

Agenda – Economy, Trade, and Rural Affairs Committee

Meeting Venue:	For further information contact:
Hybrid –Committee room 5 Ty Hywel and video Conference via Zoom	Robert Donovan Committee Clerk
Meeting date: 25 November 2021	0300 200 6565
Meeting time: 09.30	SeneddEconomy@senedd.wales

In accordance with Standing Order 34.19, the Chair has determined that the public are excluded from the Committee's meeting in order to protect public health. This meeting will be broadcast live on www.senedd.tv

Private pre-meeting (09.00–09.30)

1 Introductions, apologies, substitutions and declarations of interest

(09.30)

2 Paper(s) to note

(09.30)

2.1 Letter from Chair of Legislation, Justice and Constitution Committee to the Minister for Finance and Local Government

(Page 1)

Attached Documents:

The Agricultural Land Tribunal Wales: Annual Report 2020–21



2.2 Letter from Chair Children, Young People and Education Committee

(Pages 2 – 15)

Attached Documents:

Welsh Government Draft Budget 2022–23

2.3 Letter from the Minister for Economy

(Page 16)

Attached Documents:

Legislative Consent Memorandum for the Advanced Research and Invention Agency Bill

2.4 Letter from the Minister for Rural Affairs and North Wales, and Trefnydd

(Pages 17 – 19)

Attached Documents:

Additional information following the committee meeting on the 21 October 2021

2.5 Letter from the Minister for Education and Welsh Language

(Page 20)

Attached Documents:

Essay mills

2.6 Letter from the Minister for Economy

(Pages 21 – 23)

Attached Documents:

Rt Hon Robert Jenrick MP Secretary of State for Housing, Communities and Local Government

3 Review of The Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 – Farming Unions

(09.30–10.30)

(Pages 24 – 68)

Gareth Parry, Senior Policy and Communications Officer, Farmers' Union of Wales

Aled Jones, Deputy President, National Farmers' Union Wales

Attached Documents:

Research Brief

Evidence from Farmers' Union of Wales

Evidence from National Farmers Union Cymru

Break (10.30–10.45)

4 Review of The Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 – Environmental organisations

(10.45–11.45)

(Pages 69 – 74)

Rachel Sharp, Director, Wildlife Trusts Wales

Creighton Harvey, Independent Trustee, Afonydd Cymru

Attached Documents:

Evidence from Wales Environment Link

Break (11.45–12.00)

5 Priorities for the Economy, Trade and Rural Affairs Committee – Environmental organisations

(12.00–13.00)

(Pages 75 – 83)

Rachel Sharp, Director, Wildlife Trusts Wales
Arfon Williams, Countryside Manager, RSPB Cymru
Rhys Evans, Nature Friendly Farming Network

Attached Documents:
Research Brief

6 Motion under Standing Order 17.42(ix) to resolve to exclude the public for the remainder of the meeting
(13.00)

7 Private
(13.00–13.30)
Consideration of evidence following the meeting

Paul Davies MS
Chair, Economy, Trade and Rural Affairs Committee

5 November 2021

Dear Paul

The Agricultural Land Tribunal Wales: Annual Report 2020-21

At our meeting on Monday of this week, we considered our second regular monitoring report in which we consider and review key topics that are within the remit of the Legislation, Justice and Constitution Committee. You will be aware that certain matters related to justice fall within the ambit of our responsibilities and, as such, we considered an update on the Welsh Tribunals.

Annual reports for the period 2020-21 have now been published for most of the Welsh Tribunals. The reports discuss how the tribunals have managed the impact of the coronavirus pandemic, as well as setting out information on spending, operation and performance.

Given your Committee's remit, we agreed that we would draw to your attention the latest annual report of The Agricultural Land Tribunal Wales.

At this week's meeting, we also took evidence from Sir Wyn Williams, President of the Welsh Tribunals, on the subject of his Third Annual Report for the period 2020-21, and I take the opportunity to draw this report to your attention.

Yours sincerely,



Huw Irranca-Davies
Chair

Jeremy Miles MS, Minister for Education and Welsh Language

CC Delyth Jewell MS, Chair of the Culture, Communications, Welsh
Language, Sport, and International Relations Committee

CC Paul Davies MS, Chair of the Economy, Trade, and Rural Affairs
Committee

Date: 9 November 2021

Subject: Welsh Government Draft Budget 2022-23

Dear Jeremy,

We would like written information to support our scrutiny of the Welsh Government's Draft Budget 2022-23. The annex to this letter sets out in detail the information that we would like to receive.

As you will know, my clerk has arranged with your officials for you to attend a meeting of the Committee on 20 January 2022 to give oral evidence on the Draft Budget. I would be grateful to receive the written information no later than 20 December 2021.

I note that the Welsh Government intends to publish the Draft Budget on 20 December. Please contact my clerk if you are concerned about meeting our proposed deadline in light of the budget timetable.

Given the shared interest across committees in some of the areas listed in the annex to this letter, I have copied in the chairs of the Economy, Trade and Rural Affairs Committee and the Culture, Communications, Welsh Language, Sport, and International Relations Committee.

Yours sincerely,



Jayne Bryant MS
Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Annex: Request to the Minister for Education and Welsh Language regarding CYPE Draft Budget scrutiny 2022-23

Our approach to scrutiny of the Draft Budget

Our financial scrutiny aims to ensure accountability, promote better decision making and improve value for money. It will follow four key principles, as recommended by the Finance Committee:

- **Affordability:** to look at the big picture of total revenue and expenditure, and whether these are appropriately balanced.
- **Prioritisation:** whether the division of allocations between different sectors/programmes is justifiable and coherent.
- **Value for money:** essentially, are public bodies spending their allocations well – economy, efficiency and effectiveness (i.e.) outcomes.
- **Budget processes:** are they effective and accessible and whether there is integration between corporate and service planning and performance and financial management.

Cross-cutting areas

Transparency of budget presentation

Throughout the previous Senedd, our predecessor committee emphasised the importance of presenting the Draft Budget transparently to enable full and thorough scrutiny. To continue this approach, we request a transparent narrative explanation (and numeric depiction) of the following:

- reductions/removal or increases/additions relating to specific areas of the Education and Welsh Language Main Expenditure Group (MEG) compared to previous financial years (e.g. grants being reduced or ceasing to exist altogether/being increased or introduced);
- what proportion any such changes to the overall amount previously allocated represent; and
- where exactly this change is being made in the Draft Budget, and whether money will be returned to/taken from central reserves or allocated to/from other budget lines either within or outside the MEG.

Commentary on Actions and detail of Budget Expenditure Line (BEL) allocations

- We request commentary on each of the Actions within the Education and Welsh Language MEG, including an analysis and explanation of significant changes since the 2021-22 First Supplementary Budget (June 2021).
- We also request a breakdown of the 2022-23 and indicative 2023-24 (if available) Education and Welsh Language MEG by Spending Programme Area (if applicable), Action, and Budget Expenditure Line (BEL), with 2021-22 First Supplementary Budget allocations, forecast 2021-22 outturns, and 2020-21 final outturns all included.
- If the Welsh Government uses a revised baseline budget for comparative purposes, we request that the actual 2021-22 First Supplementary Budget allocations are also presented as well as an explanation of the reasons for the re-calculation of the baseline.

Education priorities and other strategic priorities

- Information on how the Education and Welsh Language MEG aligns with, and is prioritised according to, the Welsh Government's relevant priorities and key objectives, including:
 - An assessment from the Minister on the extent to which he believes the Education and Welsh Language MEG contains the resources necessary to deliver Welsh Government priorities and key objectives,
 - Information on any ongoing negotiations with the Minister for Finance and Local Government to maximise the level of resources available for education, including funding for schools' core budgets through the Local Government Settlement.
 - Details of how allocations to and within the Education and Welsh Language MEG align with the Programme for Government.
 - Whether, and if so how, the Minister intends to target resources at addressing any cross-cutting themes or priorities across the MEG as a whole, for example management of and recovery from the pandemic, tackling the negative impact of disadvantage on learners' outcomes, giving effect to children's rights and supporting learners with their physical, emotional and mental health (these are all priorities for our Committee).
 - Details of the assessment made of the value for money and affordability of delivering key priorities and objectives and how their cost-effectiveness will be monitored.
 - Details of any opportunity cost exercises undertaken in respect of activities prioritised in budget allocations.

As recommended in our predecessor's reports regarding budget scrutiny and children's rights, we believe a Child Rights Impact Assessment (CRIA) should be undertaken for the Draft Budget as a whole. In terms of the Education and Welsh Language MEG specifically, we request:

- Information on how children's rights, equalities, sustainability and the Welsh language have been considered in budget allocations.
- A copy of the CRIA undertaken by the Department for Education to inform the allocations in the draft Education and Welsh Language MEG for 2022-23. If a specific CRIA has not been undertaken, the reasons for this and a copy of any alternative integrated impact assessment as well as assurances that this assessment demonstrates that the duty of "due regard" to the United Nations Convention on the Rights of the Child has been exercised.
- Information on the account taken of the Wellbeing of Future Generations (Wales) Act 2015 in making allocations to budget lines within the Education and Welsh Language MEG.
- Details and/or examples of any changes made to initial allocations within the Education and Welsh Language MEG following considerations of children's rights, equalities, sustainability, the Welsh language, or the Wellbeing of Future Generations (Wales) Act 2015 as a result of impact assessments, or where these assessments have had a direct influence on the setting of budgets.

Costs of legislation

- Details of any allocations within the 2022-23 budget intended for the implementation of the Curriculum and Assessment (Wales) Act 2021 and associated qualifications reform..
- Details of any allocations within the 2022-23 budget intended for the implementation of the PCET reforms, including any costs associated with the Tertiary Education and Research Bill.
- An update on any ongoing costs to the Education and Welsh Language MEG of implementing previous legislation from the Fourth and Fifth Senedd, and any financial implications for the 2022-23 budget.
- Budget provision for implementing the Additional Learning Needs and Education Tribunal (Wales) Act 2018 and the wider ALN Transformation Programme.
- Information on the financial impact of any relevant UK Parliament legislation.
- Financial implications in 2022-23 of any relevant subordinate legislation.

Impact of the COVID-19 pandemic

- Information on the impact of the pandemic on the Education and Welsh Language MEG in both 2021-22 and 2022-23, including movements in and out of budget lines, the gross contribution to -and receipt from - the Welsh Government's COVID-19 budgetary response, as well as the net effect of this.
- Details and breakdown of the funding allocated for the education sector's response to the pandemic, quoted as £220 million in 2020-21 and £150 million in 2021-22, plus any allocation in 2022-23.
- Information on the availability and use of the COVID Local Government Hardship Fund for education purposes.
- Details of the allocations in 2021-22 and 2022-23 to further education institutions to support provision for learners whose course completion has been delayed, and the number of unique learners impacted.

Impact of Brexit

- Information on any implications for the Education and Welsh Language MEG following the UK's withdrawal from the EU.
- Information on the amount of EU funding the 2021-22 Education MEG has drawn on and the amount it is forecast to rely on in 2022-23 and the purposes to which it is put.

Budget monitoring

- Information on the processes in place for monitoring budgets throughout the year, identifying potential deficits and surpluses, and taking remedial action or allocating additional funds to cover any shortfalls, particularly in the continuing circumstances of the pandemic.
- Details of any changes to the 2021-22 Education and Welsh Language MEG that are already anticipated in the Second Supplementary Budget.

Specific areas

Funding for school budgets

- An explanation of how the Welsh Government has prioritised funding for schools in the 2022-23 Draft Budget (in both the Finance and Local Government MEG and the Education and Welsh Language MEG) and taken account of the Sibieta review of school spending.

An update on how the Welsh Government intends to respond to the Sibieta review.

Funding for school improvement

- An explanation of how the Draft Budget 2022-23 supports school improvement and raising standards of education.
- Details of the Regional Consortia School Improvement Grant (RCSIG) allocations in 2021-22- and previous years, as well as any available indicative allocations for 2022-23, broken down by consortium and 'objective' (or other heading whichever is applicable).
- Information on the Education Improvement Grant element of the RCSIG and an update on how the Welsh Government is ensuring this is strategically used and its impact evaluated.

Reducing the impact of deprivation on educational outcomes

- Information on how resources within the Education and Welsh Language MEG are being used to meet the Welsh Government's long-term commitment to reduce the impact of deprivation on educational outcomes.
- Details of budget provision for the Pupil Development Grant (PDG) and the PDG Access fund.
- What discussions has the Minister for Education and Welsh Language had with the Minister for Finance and Local Government about reviewing the Free School Meals (FSM) eligibility criteria with a view to extending entitlement "as far as resources allow" (as set out in the 2021 Programme for Government).
- Estimated costs of different free school meal (FSM) eligibility models, which the Welsh Government may be considering as part of its review of FSM eligibility, and how these are reflected in either the Education and Welsh Language MEG or the Finance and Local Government MEG..
- Any other funding within the Education and Welsh Language MEG for initiatives to tackle the deprivation/attainment negative correlation, for example holiday hunger and school holiday enrichment projects.

Education workforce

- Details of budget allocations to finance Initial Teacher Education (ITE) and professional learning for current teachers.
- Information on any funding provided by the Welsh Government to the Education Workforce Council.

Details of funding for local authorities towards meeting the costs of the teachers' pay award for academic year 2021/22, including a breakdown between the 2021-22 and 2022-23 financial years and the respective mechanisms used (whether direct grant or incorporated into the local government settlement).

Curriculum reform

- Information on funding to support preparations for, and implementation of, the Curriculum for Wales, including professional learning for the workforce.

Emotional and mental health of children and young people

- Information on the financial implications for the Education and Welsh Language MEG in 2022-23 of the work to embed a whole-school/system approach to emotional and mental health, including any funding to support the statutory guidance.
- Details of how any funding from the Health and Social Services MEG is being used to complement work in schools on this area.
- Details of funding for any additional or tailored initiatives to support children and young people's mental health in education settings during the COVID-19 pandemic.

Support for Minority Ethnic and Gypsy, Roma and Traveller learners

- Details of funding to support the education of Minority Ethnic and Gypsy, Roma and Traveller learners in 2022-23 and how this is being distributed.

Additional Learning Needs

- An updated assessment of the pressures facing local authorities, schools, and colleges in delivering current SEN/ALN provision, the impact of additional funding in previous years and whether further additional funding will be provided in 2022-23.
- Information on funding provision for the ALN Transformation Programme and the implementation of the 2018 Act.

- The latest position on funding for the training of educational psychologists in Wales and the grant funding arrangement with Cardiff University.

Infant class sizes

- Confirmation of whether the Reducing Infant Class Sizes is continuing in 2022-23 and an evaluation of the impact of funding for this in the previous Senedd.

Small and Rural schools grant

Confirmation of whether the Small and Rural Schools Grant is continuing in 2022-23 and an evaluation of the impact of funding for this in the previous Senedd

Estyn

- Details of Estyn's budget allocation for 2022-23 from the Finance and Local Government MEG, including what recent discussions have been held with the inspectorate on its required levels of funding and how this compares with previous years.

Qualifications

- Details of the budget allocation to Qualifications Wales in 2022-23, including what recent discussions have been held with the regulator on its required levels of funding and how this compares with previous years.
- An update on any additional funding Qualifications Wales is receiving to support its work on qualifications reform in the context of the new Curriculum for Wales and its programme of sector reviews of vocational qualifications.
- Information on any financial implications for Qualifications Wales, or any Welsh Government budgets, from the impact of the pandemic on the awarding of qualifications.

