
- ☐ Targeted purchase of services and revised funding arrangements.
- ☐ Targeted acquisition of land and water rights.
- ☐ Voluntary agreements.
- ☐ Voluntary agreements with dedication.
- ☐ Compulsory Access Orders.
- ☐ A selective increase in statutory rights of navigation.
- ☐ Statutory rights of navigation to all major rivers, canals and water bodies

It should be no surprise Canoe England favoured the scenario for Statutory rights of navigation to all major rivers, canals and water bodies

This would result in a position readily understood by the public not unlike the public footpath network of Rights of Way and the situation in Scotland.

The other scenarios do not resolve the case for access with rights. Any combination of them would produce a compromising mix of conditions of use and part measures for access that was neither complete or readily understood, and the potential for disputes remains.

BRIGHTON 2 - WATER BASED SPORT AND RECREATION - Improving Access for Canoeing on Inland Waterways – A Study of the Feasibility of Access Agreements. (May 2004)

The report detailed the many obstacles precluding access to water. The study featured the Rivers Waveney, Wear, Mersey and Teme. The BCU commented the report clearly established that negotiated access arrangements do not offer a realistic solution to the large scale problem of access to and along water. Despite these findings to the contrary, the study concluded that additional access to rivers could be provided through voluntary arrangements, but that more advice and guidance was needed.

BRIGHTON 3 – Improving Access for Canoeing on Inland Waterways, implementing the findings of Brighton 2 (September 2006)

The BCU was highly critical of the findings that were used to promote government policy for Access Arrangements.

The River Waveney scheme was basically a duplication of the work undertaken by the British Canoe Union, Environment Agency, Local Authorities and the East of England Development Agency in 1999. This previous work was not identified by the EA and Brighton Team and as canoeing has taken place for many years access was not contested.

River Mersey: 28 km from Stockport city centre to Carrington and realisation of an earlier scheme put forward by the British Canoe Union in 1994/5 and supported by

the Environment Agency NW Region. A gain brought about by Local Authorities, who have a statutory remit to promote recreation and the ownership for Dedication. Access was uncontested by other interests, so the voluntary agreement could be considered more of a formality.

The Rivers Teme and Wear clearly demonstrated the typical situation encountered when attempting to discuss and negotiate access. Neither schemes produced additional access. The outcome prompted the BCU to comment showed the concept of access arrangements was flawed.

For the Marine & Coastal Access Act 2009, the Government accepted the recommendation by Natural England to have statutory powers to create access as Voluntary Access Arrangements were considered not fit for purpose. Inland/non-tidal waters remain the anomaly for being without statutory rights.

5. What is the W+E Charter for?

- The Charter sets out the views of Canoe England concerning the legal situation and environmental use of the waterways of England.
- Canoe England 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 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.
- Canoe England as a land owner and manager, with responsibilities for Symonds Yat in the Wye Valley and other recreational land and water spaces has expertise in environmentally sensitive land management practices, and development of portages and fish passes which are increasingly being placed on navigation authorities, private landowners, communities and other organisations.
- There has been a dramatic increase in the number of people canoeing and canoeing remains the most popular watersport . Yet today we continue to be faced with a lack of clarity and uncertainty about being able to use inland waters. Under 4% of our rivers have undisputed public rights. New challenges threaten the use of some of our publicly owned areas.

General Questions

1. Are there rivers you can and cannot paddle?

- There are many waters which under the right environmental conditions (to include water levels) could potentially be canoed but there is an assumption by some individuals and organisations with riparian interests that many of

these unregulated waters are private, and use is not allowed or shall be by way of a structured access arrangement

- Canoe England recognises that many rivers may have insufficient water for paddling at certain times of the year, and that agreed minimum levels should be respected by paddlers for environmental reasons. We also recognise rivers have a shared use and other users should be taken into account. Any other environmental good practice agreed with other users shall not further unduly restrict paddling opportunities.
- Reference to the web site www.waterscape.com provides information for waterways with undisputed rights. It does not help that canoeists can and are challenged even where there is an undisputed right.
- Regional Waterway Advisor Teams can provide access information for many other rivers and can be contacted via the Canoe England web site - <http://www.canoe-england.org.uk/riverinformationservice.aspx>
- The choice as whether to paddle any waterway regardless of its status (regulated or unregulated) is an individual's decision and should be also based on environmental conditions.

