

Minutes

Title of meeting:	Wales Land Management Forum (WLMF) Sub Group on Agricultural Pollution
Location:	Microsoft Teams Meeting
Date of meeting:	20 May 2024
Members present:	<p>Professor Rhys A. Jones, NRW Board Member (Chair) Dennis Matheson, TFA Andrew Chambers, Welsh Government Sarah Jones, Dwr Cymru Welsh Water Sarah Hetherington, NRW David Ball, AHDB Einir Williams, Farming Connect Nichola Salter, NRW Rachel Lewis-Davies, NFU Cymru Gareth Parry, FUW Creighton Harvey, CFF Matt Walters, Welsh Government Brian Stewart, Welsh Government Jon Goldsworthy, NRW Michelle Griffiths, NRW Ruth Johnston, NRW Jennifer Slater, United Utilities Betsan John, Welsh Government</p>
Additional attendees:	<p>Dr Rosie Plummer, NRW Board Member Suzy Lawn, NRW (Item 4) Geraint Weber, NRW (Item 4) Nicola Mills, NRW (Item 5) Iwan Williams, NRW (Item 5) Simon Neale, NRW (Item 5)</p>
Apologies:	<p>Marc Williams, NRW Russ Thomas, Hybu Cig Cymru Kate Snow, United Utilities Chris Mills, Afonydd Cymru Fraser McAuley, CLA James Ruggeri, HCC</p>
Secretariat:	Bronwen Martin, NRW

Item 1. Introductions, Apologies and Declaration of Interest

1. Professor Rhys A. Jones (NRW Board Member and WLMF Sub Group Chair) welcomed all to the Microsoft Teams meeting and noted apologies. Rhys welcomed the guests to the meeting including Dr Rosie Plummer, NRW Board Member.
2. The meeting is being recorded for the purpose of capturing the minutes and the digital file will be deleted once the meeting minutes have been approved.
3. Rosie declared that she is a member of the Pembrokeshire Coast National Park Authority Board. No declarations of interest were raised in respect of agenda items.
 - NB: All members of the group have completed declaration of interest forms already but should also declare if they have an interest in anything on the agenda.

Item 2. Review of Minutes and actions

4. Rhys confirmed that once the meeting minutes have been reviewed and formally agreed by the group, they will be published on the NRW website for the public to access. Therefore, it is important that the minutes are an accurate record of the meetings.
5. The group reviewed the previous meeting minutes from 25th March 2024. The group accepted the March minutes as a true record.
6. Bronwen shared the outstanding actions log and verbal updates were provided where possible. The following updates were of note:
 - AP Jan 08: Bronwen Martin, NRW to follow up with colleagues regarding challenges relating to farms within National Parks getting planning permission for covering slurry stores.
 - Bronwen liaised with her colleagues, and they have requested more information from Dennis Matheson, TFA. Dennis said he does not have any more information but had spoken to the person who gave the original presentation and she had agreed that it would be difficult to follow up on this specific case. If neither NRW nor RPW were aware of it, then it suggests that no rules are being broken but the farmer was trying to pre-empt the potential issues with storage capacity. Action closed.
 - AP March 01: Andrew Chambers, Welsh Government to consider if/how Welsh Government will communicate details regarding which alternative measures proposals will be accepted, rejected or considered further and why.
 - Andrew said Welsh Government are still considering this. There are other things that fit into this context, including the recent appointment of the new Cabinet Secretary, the CoAPR 4-year review and appointing a chair for the review.
 - Gareth Parry, FUW recalled the previous discussions and asked for information from Welsh Government as soon as possible. Gareth requested that Welsh Government also provide clarity as soon as possible around the wider context of the review, the alternative measures, the regulatory impact assessment and

various other points discussed in the last meeting. The information from Welsh Government needs to be far broader than just the review.

- AP March 02: Welsh Government to provide information regarding the details of non-compliance which was referenced by Lesley Griffiths at the recent River Summit.
 - Andrew said he would need to review the minutes of the last meeting again before providing a response.