Welsh-medium education

Details of budget provision to support the Welsh Government's Welsh-medium education strategy and local authorities' Welsh in Education Strategic Plans (WESPs), as well as the education sector's contribution to meeting the Cymraeg 2050 target of one million Welsh speakers.

- Information on any funding allocated to support the realisation of the single continuum for the teaching and learning of Welsh, for example increasing the capacity of the Welsh-speaking education workforce in both English and Welsh-medium schools.

- An update on the work being undertaken to review the relationship between funding rates for childcare for three and four year olds (under the Childcare offer) and early years education (the Foundation Phase) for three and four year olds.
- An updated assessment of the financial position of the funded non-maintained nursery sector as it relates to the Education and Welsh Language MEG and the Minister for Education and Welsh Language's portfolio, including in the context of delivering the new curriculum.

Youth work

- Details of the budget provision to support youth service provision including in the context of the Interim Youth Work Board's report.

Offender learning

- Details of provision in 2022-23 and how this compares to previous years.

Further education, sixth forms and adult community learning

- Details of the complete 2021/22 allocations to further education colleges, to include the amounts of all components of the allocation (i.e. full-time, part-time, part-time allowance, deprivation, sparsity and Welsh-medium allowances, maintenance allowance and the Adult Learning Wales adjustment).
- Details of further changes to the further education funding model (if any) from the model provided to the Committee in the previous Government's paper dated 08 Jan 2020 (and updated by the paper from then then Minister for Education for the CYPE Committee meeting of 21 Jan 2021), and the reason for any changes.
- Details of any hypothecated funding to further education institutions or Sixth Forms beyond their usual core grants.
- Details of any funding provided in the 2022-23 budget for achieving pay parity and/or to meet any pay award to further education institutions and Sixth Forms, including an explanation as to the sufficiency of the funding to meet in full any agreed pay award / pay equivalency over the period of this budget.
- Details of the complete 2022-23 Sixth Form allocation broken down by each local authority.

- A copy of the most recent Further Education Financial Forecast Planning Assumptions guidance issued to FEIs.
- The allocation for Adult Community Learning broken down by the relevant bodies that directly receive the funding.
- The complete 2021-22 and 2022-23 programme values used in the calculation of FE and Sixth Form funding.

Higher education, and post-16 student financial support

- Details of the HEFCW allocation, including details of any hypothecated funding, or funding which is intended for specific activities including mental health and student well-being.
- Regarding the Diamond reforms: set out the expected level of student financial support saving for 2022-23 compared to 2021-22 and the proportion of this sum that will be reinvested back into the higher education sector as part of the “Diamond Dividend”.
- Details of any 2022-23 allocation intended for the delivery of degree apprenticeships and if it is intended to be used to recruit new apprentices or to just teach out existing apprentices.
- Details of any capital funding to be made available to HEFCW, including any restrictions to be placed on it by the Welsh Government.
- Details of any contingencies / reserves / non-allocated funds within any of the 2022-23 tertiary education related BELs, including the BELs within the post-16 Learner Support Action; details of how the funds are / can be deployed; and details of any deployment of them during 2021-22.
- **Grants:** A table showing the 2020-21 outturn, and forecast expenditure over the following four years (broken down by students studying in Wales and elsewhere in the UK) for:
 - Full-time undergraduate (FTUG) Tuition Fee Grant
 - FTUG Maintenance Grant
 - Part-time undergraduate (PTUG) Tuition Fee Grant
 - PTUG Maintenance Grant
 - Masters Finance grant element
 - Education Maintenance Allowance (EMA)

- Welsh Government Learning Grant (Further Education) (WGLG(FE))
- Targeted grants and allowances.
- **Loans provision:** A table showing the 2020-21 outturn, and forecast loan outlay over the following four years (broken down by students studying in Wales and elsewhere in the UK) for:
 - FTUG tuition fee and maintenance loan outlay and Resource Accounting and Budgeting (RAB) charge
 - PTUG tuition fee and maintenance loan outlay and RAB charge
 - Masters Finance loan element outlay and RAB charge
 - Doctoral loan outlay and RAB charge.

Apprenticeships

- What discussions has the Minister for Education & Welsh Language had with the Minister for Economy to liaise and work together on funding skills provision and coordinate apprenticeship delivery?

Other post-16 education provision

- Details of Personal Learning Account funding
- Details of the Welsh in Education budget including any allocation for the Coleg Cenedlaethol.
- Details of any EU funding expected to be utilised by Welsh Government during 2022-23 to secure tertiary education provision (i.e. within HE, FE, ACL, 6th Forms, and excluding apprenticeships).

Capital funding for school and college infrastructure

- Information on budget provision for the 21st Century Schools and Colleges programme and progress of the programme to date, including expenditure and numbers of projects completed/approved to date, broken down by:
 - A summary of expenditure and number of projects undertaken / completed within Band A.
 - The latest position regarding Band B of the programme.

- Any implications from the pandemic for the 21st Century Schools and Colleges programme, including any impact on the progress and costs of projects.
- The cost implications from the Welsh Government's commitment to reduce the carbon footprint of school construction projects (as outlined on 2 November 2021).

Capital funding for childcare

- An update on capital funding from the Education and Welsh Language MEG for the Childcare Offer and any information as to how these have been / will be impacted as a result of the review of entitlement to the offer.

Capital funding for the Community Focused Schools initiative

- Information on budget provision for the Community Hubs and Community Learning Centres grant and an update on progress in increasing the community focused nature of education estates.



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref VG/0619/21

Paul Davies MS
Chair
Economy, Trade and Rural Affairs Committee
Welsh Parliament
Cardiff Bay
CF99 1SN

9 November 2021

Dear Paul,

Legislative Consent Memorandum for the Advanced Research and Invention Agency Bill

Many thanks for your letter dated 30 September requesting further information about the reasons given in the LCM as to why it is considered that the consent of the Senedd is required for Clause 5 of the Advanced Research and Invention Agency Bill ("the Bill"). The Bill makes provision for and in connection with the establishment of the Advanced Research and Invention Agency.

Clause 1 establishes that Agency and, for the reasons given in paragraph 7.2 of the LCM analysis, the Senedd could equally establish an Agency. Clause 5 is simply conferring a power on the Secretary of State to issue directions to that Agency, and mandating compliance with such directions. If the Senedd were to create an Agency, powers could be conferred on Welsh Ministers to issue directions to that Agency for reasons specified in a Bill.

Therefore, clause 5 is legislating to empower the Secretary of State to issue directions and mandating compliance, it is not legislating about national security. The reference to national security is the reason for issuing directions rather than the purpose of the clause itself.

Yours sincerely,

Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Our ref ETRA211021

Paul Davies MS
Chair of Economy, Trade and Rural Affairs Committee

10 November 2021

Dear Paul,

I took two action points from the Economy, Trade and Rural Affairs Committee held on 21st October 2021.

The first was raised by yourself in relation to the seafood strategy:

P.135 - ...the seafood strategy for Wales that was launched in 2016? In that strategy, there was a target for delivering an increase of about 30 per cent. So, could you give us an update on whether we've delivered that target and what the latest information is about the strategy?

The Welsh Seafood strategy, developed by the Seafish Wales Advisory Committee, was launched during Seafood Week in October 2016. The strategy outlined the Welsh seafood industry's vision for sustainable growth during the period 2016 to 2025. While Welsh Government are observers on the Seafish Wales Advisory Committee, the strategy, and any associated targets, is an industry developed and owned document.

I understand that at the Advisory Committee's meeting in October, it was agreed that the strategy was no longer appropriate in a post Brexit and Covid 19 context, and would no longer feature in the Committee's forward work plan.

The second issue was raised by Carolyn Thomas MS about checking microchips in dogs at border controls:

P.157 - ...about pets, about dogs. Would it be possible to check for chips in dogs at border controls as well? Is that something that could be looked into as we look at having the border controls movement of animals? Could we just scan to see if there is a chip in that dog, and if they're on a register of lost pets, maybe? Is that something we could look into?

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I would like to outline some of the steps being taken in relation to the pet theft, and the findings from the Task Force; the ongoing research on the microchipping Regulations; the Animal Welfare (Kept Animals) Bill and proposed changes to the PET scheme and existing border controls in Wales and GB.

A Pet Theft Task Force, covering the UK, was established by the Ministry of Justice, Home Office and Defra and their findings were published on 3 September 2021

<https://www.gov.uk/government/publications/pet-theft-taskforce-report/pet-theft-taskforce-report>

Some of the recommendations are being actioned, specifically in relation to the databases operating within the UK and elsewhere, to ensure the system is streamlined and checks are more readily accessible and auditable. Welsh Government officials will continue to work with their counterparts in England, Scotland and Northern Ireland to ensure changes made to the collection, holding, and accessibility of data is tightened up.

Additionally, a research project on the effectiveness and enforcement of the existing microchipping Regulations in England, Scotland and Wales is coming to fruition which should indicate where enforcement procedures need to be reinforced or improved. It is worth noting the proposal to include compulsory microchipping of kittens/cats is also part of this research project.

At present it is a requirement to scan a puppy or dog entering GB via ports either as part of the PET scheme or as a commercial importer. Wales are included in the UK Governments Animal Welfare (Kept Animals) Bill 2021 which is progressing through the Parliamentary process and this Bill includes 4 main proposals as follows:

- a) Increasing the minimum age of imported and non-commercial dogs from 15 weeks to 6 months;
- b) Banning the importation and non-commercial movement of dogs with non-exempted mutilations;
- c) Reducing the number of animals that can travel under the non-commercial pet travel rules; and
- d) Prohibiting the importation and non-commercial movement of a bitch (dog) who is more than 42 days pregnant.

The Bill also aims to create penalties for non-compliance with a), b) and c), punishable by either a term of imprisonment, or a fine (or both). The detail on this is still being worked on, and whilst it is subject to the recently closed and soon to be reviewed consultation on Commercial and Non-Commercial Movements of Pets, it is the intention of this Bill to not only amend the conditions that pets can travel under for welfare reasons, but also to discourage the lucrative trade in pet animals that misuses both methods to move animals into Wales.

Both the commercial and non-commercial routes that facilitate movements of pet animals into GB require that the animal is microchipped before (for commercial) or before/during (for non-commercial) vaccination.

For non-commercial movements into Wales, pets accompanied by their owners must use an approved route and carrier, unless they are travelling from Ireland. Cardiff Airport is not an approved route, and the only routes for pets to enter Wales are via the Dublin to Holyhead, Rosslare to Fishguard and Rosslare to Pembroke ferry crossings.

Whilst each operator has different rules for how a pet must travel on board their ferries, they should all comply with the basic requirements of being microchipped and vaccinated, however checks on these routes are not undertaken by the carriers, due to the unique travel arrangements between GB and the island of Ireland.

The commercial route differs in that animals from a third country must enter via a Border Control Post (BCP). At present there are no Welsh BCPs, but the process at other GB BCPS is for the microchip and documentary requirements to be checked by an Official Veterinarian – this is much more enforceable, with non-compliance supported by legislation allowing animals to be detained to undertake further checks. When BCPs are operational in Wales, imports of non-commercial pets from the EU will also need to enter via a BCP, a change further enhancing the controls in place to detect non-compliant imports. Work outlined above to improve microchip databases should also further our commercial import controls.

In addition to the above, I would like to mention the Welsh Government has recently published Our Animal Welfare Plan for Wales (AWPW). The AWPW includes the animal welfare commitments published in the Programme for Government, as well as ongoing specific Welsh policy development, and reference to working in collaboration with the rest of the UK/GB where this strengthens enforcement and prosecutions.

I trust the above explains the complex landscape within which we are working. Please be assured we will continue to issue strong messaging on this issue. Enforcement agencies will continue to operate with the existing and future legislation to reduce pet thefts in the first instance and also ensure the speedy re-homing to the original owner wherever possible.

Regards,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end.

Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd

Agenda Item 2.5

Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language



Llywodraeth Cymru
Welsh Government

12 November 2021

Paul Davies MS
Chair Economy, Trade and Rural Affairs Committee

Dear Paul,

Thank you for your letter of 18 October regarding essay mills. I agree that essay mills facilitate plagiarism, exploit vulnerable students and have the potential to normalise cheating. I also recognise that some research has shown that students who use essay mills may be vulnerable to blackmail. It is clear that these contract cheating services pose a threat to the integrity and reputation of a university education.

You may be aware that the Higher Education Funding Council for Wales (HEFCW) are pursuing development of a Welsh academic integrity and assessment network. Furthermore, in October 2020, the Quality Assurance Agency for Higher Education (QAA) launched the Academic Integrity Charter. In QAA's own words, the charter 'is intended to provide a baseline position upon which UK providers, as autonomous institutions, can build their own policies and practices to ensure that every student's qualification is genuine, verifiable and respected'. I am particularly glad that all universities in Wales have signed the charter, demonstrating their commitment to this issue.

I agree that a UK-wide approach would seem sensible here and we have been engaging with the UK Government on this matter, and officials from all four governments have met to discuss the issue. However, there was no intention to legislate for Wales, Scotland or Northern Ireland in the upcoming Skills and Post-16 Education Bill. We will continue to work with the UK Government and the other devolved governments to see whether a UK-wide solution is possible. I am also considering how we in Wales can address this problem in addition to a four nations approach or in the case that a four nations approach cannot be established at this time.

I hope the above has helped to clarify my position on this important matter and hope to have more to say in due course.

Yours sincerely,

Jeremy Miles AS/MS
Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.



Eich cyf/Your ref
Ein cyf/Our ref

Rt Hon Robert Jenrick MP
Secretary of State for Housing, Communities and Local Government

Robert.Jenrick@communities.gov.uk

30 July 2021

Dear Robert

I am writing further to my letter of 27 May on the future of the UK Shared Prosperity Fund (SPF).

I am disappointed not to have received a reply to date, particularly given the Prime Minister's commitments following the Heads of Government summit in June regarding more effective intergovernmental collaboration across the UK. Concerns about levels of engagement with and from UKG Ministers have also been raised with me by Welsh stakeholders. Local government and economic and social partners are understandably anxious to know about arrangements in succession to EU funding, and are apparently receiving mixed and inconsistent messages from UKG – or indeed no messages or interaction at all.

You will recall that, as a minimum, commitments were made to engage with the Devolved Governments in the design of the replacement of EU Structural Funds and for a public consultation prior to implementation. No substantive proposals were shared with ourselves for discussion or agreement prior to the launch by UKG of the Shared Prosperity Fund (SPF), the Community Renewal Fund (CRF) or the Levelling Up Fund (LUF). The need for meaningful engagement has been underscored by the Welsh Affairs Committee, the BEIS Select Committee and in a recent report by the Institute for Government, each highlighting the inadequacy of the current situation. The Senedd's recent vote on this subject also made clear our legislature's significant concerns.

It is important to note that the current round of the CRF is causing real concerns on a practical level.

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

You will note our consistent view that the current year represents a significant reduction in spending within Wales despite repeated promises that there would be no reduction. The lack of a decision at this point in the year is a real concern for local government to be able to utilise funding awards in this financial year.

As our First Minister set out in his recent correspondence with the Prime Minister, Welsh Government collaboration with the UK Government can only be on the basis of respect for the devolution settlement and the principles set out in the Inter-Governmental Relations Review. I hope you will understand that, as things stand, UK Government's approach to post-EU Exit funding does not represent an acceptable approach to partnership working, let alone effective intergovernmental relations.

