Bluespace
ACCESS & CONSERVATION TRUST



BLUESPACE CHARTER 2022

FOR RESPONSIBLE ACCESS TO RESERVOIRS FOR ALL

TIME SPENT IN NATURE IS VITAL TO OUR HEALTH AND WELLBEING, AND RESEARCH SHOWS THAT EVEN GREATER BENEFITS CAN BE DERIVED BY EXERCISE AND RECREATION IN BLUESPACE. OPEN AND EQUITABLE ACCESS TO THESE BENEFITS SHOULD BE AVAILABLE TO ALL.

WE CALL FOR

1. • All people to be entitled to enjoy, responsibly, the physical and wellbeing benefits of recreation in bluespace; regardless of where they live, status, or the ability to pay.

2. • Water management corporations to step up to, and be held accountable against, their obligations to provide public access for responsible recreation.

3. • Access to be inclusive, equitable, future-proof; and available for any sustainable purpose. Exceptions or restrictions to be evidence-based, taking the least restrictive possible option.

4. • The public to be enabled and empowered, by provision of correct, factual, information; to make valid risk / benefit assessments and take responsibility for their own actions and safety.

5. • A binding code of conduct to be followed by all parties.





"Our outdoor spaces belong to all of us. They are a precious resource for all the people of Wales, providing a valuable opportunity to improve our physical and mental well-being, and help us live longer, healthier and happier lives."

Public Health Wales [i]



ALL PEOPLE TO BE ENTITLED TO ENJOY, RESPONSIBLY, THE PHYSICAL AND WELLBEING BENEFITS OF RECREATION IN BLUESPACE; REGARDLESS OF WHERE THEY LIVE, STATUS, OR THE ABILITY TO PAY.

Many people, particularly the most disadvantaged, are without accessible bluespace [ii] within comfortable distance of their home; and are consequently deprived of the benefits of bluespace recreation.

Water-management corporations [iii] control access to vast areas of bluespace; including an abundance of reservoirs, many of which are close to centres of population. Reservoirs are a wonderful resource for water-based recreation in many countries, including Scotland and limited places in England. However, in Wales and most of England, reservoirs are available only on a limited, fee-paying basis, or completely 'out of bounds' to the public.

The injustice of restricting access to those with the ability to pay, and/or to meet the requirements for fixed session times; is untenable. All too often, bluespace recreation is put out of the reach of those whose need is greatest: people on low incomes, those with work or family responsibilities, or with special needs which limit the range of activity they can pursue.

True equality of opportunity requires a presumption in favour of access for any sustainable purpose. These blue spaces need to be enshrined in perpetuity as public spaces to be accessed responsibly by all, for any sustainable purpose.





Requirements for water management corporations to make available their holdings for public recreation already exist. E.g.

Water Companies:

Water Industry Act:

"...so long as that company has rights to the use of water or land associated with water, that those rights are exercised so as to ensure that the water or land is made available for recreational purposes and is so made available in the best manner. [v]"

Charities - Canal & Rivers Trust Charitable Objects

"2.1.2 For Recreation or other leisure-time pursuits of the public in the interest of their health and social welfare [vi].

WATER MANAGEMENT CORPORATIONS TO STEP UP TO, AND BE HELD ACCOUNTABLE AGAINST, THEIR OBLIGATIONS TO PROVIDE PUBLIC ACCESS FOR RESPONSIBLE RECREATION.

In May 1989, thousands of people gathered near Rivington Reservoir to protest about privatization of the water industry; fearing that privatization would threaten public access to the land owned by the water companies. History has shown the protestors' fears to have been well-founded.

The issue of land surrounding the reservoirs was, to a certain extent, addressed later by the Countryside and Rights of Way (CRoW) Act 2000 [iv], but CRoW signally failed to address the issue of access to water, for which arguably, CRoW made matters worse.

In each of the examples to the left, the intention seems clear. However, water management corporations appear to have assumed a very high degree of discretion over what they can enable, allow or forbid; in, on or around the waters they manage. All too often strategy appears to be based on exclusion rather than participation; with the result of minimizing activity; or restricting diversity.