2. Is CE working towards Access Arrangements on any river?

- CE accepts that access arrangements may work well for individuals, or small organisations/clubs as a requirement for them to navigate with that group but these are not a means for securing public access.
- Canoe England takes a pragmatic view on Access Arrangements. Whilst privately arranged, generally restrictive, and few in number, Access Arrangements (AA's) make some provision for those requiring a greater certainty of access at particular times. Eg River Greta which is a CE Arrangement.

3. Can Canoe England expect non members to follow the arrangements by them?

- Canoe England would encourage all canoeists to work with AA's, where they exist, and especially where there are evidence based seasonal measures to protect habitats to be taken into account.

4. Does Canoe England believe that using rivers is legal?

- The current assumption held by some is that common law supports the position that where rights are not explicit navigation may constitute a trespass. Canoe England does not subscribe to the present assumption. The Magna Carta and the strength of the latest historical research on the law are further grounds for a presumption in favour of access and public rights to inland waters that are physically usable.
- In short what is needed is clarity in relation to the Law and a system of access that most other countries in the world have adopted.

- Ultimately the legal position is a matter for the courts and the judiciary
5. **Access Arrangements, should they also be about getting physical access to the water across private lands?**
- Access Arrangements if in place will include, where required, provision for access across private lands i.e portage routes.
6. **Is the Scottish model of access through the Scottish Land Reform Act a basis for access in England?**
- Yes. The Private 10 Minute Rule Bill – “Public Access to Inlands Water” presented by Dr Des Turner MP and debated in Parliament in 2007 was largely based on the Land Reform (Scotland) Act 2003. The Bill also included a similar Outdoor Access Code for all users and owners of the waterways and surrounding environments.
 - The “Bill” provided an opportunity to present before The House a potential solution to the Access issue in England. Sadly although it got through its first Reading it was talked out during the second.
<http://www.legislation.gov.uk/asp/2003/2/contents> and
<http://www.legislation.gov.uk/asp/2003/2/notes/contents>
7. **There could be a conflict between encouraging new users to the sport, and the extremely unclear access situation?**
- Yes we agree ...This is the great conundrum but we are informing new paddlers via the coaching scheme and the membership introduction information.
8. **Does CE work with other water interests and user groups?**
- Canoe England works extensively with other interest groups associated with the waterways and the surrounding environments.
 - The national team assisted by the voluntary Waterway and Coastal Advisors teams in each region provide support and advice to colleagues, members and other organizations. The work of the voluntary advisors is invaluable and provides the local knowledge for the Waterways Information Service and the growing portfolio of canoe trails. They also act as Canoe England representatives with external organisations.
 - There are a multitude of aspects with inland and coastal waterways that can require the attention of Canoe England. Much of this work is to provide opportunities to increase access and participation through more places to paddle and to counter any threats to our sport. Working with members, partners and developing relationships with external organisations is important.
 - **Canoe England volunteers** - They are a key part of the Waterways and Environment Team and we value all the time they give us to help us all with access and knowledge of local waterways and coastal areas. We are working on better ways of supporting them with extremely important work.