My officials have sought my views on a recent offer from your officials to share with Welsh Government summaries of the applications for your Community Renewal Fund and Levelling Up Fund, coupled with a request to engage at technical level (subject to Ministerial agreement) on quality assessment and assurance of those project proposals. While the engagement and the spirit of the technical dialogue is a part step forward, this heavily-caveated and limited approach comes very late in the day and falls a long way short of true collaboration. Above all, I understand your officials have made it clear that Welsh Government will have no say in the approval of projects, with decision-making resting solely with UKG Ministers.

Given that the funds have been exclusively designed by MHCLG without involvement from Welsh Government and that the timetable for action is now incredibly tight, it is unclear what meaningful influence – if any - Welsh Government can have over the funding outcomes associated with either fund. We have warned that your approach risks duplication and poor value for money, neither of which can be adequately addressed by the exercise presented, particularly given the timing and where there is no direct link to the final decision to award. Put simply, this proposed technical engagement feels like an offer of shared accountability without any shared control. Clearly this does not meet Welsh Government policy principles set out above, the expectations of our recently elected Senedd, or the offer we thought the Prime Minister had made to us regarding improved intergovernmental working.

All this is a matter of regret, because we stood ready to engage had you chosen to handle matters differently. In light of the above, however, I have concluded that it is not appropriate for WG officials to be involved in the inadequate and unsatisfactory exercise requested. To help protect the public purse and as a courtesy, my team will conduct a rapid 'red flag' check on applicants once the project summaries are shared to verify that no individuals or organisations are listed that would automatically trigger Welsh Government due diligence measures. But they will have no further involvement than that.

I should emphasise, for avoidance of doubt, that this is a swift, good-governance check only, and a small component of the full due diligence exercise your teams will need to undertake for a competitive bidding process of this type and scale. Moreover, such a check implies no Welsh Government view about the merits of the applications or how they should be assessed or prioritised – those matters must fall to fall to you, as the funds' sole designers and decision-makers.

We nevertheless remain open to and ready for meaningful discussions on how best to collaborate moving forwards, including on the Shared Prosperity Fund, in line with the principles set out in the First Minister's letter to the Prime Minister. Welsh Government has never argued that all decision-making should be centralised within the Welsh Government. Indeed, our Framework for Regional Investment, building on years of partner engagement, recognises some interventions work best locally, while others are more cost

effective and accessible if held at the regional or all-Wales level (including to prevent duplication and provide continuity of service).

We have commissioned further advice from the OECD to help design the best multi-level governance structures for economic development within Wales. There is a standing invitation to you and your officials to engage in this important work, and to collaborate with us on shaping future funding arrangements, based on a clear commitment to UKG and WG co-decision making. This is in the interests of securing the best outcomes for all concerned, and above all for the communities in Wales that we serve.

I am copying this letter to the Chancellor of the Duchy of Lancaster, the Secretary of State for Wales, the Minister for Regional Growth and Local Government, the Minister for Employment, and the Head of UK Governance Group.

A handwritten signature in black ink that reads "Vaughan Gething". The signature is written in a cursive, flowing style.

Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

Agenda Item 3

Document is Restricted

Farmers' Union of Wales response to a Senedd Economy, Trade and Rural Affairs Committee inquiry on the impact of the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021

August 2021

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About the Farmers' Union of Wales

1. The Farmers' Union of Wales (FUW) was established in 1955 to exclusively represent the interests of farmers in Wales, and since 1978 has been formally recognised by the UK Government, and subsequently by the Welsh Government, as independently representing those interests.
2. The FUW's Vision is thriving, sustainable, family farms in Wales, while the Mission of the Union is To advance and protect Wales' family farms, both nationally and individually, in order to fulfil the Union's vision.
3. In addition to its Head Office, which has thirty full-time members of staff, the FUW Group has around 80 members of staff based in twelve regional offices around Wales providing a broad range of services for members.
4. The FUW is a democratic organisation, with policies being formulated following consultation with its twelve County Executive Committees and eleven Standing Committees.

Background and summary

5. The FUW has always maintained that one pollution incident is one too many and that action needs to be taken to tackle water pollution in Wales, and that in order to do this Welsh water pollution incident data should be analysed in order to design a tailored and targeted approach that focuses resources where they are most needed and will have maximum impacts.
6. To this end, we have been active members of Natural Resources Wales' (NRW) *Wales Land Management Forum Agri-pollution Sub Group* since its inception in January 2017 and fully supported and contributed to the comprehensive report and recommendations submitted by the Group to the Welsh Government in April 2018.
7. The data presented in this evidence demonstrates that agriculture is among a range of industries and sectors where action needs to be taken to address water pollution incidents, but that it is by no means consistently the main contributor and in many years and regions of Wales, incident levels caused by agriculture fall well below those attributable to other sectors.
8. For example, in 2016, 2017, 2019 and 2020 water pollution incidents attributable to the water industry across Wales were higher than those attributable to agriculture.
9. The data also demonstrates that in many Welsh water catchment areas, no water pollution incidents have been attributed to agriculture since 2015, while in scores of

others the number of incidents attributed to agriculture are dwarfed by those attributed to other industries and sectors.

10. For example, 49% of water catchments across Wales had 2 or less water pollution incidents relating to agriculture during the 5 year period from 2016-2020, 9% of which did not experience a single incident.
11. The FUW fully recognises the need to reduce nitrate as well as other forms of agricultural pollution and notes that Natural Resources Wales (NRW) analyses of nitrate levels in Welsh water catchment areas led them to conclude that 8% of Wales should be subject to Nitrate Vulnerable Zone (NVZ) restrictions under the 1991 EU Nitrates Directive¹.
12. The Economy, Trade and Rural Affairs Committee will no doubt be aware that the Water Resources Regulations 2021, which apply to the whole of Wales, are effectively a direct copy of the NVZ regulations, albeit with a key derogation removed.
13. The FUW would also draw to the Committee's attention the assessments of the impacts of NVZ regulations in areas designated as NVZs for between 12 and 15 years, which found that 69% of areas showed no significant improvement in surface water concentrations even after 15 years, and that, in comparison to a control catchment, 29% of NVZs shows a significant improvement but 31% showed a significant worsening².
14. That research also found that the average improvement due to NVZ designation was 0.02 ± 0.08 mg N/l/yr, but this was "*not significantly different from zero*".
15. The Welsh Government's Regulatory Impact Assessment (RIA)³ acknowledges that the regulations will cost Welsh farmers as much as £360 million in infrastructure costs alone – around £100 million more than the Total Income from Farming in Wales in 2019, and £38 million more than the Total Income from Farming in 2020⁴.
16. This equates to an average cost per active Welsh holding of £14,600, which rises to £37,700 when only holdings with cattle are taken into account.
17. Compliance costs may in fact be as much as 20% higher than estimated in the RIA as the price of building materials has risen sharply in the past year, with some materials having more than doubled in price - increases reflected in ever changing quotes provided to farmers for infrastructure improvements.
18. The FUW therefore maintains that the 2016-2021 Welsh Government's decision to ignore the proposals put forward in the April 2018 *Tackling Agricultural Pollution* report,

¹ Council Directive 91/676/EEC

² The effectiveness of nitrate vulnerable zones for limiting surface water nitrate concentrations, Worrall *et al.*, Journal of Hydrology (2009)

³ Explanatory Memorandum to the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021. 27th January 2021

⁴ Aggregate agricultural output and income, 2020. Welsh Government. 13th May 2021

and to instead implement decades old EU NVZ legislation on a pan-Wales level, stands in stark contrast to

- a. the recommendations of key stakeholders from all main sectors
 - b. the evidence on the efficacy of NVZ designations in tackling pollution
 - c. the data and evidence gathered by NRW on local pollution incidents in Wales and
 - d. the huge costs identified in the Regulatory Impact Assessment
19. As such, the FUW maintains its commitment to the recommendations and actions put forward by the *Wales Land Management Forum Agri Pollution Sub Group* in April 2018 and believes that the framework and approaches proposed therein remain as pertinent as ever and the best solution to tackling the broad and varying range of issues faced in different parts of Wales.

Water pollution in Wales

20. During the 5 year period from 2016 to 2020, there were 1029 substantiated pollution incidents (water and non-water related incidents) related to agriculture, equating to 16.6% of the total number of pollution incidents in Wales.⁵
21. During the same period, agriculture was responsible for 599 substantiated *water* pollution incidents out of a total of 3,592, representing 16.7% of all water pollution incidents. These comprised 496 (13.8% of the total) 'low impact' incidents; 78 (2.2% of the total) 'high-significant impact' incidents and 19 (0.5% of the total) 'high-major impact' incidents.
22. By comparison, of the total 3,592 water pollution incidents recorded during the period, 933 (26.0%) were caused by sewage material and 597 (16.6%) were from contaminated water, while the water industry was responsible for 21.9% of all water pollution incidents.
23. Comparisons of annual contributions to Welsh water pollution incidents from different sources are given in *Figure 1*, showing that agriculture is among a number of industries and contributors to water pollution, and that appropriate action is required across all pollution source categories.

⁵ Natural Resources Wales - Wales Environmental Pollution Incidents – Interactive Report

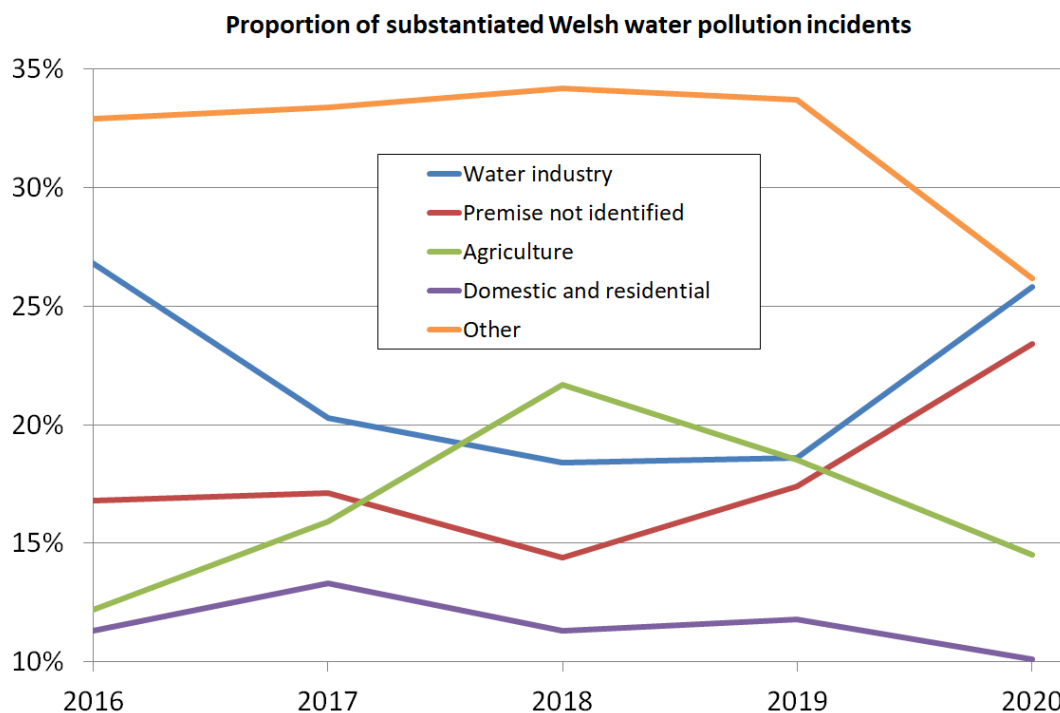


Figure 1: Annual Welsh water pollution incidents 2016-2020

24. It should also be noted in the context of Figure 1 and the high proportion of pollution incidents where a premise of origin was not identified, that for the vast majority of incidents the pollutant was not agricultural: For example, in 2020, 4 of the 106 water pollution incidents where the premise was not identified related to agricultural materials and waste, which is a fraction of the proportion related to, for example, contaminated water, oils and fuels.
25. It is also notable that while the focus of much media attention has been on agricultural pollution, it was revealed Dŵr Cymru revealed in April 2021 that raw sewage was dumped into Welsh rivers 104,482 times in 2020 for a total of 868,307 hours, with discharges happening across more than 2,000 water treatment works and sewer overflows across the Dŵr Cymru Welsh Water network.
26. Contrary to claims that there has been no long-term downward trend in agricultural water pollution, between 2018 and 2020 the number of annual agricultural water pollution incidents fell almost 30%, from 158 (21.8% of all incidents) in 2018 to 113 (14.5% of all incidents) in 2020.
27. Given such data, and the fact that agricultural pollution incidents have received much focus in Welsh Government statements and responses, it must be noted that NVZ regulations under the 1991 EU Nitrates Directive were never designed to tackle 'incidents' - as their names implies, the regulations were designed to tackle high nitrate levels in areas that are or could be high in nitrates from agricultural sources.

Regional variations in agricultural pollution

28. *Table 1, below provides a breakdown of the total number of water pollution incidents and the proportion associated with agriculture in each Local Authority (LA) area during the period 1st March 2016 to 31st December 2020.*

Local Authority	Pollution Incidents	Number Associated with Agriculture	Percentage Associated with Agriculture
Blaenau Gwent	46	2	4.4%
Bridgend	128	3	2.3%
Caerphilly	168	9	5.4%
Cardiff	148	0	0
Carmarthenshire	377	123	32.6%
Ceredigion	266	104	39.1%
Conwy	85	13	15.3%
Denbighshire	100	25	25.0%
Flintshire	130	11	8.5%
Gwynedd	315	27	8.6%
Isle of Anglesey	80	12	15.0%
Merthyr	61	1	1.6%
Monmouthshire	153	39	25.5%
Neath Port Talbot	98	1	1.0%
Newport	92	9	9.8%
Pembrokeshire	208	104	50.0%
Powys	335	67	20.0%
Rhondda Cynon Taff	287	4	1.4%
Swansea	156	7	4.5%
The Vale of Glamorgan	101	15	14.6%
Torfaen	86	3	3.5%
Wrexham	137	16	11.7%
TOTAL	3557	595	16.7%

Table 1: Breakdown of the total number of water pollution incidents and the proportion associated with agriculture in each Local Authority (LA) area during the period 1st March 2016 to 31st December 2020. (NB: Variations between figures are due to minor anomalies in how NRW record data on pollution incidents where no premise is identified).

