

Report To
EUROPEAN WILDLIFE DIVISION
DEPARTMENT OF THE ENVIRONMENT, TRANSPORT AND
THE
REGIONS
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December 2000

EXTRACT:

Low Water Mark

As a matter of fact the low water mark moves constantly as a result of tidal changes. It is not therefore possible to draw a line on a map which will accurately represent "low water mark". Without further definition the administrative boundary of a local authority extends to the "low water mark" [see S. 72 Local Government Act 1972]

The concept or phrase "low water mark" is not helpful since it is not certain. It is necessary to combine all low water marks once a year to provide the average, which can be found for example on the Ordnance Survey maps (stated to be low water mean meridian tides)
The precise definition of "low water mark" was considered in :- Loose *Rv*- Castleton [(1978) 41 P & CR 19]; A-G *Rv*- Chambers [(1954) 4 De GM & G 206] and Scrutton *Rv*- Brown [(1825) 4 B & C 485].

All of the above cases were considered in Anderson *Rv*- Alnwick District Council [(1993) 3 All ER 613]. It was the view of Evans LJ in this case that:
"there is no established rule of law that the low water mark is necessarily the line of median low water—Nor is there any general rule as to the meaning of "low water line" or "low water mark" which should apply as a matter of law, regardless of context—it is also important—to recognise that in some contexts it may be necessary to establish a fixed line or even an artificial line."

It was decided on the facts that the low water line meant the low water mark from time to time. Whilst in none of the above cases a definitive interpretation is established, it seems likely that without further clarification "low water mark" can only mean such low water position as is reached in any given tide. It would therefore appear that the seaward administrative boundary of a local authority is constantly fluctuating with the level of low tide.