- **Members** – We are keen to provide and receive information and views from members.. In addition we will work with Members to understand their concerns whilst helping all to recognise the disparity of views amongst them.
- **Sport England** – We work with Sport England on our Development Plans and funding submission which identifies and sets out our work priorities for the next few years. The main objective for Waterways & Environment is to increase the number of people participating in canoeing by promoting and developing places to paddle.
- **DEFRA and other Government Departments** - DEFRA's environmental remit extends into legislation and policy for access and use of the environment. Canoe England is fully engaged with the relevant departments in Government on all canoeing matters, and in particular to press the case for rights to access to and along non-tidal waters. The whole area of access is massively complex, and CE and the Government disagree about the strategy for the delivery of sustainable access. Responding to consultations also features in this work.
- **Navigation, Port and Harbour Authorities** - Environment Agency, British Waterways, and other navigation, port and harbour authorities and the Waterway Partnerships. – this will help promote sustainable access and mutual understanding within each partnership we are involved in
- **Statutory Environmental Organisations:** We work in partnership with Environment Agency on complex legislation such as the Water Framework Directive and Bathing Water Directive to ensure we deliver the maximum benefit to canoe access/facilities as well as protecting the natural environment; We also work with Natural England to ensure canoeist are provided with opportunities to paddle protected areas and habitats whilst protecting the natural environment. More recently we have consulted with the Marine Management Organisation to provide information on water recreation for the new marine planning system, as well as being involved in the ongoing consultation process of designation of Marine Conservation Zones around the English coastline.
- **Environmental Groups and initiatives** – Non-native Species Secretariat and their Stop the Spread campaign; Green Blue <http://www.thegreenblue.org.uk/> to promote, and share ideas and promote good environmental practice on and off the water.
- **Produce Canoe England environmental guidance** such as You, Your Canoe and The Environment,. Canoeing on the Sea ... and developing ways to also support greening canoeing ... to individuals, clubs and the organisation as a whole
- **Other organisations in the water sport and recreation sector** – Sport & Recreation Alliance. British Marine Federation, British Waterways Advisory Forum, Inland waterways Association, Royal Yachting Association, water supply industry where we help provide support for mutual interests and issues concerning inland and coastal waters.
- **Rivers Trusts** – we, and other partners, are developing a closer working relationship to deliver the requirements of the European driven Water Framework Directive. Rivers Trusts have access to huge amounts of funding to deliver practical solutions to improve the ecological quality of our rivers

throughout England and Wales. We are working in partnership to deliver the recreational aspects of these catchment based projects.

- **Angling Trust and Angling Development Board** – we are developing a working relationship with AT and ADB to address many issues that we have in common including kayak fishing, health and social benefits of our two sports.
- **Non-Governmental Organisations** - National Trust, Forestry Commission, and National Parks as providers of access and facilities to promote great access for canoeing within their land ownership.
- **RSPB and Wildlife Trusts** – we are working with these organisations to deliver practical help using canoeing to access the river for monitoring purposes such as otter and water vole surveys.

The work of the Waterways & Environment teams brings Canoe England into contact with a wide range of interests and sectors and the list is not exhaustive.

Environmental projects can have associated community benefits for promoting and developing canoeing opportunities

9. What is your current position on accessing rivers in England?

- The area of access to and along inland water is extremely complex, and CE and the Government disagree about the strategy for the delivery of sustainable access across England but CE is fully engaged with the relevant departments in Government and is working with them on all canoeing matters
- The current assumption held by some is that common law supports the position that where rights are not explicit navigation may constitute a trespass. Canoe England does not subscribe to the present assumption. The Magna Carta and the strength of the latest historical research on the law are further grounds for a presumption in favour of access and public rights to inland waters that are physically usable.

10. What is CE's opinion on negotiated access arrangements?

- CE accepts that access arrangements may work well for individuals, or small organisations/clubs as a requirement for them to navigate with that group but these are not a means for securing public access.
- Canoe England takes a pragmatic view on Access Arrangements. Whilst privately arranged, generally restrictive, and few in number, Access Arrangements (AA's) make some provision for those requiring a greater certainty of access at particular times. Eg River Greta which is a CE Arrangement.