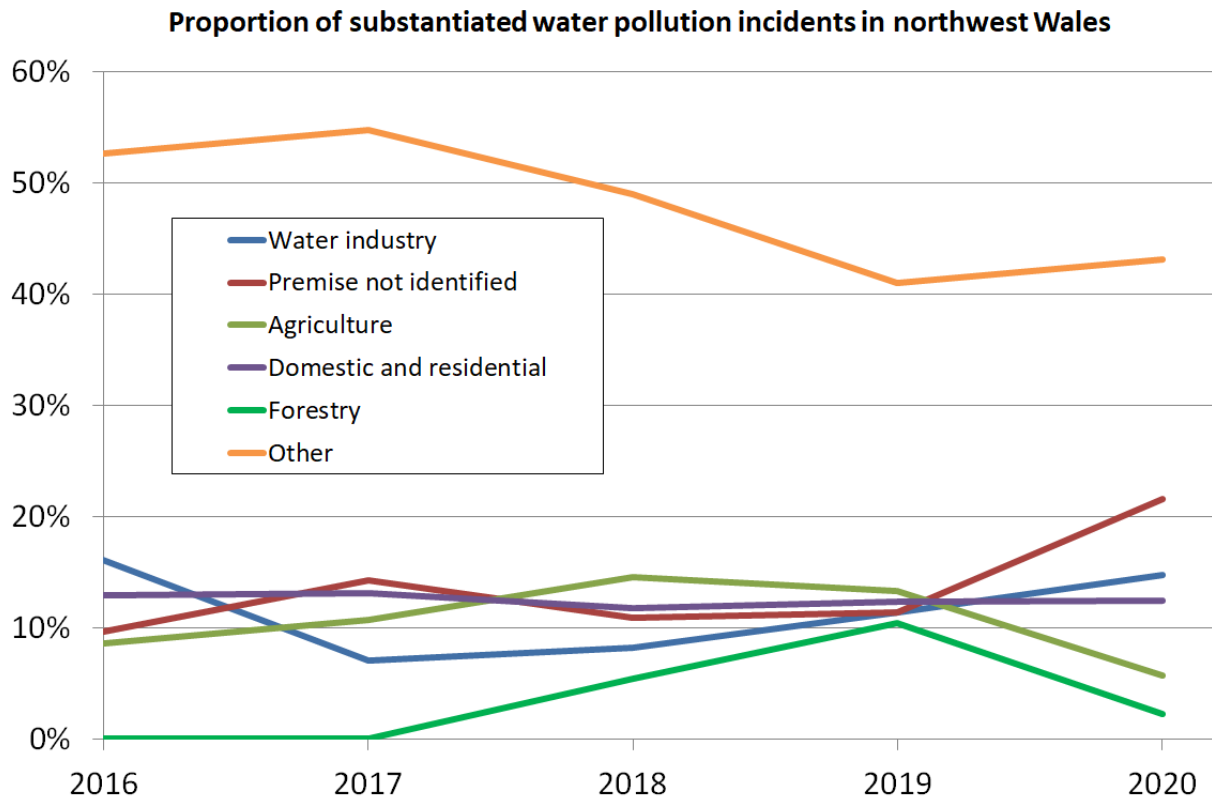


Figure 2: Annual contributions to water pollution incidents from different sources in northwest Wales for the period 2016-2020

29. The degree to which the sources of water pollution can vary annually and between water catchments and regions of Wales is illustrated in *Figure 2*, which compares annual contributions to water pollution incidents from different sources in northwest Wales for the period 2016-2020.
30. While the risk of an agricultural pollution incident is generally related to the amount of agricultural activity in an area, Local Authorities with greater proportions of Less Favoured Area (LFA) and Severely Disadvantaged Area (SDA) in particular are generally far less likely to experience such incidents.
31. Given this, it is important to note that the areas of Wales categorised as LFA and SDA are 79% and 56% respectively⁶.
32. Nevertheless, the data presented above demonstrates that 15 of the 22 LAs experienced less than 10 agricultural related cases during the period 1st March 2016- to 31st December 2020.
33. While Forestry was responsible for only 1.1% of water pollution incidents over the same period, it should be recognised that around 40% of the woodland area in Wales

⁶ <https://gov.wales/farm-incomes-april-2019-march-2020>

is owned by the Welsh Government and managed by NRW, making them the largest land owners and managers in Wales.⁷

34. In Gwynedd, forestry was responsible for 13.7% of water pollution incidents in 2019 compared with 9.6% for agriculture. Similarly, forestry was responsible for 9% of incidents in Gwynedd in 2020 compared with 5.3% for agriculture.
35. Furthermore, 91.4% of water pollution incidents recorded in Gwynedd during the 5 year period 2016-2020 were unrelated to agriculture, meaning that agriculture doesn't appear in the top 10 list of premise types causing pollution.
36. Similarly, in Gwynedd in 2020, out of a total of 60 water pollution incidents, just one related to agriculture, and was classed as low impact.
37. Moreover, some water catchments in Gwynedd such as the Erch and the Llyn Peninsula did not have a single recorded agricultural related pollution incident during the 5 year period.
38. In Powys, neither of the Mawddach, Bran and Gwydderig nor the upper parts of the Neath or Tawe catchments were subject to an agricultural pollution incident, while the Usk catchment, upstream of Brecon, had one incident relating to agriculture out of a total of 22, 12 of which were from the water industry.
39. Of the 128 incidents in the Bridgend LA, 2.3% (3) incidents were agricultural, all of which were deemed low risk.
40. Throughout Wales, 9 catchments, being the Afan, Artro, Conwy Upper, Dulas Ganol, Erch, Mawddach Estuary South, Neath, Wye H&W to Lugg, and Wygyr have not experienced a single agricultural pollution incident in the past 5 years.
41. Table 2 shows the numbers of Welsh water catchment areas where various ranges of water pollution incidents caused by agriculture occurred, highlighting the high variance between catchment areas.
42. The above figures demonstrating the vast variance between years, catchment areas, Local Authority areas and regions of Wales do not suggest there is not a need to tackle agricultural pollution incidents in Wales, and the FUW has recognised this by working with other stakeholders on the Wales Land Management Forum to develop policies and approaches aimed at addressing such problems.
43. However, the FUW believes that the data clearly demonstrates how the Water Regulations 2021 disproportionately focuses on agriculture, and does so in a way which fails to take account of the huge variance between the degree of agricultural pollution in different areas and other primary sources of pollution in those areas.

⁷<https://naturalresources.wales/about-us/what-we-do/welsh-government-woodland-estate/how-the-woodland-estate-benefits-wales/?lang=en>

Number of agricultural water pollution Incidents	Number of Water Catchments	% of Total Water Catchments
0	9	9%
1	26	25%
2	15	15%
3	6	6%
4	3	3%
5	10	10%
6-10	17	16%
11+	17	16%

Table 2: Number of Agricultural pollution Incidents per Water Catchment 1/3/2016 to 31/12/2020

Nitrate pollution

44. *Figure 3 shows a map of the risk of nitrate pollution in Wales at a catchment scale, and is taken from NRW's Surface Water Method Statement for Wales Nitrate Vulnerable Zone Review 2017.*

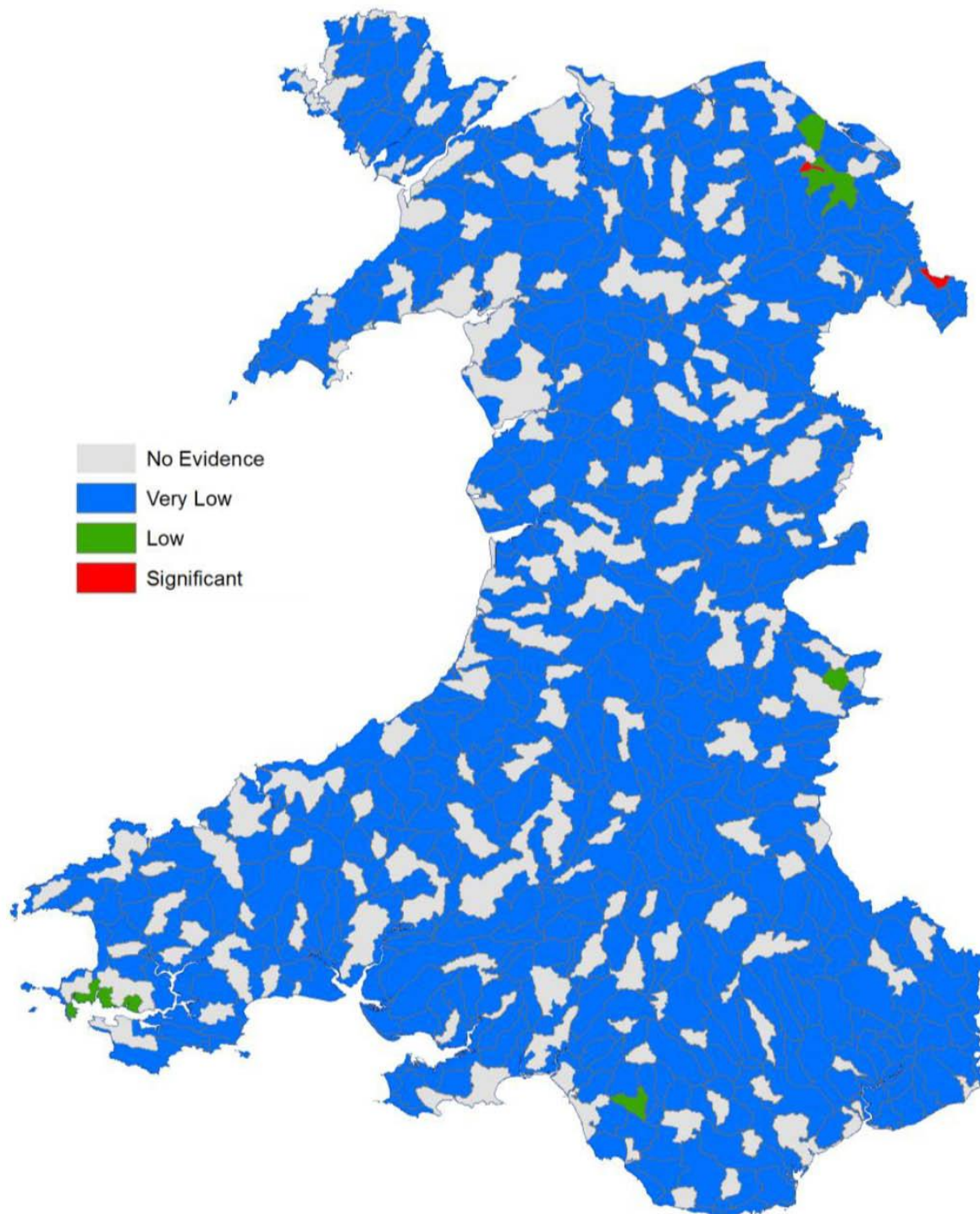


Figure 3: Risk of nitrate pollution at a catchment scale, taken from Natural Resources Wales' Surface Water Method Statement for Wales Nitrate Vulnerable Zone Review 2017

45. *Figure 3 provides a clear indication that the risk of nitrate pollution across most of Wales is very low, and, despite having been published by NRW in 2017, it is the latest data available on nitrate pollution in particular and is unlikely to have changed to any degree since then.*
46. It was this and other data which led NRW, as the principal advisor to Welsh Government on issues relating to the environment and its natural resources, to recommend that the area of Wales subject to NVZ regulations should be increased from 2.4% to 8%.
47. In response to the Welsh Government's proposals to make the whole of Wales subject to NVZ regulations, NRW warned that it may have "perverse outcomes" including that it could *"...exacerbate potential water quality issues. The potential impacts and costs of alternative approaches to compliance need to be outlined as part of the RIA of making water quality worse."*
48. This echoes failures of the same regulations to deliver environmental benefits discovered in a scientific study of surface water concentrations of nitrate in areas designed as NVZs for between 12 and 15 years published in 2009 by Worrall *et al.* of Durham University.⁸
49. The analysis revealed that 69% of NVZs showed no significant improvement in surface water concentrations even after 15 years and that in comparison to a control catchment, 29% of NVZs showed a significant improvement but 31% showed a significant worsening.
50. It should also be noted that nitrogen and phosphate fertiliser use on agricultural land is declining, as highlighted in *Figure 4*, below, which shows maximum usage was seen in the 1980s but there has been a general downward trend since then. The long-term decline in total nitrogen over this period is mainly due to decreased use on grassland.
51. The FUW would also draw to the Committee's attention the comments by Tony Juniper, Head of Natural England, who told *Farmers Guardian* that the NVZ regulations now introduced in Wales *"...are not necessarily delivering the value we need, so taking that more flexible approach seems logical...giving farmers a lot of flexibility is very likely to get better results than putting very specific, almost tick box prescriptions into place."*
52. Similarly, in response to the laying of the Water Resources Regulations 2021 in January 2021, the Game and Wildlife Conservation Trust (GWCT) stated: *"We cannot emphasise enough our disappointment that WG doesn't have greater ambition to get on top of this problem and work constructively with farmers and landowners beyond imposing a dated piece of legislation"*, and that *"We were hoping that Welsh Government would come back with a more imaginative tailored solution to the agri pollution problems we face in Wales. One that works for farmers and makes a real difference in solving the problems...The additional bureaucracy and form filling for all*

⁸The effectiveness of nitrate vulnerable zones for limiting surface water nitrate concentrations, Worrall *et al.*, Journal of Hydrology (2009)

farmers in this approach is unwelcome and we do not believe that it will actually solve the current pollution problems...We also need to ensure that moves aimed at tackling pollution are taken in conjunction with an appraisal of the impact on the viability of farming systems particularly those which are important for conservation, for example where the grazing of cattle plays an important role in maintaining habitats and species in upland areas”

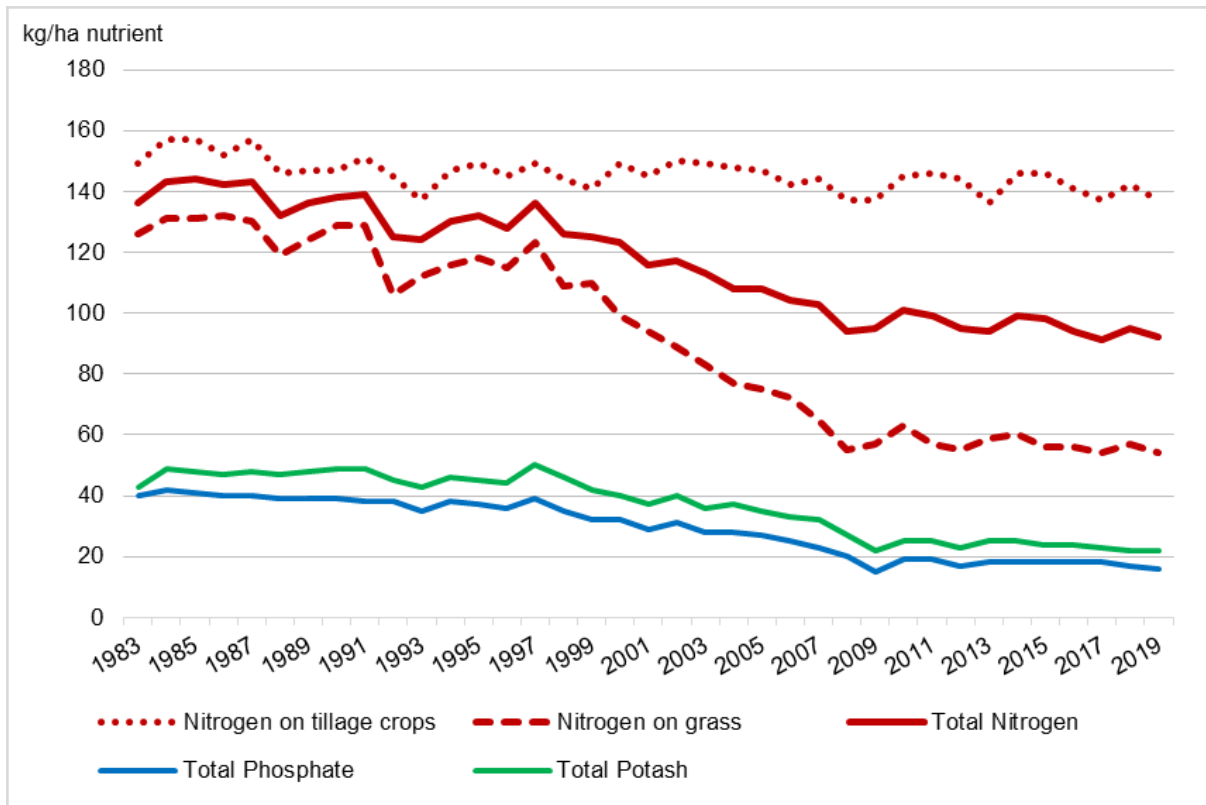


Figure 4: Overall fertiliser use (kg/ha) on all crops and grass, Great Britain 1983-2019

The positive aspects of the current all-Wales approach

53. The FUW does not believe the current all-Wales approach is either justified based on the above data nor that it ensures resources and measures are targeted where they will have the most impact.
54. Moreover, the evidence from other NVZ areas presented above suggests there is a risk that the current approach will in some areas have no impact or make matters worse.
55. As such, the FUW does not believe there are positive aspects of the current all-Wales approach, while the Welsh Government’s own Regulatory Impact Assessment makes it clear that the impacts for thousands of farmers will be crippling.