7. Rhys mentioned a recent meeting with Professor Steve Ormerod and other representatives of different groups which was arranged to discuss diazinon. Coleg Sir Gar have been leading the [Sheep Scab Eradication Programme](#) which is funded by Welsh Government. An invitation will be extended to provide a presentation at a future joint meeting as an opportunity to learn about the work. Sarah Jones, DCWW mentioned the Sheep Scab Eradication Industry Group that's been supporting the Coleg Sir Gar work. As part of that group, DCWW has funded them to do a gap analysis study into the current situation with waste sheep dip disposal and look at capability within the supply chain, certainly if the move by NRW is to push more for waste disposal streams, then we need to understand if there is even capacity for the current supply chain to accommodate that.
8. Rachel Lewis-Davies, NFU Cymru reminded the group that she had requested the contact details of the 'NRW Health Advisor'. Rhys said the job titles are perhaps a little bit misleading, the 'Health Advisor' working for NRW is somebody trying to advocate for the public to go outdoors to improve their own health and well-being. Rachel suggested it needs to be part of the job to understand how the activities of NRW have the potential to contribute positively or negatively to the well-being of those that you regulate. If you have a 'Health Advisor' then surely that would be a key priority for that role. Iwan Williams, NRW emphasised that NRW does take health and well-being very seriously. All our Officers have already had awareness sessions and are mindful of the impact of our visits on farmers. A formal training programme will start in next couple of months delivered by the DPJ Foundation, which will be attended by all of our officers once it is in place. Iwan said he would be happy to have a discussion with Rachel.

Item 3. NRW Nutrient Review

9. Suzy Lawn, NRW joined the meeting to provide a presentation on the NRW Nutrient Review. The review builds on previous Nitrate Vulnerable Zone (NVZ) periodic reviews (the last one was in 2016/2017). The NVZ regulations and review were revoked in 2021 and the Water Resources (Control of Agricultural Pollution) Regulations 2021 came into force. The project develops a national scale understanding of the land management inputs of nutrients and potential risk to waters in Wales and allows for all monitoring to be considered spatially across the whole country and potential hotspots to be identified for further investigation. It was commissioned in September 2021 and the project was completed in May 2023.
10. Suzy provided an overview of the methodology, discussed modelling nitrogen and phosphate leaching and provided an overview of the results using risk maps. Suzy described the detailed information displayed in the dashboard and summarised some of the trends.

11. The project outputs include technical reports for each water type, GIS dashboard for detailed information, analysis outputs and NVZ summary reports. The external release will be via the Blog and news item on NRW website, the dashboard available externally, all spatial layers will be viewable, and some data will be downloadable, technical reports will be available by request.

12. The Nutrient Review will be used:

- Internally to target investigations and regulatory visits
- To support WFD risk assessment
- To identify evidence gaps
- To feed into catchment projects such as the Teifi demonstrator project
- To feed into discussions around modelling next steps and improvements

13. Rachel asked whether Suzy could share the methodology used and also whether she could send her the evidence reviews. Suzy agreed.

AP May 01: Suzy Lawn, NRW to share the methodology for the Nutrient Review with this group.

14. Rachel asked if this work would inform Welsh Government's 4-year review of the Control of Agricultural Pollution Regulations. Andrew said this fulfils the obligations under the regulations to have a monitoring programme. However, this isn't the totality of the evidence that Welsh Government will be considering when looking at the review – there will be a wide range of other evidence. Rachel asked when the evidence pack will be shared, similar to that provided in 2016. Andrew said this would be that 'evidence pack' in the context of the review done in 2016. However, there is additional evidence that will be considered (e.g., other available data, point source pollution events, Water Framework Directive (WFD), waterbodies failing to achieve standards etc). Welsh Government will consider how they engage on the evidence base being used within the review and it will need to be discussed with the appointed Chair. However, at this stage it is a too early to pre-empt those discussions.

15. Rachel said there is the potential for regulatory change which has the potential to add significant costs and burden to farm businesses. On behalf of their members, NFU Cymru are looking to see the evidence presented in a comprehensive way so that they are able to work through it and understand the basis for any decisions or proposals that Welsh Government and NRW come up with. There needs to be a good level of transparency around the evidence upon which decisions are made and early sight of that would be really helpful.

16. Gareth suggested it is important to consider how the accuracy of the modelling work has changed since 2016 and how that could portray the regulations to be far less successful than what they would have been perceived in 2016. It is key to understand how those discrepancies have been taken into account between the two reviews. Gareth mentioned that one of the Alternative Measures FUW submitted was to broaden Regulation 44 to encompass a far broader criteria on which the review of the regulations should be based on. Rather than just focusing on agriculture pollution, it should at least consider evidence on economic impacts, regulatory impacts etc. Gareth

requested an update on that as soon as possible. Fundamentally, that would then have a direct impact on the available evidence that should be considered in the review which would be far broader. Rhys said it would be useful for the group to have a better understanding of the whole process.