As stated by Canoe Wales we (CE) also

- believe arrangements should meet the Government's tests for access – clarity, security, certainty and permanence
- accept that private access arrangements may work well for individuals, or small organisations but that these often do not meet the tests above for Public access
- recognise that access arrangements are tools that can be used for managing recreation; however they cannot be used for securing public access. Without securing access first any voluntary regulation is unlikely to be successful.
- Canoe England cannot regulate or police AAs or grant access to any waters. The decision whether or not to canoe is the responsibility of the individual canoeist(s). When doing so full account should be taken of the environmental conditions

11. Is CE or a representative of the CE such as Waterways Advisors negotiating any Access Arrangements?

- Yes. eg The River Dearne and Calder in Yorkshire ...

12. Will any negotiation on River Dart will keep to Adam Box's guidance (even though he is no longer in office)?

- The RWA for the SW was *incorrectly* informed by CE that *only* all year round AA's should be entertained.
- CE will work to maintain the arrangement to provide a greater certainty of access at certain times that remains a requirement for both individual members and groups.

13. 365 or Not?

- There has been some confusion and debate over the Canoe England's position for 365 day access arrangements and we wish to clarify the position. Canoe England takes a pragmatic view to endeavour to arrange all year round arrangements including environmental and other factors eg minimum water levels and spate conditions.
- CE accepts that access arrangements may work well for individuals, or small organisations/clubs as a requirement for them to navigate with that group but these are not a means for securing public access. The recent CE participation survey (Nov 2011) identifies a need for some AAs.
- Access Arrangements, whilst privately arranged, are generally restrictive, and few in number, sometimes make some provision for those requiring a greater certainty of access at particular times. Eg River Greta which is a CE Arrangement.
- CE wants to see an equal share in the use of the waterways. For AAs to work they are dependent on other water users and the riparian owners' agreement to secure access that is based on a self regulating management. Many factors have to be taken into consideration when developing and promoting AA which include the activities of other users eg days allocated for shooting rights, angling matches and other pursuits.

14. Please can you explain why the access (Waterways & Environment Team) believe it is easier to answer to multiple emails instead of giving one transparent answer on a webpage or social media area such as facebook?

- The Waterways & Environment Team are a very small team who maybe out of the office for several days at a time and so for administration purposes and to ensure we keep track of enquiries sent to us we have all access enquiries placed into a single W&E Dept receiving point

access@canoe-england.org.uk

- The Waterways & Environment Team has now established a FAQ section on the Canoe England website and will update it as and when new issues and other questions arise.
- The Canoe England Facebook page is a place to share positive experiences and information with each other, without expectation of a response either from one another or from Canoe England. It is a place where normal Facebook interaction should take place, in line both with Canoe England's posting guidelines and Facebook's **own** policies and protocols. It is not a channel for direct and specific questions to Canoe England - other more suitable channels are available for this purpose from the Canoe England website.

15. Given Caffyn's work, and the belief of many paddlers that rivers have an open right of navigation, mean there will be no more Access Arrangements?

- The Rev'd Dr Caffyn's historical research has made a key contribution in discussing the case for the restoration of rights to non-tidal waters. However, the BCU or Canoe England does not have the legal expertise to either accept or challenge his work
- Canoe England and the BCU are not aware of any meaningful challenge to his work and its conclusion there is a public right on all unregulated rivers that are physically useable. It could be an indication of the difficulty this poses for other interests and their reluctance to openly argue against it, mindful of the possible consequence on the present understanding of the law.
-
- Canoe England is not a qualified authority to interpret the law recognises that it is a matter for the judicial system.

16. Please explain what are the blocking issues to CE doing the following: a) declaring that Caffyn's work shows that we have access to rivers, it has not yet been disputed and that the only access negotiations will be based about the physical getting to / from a river and not 'along' the river b) openly stating that support will be given to CE in the case of a legal dispute of Caffyn's work (i.e. if a land owner or riparian rights owner tries to bring a test case you will support the paddlers)

- The Rev'd Dr Caffyn's historical research has made a key contribution in discussing the case for the restoration of rights to non-tidal waters
- Canoe England and the BCU are not aware of any meaningful challenge to his work and its conclusion there is a public right on all unregulated rivers that are physically useable. It could be an indication of the difficulty this poses for other interests and their reluctance to openly argue against it, mindful of the possible consequence on the present understanding of the law.
- Canoe England recognises that only the judicial system can interpret the law and that neither it nor the BCU is a legal authority.