56. It should be noted that a range of all-Wales measures have long been in place under various legislation and continue to play an important role in terms of reducing a range of issues relating to agricultural pollution.
57. Notwithstanding this, the FUW does believe that such existing all-Wales measures should be enhanced and modernised, and should act as a baseline above which targeted actions in specific problem areas should be implemented.
58. Such principles are encompassed in the Tackling Agricultural Pollution progress report submitted to the Welsh Government on 5th April 2018 by the Wales Land Management Forum (WLMF) Sub-group on Agricultural Pollution⁹.
59. One of the five key work areas of that report was to ensure *“that the formal regulatory regime is sufficiently robust to achieve the outcomes required.”*
60. The report also recommended a *“a fair & even playing field where from the outset, all those in the voluntary scheme are building on the same common standards”* and that *“in the longer term, maintaining regulatory standards aligned with existing and future EU regulations is likely to be central to ensuring continued access to European markets post-Brexit.”*
61. However, with finite resources available for compliance monitoring and enforcement of the current approach, *“a seamless and streamlined regulatory landscape that focuses the regulator’s effort and enforcement options according to risk will ensure that the greatest positive impact can be achieved in the most effective manner.”*
62. In this context, it is notable that, to the FUW’s knowledge, no additional funding has been provided to ensure NRW can undertake their duties as regulator under the Water Resources Regulations 2021.
63. In 2017, the Cabinet Secretary for Energy, Planning and Rural Affairs, Lesley Griffiths, stated that *“further work with stakeholders would be undertaken to achieve the right balance of regulatory measures, voluntary initiatives and investment”*, however, the current approach goes far beyond simply maintaining a regulatory baseline.
64. In this context, it should be noted that the current approach is in the process of being implemented in three stages, namely 1st April 2021, 1st January 2023 and 1st August 2024, to *“provide sufficient time for planning and preparing for the additional requirements.”* according to the Minister.
65. Yet this does not come close to recognising the severe consequences the regulations will have for every farming business in Wales, including the vast majority which have

⁹ Tackling Agricultural Pollution - Progress report by the Wales Land Management Forum (WLMF) sub-group on agricultural pollution. 5th April 2018.
<https://cdn.naturalresources.wales/media/685890/interim-report-from-wlmf-subgroup-on-agricultural-pollution-final.pdf>

not recorded a pollution incident and those in areas where no incidents have been recorded.

The negative aspects of the current all-Wales approach

66. A large proportion of those who voted to leave the European Union (EU) did so with the expectation that the UK and Welsh Governments would move away from EU legislation and towards tailor-made regulations to fit and work for the domestic industries.
67. In contrast to this, the Water Resources (Control of Agricultural Pollution) (Wales) 2021 regulations are based upon the 1991 EU Nitrates Directive and decades old EU Nitrate Vulnerable Zone (NVZ) regulations and are therefore not designed to address the specific agricultural pollution issues present in Wales.
68. As already highlighted in the *Water Pollution in Wales* section (above), given the variance and nature of water pollution incidents in Wales and the inconsistent efficacy of NVZ regulations in other areas, the current approach is disproportionate and will not effectively address agricultural pollution problems in Wales, nor water pollution in its entirety, including the circa 83% caused by non-agricultural sectors and sources.
69. As such, the FUW maintains that in failing to act on or respond to the recommendations in the 2018 *Tackling Agricultural Pollution* report the Welsh Government has delayed the opportunity to work collaboratively with the agricultural industry and implement an effective targeted approach to tackling agricultural pollution.
70. Furthermore, the current regulations will place a significantly greater regulatory burden on every farmer and land manager in Wales, including the majority, who have never suffered an agricultural pollution incident, and those in catchment areas where agricultural pollution incidents have not been recorded.
71. The Welsh Government's Regulatory Impact Assessment (RIA)¹⁰ acknowledges that the regulations will cost Welsh farmers as much as £360 million in infrastructure costs alone.
72. This is around £100 million more than the Total Income from Farming in Wales in 2019, £38 million more than the Total Income from Farming in 2020¹¹, and £29 million more than Wales' annual Common Agricultural Policy budget for the period 2014-2020.
73. £360 million equates to an average of £14,600 per Welsh holding, which rises to £37,700 when only holdings with cattle are taken into account - some £11,500 more than the average Welsh farm business income in the 2019-20 financial year.

¹⁰ Explanatory Memorandum to the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021. 27th January 2021

¹¹ Aggregate agricultural output and income, 2020. Welsh Government. 13th May 2021

74. In light of these estimated costs, to date the Welsh Government has made £11.5 million of capital funding available to support farm businesses to improve on farm nutrient management infrastructure - 3% of the potential costs estimated in the RIA.
75. By comparison, the Northern Ireland Executive provided an investment package of £150 million at a grant rate of 60% for capital works when a whole territory NVZ was introduced in 2007.
76. In the context of Northern Ireland, it should be noted that the decision to implement a total territory NVZ in 2007 at least 83% of the land area would, by law, have required designation as an NVZ based on nitrate levels, while the remaining 17% was primarily upland in the Mourne, Antrim Plateau and Glens of Antrim.
77. This contrasts to Wales, where NRW only identified 8% of the country as requiring NVZ designation, while the remaining 92% of the area of Wales was not deemed to require NVZ designation under the EU Nitrates Directive as it was not considered to be at risk of nitrate pollution.
78. Currently around 55% of England is designated as an NVZ and around 11% of Scotland. Despite having a larger proportion of their land area at risk of Nitrate pollution neither England or Scotland have decided to take a whole territory approach to NVZs.
79. The impacts of the regulations will be particularly acute for the tenant farming sector; typically, agreements under the 1986 Agricultural Tenancy Act allow the tenant to request for the landlord to provide the necessary improvements to ensure that the holding complies with statutory obligations and regulations. However, there are a number of caveats involved.
80. Given the substantial costs involved to comply with these regulations, there is no doubt that arbitration between many tenants and landlords will be required, adding to existing concerns regarding the timescales for improving farm infrastructure within the transition period, given the need to seek and obtain planning permission, employ contractors and complete works.
81. Furthermore, based on an average potential cost of £14,600 for each and every farm holding in Wales, it is estimated the total cost of ensuring the 950 Welsh council farms are compliant with these regulations could be around £14 million.
82. Even in scenarios where the tenant is responsible for the cost of investment, they will most likely be refused applications for finance by the bank due to the farm being tenanted and therefore the applicant owning insufficient assets for the loan to be approved.
83. Landlords may also refuse to permit the building of a new slurry store given that under some tenancy agreements, they will be liable to reimburse the investment of the tenant for capital improvements at the end of the tenancy. This becomes an additional issue for older tenants on smaller farm holdings without plans for succession.

84. For a minority of agreements, certain clauses included in the tenancy may in fact prevent the tenant from being able to comply with particular requirements of the new regulations.
85. In 2018-19, the average profit after rent and finance on hill cattle and sheep farms and upland cattle and sheep farms was £16,428 and £17,758 respectively.
86. For the same year, hill farms and upland farms had an average of 31 and 29 cows with average Gross Margins of £241 and £350 per head respectively.¹²
87. The substantial cost of infrastructure improvements would inevitably lead to many ceasing to rear suckler cows in the hill and upland areas of Wales where the vast majority of land is classed as LFA and SDA.
88. An analysis by the charity Plantlife showed that *"...more than half of all wild plants need regular management or disturbance to thrive; 611 (39.6%) species will decline within a decade if the land on which they grow is simply abandoned and 127 (16.4%) will decline within 1-3 years. Moreover, of 112 Critically Endangered and Endangered vascular plant species, 84 (75%) will decline or even disappear if land is abandoned. Land abandonment and undermanagement is now identified as one of the major threats to sites where Red Data List plants grow and to open habitats in the UK and Europe."*¹³
89. In Portugal's Coa valley, an area once used for grazing cattle and pigs as well as cork and honey production, activities which supported a mosaic of habitats, land abandonment has resulted in much of the valley becoming overgrown with scrub and forest.¹⁴
90. It is evident that the loss of upland and hill reared suckler herds would result in the decline in species diversity and therefore the current approach would go against a longstanding policy of the Welsh government to support farmers through environmental schemes such as Glastir to graze cattle in recognition of the benefit it provides for biodiversity.
91. In regard to specific regulations included as part of the current approach, Regulation 18 will introduce closed periods for the spreading of organic manure with high readily available nitrogen in line with the definition explained in Regulation 17 i.e. slurry.
92. While there are exceptions for some holdings and soil types, the closed period will be in place from October to January, in addition to Regulation 21 which places further restrictions on spreading amount and frequency from the end of the closed period until the end of February.

¹²https://www.aber.ac.uk/en/media/departmental/ibers/farmbusinesssurvey/FBS_Booklet_2019_Web.pdf

¹³ https://www.plantlife.org.uk/application/files/6815/6475/5040/Rewilding_Position_Statement.pdf

¹⁴ The Call of Rewilding, New Scientist (13th October 2018)

93. This is the reason why major capital investments will be required for new slurry stores to comply with Regulation 29 which requires all farms that produce slurry to have the capacity to store the amount produced between 1st October and 1st March based on calculations.
94. Furthermore, these regulations in particular will place significant pressure on cattle farmers to empty their stores before the closed period and spread as much as possible within the limits after the closed period to ensure that storage capacity limits are not exceeded, rather than spreading at the optimal time in regard to weather conditions and crop requirements.
95. Such restrictions have resulted in what have become known as 'national slurry spreading weeks' in regions such as Northern Ireland where a near all territory NVZ approach has been implemented, leading to peak dangers in terms of pollution.
96. Regulation 4 places a limit on the total amount of nitrogen in livestock manure applied to the holding, whether directly by an animal or by spreading, of 170 kilograms (kg) per hectare (ha) multiplied by the area of the holding.
97. While EU NVZ regulations and the draft Water Resources (Control of Agricultural Pollution) (Wales) 2021 regulations as published by Welsh Government included a derogation whereby farmers with holdings of more than 80% grassland could apply for a derogation to increase the total farm limit from 170kg to 250kg per ha, this was removed from the current regulations without an explanation.
98. This derogation would serve as a significant safety net for a number of farmers in Wales who are already above the 170kg limit where reducing stock numbers or buying/renting additional land are not viable options, and compliance with the 170kg limit will breach contracts or tenancy agreements, or compromise the ability to repay loans.

The process for developing the current approach

99. Given that the current Regulations are merely copied from EU NVZ legislation, it might be argued that the previous Welsh Government did not follow a process for developing the current approach; rather, the process dates back three decades to the drafting of the 1991 European Economic Community Nitrates Directive and subsequent related EU legislation, such as the 2000 Water Framework Directive.
100. Notwithstanding this, attempts to improve approaches towards tackling water pollution in Wales began in 2016, and the sequence of events is summarised in the below table.

Date	Action/Process developed
29th September 2016	<p>Welsh Government issues a consultation on the Review of the Designated Areas and Action Programme to Tackle Nitrate Pollution in Wales.</p> <p>The consultation proposes either (1) an increase in the total area designated as an NVZ from 2.4% to approximately 8%, such that areas identified by NRW are included, or (2) a whole territory approach (all-Wales NVZ), and that new regulations be introduced in 2017.</p>
January 2017	<p>First meeting of Wales Land Management Forum subgroup looking at Tackling agricultural pollution (known as the <i>Agri-pollution Sub Group</i>), the focus of which is “...<i>eradicating agricultural pollution and, more fundamentally, ensuring that agriculture does not prevent the flow of clean water from our mountains and valleys.</i>”</p> <p>Initial members comprise: Farmers’ Union of Wales (FUW), NFU Cymru, Country Land and Business Association (CLA), Dwr Cymru Welsh Water (DCWW), the Tenant Farmers Association Cymru (TFA), Hybu Cig Cymru (HCC), AHDB Dairy, the Carmarthenshire Fishermen’s Federation (CFF), Natural Resources Wales (NRW) and the Welsh Government (WG).</p>
13th December 2017	<p>Written statement on the Nitrate Vulnerable Zone consultation issued by Lesley Griffiths, Cabinet Secretary for Energy, Planning and Rural Affairs, stating the Welsh Government’s intention to:</p> <p>“...<i>work with stakeholders to get the right balance of regulatory measures, voluntary initiatives and investment...explore options to provide land managers with flexibility, where these would achieve the same or better outcomes than a regulatory approach</i>” and welcoming “<i>the work being done by the Wales Land Management Forum sub group on agricultural pollution and the willingness of the industry to work with us to tackle this problem.</i>”¹⁵</p>
5th April 2018	<p><i>Tackling Agricultural Pollution</i> progress report by the Wales Land Management Forum (WLMF) sub-group on agricultural pollution submitted to Welsh Government.</p> <p>As stated in the executive summary of the 115 page report: “<i>The report is presented in nine chapters. These cover the background to the work, the nature of agricultural pollution in Wales and the approach to tackling the problem. A total of forty-five initial recommendations span the five work areas adopted by the group. Each of these work themes has a significant role and needs to be considered as part of an integrated package:</i></p>

¹⁵ <https://gov.wales/written-statement-nvz-consultation>

	<ul style="list-style-type: none"> • <i>Ensuring that the formal regulatory regime is sufficiently robust to achieve the outcomes required;</i> • <i>Developing a voluntary, farmer-led approach to nutrient management;</i> • <i>Providing better advice and guidance which can then be taken up by farmers;</i> • <i>Improving the existing range of investment opportunities;</i> • <i>Identifying and promoting innovation.</i> <p><i>The report's recommendations – ranging from the strategic to the practical – will require significant further work, resources and commitment from all partners involved in the process. All of our efforts will need to be aligned if we are to tackle the complex range of issues that result in the current levels of agricultural pollution in Wales.</i></p> <p><i>The WLMF sub-group on agricultural pollution remains committed to taking forward the five work streams we have identified, working with farmers to eradicate pollution and ensuring that Wales is renowned for the continuing professional development of its farmers across all sectors as well as the quality of its agricultural produce.</i></p>
27th June 2018	Cabinet Secretary Lesley Griffiths acknowledges receipt of the <i>Tackling Agricultural Pollution</i> progress report
27th June 2018 - present day	No substantive further response to the 5th April 2018 <i>Tackling Agricultural Pollution</i> report nor its 45 recommendations received from either the previous or current Welsh Government.
18th July 2018	Members of the WLMF Agri-pollution Sub Group discuss the Cabinet Secretary's acknowledgment of the interim report and discuss the merits of meeting with the Cabinet Secretary to discuss the recommendations.
14th November 2018	Cabinet Secretary Lesley Griffiths issues a Written Statement, stating <i>"...in the spring of next year, I will introduce regulations to tackle agricultural pollution. These will apply across the whole of Wales to protect water quality from excessive nutrients. The regulations will come into force in January 2020."</i>
14th January 2019	Details of draft all-Wales regulations are provided by Welsh Government to WLMF members. The regulations are clearly 'cut-and-pasted' from EU NVZ regulations.
11th July 2019	ADAS provides draft <i>Regulatory Impact Assessment of Measures to Address Agricultural Pollution</i>
16th July 2019	Attendees of a meeting of the WLMF Agri-pollution Sub Group highlight numerous concerns regarding the draft RIA, including those relating to risk mapping, particular impact for tenants given the restrictions placed on tenants by tenancy agreements, and how the spreading of sewage sludge and digestate would be considered within regulations.