In many cases, byelaws are used to enable water management corporations to increase even further the restrictions they can place on public enjoyment of 'their' waters.

Water management corporations could redress this by policy changes and positive measures, but to date they have failed to do so. Governments to date have failed to hold water management corporations to account against their obligations to provide public access; but water management corporations need to consider not just the 'letter of the law' but also the moral obligation placed on them.







ACCESS TO BE INCLUSIVE, EQUITABLE, FUTURE-PROOF; AND AVAILABLE FOR ANY SUSTAINABLE PURPOSE. EXCEPTIONS OR RESTRICTIONS TO BE EVIDENCE-BASED, TAKING THE LEAST RESTRICTIVE POSSIBLE OPTION.

Some water-management corporations seek to discharge their obligation to provide public recreational access by authorizing one activity or user-group to the exclusion of all others. This is not only inequitable but can be divisive; particularly where the permitted user is charged with the responsibility for 'policing' access.

Water-management corporations should not attempt to pre-determine what people will want to do, where they will want to go, or at what times and seasons. The presumption should be that recreational access may occur at any time or place, save where there is genuine evidenced-based need for restriction.

Where facilities such as launching and parking are provided or used to create a honeypot and/or steer activity towards or away from certain points, this should not per se be used to preclude access or activity elsewhere, or to justify unnecessary charges.

Where equal, clearly explained rights are exercised responsibly, there will be few occasions where activities are genuinely incompatible. Management arrangements should be exceptions, introduced only where there is genuine, evidenced, conflict between activities, nature and environment or operational constraints.

On the rare occasions where management arrangements are needed, they should be evidence-based on a case-by-case basis; and should not seen as a precedent for other sites or situations.





"Do not destroy the appeal of wild and remote places by putting up signs and fences... People should be free to participate in high risk or adventurous activities provided they are aware of the risks."

Visitor Safety Group [vii]



THE PUBLIC TO BE ENABLED AND EMPOWERED, BY PROVISION OF CORRECT, FACTUAL, INFORMATION; TO MAKE VALID RISK / BENEFIT ASSESSMENTS AND TAKE RESPONSIBILITY FOR THEIR OWN ACTIONS AND SAFETY.

All too often, water management corporations appear to act in the belief that to control, restrict or forbid activity will keep everyone safe; or absolve the corporation of liability if someone is injured. Signage often seems to be intended to 'scare' the public and discourage activity, rather than to provide useful, factual, information to inform educated and responsible decision-making. An unduly risk-averse culture is, however, counterproductive. It denies people the opportunity to learn to assess risk and make informed behavioural choices.

Unhelpful or blatantly untrue statements [viii] tend to be ignored e.g.

"The water is always extremely cold and rarely gets above freezing"

Danger of Drowning – No Swimming

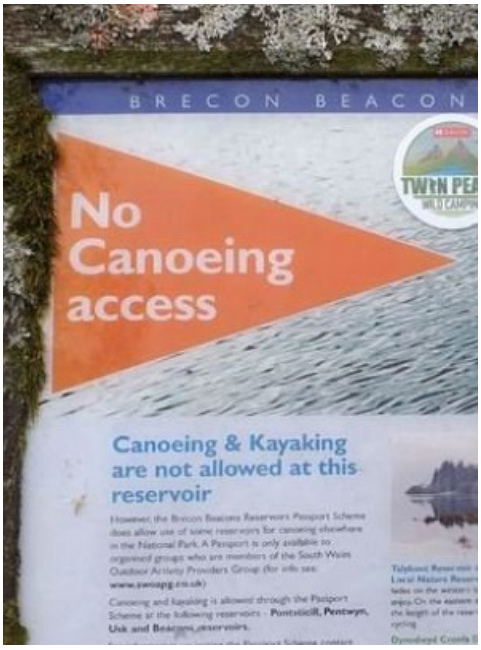
"SWIMMING IN RESERVOIRS COULD BE THE DEATH OF YOU"

Scaremongering is recognized as such by the public; and is likely to be ignored and do more harm than good. A positive message; with factual information, is more likely to be respected.