- CE recognises that a lot of watersport in England takes place on a de facto basis without objection and that the lack of a clearly understandable legal position can lead to localised conflict but this is in fact minimal.
- The financial costs involved could be astronomical bearing in mind that it would be escalated upwards to eventually house of lords, European court etc. Canoe England needs to balance membership expectation as to how the capital is allocated for their benefit and the promotion of the sport. Whilst an important part of CE membership would see this as a laudable use of CE's money a high proportion would not want their funds spent in this way, indeed the recent participation survey (November 2011) suggests that for many of our members access is not a key issue.

17. Given the links that new staff members have to the EA will there be a conscientious effort to apply pressure to the EA to act within its remit of encouragement of all to use the water and to not favour one group of users over another as part of the ongoing RAC campaign.

- We have always worked with organisations such as Environment Agency to develop and promote recreational paddling through working in partnership with them and others which include Rivers Trusts on specific projects such as the Water Framework Directive. Huge amounts of funding are available to improve the natural environment of certain rivers which do not reach a satisfactory standard. As a major partner, CE will be seeking to include recreational improvements within these plans.

18. As the Go Canoeing days that are advertised, wouldn't it be great if the RAC worked with the clubs involved to invite their local MPs to each of these events and get them out to enjoy our waterways en mass?

- When the Waterways and Environment Charter was launched last summer all MPs were sent a copy and invited to come and visit a local canoe club/centre or if one was not available for us to take them out on the water. Many MPs did come along and other wrote in support of the Charter.
- In addition many clubs already invite their MPs to come down and meet them when they hold events to promote the sport and recreational side of canoeing. Many of these meetings have been reported in Canoe Focus but we are always encouraging our members and clubs to have links with their MPs and others with political influence in their areas.

19. Why not go for Access Arrangements?

- Successive governments have encouraged canoeist to seek to negotiate voluntary access arrangements . From over 41,000 miles (66,000kilometres) of rivers in England and Wales without a public right of navigation, only 812 kilometres of highly restricted access has been negotiated. Some arrangements are for just a few days each year adding very little (1.2%) to the 4% of inland waterways with a public right of navigation. Ultimately, access arrangements rest with riparian owners where there are no perceived public rights.. Without successful negotiation, there is no way access arrangements can make progress.
- The whole area of access is massively complex, and CE and the Government disagree about the strategy for the delivery of sustainable access across England but CE is fully engaged with the relevant departments in Government

and is working with them on all canoeing matters. The Govt wants access by access arrangements but Canoe England has stated it can only support arrangements that meet the Governments tests for access – clarity, security, certainty and permanence (see <http://www.canoe-england.org.uk/waterways-and-environment/policies/voluntary-access-arrangements/>) The Govt and CE both know there is a need but a CE continues to point out that access arrangements are tools that can be used for managing recreation; however they cannot be used for securing public access.

20. Why does CE ignore all requests to publish a comprehensive list of all current CE-endorsed Access "Arrangements?"

- We do not know them all the ones we know are published. Some canoe clubs and other private individuals have local ones which are not made publically available as they are often only for their group of paddlers. We are working with our Waterways volunteers to verify what exists.

21. If I go on or in a river with no access will I be committing trespass?

- Many inland waters in this country, especially the smaller and upland rivers, are considered by some to be privately owned. To canoe on them without permission could constitute an act of trespass. Where there is no public launching point, or a public footpath to the water's edge it is necessary for the paddler to get permission to cross private land to access the water.
- The current assumption held by some is that common law supports the position that where rights are not explicit navigation may constitute a trespass. Canoe England does not subscribe to the present assumption. The Magna Carta and the strength of the latest historical research on the law are further grounds for a presumption in favour of access and public rights to inland waters that are physically usable.