30th July 2019	The FUW provides additional evidence to Welsh Government in regards to the regulations and RIA, proposing an alternative approach and highlighting concerns relating to how the draft regulations lack scientific evidence.
6th January 2020	Second draft <i>Regulatory Impact Assessment of Measures to Address Agricultural Pollution</i> presented to the WLMF sub-group.
7th January 2020	After considering the RIA in July and raising concerns regarding major deficiencies in the report, and further considering the updated RIA, the FUW wrote to Lesley Griffiths outlining serious concerns regarding the Welsh Government and ADAS's failure to address the shortcomings highlighted in July.
29th January 2020	<p>NRW publishes its response to the July 2019 ADAS <i>Regulatory Impact Assessment of Measures to Address Agricultural Pollution</i> sent to Welsh Government following an NFU Cymru Freedom of Information request.</p> <p>The response highlights numerous concerns regarding the proposal to implement an all-Wales NVZ, including that</p> <ul style="list-style-type: none"> ● <i>“The Current RIA considers limited options from those presented in the consultation documents</i> ● <i>“NRW believe that the RIA does not fully follow WGs own RIA guidance in terms of comprehensive presentation of options or how they are assessed</i> ● <i>“NRW would have supported a greater range of options for implementing the Regulations</i> ● <i>“[NRW] feels an opportunity could be lost in not looking at multiple implementation options</i> ● <i>“There is very little analysis on water quality, and nothing at a Wales-specific or catchment level</i> ● <i>“The cost benefit analysis...could be disaggregated into the 12 catchments analysed, helping to understand the spatial nature of the problem, and assess the appropriateness of a whole territory approach</i> ● <i>“The RIA does not include the cost benefit analysis of other sectors such as planning, recycling and waste water treatment industry</i> ● <i>“NRW not having the tools to be able to effectively delivery the regulatory inspection regimes at their current requirement levels in EU regulations. To enable regulatory enforcement with the current tools set NRW would need significant additional competent resource</i> ● <i>“At a time of uncertainty within the farming industry, it is unlikely there will be significant investment in infrastructure or willingness to invest as outlined as</i>

	<i>expected requirement and assumptions in the RIA. As a result, to comply with the regulations farming practices may change. To reduce slurry production increased outwintering of animals with the potential associated negative impacts on soil and water resources (perverse outcomes) maybe seen as a cost effect business solution...This could exacerbate potential water quality issues.</i>
8th April 2020	In the Plenary, Lesley Griffiths confirms “I will be publishing draft regulations on the Welsh Government website which I am minded to introduce once the [Covid-19] crisis comes to an end.” The draft regulations are published on the Welsh Government website.
27th January 2021	Lesley Griffiths brings the regulations forward to the Senedd despite numerous promises in Plenary not to bring them forward during the Covid-19 pandemic.
21st May 2021	The FUW sends an 11 page letter to Lesley Griffiths highlighting unclear, incorrect and unjustified information in the regulations and associated guidance document alongside suggested alternatives.
30th July 2021	The FUW provides comments on the draft Welsh Government Frequently Asked Questions document for tenanted land. The FAQ document doesn’t address any of the major issues for tenant farmers that have been raised since these discussions began.
20th August 2021	FUW receives a ‘full’ response from Welsh Government to the letter sent on 21st May, however, are unable to provide answers to many of the concerns and alternative improvements raised due to the ongoing legal challenge.

101. It must be noted that since the initial consultation on the review of tackling pollution in Wales, there are ample examples demonstrating the willingness of the FUW and other members of the Wales Land Management Forum (WLMF) subgroup on agricultural pollution to work with Welsh Government and provide evidence and recommendations on the best way forward when invited to do so.
102. However, it is clear from the above table that submissions by the FUW and WLMF subgroup have been ignored, and that rather than undertaking a process of development the previous Welsh Government effectively opted to copy decades old EU legislation into the statute book.

The alternatives to the current approach

103. Given that the current approach has been copied from outdated EU NVZ regulations and does not take into account any of the recommendations set out in Tackling Agricultural Pollution progress report submitted by the Wales Land Management Forum (WLMF) sub-group on agricultural pollution in 2018, such proposals and alternative measures are still as relevant now, if not more so, as they were then.
104. Each of the 45 recommendations span over five work areas, namely:
 - a. *Ensuring that the formal regulatory regime is sufficiently robust to achieve the outcomes required;*
 - b. *Developing a voluntary, farmer-led approach to nutrient management;*
 - c. *Providing better advice and guidance which can then be taken up by farmers;*
 - d. *Improving the existing range of investment opportunities;*
 - e. *Identifying and promoting innovation.*
105. While it is accepted that a formal regulatory baseline is required as was provided by the Storing Silage, Slurry and Agricultural Fuel Oil (SSAFO) regulations, and aside from numerous concerns regarding the efficacy and proportionality of NVZ regulations, it has been made clear on numerous occasions that increasing the 2.4% of Welsh agricultural land designated as an NVZ up to 8% would allow for a targeted and effective approach to tackling agricultural pollution in Wales.
106. As has already been made clear, a range of pan-Wales regulatory baselines already exist and there is scope to enhance and streamline these.
107. Maintaining and enhancement of the current regulatory baseline would act as an important safety net, whilst allowing targeted actions in areas where problems have been identified alongside actions above and beyond the baseline rewarded as part of the future sustainable farming scheme.
108. In this context, it is notable that the Water Resources Regulations 2021 remove the ability to secure key additional actions through the proposed Sustainable Farming Scheme, despite this having been proposed in the Welsh Government's Brexit and our Land consultation.
109. It is recognised that any approach towards tackling agricultural pollution and water pollution in its entirety in Wales will require further work, resources and commitment from all relevant stakeholders, and the FUW has demonstrated its commitment to doing this, particularly over the past five years.
110. Adopting a targeted and evidence based approach would require significantly less resources than the current all-territory approach and in turn provide better results.
111. Such an approach would also meet the "*Involvement - the importance of involving those people with an interest in achieving the stated goal*" and "*Collaboration - allowing*

those with an interest to work together supportively towards the goal” elements of the Well-being of Future Generations Act.

112. In light of the above, and given FUW committees’ and members’ support for the Tackling Agricultural Pollution report, we would highlight the below sections of the report while urging the Economy, Trade and Rural Affairs committee to take account of the report in its entirety.
- a. In the medium term, Cross Compliance will, at the very least, need a comprehensive overhaul following Brexit*
 - b. In the longer term, maintaining regulatory standards aligned with existing and future EU regulations is likely be central to ensuring continued access to European markets post-Brexit*
 - c. A consistent and transparent regulatory floor will likely provide similar benefits in accessing other EU and non-EU premium markets*
 - d. With finite resources available for compliance monitoring and enforcement, a seamless and streamlined regulatory landscape that focuses the regulator’s effort and enforcement options according to risk will ensure that the greatest positive impact can be achieved in the most effective manner*
 - e. The combination of a simplified, rational regulatory landscape, designed and operating in concert with a farmer-led voluntary approach, targeted investment and the support of on-farm innovative techniques to better manage slurry storage and dispersal, should provide a seamless path to enhanced environmental outcomes, improved business efficiencies and access to existing and new markets. None of these approaches operating on their own is likely to accomplish the desired outcome to the same degree*
 - f. A consistent regulatory floor provides an important environmental safety net should the voluntary scheme not fulfil expectations, ensuring that the condition of the aquatic environment in Wales is enhanced rather than degraded*
 - g. Compliance above an appropriately positioned regulatory floor may also reasonably serve as a gateway to accessing the future incentives and investment measures that the sub-group may wish to recommend to the Cabinet Secretary*

How the current approach could be improved if an all-Wales approach were to be retained

113. The FUW believes that the Water Resources Regulations 2021 are so ill suited, disproportionate and damaging that negating the problems inherent to them would require nothing short of a complete overhaul such that they reflect the recommendations in the Tackling Agricultural Pollution report.
114. Notwithstanding this, the FUW wrote to Minister for Rural Affairs, North Wales and Trefnydd, Lesley Griffiths on 21st May 2021 and included an 11 page document that highlights examples of inaccurate information and anomalies in the regulations and

accompanying guidance, and reiterating adverse and perverse implications that would be damaging for Wales and its environment.

115. Examples of concerns included in the report included requests that Welsh Government:
- a. Provides clarity on whether farmers should use average rainfall or highest rainfall data to calculate slurry storage requirements, recommending the use of average figures as per previous NVZ regulations.
 - b. Reconsiders the categories of livestock and associated weight and milk yield thresholds and daily N production in such a way that makes it easier for farmers and regulators to complete calculations and demonstrates an accurate relationship between liveweight and manure production.
 - c. Provides an explanation as to why the option for a derogation to increase the annual livestock manure N whole farm limit from 170kg N per ha to 250kg N per ha on primarily grassland farms was removed from the final regulations without consultation and to re-introduce it to enable farmers in Wales to maintain stock and food production levels where suitable.
 - d. Undertakes an evaluation of the financial, environmental and biosecurity impacts of setting the whole farm limit for spreading manure at 170kg N per ha whereby farmers are expected to fulfil the remaining crop requirements using manufactured fertilisers while simultaneously exporting naturally produced fertilisers to other farm holdings.
 - e. Considers Anaerobic Digestion (AD) plants and any associated pollution incidents as specialist industrial processing plants under separate standards.
 - f. Recognises the importance of farms to water companies for the disposal of sewage treatment material and ensures that the agricultural sector is not held disproportionately responsible for pollution incidents in Wales.
116. To date a substantive response has not been received due to the ongoing legal challenge to the regulations.
117. The FUW has also responded in detail to Welsh Government guidance for tenants and landlords on the legislation, highlighting that this merely highlights and acknowledges the severe impacts for tenants and/or landlords and effectively abdicates responsibility for addressing these by recommending costly legal advice and arbitration processes.

NFU Cymru Consultation Response

September 2021

Inquiry on the impact of the Welsh Government's Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021

1. NFU Cymru welcomes the opportunity to respond to the Economy, Trade and Rural Affairs Committee Inquiry on the impact of the Welsh Government's Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 following the vote in the Senedd in June to instruct the relevant Committee to review the Regulations which have far reaching consequences for every farm business in Wales.
2. NFU Cymru's vision is for a productive, profitable and progressive farming sector producing world renowned climate-friendly food in an environment and landscape that provides habitats for our nature to thrive. Welsh food and farming delivering economic, environmental, cultural and social benefits for all the people of Wales whilst meeting our ambition for net zero agriculture by 2040.
3. The importance of the farming industry in rural Wales cannot be overstated. Welsh farming businesses are the backbone of the Welsh rural economy and the axis around which rural communities turn. The raw ingredients produced on Welsh farms are the cornerstone of the £7.5 billion Welsh food and drink supply chain employing 229,000 people.
4. The Welsh public associate Welsh farmers, first and foremost, with providing safe, high quality and traceable food. Welsh farmers also look after 80% of the land area of Wales, maintaining and enhancing our natural environment – Wales's key asset. Farming activity supports a diverse range of species and habitats, provides a range of ecosystem services including carbon sequestration, flood alleviation; also delivering the significant backdrop – our iconic Welsh landscapes – for Wales's tourism and recreation sector worth an estimated £3 billion annually.
5. Welsh farmers are key promoters and protectors of our culture, heritage and language with the highest proportion of Welsh speakers of any sector and it has long been recognised that moves to undermine the viability of Welsh agriculture are likely to represent a significant threat to the Welsh language.
6. Overall Welsh farming makes an unparalleled contribution to the economic, environmental, social and cultural well-being of Wales as shown in the NFU Cymru [Farming – Bringing Wales Together report here](#).

The Regulations

7. The Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 came into force on 1 April 2021 with transitional periods for some measures. The Regulations make provision concerning the protection of waters against pollution by nitrates from agricultural sources and, in effect, introduce a Nitrate Vulnerable Zone (NVZ) across the whole of Wales.
8. The Regulations replace the Nitrate Pollution Prevention (Wales) Regulations 2013 which controlled the application of nitrogen fertiliser in nitrogen sensitive waters through discrete NVZ designations and, the Water Resources (Control of Pollution) (Silage and Slurry) (Wales)

9. Regulations 2010 which regulate the custody and control of silage and slurry and provide the design and construction standards applicable for its storage.

Water quality in Wales

10. The introduction of regulations to control agricultural pollution needs to be considered in the context of water quality in Wales and agriculture's impact.
11. The evidence is clear that the Regulations have been introduced against a longer-term trend of improving water quality in Welsh rivers observed over the last 25 years. Based on latest monitoring data from Natural Resources Wales (NRW), 38 per cent of our waterbodies achieve good ecological status under the terms of the Water Framework Directive (WFD). This is an improving position compared to 2015 when it was just over one third¹.
12. A high degree of variation in water quality is observed across Welsh catchments. Reasons for WFD failure are complex and varied and include physical modifications, pollution from sewage and wastewater, pollution from towns, cities and transport, pollution from rural areas, pollution from mines as well as impacts associated with changes in flow and water levels, invasive non-native species and acidification.
13. Most recent WFD reporting undertaken by NRW in 2018 identifies that 113 waterbodies are failing due to agriculture – approximately 12 per cent.
14. Monitoring of pollution incidents to water undertaken by NRW shows there are a range of issues influencing water quality in Wales including agriculture, domestic and residential, forestry, manufacturing and transport, waste and the water industry.
15. NRW data for 2020 shows that, by sector, the water industry had the highest number of substantiated pollution incidents. Analysis of data relating to agricultural incidents with impact to water during the period 2001 to 2020 shows the total number of incidents per year has ranged from 96 at its lowest to 197 at its highest. There has been no discernible trend upwards or downwards over the past twenty years. A reduction in agricultural pollution incidents of 28 per cent has been observed over the last three years (2018-2020).
16. In terms of spatial distribution, NRW data shows many waterbodies across Wales have not incurred a single incident of agricultural pollution in the last ten years.
17. Much has been made of the 'three incidents of agricultural pollution per week'. This needs to be understood in the context of the NRW classification system which categorises pollution incidents according to impact. Since 2016, NRW have categorised incidents as High or Low impact – replacing the system of categorising incidents as 1, 2, 3 or 4. High impact incidents include category 1 and 2. Category 1 is defined as major, serious, persistent and/or extensive impact or effect on the environment. Category 2 is significant impact or effect on the environment, people and/or property. Low impact incidents include category 3 and 4; category 3 representing incidents that have minor or minimal impact and category 4 being a substantiated incident with no impact.
18. NRW data from 2001 to 2020 show the number of High Impact (category 1 and 2) agricultural pollution incidents has ranged from 12-40, with an average of one per fortnight.

¹ It is important to note that WFD classification is based on the worst of its ecological or chemical status. Known as the 'one out all out' rule, it is widely acknowledged that this can result in masking improvements between WFD cycles.

19. In addition to NRW monitoring data, the Glastir Monitoring and Evaluation Programme (GMEP) – the most comprehensive monitoring of Agri-environment schemes anywhere in Europe – established through field survey that the condition of headwater streams has also shown ongoing general improvement since 1990.
20. Monitoring for the EU Bathing Waters Directive shows that Wales has the best bathing water in the UK.
21. With respect to nitrates, which is the stated purpose of the Regulations, [the review](#) of evidence in line with the established methodology undertaken by NRW in 2015 resulted in a recommendation to increase the total area of land designated as NVZ from 2.4 per cent to 8 per cent of Wales.
22. It is clear that regulations across the whole of Wales have been taken forward by Welsh Government despite a complete absence of evidence to show that measures are needed to protect waters from nitrates from agricultural sources in practically all of Wales.