AP May 02: Andrew Chambers, Welsh Government to provide more clarity around the Nutrient Review process, how it will be used in the 4-year review, timescales and whether there will be an opportunity for the WLMF Sub Group to feed into the evaluation of the evidence and data.

17. Dennis wondered whether the group's Interim Report in 2018 would feed into this review. Dennis was interested in understanding how water quality has improved, particularly if it has improved in the existing NVZs. Suzy said a lot of this is done on a national scale. We do have trend analysis for each of the monitoring points within the previous NVZs, but different ones are showing different trends and therefore a level of variability. Suzy described some of the monitoring points.
18. Rachel noted the discussion around monitoring points and said it is really concerning that a whole industry is potentially being regulated and the threat to farm business viability is being made on the basis of modelling. We know that there are no perfect models, but we also know that conclusions are made from models which is not evidence as there are always levels of uncertainty often not published. It is very concerning that others take the findings of those models and believe them to be hard evidence. NRW as an evidence-based organisation, needs to be much clearer in specifying where models are being used and specifying the levels of uncertainty and trying to guide policy makers to understand where there is a firm enough basis upon which to make policy decisions, including regulation. Rachel asked whether the work undertaken by ARUP has been subject to any QA process. Suzy said it has been subject to internal QA process. For the modelling, we've got the sensitivity analysis where we've highlighted the aspects of the model that have the greatest impact in it.
19. Rhys asked about more targeted monitoring and ground truthing. Suzy said ground truthing would be an important next step. ARUP have used this model in England with the water companies and their next step is looking at areas that have been flagged. We're using this as part of our discussion internally about where to prioritise monitoring. We have also spoken to Welsh Government about gaps in our monitoring network. We want it to be used for when we have resources for catchment projects for things like installing sondes or doing a programme investigation and using the risk maps. It's not going to be used for statutory designations the same way the previous NVZ areas were.
20. Jon Goldsworthy, NRW said this may well influence regulation, but it's also about the opportunity in terms of where we put resource and where we work in partnership to target interventions and actions within catchments. We're certainly looking at this from a Teifi Demonstration Project perspective. Hopefully with additional funding, there'll also be the opportunity to do more monitoring in this demonstrator catchment which could ground truth the modelling information that's been provided.
21. Gareth noted that this is linked to the group discussions back in 2018 where we talked about a targeted approach and areas that need additional attention. There could be certain opportunities, but we also need to avoid an intensification of the regulations across the Pan Wales basis. This is the underlying concern.

AP May 03: Bronwen Martin, NRW to circulate a copy of the Nutrient Review presentation and contact details for Suzy Lawn, NRW.

Item 5. NRW CoAPR Team Update

22. Nicola Mills, NRW to provide an update on the progress of the Control of Agricultural Pollution Team. Nicola provided a brief background to the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 and described the role of the NRW Control of Agricultural Pollution Team. NRW are responsible for the compliance inspections. NRW recruitment started last summer and is now complete. NRW Officers are allocated farms from the prioritised inspection programme of identified high risk agricultural activities that have been agreed with Welsh Government.
23. Nicola explained the end-to-end process of compliance inspections, described the visits carried out to date, summarised some of the data and discussed some of the emerging themes.

AP May 04: Bronwen Martin, NRW to circulate a copy of the Control of Agricultural Pollution Team presentation and contact details for Nicola Mills, NRW.

