08 November 2016

Dear Petitions Committee Members

Letter from Lesley Griffiths AM, ref. LG/06408/16

Thank you for the opportunity to respond to the letter referenced above.

We welcome the Minister's acknowledgement of the benefits of outdoor recreation to the health and well-being of the nation, and to the Welsh economy. However, the process followed to date demonstrates that the wide-ranging benefits will only be truly released and built upon if a Land Reform (Wales) bill is produced.

Regarding the statement that "Welsh Government has to date followed the recommendations put forward by the Sustainability Committee following their subsequent Inquiry"; we should not forget that these recommendations followed an unexplained departure, at a late stage in the proceedings, from the recommendations of the petitions committee.

The Petitions Committee in 2009, informed in the course of its inquiry, by "…a formal meeting in the Scottish Parliament in Edinburgh to take evidence on the effectiveness of the Scottish legislation", concluded:

> **"We believe that the mechanisms and processes of the Land Reform (Scotland) Act 2003 go a long way to providing clarity and understanding of the situation within Scotland. At the very least, the Act has effectively established and equalised statutory rights and responsibilities; it has clarified local authority powers and duties; it has created local access forums to facilitate discussion between parties; it has encouraged education to promote awareness and understanding of people's rights and responsibilities; and, importantly, it has led to investment in recreational and**

environmental capital. We believe that the clear balance of rights in Scotland has inherently moved the access debate forward onto a more productive footing. Parties have been able to "leave behind cul-de-sac positions concerning who has which legal rights on their side"[i] and to develop communication and dialogue over practical management solutions, joint-working arrangements and monitoring. We therefore suggest it provides a useful model for Wales to copy and adapt".[ii]

Key points arising from the Petitions Committee's Inquiry include:

- Before the Act came into being there was an "uneasy balance" between the public not having clear legal rights and landowners or occupiers having very few workable remedies against trespass or irresponsible behaviour.[iii]
- Following a major public consultation before the draft Bill was published in 2001 Scottish Ministers had concluded that the legal difficulties had proved not as great as originally thought.[iv]
- The emphasis of the Act is on local management of access, so it gave the Scottish local authorities and national park authorities, duties and powers to uphold access rights including a duty to plan a comprehensive "Core Paths Plan" system, to employ local officers and to set up Local Access Forums.[v(pp8-9)]

The success of the Land Reform (Scotland) Act can be attributed to its simplicity and comprehensive nature. Codes of conduct are issued to operate within these principles, and management measures are undertaken on an 'as-needed', basis, working in the knowledge of clearly defined rights and responsibilities with all parties on an equal footing.

This is in sharp contrast to CRoW, which failed to deliver due to the way it was 'watered down' by complex and arbitrary restrictions; and to the process followed by Welsh Government in attempting to negotiate access on a piecemeal basis, location by location and user-group by user group. The piecemeal process cannot work for the long or even medium term, as even if it were possible to draft legislation to cover every existing activity, we cannot know what activities may develop in the future.

Like every other devolved administration before them, Scotland legislated at the first opportunity to clarify and enshrine public rights to the land (including inland water). The Land Reform (Scotland) Act is future-proofed by legislating for the key principles.

The Petitions Committee Report highlights this statement:

"**The Land Reform (Scotland) Act 2003 is "one of the most advanced pieces of access legislation in the whole of Europe and is, by and large, working well."**[vi](pp8)

A land reform bill for Wales presents an ideal opportunity for Wales to take its place among the many countries: i.e. almost everywhere, which have legislated in the public interest to enshrine public rights. Land Reform (Wales) will contribute to achieving all the goals of the Well-being of Future Generations (Wales) Act, and will make a particularly significant contribution to 'A healthier Wales' and 'A more equal Wales'.

Along with the Well-being of Future Generations (Wales) Act, a Land Reform (Wales) Act will complement the Environment (Wales) Act and Planning (Wales) Act to sit at the centre of a raft of progressive legislation to secure the long-term well-being of Wales.

Yours sincerely

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[i] Record of Proceedings column 39, 2 March 2009, Petitions Committee
[ii] Report of the Petitions Committee's Short Inquiry into Access Along Inland Water, April 2009 pp13
[iii] Rob Garner, Policy Officer with Scottish Natural Heritage, Access to the Countryside for Open-air Recreation, Scottish Natural Heritage's Advice to Government, 1999, quoted in Report of the Petitions Committee's Short Inquiry into Access Along Inland Water, April 2009.
[iv] Record of Proceedings column 29, 2 March 2009, Petitions Committee.
[v] Report of the Petitions Committee's Short Inquiry into Access Along Inland Water, April 2009.
[vi] Record of Proceedings column 18, 2 March 2009, Petitions Committee