22. Does canoeing disturb fish/fish stocks?

Effects of Canoeing on Fish Stocks and Angling – Research and Development Technical Report W266

The research undertaken by the Environment Agency on behalf of the Angling and Canoeing Liaison Group – a group established to encourage communication between angling and canoeing communities – involved consultation with both canoeist and anglers along with independent opinion from a panel of 10 experts.

The research found that there is no empirical evidence linking canoeing with damage of spawning grounds and stocks. This has been further substantiated by statutory bodies such as Natural England.

23. How many members of Canoe England are there?

- England = 64 440 (31/05/2012)

24. What proportion of these members competes actively in the various forms of canoe competition?

- Members taking part in competitive canoeing is hard to determine as there are thousands of local competitions covering a wide variety of disciplines all over the country each year and the numbers participating in these is not collected.

26. What proportion of these members would describe their interest as recreational and touring as opposed as competitive?

- A lot of members actually list a variety of activities including many who take part in canoeing recreationally and competitively.

27. What proportion of the budget is spent directly on the Access Campaign?

- For reasons of commercial confidentiality Canoe England are unable to give you the breakdown of access spend requested. The BCU accounts are published annually as is a Companies Act requirement.

28. What are CE doing with Doug Caffyns Work?

There has been a lot said about uses of inland waterways in the past to and a considerable amount of the work has been undertaken by Rev'd Dr Douglas Caffyn

River Transport 1189 – 1600. Thesis by Rev'd Dr Douglas Caffyn

For all with an interest in the law and public access rights to inland waters in England, the recently published thesis "River Transport 1189 – 1600 by the Rev'd Dr. Douglas Caffyn has stimulated much interest. This latest research on inland waters has gained him the degree of Doctor of Philosophy from the University of Sussex. The thesis, and a supporting synopsis of this work entitled "Boats on our rivers again" follows on from his earlier work "The Right of Navigation on Non-tidal waters and the Common Law "2004. All are available at www.caffynonrivers.co.uk.

Caffyn challenges the present day understanding of the law that all unregulated rivers are private (rivers without an active navigation authority); and considers there is public access to these waters. Caffyn has concluded:-

1. all rivers which were physically usable were legally usable,
2. 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,
3. on the balance of probabilities each section of a river which is now physically usable was used during that period.
4. there is therefore, a public right of navigation on all unregulated rivers which are physically usable

The BCU or Canoe England promotes the findings of the Rev'd Dr Caffyn's historical research.

Canoe England and the BCU are not aware of any meaningful challenge to the Rev'd Caffyn's work nor its conclusion that there is a public right on all unregulated rivers that are physically useable. It could be an indication of the difficulty this poses for other interests and their reluctance to openly argue against it, mindful of the possible consequence on the present understanding of the law. The Rev'd Dr Caffyn's research has made a key contribution in making a case for the restoration of rights to non-tidal waters.

Canoe England is not a qualified authority to interpret the law recognises that it is a matter for the judicial system.

Canoe England recognises that only the judicial system can interpret the law and that neither it or the BCU is a legal authority.

Any different interpretation can only be proved in a court of law and as any decision is likely to be challenged right up to the highest court in the land.

Substantial funding would need to be set aside for such an action to be pursued.