24. Gareth discussed how impactful the regulations are for farmers and recalled some of the farmer feedback summarised in the presentation, both positive and negative. Gareth said some farmers have been really struggling and have been worried about inspections and are still being faced with penalties even if NRW have helped them to become compliant after the visit. There is an automatic system with RPW which shows there is a fundamental floor with the current process. A conversation is urgently needed (separate to this group) with NRW, Welsh Government and RPW to try and understand ways in which that process can be improved. Gareth asked if NRW has any information about how many of those farms that were not compliant have actually received penalties as a result. Nicola did not have that information, it is a really difficult situation but currently, it is something NRW have to do. However, NRW would welcome discussions around this with Welsh Government and RIW. Andrew said it is important to be aware that enforcement action through the regulations is going to be different to enforcement action through cross compliance.
25. Creighton Harvey, CFF asked in relation to the farms that have signed up to the Enhanced Nutrient Management Approach, how many farms are now on the high-risk list as a result of signing up that approach. Nicola said NRW received nine notifications across Wales and majority of those are already on our list to visit. Creighton asked what areas those notifications are from. Nicola said there was one for Pembrokeshire and the remaining eight were in North Wales.
26. Creighton recalled that one of the other categories was farms that have had recent pollution incident investigations and posed a continued risk to the environment. Creighton asked how many of those are there and is there any regional variation. Nicola explained the current structure and process between the CoAPR Teams and the Environment Teams. The Environment Teams conduct their investigations, checks and take whatever enforcement action they need to stop that pollution. That particular farm is then passed on to the CoAPR Team to fit into their schedule for a compliance visit. Nicola said around 100 farms have been passed to the CoAPR Team, however, quite often those farms are already on the list of high-risk so that has not necessarily resulted in additional work.

27. Creighton said he encourages people to report incidents directly to NRW, but he has received a lot of contact from people in Pembrokeshire and West Carmarthenshire regarding incidents. Creighton asked if these areas are particular hotspot areas. Nicola said there are so many farms in those regions and the southwest is their predominant area for visits. However, Nicola said she had not noticed any other particular trend.
28. Rachel said it was very interesting that NRW opted to include a slide on farm assurance (89% non-compliant farms and 88% of compliant farms were members of a farm assurance scheme). Rachel asked Nicola could provide similar slides on farms inspected under bovine TB restriction, and also those farms that are tenanted. Rachel recalled the 'common issues' slide, and said it was a useful insight. Rachel asked if it is possible to put percentages or proportions under each heading so that NFU Cymru know where to target efforts in terms of supporting their members with reaching compliance. Rachel said there is good evidence that the NVZ approach is really difficult to achieve compliance with and levels of non-compliance or a contribution of failures, largely reflect systematic flaws within the Regulations. Rachel hoped that this will be considered as part of the 4-year review. Nicola said we have got a Power BI system which gathers a lot of information and going forward, we should be able to issue a better breakdown of the non-compliances that we've seen. It is important to note that at the moment, the figures shown today are only for the first three months (e.g., January to March 2024) because the Officers were in their training period up until Christmas. Nicola said they gather information during the visits about bovine TB restrictions and tenanted land but was not sure if it is presented within the Power BI reporting function. Rachel said the ability to be compliant with the regulations is heavily dependent on whether you are a tenant farmer (tenant farmers can't lever funding, the landlord won't make the investment etc.) or if you are under bovine TB restriction (you are in an invidious position of being forced to break either one set of regulations or the other). This is valuable information to get a sense of the root causes of non-compliance and without it the figures don't really tell us much. Simon Neale, NRW confirmed that NRW does have those figures and can construct slides. We are also in the process of pulling together a summary report on our findings up until the 31st March. Rhys asked whether a copy of that summary report can be circulated to this group once complete. Simon agreed that a copy of the summary report could be circulated to the group, but this process is likely going to take a while.

AP May 05: Nicola Mills (and colleagues) to provide information about farms visited that are under bovine TB restriction or are tenanted.

AP May 06: Nicola Mills (and colleagues) to circulate a copy of the CoAPR visits summary report when available.

29. Einir Williams, Farming Connect recalled the problems around the availability of consultants. Einir said she has received feedback in North Wales that NRW Officers tend to mention one specific consultant – but there are others around. The consultant being mentioned to farmers is the one who has delivered the training to NRW Officers, but there are a lot the Farming Connect framework who can deliver infrastructure support to farmers. This is worth noting for NRW staff. Einir said we've got a lot of support within the programme and quite a significant percentage of the phone calls we are receiving weekly are to do with the CoAPR support. It would be really useful to get a copy of the slides specifically for the most common breaches because we can then target our communications.

