

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.