"Responsible risk-taking should be regarded as normal, and we should not discourage members of the public from undertaking certain activities solely on the grounds that there is an element of risk. Excessive paternalism and concern with safety may lead to infringements of personal rights. Those who are competent to judge the risk to themselves should be free to make their own decisions so long as they do not threaten the safety of others."

HSE [ix]







A BINDING CODE OF CONDUCT TO BE FOLLOWED BY ALL PARTIES.

In Scotland, open access to reservoirs is available to all, on the terms of the Scottish Outdoor Access Code [x]

The Scottish Outdoor Access Code is based on three key principles:

- RESPECT THE INTERESTS OF OTHERS.
- CARE FOR THE ENVIRONMENT.
- TAKE RESPONSIBILITY FOR YOUR OWN ACTIONS.

Underpinned by the principle of **'volenti non fit injuria'** [xi]

Adoption of these principles by water management corporations, could enable and empower the people of Wales and England to enjoy the benefits of bluespace recreation, on and around reservoirs in their own way, and at a time to suit their needs.



[i] https://phw.nhs.wales/news/organisations-commit-to-protect-and-improve-health-and-the-naturalenvironment-in-wales/

[ii] For the purpose of this paper, we use 'bluespace' when we refer specifically to water and waterside.

[iii] For the purpose of this paper, the term 'Water Management Corporations' refers to organisations that run operations in or involving bluespace; and have powers to control access to bluespace they own, lease or manage. This includes, but is not restricted to, water supply and treatment companies, and navigation authorities.

[iv] Countryside and Rights of Way (CRoW) Act 2000 "An Act to make new provision for public access to the countryside; to amend the law relating to public rights of way; to enable traffic regulation orders to be made for the purpose of conserving an area's natural beauty; to make provision with respect to the driving of mechanically propelled vehicles elsewhere than on roads; to amend the law relating to nature conservation and the protection of wildlife; to make further provision with respect to areas of outstanding natural beauty; and for connected purposes."

[v] Water Industry Act (1991) Section 3 (5)

"Subject to obtaining the consent of any navigation authority, harbour authority or conservancy authority before doing anything which causes navigation which is subject to the control of that authority to be obstructed or otherwise interfered with, it shall be the duty of every company holding an appointment as a relevant undertaker to take such steps as are—

(a) reasonably practicable; and

(b) consistent with the purposes of the enactments relating to the functions of the undertaker in question,

for securing, so long as that company has rights to the use of water or land associated with water, that those rights are exercised so as to ensure that the water or land is made available for recreational purposes and is so made available in the best manner."

[vi] Register of Charities, Canal and River Trust, Governing Document, Charitable Objects.

[vii] Visitor Safety Group Guiding Principles Visitor Safety in the Countryside: (vscg.org)

[viii] Wording taken from various water management corporation signage on display currently or within the past year.

[ix] HSE Priorities for enforcement of Section 3 of the HSWA 1974 - July 2003 (rev April 2015) - Hazardous leisure pursuits eg bungee jumping, water sports, etc

[x] https://www.outdooraccess-scotland.scot/act-and-access-code/scottish-outdoor-access-code-visitors-andland-managers/what-scottish-outdoor-access-code

[xi] Scottish Outdoor Access Code – Part 3 Exercising access rights responsibly p22 3.11

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THE BLUESPACE ACCESS AND CONSERVATION TRUST

Our Vision

For all members of the public to engage positively with our waters, bluespace and the wider environment; and to enjoy their rights of sustainable bluespace recreation.

Our Mission

To be a champion; and help empower members of the public to be champions; of our aquatic, marine and bluespace environment. To protect the rights and freedoms of all those who seek solace or enjoyment from sustainable recreation in, on or beside water.

Charity no. 1190101

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