Rivers Access Campaign

1. What does it do and why?

- The Rivers Access Campaign is managed by Canoe England through a very small team but is supported by all the staff as they go about their daily work and promote the issue as and when possible. This is the same for many volunteers who attend meetings on our behalf (Local Access Forums/National Park Meetings/Waterways Partnership meetings/Marine and coastal meetings/environmental groups etc etc) as well as promoting the issue locally and nationally. This can be from lobbying their MP/Local Authority/Local Enterprise Partnerships/River User Groups to running events to promote canoeing such as a GoCanoeing session to show the benefit of the sport for all and how more could be done if there was clarity and certainty of access.
- In essence England we have a natural heritage which provides great opportunities for open-air recreation and education. Open-air recreation provides people with great benefits for their health and well-being and contributes to the good of society in many other ways and for the Campaign to show what a brilliant sport canoeing is will help is the promotion of the access issue.
- Existing measures currently being considered by the Government, such as Access Arrangements, do not satisfy demand, nor deliver consistent, long-term access improvements or measures to protect wildlife and landscapes. A new, statutory, national approach is required for public access to inland waters in England or the restoration of historic rights. This will then deliver much of the wide-ranging benefits outlined by the Government's in their various health, participation, and economic strategies.

- A new statutory approach to inland waters in England has also been advanced in a set of recommendations by the Sport & Recreation Alliance entitled “Red Card to Red Tape 2011:

“DEFRA should consider ways of moving towards a system where there is a general statutory right of access to inland water for recreational purposes. If greater sustainable access is given to our waterways participation levels of water recreation will undoubtedly increase as over 90% of the population live within two miles of a waterway and will therefore be able to reach waterways easily. Any system should be founded in the context of user groups sharing space

Rights of access to inland waters in England, similar to those existing for access on foot in England or for access on inland waters in Scotland would provide for a more coherent, harmonised, access regime across most of the United Kingdom; thus diminishing what are at present unnecessary and damaging disparities.

- The Campaign is working with DEFRA trying to promote the sport of canoeing (fundamentally from a recreational point of view as most of the 2 million canoeists are recreational paddlers), its benefits to individuals, communities, education ... people of all ages and abilities as well as the green nature of the sport. It is an uphill struggle but they do recognise we need more access to and along waterways.
- The campaign is a longer game. The current campaign activity goes back to the passage of what was to be the Countryside and Rights of Way Act 2000, when the BCU lobbied unsuccessfully to have access to water included. Then as a consequence the government recognised the situation and commissioned research from the University of Brighton - “Water based sport and recreation: the facts 2001”. The research findings fully confirmed the BCU claiming that public access to and along non-tidal waters was highly restricted. The historical research by the Rev’d Dr Douglas Caffyn has made a further contribution to our position.
- The campaign built on these findings and the subsequent studies commissioned by the Environment Agency to develop access arrangements that had limited success. The campaign continues to lobby Parliament, this has included a Ten Minute Rule Bill – “Access to Inland Waterways” that reached a second reading and drew further attention to our cause.
- The campaign has also evolved beyond simply recognising an important recreational resource and taken the debate into health benefits, education, and community benefits across government, including their localism agenda. More recently the Campaign has taken an increasingly active role in promoting the environmental well being of the waterways.

2. Who is the Rivers Access campaign for?

- The campaign is being undertaken by the Canoe England behalf all members of the public. A web-site **www.riversaccess.org** has been developed to encourage all members of the public whether they are CE members or not to assist in raising awareness of this important issue.
- It is not just canoeing that is hampered by this problem (we are the first to realise it) other pursuits such as rowing, swimming, fishing, walking etc do all

have the same problems. It is now time to have a legal position which avoids further conflict and allows fair access for all.

- Canoeing is not seeking conflict with other river users. It wants to successfully co-exist to the wider benefit of the whole community, as canoeists do in Scotland, all over Europe and the rest of the world.

3. How many extra miles of access to English Rivers has been obtained by the Canoe England Access Campaign in the last twenty years?

- The Canoe England Rivers Access Campaign seeks to establish an assumed right of access to all rivers in England rather than focusing on individual rivers or sections of rivers.
- Canoe England cannot measure the success of the access campaign in miles of access gained The Canoe England Rivers Access Campaign is about ensuring clarity and certainty of access to and along our inland waterways.

4. Is there a timeline to get the RAC moving again and to update / modernise the RAC website.

- The Rivers Access Campaign website is currently being rebuilt and will be launched shortly.