30. David Ball, AHDB recalled that NRW only received 9 notifications for the Enhanced Nutrient Management Approach and yet the compliance with 170 kilogramme rules didn't feature in the most seen issues. Nicola said she can provide more information and further breakdowns on the compliance at a future meeting. There hasn't been the number of notifications for the Enhanced Nutrient Management Approach that we were expecting.
31. David mentioned that planning permission was featured in the summary of issues that NRW have found. David asked if/when planning permission is found not to be in place, are you requiring farmers to obtain planning permission as part of their remedy to become compliant and if a farmer has difficulty obtaining planning permission, where does that leave them. Nicola said they advise farmers that they should have planning permission and will need to go back to the Local Authority to try to get retrospective planning permission. However, this is really difficult particularly with slurry stores, for example, because the requirement includes proving the clay content and that can't be done easily once it's already filled with slurry. We also inform the Local Authority when we find illegal structures. We are working closely with farmers and the Local Authorities. Planning permission is within wider regulations, but NRW has an opportunity to consult and would be able to advise whether the proposed structure would be compliant with the CoAPR.
32. Dennis discussed the problems for tenants and suggested that it would be helpful if NRW could provide statistics on the number of non-compliant tenants encountered so far. TFA have already seen and have been working on cases where a landlord won't give the tenant permission, for example, to construct a new slurry store on the grounds that it enhances the value of the property for inheritance tax purposes, or the tenant won't do it themselves because they believe they will be liable. Although it depends on what sort of tenancy they have, if they have an AHA tenancy, there are recourses to arbitration to try and force the landlord to do the right thing, but if you have an FBT you don't have that power. The average length of an FBT in Wales is just over three years, so a tenant isn't going to spend money on a slurry store. NRW are taking a sensible approach and trying to work with farmers in non-compliance to comply. However, if this goes to RPW for cross compliance, they still won't give us an assurance that they will take the same approach and it's automatically a breach of cross compliance and you'll get penalised. Additionally, if you can't comply, then you also can't enter the new Sustainable Farming Scheme.
33. Gareth said the Welsh Government will be providing grant support for slurry storage infrastructure on farm and asked where farmers sit after 1st August if they are unable to comply with the storage requirements due to matters outside of their control (e.g., tenancy issues, planning applications or delays with Local Authorities etc). Nicola said our enforcement policy has very strict criteria, but it also depends on the level of risk. We are working with farmers by giving them sensible time to do things by considering time for finances, planning and actually construction. We are also taking into account the delays because of the demand for new structures to be built. If farmers are being proactive, we ask for written confirmation and proof that they have employed a consultant, builder or construction company etc. Gareth said he sincerely hoped that the Welsh Government team responsible for the 4-year review are taking these comments on board.

34. Gareth asked for clarity from Welsh Government on how NRW will approach those farmers who are in that position after 1st August and how RPW are going to treat them from a cross compliance perspective.

AP May 07: Andrew Chambers, Welsh Government to provide clarity on how those farmers who are not able to comply after 1st August because of reasons beyond their control will be approached and clarify how RPW are going to treat them from a cross compliance perspective.

35. Creighton recalled that NRW have come across a number of structures for which there is no planning permission and asked Nicola to provide a percentage of those subject of a planning application and a percentage for how many of those structures are not subject of any planning application whatsoever. Nicola said she would look into this request.

AP May 08: Nicola Mills to look into figures for structures with planning permission and structures without planning permission and feedback to the group.

36. Creighton recalled the earlier conversation about the 100 farms that have been added to the list because of recent pollution incidents and asked for a breakdown of where those farms are. Nicola said she would look into this request.

AP May 09: Nicola Mills to provide a breakdown of where those additional 100 farms are which have been linked to recent pollution incidents.

Post-meeting note: Nicola Mills has provided the following information –

Location of farms referred by Environment Teams:

- Ceredigion 8
- South Powys 3
- Carmarthenshire 22
- Pembrokeshire 16
- Newport / Caerphilly 6
- Bridgend 1
- Denbighshire 4
- Wrexham 2
- Powys 2
- Conwy 2
- Anglesey 2
- Gwynedd 1

Total 69

37. Rhys thanked Nicola for the presentation and said the group would welcome periodic updates going forward.

Item 4. Any Other Business

38. Rachel asked if it would be possible to include a standing item on the agenda for the 4-year review of the Control of Agricultural Pollution Regulation so that Welsh

Government can continue to update us on an ongoing basis. Andrew agreed to this suggestion.

AP May 10: Bronwen Martin, NRW to add the 4-year review of the Control of Agricultural Pollution Regulations to the agenda as a standing item going forward.

39. The next meeting will be on Monday 17th June 2024.

40. No other business was raised.