NFU Cymru position on regulation

23. Regulation is an issue that time and time again comes up as one of the key factors impacting on farmer confidence, stifling investment and farm business development. This has consequences for rural vitality and the Welsh economy as a whole.
24. Poor regulation imposes burdens on business which are disproportionate to any benefits derived. These burdens add to costs, place businesses at a competitive disadvantage and deter businesses from undertaking activities valuable to society. NFU Cymru believes good regulation should balance the fundamental value of an economic activity with appropriate controls which ensure that the risk of harm is minimised.
25. Brexit and our departure from the EU mean that for the first time in our nation's history we have an opportunity to deliver a fairer and more proportionate regulatory framework. NFU Cymru is firmly of the view that science and evidence must be at the heart of policy and decision-making with decisions based upon the most robust scientific evidence. Where regulation is deemed necessary, it should be proportionate and targeted and focus on the delivery of outcomes rather than process. It should not be applied in a blanket fashion, especially where better and more cost-effective solutions to problems exist.
26. While NFU Cymru is clear about the role that farming has to play in contributing to improved water quality in Wales, we categorically and robustly reject the regulatory approach adopted through the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 which introduce an NVZ across the whole of Wales. We identify there are no positive aspects to Welsh Government's all Wales approach.

Legislative framework

27. The EU Nitrates Directive was introduced in 1991. Now thirty years old, the Directive is widely acknowledged as an outdated piece of European legislation and represents a blunt, inefficient, bureaucratic and costly instrument which results in high costs for farming and unintended consequences for the environment.
28. In the intervening period significant shifts in thinking in the sphere of environmental legislation have occurred with regulatory and policy approaches moving away from a focus on single issues to a more balanced approach. The EU Water Framework Directive, for example,

considers all factors influencing water quality within the catchment, the Directive also takes into account the cost-effectiveness of actions.

This more balanced, holistic approach is also reflected in Welsh legislation. The Environment (Wales) Act 2015 puts in place the legislation to plan and manage Wales's natural resources in a more pro-active, joined up way through the sustainable management of natural resources (SMNR). The Act also establishes ways of working including working together – co-operating and collaborating; being adaptable – planning, monitoring, reviewing and changing as a better understanding is gained through experience and evidence; as well as a requirement to consider a range of evidence, not only environmental, but also economic, social and cultural from experts, stakeholders and local communities. As a result, and in the context of the decision to leave the EU in June 2016, we are surprised and disappointed that Welsh Government has opted for a 'cut and paste' of an outdated EU Directive.

The All-Wales NVZ approach

29. NFU Cymru is clear the approach adopted by Welsh Government to introduce regulatory measures to tackle agricultural pollution is outdated, does not align with the Environment Act and the principles of working it establishes. It represents neither a collaborative nor adaptive approach. Applying the Regulations across the whole of Wales takes no account of the evidence, specifically water quality monitoring data for WFD; incidents of pollution to water and the recommendations of NRW in the 2016 Nitrates Review.
30. In summary, there is no evidence to justify a whole Wales approach, many catchments in Wales have good WFD status and there is a long-term trend of improvement. Many catchments have incurred no agricultural pollution incidents. Hence a whole Wales approach is disproportionate and burdensome on farm businesses within these catchments.
31. In addition, there is no evidence that a whole territory NVZ approach will be effective in reducing the levels of agricultural pollution that Welsh Government is seeking to address. Information obtained from NRW provides no substantive evidence of the effectiveness of the NVZ Action Programme in reducing agricultural pollution despite longstanding designations dating back to 2002. In fact, spikes in nitrates have been observed prior to the start of and at the end of the closed periods. In its Nitrates Review of 2016, Welsh Government stated that they considered it too early to meaningfully analyse the success of the existing (NVZ) Action Programme. The decision to expose every farm business in Wales to costly and burdensome NVZ regulation appears perverse as a result.
32. NFU Cymru maintains in the context of a changing climate where there is growing consensus that Wales will experience more extreme and challenging weather events, it is vital that farmers are allowed the flexibility to undertake field operations appropriate to the conditions as opposed to 'farming by calendar'. We maintain the unintended environmental consequences of NVZ regulations are likely to greatly outweigh the benefits.
33. NFU Cymru also opposes the Regulations on the grounds of the disproportionate costs placed on every farm business in Wales. Welsh Government's own impact assessment estimated costs of up to £813.5 million over twenty years including upfront costs of up to £360 million capital investment in new infrastructure, £7.5 million one-off planning costs and annual operational costs of £22.3 million. This is set against an estimated environmental benefit of £304 million (estimated to range from £153 million to £526 million).
34. It should be noted that in determining the value of environmental benefit, Welsh Government's impact assessment quantifies a range of environmental pollutants including nitrates, phosphates, ammonia and greenhouse gases going beyond the stated aim of the regulations which refers to nitrates from agricultural sources.

35. Welsh Government's decision not to include the derogation to the 170 kg/ha N limit for farms with over 80 per cent grassland is a *de facto* stocking limit requiring destocking on many Welsh farms with impacts to farm viability, critical mass within the supply chain and employment. The Regulations also undermine Wales's natural advantage of a temperate climate and extended grazing season and the ability of farmers to produce high quality protein off grass. Welsh Government's decision not to include the grassland derogation could ultimately lead to an off shoring of production to locations where environmental, social and animal welfare standards are lower. This is not a globally responsible position for Welsh Government to adopt.
36. As a result of the Regulations, every farmer in Wales will be required to undertake draconian record keeping irrespective of sector and scale and the water quality in their catchment. These records, known to be highly complex, are subject to cross compliance inspection and penalty.
37. Moving forward, Welsh Government proposes existing regulation (including the Control of Agricultural Pollution Regulations) will be incorporated into National Minimum Standards, compliance with which will be a pre-requisite to accessing future support through the proposed Sustainable Farming Scheme. This places in jeopardy those business who, for whatever reason, are unable to reach regulatory compliance. We are clear that tenant farmers and farms already burdened by a bovine TB breakdown will be particularly at risk.
38. The introduction of regulation also needs to be considered in the context of uncertainty associated with Brexit, the pandemic, the impact of future trade deals and the development of future agricultural policy to replace the Common Agricultural Policy. Thus far proposals have focussed on public funds for the delivery of a range of public (mainly environmental) goods. NFU Cymru remains concerned that future policy proposals lack measures to provide stability to underpin farm business viability. This stability will be essential for farm businesses needing to make very costly infrastructure investments to meet regulatory compliance.
39. NFU Cymru has long lobbied for a well-resourced and realistic grant scheme for slurry and manure storage. We view this as central to addressing agricultural pollution. Despite imposing the maximum pillar transfer of 15 per cent – a decision unique across Europe – delivery of the Rural Development Programme (RDP) (2014-2020) has been found to be slow and sporadic. The application process across many schemes has placed a disproportionate and costly burden on farm businesses which has been unrealistic in relation to the amount of funding sought. NFU Cymru is clear that Welsh Government has missed a key opportunity to implement a targeted programme of advice and investment support to improve water quality through the RDP. As a result, Welsh Government has lost the confidence of farmers and lessons must be learned through a comprehensive review to inform the development and implementation of future schemes.
40. Finally, the decision to introduce an all-Wales NVZ approach must also be considered in terms of the availability of resources, both in terms of regulatory enforcement and the targeting of resources such as advice and guidance and investment support. It seems counter-intuitive to us, in the context of diminishing resources, that Welsh Government would not take forward a regulatory approach that would enable the available resources and funding to be targeted to those areas shown to be failing WFD due to agriculture.

Process for developing the regulations

41. The Inquiry seeks views on the process by which the Regulations have been developed. We highlight this process has been a source of significant disappointment to NFU Cymru. It does not align with the ways of working established in Welsh Government's legislative framework or, indeed, its stated approach within the Water Strategy which identifies that successful action to improve our water environment will require a pooling of expertise and a collaborative approach.
42. Regulation of agriculture in the area of water quality has been the subject of a number of public consultations in recent years. In August 2015, Welsh Government initiated a review of the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (Wales) (SSAFO) Regulations 2010. Welsh Government provided no evidence that changes to the SSAFO Regulations were required and opted not to include a Regulatory Impact Assessment as part of the policy development process.
43. In September 2016, Welsh Government launched its consultation to review the designated areas and Action Programme to tackle Nitrate Pollution in Wales. The consultation sought views on whether the area of land which was designated NVZ in Wales should increase from 2.4 per cent of Wales to 8 per cent, based on the evidence review undertaken by NRW, or the whole of Wales. Again, Welsh Government failed to undertake a Regulatory Impact Assessment. NFU Cymru conducted its own survey of nearly 300 farmers and found that almost one third of farmers would need to spend over £100,000 to achieve regulatory compliance. Almost 40% declared they would need to give up farming.
44. In June 2017, Welsh Government launched a consultation entitled 'Taking Forward Wales's SMNR'. Again, no Regulatory Impact Assessment was undertaken. One chapter within this consultation sought views on the introduction of Basic Measures to provide minimum standards for undertaking specified low risk activities including those relating to water quality. Proposals relating to Basic Measures – an entirely new regulatory regime for Welsh farming – extended to less than two pages. This provided insufficient information for meaningful consultation with our members. No information, for example, was provided on whether Basic Measures would replace pre-existing regulation such as SSAFO or the discrete NVZ areas. NFU Cymru was clear in its response that the consultation was fundamentally flawed as a result.
45. In addition, there have been three consultations relating to future agricultural policy to replace the EU Common Agricultural Policy which have also included proposals relating to the future regulatory baseline. It has consistently been the position of NFU Cymru that future agricultural policy, funding and the regulatory framework are matters that are completely intertwined and need to be considered together, particularly as Welsh Government proposes that achieving compliance with the regulatory baseline will be the 'gateway' to accessing future support.
46. The decision to introduce an all Wales NVZ is contrary to this approach. We foresee a situation where farmers, particularly those within the tenanted sector who are unable to secure the necessary upgrades or replacement farm infrastructure, and farmers under bovine TB movement restrictions who will be placed in the invidious position of having to decide which set of regulations to breach, will be unable to meet the National Minimum Standards and, therefore, unable to participate in future schemes potentially putting them out of business.
47. Introducing the regulatory baseline at this level has also put into the sphere of regulation actions to enhance water quality and nutrient management that may have been supported as public goods not rewarded by the market in the future scheme.

48. Welsh Government's all Wales NVZ approach also undermines its own objective of developing a new, streamlined regulatory framework.
49. Parallel to this series of Welsh Government consultation, NFU Cymru and other stakeholders have invested significant time and resources on this issue recognising the role that farmers play in maintaining and enhancing water quality in Wales. We are clear of our role as NFU Cymru. This is to work to create the right conditions and ensure the framework, mechanisms and support are appropriate to enable farmers to take pro-active steps to improve water quality where this has been shown to be needed.
50. NFU Cymru are strong advocates of appropriate interventions where poor practices are responsible. It is our long-held view that any approach must be evidence-based, providing local solutions to local problems working in partnership with industry to be effective.
51. In 2017, following extensive consultation with our membership, NFU Cymru published our [vision](#) for improved water quality in Wales. Our vision recognised that a spectrum of approaches is needed to deliver the improvements in water quality we all want to see. Positive action at the farm level can be facilitated by the provision of advice and guidance as well as appropriate incentive mechanisms that recognise the significant investment costs associated with farm infrastructure.
52. Participation in assurance schemes and 'earned recognition' and novel approaches including trading, off setting and innovative technologies that look beyond formal regulation can also deliver positive environmental outcomes. We believe smart and proportionate regulation should be the backstop.
53. As an organisation, NFU Cymru has also made significant efforts to raise awareness of agricultural pollution and the role the farming sector has to play in improving water quality in Wales to our members. Despite the limitations placed on us by the pandemic we have continued to ensure this remains top of the agenda and have included a water quality feature in our monthly magazine, Farming Wales.
54. In early 2017, under the auspices of the NRW Wales Land Management Forum (WLMF), a sub-group was established to consider agricultural pollution. This expert group included representatives from Welsh Government, NRW, farming and a range of public and third sector organisations and has focussed on the development of a mutual understanding of the root causes of agricultural pollution and working collaboratively on the identification of a range of approaches capable of driving environmental improvements.
55. In depth examination of the issue by the sub-group determined that there is no one simple solution. A programme of education, training, voluntary initiatives by farmers, incentives, investment and innovation that is underpinned by smart regulation and additional resources and monitoring is required.
56. Following the Written Statement from the Cabinet Secretary for Energy, Planning and Rural Affairs on the NVZ consultation in December 2017, the sub-group was invited to provide a [progress report](#) to the Cabinet Secretary in April 2018. The report, presented across nine chapters, included a total of forty-five recommendations spanning five key work areas adopted by the sub-group. The sub-group agreed that each of the work themes had a significant role to play and needed to be considered as part of an integrated package:
 - a. Ensuring that the formal regulatory regime is sufficiently robust to achieve the outcomes required.
 - b. Developing a voluntary, farmer-led approach to nutrient management.

- c. Providing better advice and guidance which can then be taken up by farmers.
 - d. Improving the existing range of investment opportunities.
 - e. Identifying and promoting innovation.
57. Chapter 4 of the progress report explores the role of regulation, and its suite of recommendations sets out an agreed and credible pathway to take forward the development of regulation. A mandate was explicitly sought from Welsh Government for the sub-group to be charged with taking forward work in a number of key areas including building a consensual understanding of the present issues (gaps, enforcement and effectiveness) within the existing regulatory landscape, further and urgent exploration of regulation around slurry spreading practices, exploration of the potential of basic measures, the Environmental Permitting Regime for intensive farming and revisiting the SSAFO review.
58. Despite the significant time and resource committed by members of the WLMF sub-group and the consensus built around its 45 recommendations, a formal response to the progress report has never been received from Welsh Government. NFU Cymru is clear that a very significant opportunity has been missed and we believe Welsh Government must learn lessons from the approach it has adopted to the development of these Regulations

The alternatives to the current approach

59. The Cabinet Secretary's Written Statement of December 2017 also signalled Welsh Government's apparent willingness to work with stakeholders to explore voluntary approaches to nutrient management to provide land managers with flexibility, where these could achieve the same or better outcomes than a regulatory approach.
60. To take forward this work stream, the WLMF sub-group led by NFU Cymru secured partnership funding from NRW in August 2018. NFU Cymru match funded the project directly and in-kind to the sum of £78,750 with other project partners providing in-kind support. Welsh Government and NRW contributed to the project in an advisory capacity.
61. NFU Cymru appointed a Water Quality Adviser to explore options and potential for a farmer led approach to delivering water quality improvements within the broader framework of advice, investment, regulation and innovation. Collaboration was at the heart of the project and through working with the regulator and Welsh Government, the project sought to identify common ground to developing a suite of voluntary measures providing tangible protection to Wales's water environment.
62. A key output of the project, which concluded in March 2020, was a comprehensive [water standard](#). This was shared with the First Minister and Minister for Environment, Energy and Rural Affairs in March 2020 to which a short acknowledgment from a Welsh Government official was subsequently received. NFU Cymru has yet to receive a substantive reply to the detailed proposals put forward within the 54-page Water Standard document. In April 2020, Welsh Government published the draft Control of Agricultural Pollution Regulations alongside a commitment not to introduce regulations during the coronavirus pandemic.
63. The lack of meaningful engagement from Welsh Government on the water standard, alongside the failure of Welsh Government to respond to the WLMF sub-group progress report has completely undermined the confidence of stakeholders. Whilst Welsh Government has made much of Article 45 of the Regulations which provide for alternative measures to be considered by Welsh Ministers, the level of distrust is such that whether this is, in fact, a genuine offer is very much doubted by the farming industry.

64. The Regulations state that if proposals for an alternative suite of measures for delivering the outcomes are received within 18 months of the Regulations coming into force, then Welsh Ministers must consider whether those measures would deliver the outcomes more effectively than the measures contained in these Regulations. The Regulations state that if Welsh Ministers are satisfied that proposals submitted would be more effective, they must publish a statement within two years of these Regulations coming into force, explaining what action will be taken.
65. NFU Cymru does not believe Article 45 to be a credible or feasible provision. For a start, Welsh Government officials have yet to define what 'outcomes' it expects the Regulations to achieve. This has resulted in significant ambiguity around whether outcomes are set in the context of nitrates as per the regulations; whether outcomes relate to the full range of agricultural pollutants used to determine environmental benefit for the purposes of the Regulatory Impact Assessment; whether there is any spatial dimension applied to how 'better outcomes' will be assessed by Welsh Government; and, how in reality it will be possible for an individual farmer to achieve and demonstrate a 'better outcome' where WFD water quality is already good within their catchment..
66. It is also important to recognise that Annex III of the EU Nitrates Directive, the approach that Welsh Government thus far appears to be unwilling to deviate from, sets out specifically what measures must be included within an NVZ Action Programme.
67. The timelines established within Article 45 of the Regulations are also completely unworkable in the context of the transitional periods included within the Regulations which range from 1 April 2021 to 1 August 2024. For example, Articles 4 & 5 of the regulations relate to the 'Application of livestock manure – total nitrogen limit for the whole holding' and 'Spreading organic manure – nitrogen limits per hectare'. These are implemented from 1 January 2023. For those farm businesses above the 170 kg/ha limit currently they will need to either secure additional land, destock, or put in place arrangements for export of slurries and manures. Plans to make those changes must begin now, in reality based on production cycles and breeding programmes they should have begun some time ago and will involve some major and far-reaching decisions that will often require the agreement of the business' financial provider. The impact of the Regulations, which for some businesses will represent an existential risk, will be felt before Welsh Government has had time to consider any alternative measures put forward or say what it is prepared to do as a result. It is important to recognise that Welsh Government would need to introduce further legislation to implement any alternative approach(es).
68. NFU Cymru believes it is highly unrealistic for Welsh Government to expect farmers to wait until 1st April 2023 (by which time Welsh Ministers would have to publish a statement on the alternative measures explaining what action will be taken) before moving forward with the farm infrastructure investments for slurry storage that will be needed to reach compliance by 1st August 2024. The transitional periods for the introduction of the Regulations are such that farmers do not have the luxury of waiting if they are to be compliant within the implementation periods specified by Welsh Government. These are extremely challenging in the context of the planning regime, availability of finance, contractors and materials to take forward this work.
69. Overall, NFU Cymru has committed significant time and resource to working with Welsh Government and other stakeholders to improve water quality in Wales through the development of a regulatory approach that delivers the outcomes we all want to see whilst enabling farm businesses in Wales to continue and thrive. NFU Cymru has long acknowledged the need for regulation. Through the WLMF sub-group progress report, consensus was achieved and a credible blueprint to move forward was agreed. Time and time again we have reiterated our commitment to work with Welsh Government on the

development of smart regulation and it is a source of significant disappointment and frustration to NFU Cymru that Welsh Government have rejected every opportunity to work in a constructive way with the farming industry, apparently fixed on an all Wales NVZ approach despite the evidence that this approach will not be effective in reducing agricultural pollution and will do great harm to the food and farming sector.

70. NFU Cymru is clear, in terms of alternatives to the current all Wales NVZ approach, the development of regulation should start with a review of what regulation is already operational in this sphere; analysis is needed to understand the current issues with regulation; what are the gaps; consideration of why existing regulation is not judged to be effective etc.
71. NFU Cymru continues to be ready to engage fully in this process. We identify the development of the Agriculture Bill, which is to be introduced in the first year of this Senedd term, and which will provide the framework to support farmers in future and the proposed National Minimum Standards, means this work remains highly relevant.

Improvements to the current approach

72. As above, NFU Cymru continues to categorically reject an all Wales NVZ approach on the basis of the [available evidence](#). In 2019, we submitted over 100 pages of evidence setting out not only the cost and complexity associated with an all Wales NVZ and the burden it places on those farming within NVZs, but also the very limited positive contribution that NVZs deliver for improved water quality and the unintended environmental consequences. NFU Cymru's position has not changed.
73. Without prejudice to our stated position, if the current all Wales NVZ approach were to be retained, we identify, as a very minimum, the following measures would be essential to mitigate some of the most harmful impacts:
 - a. The derogation for farmers with 80 per cent or more grassland above the 170kg/ha N limit that existed in Wales previously, when 2.4 per cent of Wales was designated NVZ and which exists across the rest of the UK and in other European countries, is essential.
 - b. Welsh Government should amend legislation to extend the existing transitional periods to at least 4 years to allow farmers more time to prepare their businesses. Again, by way of objective justification, this would follow the EU Nitrates Directive (Article 5), which states that Action Programmes shall be implemented within 4 years of their establishment.
 - c. Welsh Government should provide appropriate levels of investment support. This must be a new and additional financial commitment and not redeployed from funding currently targeted at Welsh farming. In Northern Ireland when they took forward whole territory designation over ten years ago, £140 million of domestic funding at a grant rate of 60 per cent was made available to farmers. Based on Welsh Government's Regulatory Impact Assessment this equates to £216 million of support at an equivalent intervention rate.
 - d. Welsh Government must recognise that investments in new infrastructure are significant, long-term investments and must seek to provide stability for farm businesses by committing to continuing the Basic Payment Scheme at, at least, current levels until the proposed Sustainable Farming Scheme is fully operational and has been shown to provide at least equivalent levels of stability to farm businesses in Wales.
 - e. To address, in part, the fundamental issues that will be faced by tenant farmers and farms under bovine TB restriction referred to in paragraph 46 above, all Wales NVZ approach contained in the current regulations must not form part of National Minimum Standards which are to be the 'gateway' to future support.

- f. New planning guidance must be issued to Local Planning Authorities and NRW to ensure that planning applications for infrastructure to achieve compliance with the regulations are enabled and not prevented by other factors such as the NRW ammonia screening guidance and the recent NRW SAC Rivers Phosphates Review and NRW guidance issued to Planning Authorities as a result.
- g. As per the Action Programme in Northern Ireland, the Regulations need to include an exemption for spreading during the closed periods in exceptional circumstances which must also include provision for those farms impacted by a breakdown of bovine TB.
- h. An exemption from record-keeping should be afforded to all farms that do not produce or utilise organic manures with high nitrogen content.

Conclusion

- 74.** To conclude, NFU Cymru would place on record our thanks to the Committee for taking forward this important Inquiry. While NFU Cymru is clear of the role that farmers have to play in improving water quality in Wales, we are also clear that the regulatory framework introduced by Welsh Government will not achieve this and will have far reaching consequences for farm businesses across Wales. We trust that this contribution addresses the questions raised by the Committee and we look forward to giving oral evidence to the Inquiry on 30th September 2021.

Welsh Government's Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021

October 2021

Introduction

Wales Environment Link (WEL) has strongly supported the introduction of the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 because Wales needs to take urgent action to ensure that pollution is controlled at source, before it is too late to recover our river and other ecosystems.

NRW's River Basin Management Plans for Wales highlight "diffuse pollution as a key reason for failure to meet good ecological status in a number of rivers". The 2020 State of Natural Resources Report (SoNaRR) states that:

- 66% of river water bodies fail to achieve good ecological status under the Water Framework Directive (WFD) classification;
- no freshwater ecosystem type achieves a high score for all four resilience attributes;
- three species associated with rivers, white-clawed crayfish, freshwater pearl mussel and southern damselfly - are at risk of extinction in Wales;
- the latest salmon and sea trout stock assessments show a continuing sharp decline; and
- one of the major causes is continued widespread agricultural diffuse pollution, resulting in elevated nutrient (such as nitrogen and phosphorous) and sediment loadings into freshwaters.

Natural Resources Wales recently stated that over 60% of the most protected SAC rivers in Wales exceed phosphate pollution limits – this includes the Rivers Cleddau, Eden, Gwyrfai, Teifi, Tywi, Glaslyn, Dee, Usk and Wye. These rivers support some of Wales' most special wildlife like Atlantic salmon, freshwater pearl mussel, white-clawed crayfish and floating water-plantain.

Agriculture is also a significant source of air pollution in the forms of ammonia and nitrous oxide emissions, leading to significant impacts on public health, the climate and biodiversity.

Previous legislation and good practice guidelines such as the Code of Good Agricultural Practice (CoGAP) have been insufficient to prevent diffuse pollution from farms in Wales. Farm pollution events have occurred for many years and are not improving. In some areas they are increasing as the intensification of agriculture is established in new areas. The new regulations are vitally needed if this trend is to be reversed.

We have answered the Committee's specific questions below, but we have not commented on the process for introducing them, as we understand this may be the subject of judicial review.

Positive aspects of the current all-Wales approach

As the new regulations will have greatest impact on slurry-based systems its impact is most likely to be felt by the c.1600 predominantly dairy farms in Wales (which is also the sector responsible for most pollution incidents). NRW data from its recent dairy project indicates around 50% do not have sufficient storage to manage slurry effectively (measured against the SSAFO 4 months requirement). For these farms, the Welsh Government has indicated funding will be available to help them respond and has committed £35m in 2020 and 2021 to help improve on-farm nutrient management infrastructure and water quality. In some cases what may be required are relatively low-cost solutions to keep clean and dirty water separate e.g. maintain/improve guttering and roofs over existing slurry stores. If a farm does not produce slurry then the regulatory approach will have little impact on them.

WEL members support an all-Wales approach because it is important to regulate activity that could cause pollution, rather than focusing on geographical areas. A pan-Wales approach allows for regulation of activity in all areas and is ready for intensification of the industry moving into new, more sensitive areas, including the impacts of short-term leases for dairy production outside traditional areas. If the regulations were not pan-Wales these new operations would be able to avoid

geographically defined areas of increased regulation. The all-Wales approach places all farmers and contractors on a level playing field. A system with discrete NVZs would establish a competitive imbalance between farmers within the zones and those without. The current approach ensures that there is regulation where needed and allows for future changes within the industry. The phased approach and support grants provided by the Welsh Government should enable necessary improvements.

Various voluntary solutions to the problem, including some schemes from farmer-led groups, have been suggested and tried over the years, but none have had the required impact at scale that has produced significant improvements to pollution. There have been a variety of reasons for this, including lack of investment to implement successful voluntary projects at the required scale and difficulty engaging all farm businesses. The voluntary CoGAP rules (which are Wales-wide) have also not prevented agricultural pollution from contributing to the steady decline of our rivers in the last 10 years, so we are pleased to see some of these rules put on a statutory basis within the regulations. Whilst we are also aware of the contribution of water company pollution, which is being widely discussed at the moment, this should not result in a loss of focus on the impact of agricultural pollution, which is worsening as the industry grows and intensifies. Both types of pollution are unacceptable and both need to be tackled.

Given the difficulty of embedding effective voluntary approaches across Wales over the last decade, WEL members are of the opinion that a Wales-wide regulatory approach is strongly needed, though we remain concerned that the new regulations will not have the desired effect if NRW does not have the resources to properly enforce them.

[Alternatives to the current approach](#)

The Afonydd Cymru Water Quality Improvement Project (2019) was delivered in two sub-catchments, one of which is the Ceri, which falls within the Teifi catchment. This project aimed to establish an advisory function within Wales to engage land managers, encourage separation of clean and dirty water, reduce losses of slurry, manure and sediment and reduce the impact of diffuse pollution. Working with

farmers in the sub-catchment afon Ceri (Ceri brook), the project achieved returns on investments within 12 months and farmers were found to be receptive to implementing changes.

However, whilst individual voluntary initiatives have shown potential, the overall position across Wales is of worsening pollution impacts. WEL members believe that the Control of Agricultural Pollution Regulations' provision to require nutrient management planning could drive very significant improvements in both water quality and air quality, and that this is needed to drive forward activity at scale. Activity to tackle pollution needs to be driven by a strong regulatory baseline, but also investment in advice, enforcement and farmer support to bring all farm infrastructure up to a minimum standard.

Using cost estimates from the Afonydd Cymru Water Quality Improvement Project, replicating this project across the entire area of Wales would theoretically cost £8.4 million for one-off on-farm capital works payments matched 1:1 with farmer contributions. In addition, for catchment advisors, a cost based on somewhere in the region of 500 advisors would cost £27 million per annum. This level of investment is worthwhile to tackle the pollution of our rivers.

How the current all-Wales approach could be improved

WEL members are concerned that the Regulations, as they currently stand, do not tackle the issues of phosphate and ammonia pollution as effectively as they could. Whilst they will have some impact through the greater restrictions on slurry and manure storage and spreading, the nutrient management planning process is more focused on nitrates. We are unclear how effective the Regulations will be in reducing phosphates from poultry manure, for example.

WEL members believe that there is simply too much waste product - often spread inappropriately and at the wrong time - for the land to cope with, resulting in excess nitrate, ammonia and phosphate. In the specific case of poultry manure, any checks occurring at the planning stage on the existing, planned or cumulative loads of poultry manure spread on the land are not subject to any monitoring or enforcement. We would like to see the Regulations strengthened in relation to

controlling ammonia and phosphate, but also believe that NRW should set, record and monitor absolute cumulative limits on a holding by holding or catchment basis, against which proposed changes in farm operations or new developments can be assessed.

We suggest that Northern Ireland's Nutrients Action Programme 2019-2022 Regulations captures the key the issues relating to phosphorus and proposes an approach that is equally applicable to Wales. The requirement to prepare and maintain a fertilisation plan, informed by soil analysis applies to all grassland farms using chemical phosphorus fertiliser and organic manures. This contrasts to the current, relatively narrow scope of agricultural phosphorus controls in Wales, which has only very recently featured in planning assessment for some intensive pig and poultry units.

Other key areas where the Regulations could be strengthened are in relation to controlling pesticides and reducing soil erosion. Sedimentation of rivers is a key cause of water quality degradation, yet there is no regulatory framework for controlling soil loss and nor is there sufficient monitoring of the problem to demonstrate where current guidance is failing and where action is needed. We suggest that bringing CoGAP Chapter 4 into the regulatory framework would be helpful in this respect. This chapter covers field and soil husbandry, including rules for maize, which causes soil loss if planted in the wrong locations.

It will also be important for Welsh Government to consider how the regulations, and any changes to the regulations, will fit with the proposed National Minimum Standards that are proposed to be set under the Agriculture (Wales) Bill. The National Minimum Standards are an opportunity to set a clear regulatory baseline for sustainable agriculture, and to fill regulatory gaps.

Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales. WEL is a respected intermediary body connecting the government and the environmental NGO sector. Our vision is a thriving Welsh environment for future generations.

This paper represents the consensus view of a group of WEL members working in this specialist area. Members may also produce information individually in order to raise more detailed issues that are important to their particular organisation.



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Agenda Item 5

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