

# Agenda – Economy, Trade, and Rural Affairs Committee

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Meeting Venue:	For further information contact:
Hybrid – Committee room 5 Ty Hywel and video Conference via Zoom	Robert Donovan Committee Clerk
Meeting date: 11 May 2022	0300 200 6565
Meeting time: 09.30	<a href="mailto:SeneddEconomy@senedd.wales">SeneddEconomy@senedd.wales</a>

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## Private pre-meeting (09.15–09.30)

## Public Meeting (09.30–11.45)

### 1 Introductions, apologies, substitutions and declarations of interest

(09.30)

### 2 Paper(s) to note

(09.30)

#### 2.1 Letter from Minister for Economy

(Pages 1 – 7)

Attached Documents:

A new direction for HGV drivers

#### 2.2 Letter from Minister for Rural Affairs and North Wales, and Trefnydd

(Pages 8 – 9)

Attached Documents:

The Animal Welfare (Miscellaneous Amendments) Regulations 2022



### **2.3 Letter from Minister for Rural Affairs and North Wales, and Trefnydd**

(Pages 10 – 11)

Attached Documents:

The Common Agricultural Policy (Cross Compliance Exemptions and Transitional Regulation) (Amendment) (EU Exit) Regulations 2022

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

(Pages 12 – 16)

Attached Documents:

Letter from the Chair to the Minister for Rural Affairs, North Wales & Trefnydd re Animal Welfare Bill

Supplementary Legislative Consent Memorandum (Memorandum No 2) on the Animal Welfare (Kept Animals) Bill

### **2.5 Letter from Minister for Climate Change**

(Pages 17 – 26)

Attached Documents:

Provisional Common Frameworks for Plant Health and Plant Varieties and Seeds

### **2.6 Letter from Minister for Rural Affairs and North Wales, and Trefnydd**

(Pages 27 – 34)

Attached Documents:

Fertilisers Common Framework

### **2.7 Letter from Minister for Rural Affairs and North Wales, and Trefnydd**

(Pages 35 – 39)

Attached Documents:

Organic Production Common Framework

## **2.8 Letter from Minister for Rural Affairs and North Wales, and Trefnydd**

(Pages 40 – 45)

Attached Documents:

Agricultural Support Common Framework

## **2.9 Letter from Minister for Rural Affairs and North Wales, and Trefnydd**

(Pages 46 – 55)

Attached Documents:

Animal Health and Welfare Common Framework

## **2.10 Letter from Minister for Finance and Trefnydd**

(Pages 56 – 58)

Attached Documents:

Public Procurement (International Trade Agreements) (Amendment)

Regulations 2022

## **2.11 Letter to Minister for Economy**

(Pages 59 – 68)

Attached Documents:

UK–Australia Free Trade Agreement – impact on Wales

## **3 Review of the Agricultural Pollution Regulations**

(09.30–10.30)

(Pages 69 – 100)

Lesley Griffiths MS, Minister for Rural Affairs and North Wales, and Trefnydd

Victoria Jones, Head of Agriculture, Sustainable Development Division, Welsh Government

Eifiona Williams, Head of Water, Welsh Government

Andrew Chambers, Legislation Development Team Leader, Welsh Government

Attached Documents:

Research Brief

Evidence from Welsh Government

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

(10.30)

**5 Private**

(10.30–11.00)

Consideration of evidence following the meeting

Briefing on citizen engagement for the Retail, Hospitality and Tourism Inquiry



Paul Davies MS  
Economy, Trade & Rural Affairs Committee

26 April 2022

Dear Paul,

Please find attached our response to your letter of 4 April following the appearance by the Deputy Minister for Art & Sport and clarification of her response to the Committee's debate on your report "A new direction for HGV drivers".

I can confirm we will use devolved powers such as education and training, highways and transport, and town and country planning, where possible to improve the availability of driver training, roadside facilities / rest areas and facilities at freight customer premises in Wales.

As stated during the debate in the Senedd, we continue work closely with industry and have adapted existing employability and skills programmes to expand the availability of funding for training for lorry drivers. These include the Personal Learning Account and ReAct programme. Our Apprenticeship Programme has a number of logistics-focused options, one being the Level 2 and 3 in Driving Goods Vehicles.

Furthermore, we have committed to develop a new Logistics and Freight Plan for Wales under our Wales Transport Strategy. We will work with the UK Government, the sector and other partners to develop this plan and ensure we incorporate the recommendations from the committees report into this plan.

Any future investment into training or road facilities will be subject to funding availability from our annual budget settlement. The Deputy Minister for Arts and Sport, and Chief Whip has spoken to me regarding the committees request to bring forward the issue of the audit of driver facilities in Wales.

I have asked my officials to move this work forward as a priority and I will write to you again once this work has been completed with a copy of our published findings.

Yours sincerely,

**Vaughan Gething AS/MS**  
Gweinidog yr Economi  
Minister for Economy

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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.

**Pack Page 1**

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.

## **Recommendation 1**

### **The Committee recommends that:**

The Welsh Government should work with industry as a matter of urgency to develop HGV drivers Apprenticeship programmes and support the industry to increase the number of training providers available to ensure sufficient provision is available as demand increases.

### **Response: Accept**

Driver training, testing and vocational licencing is not devolved to Wales in the same way as DVLA and DVSA are not devolved organisations, so Welsh Government's ability to intervene in this area is limited.

We continue work closely with industry and have adapted existing employability and skills programmes to expand the availability of funding for training for lorry drivers. These include the Personal Learning Account and ReAct programme. Our Apprenticeship Programme has a number of logistics-focused options, one being the Level 2 and 3 in Driving Goods Vehicles, which offers a medium term option for employers.

### **Financial Implications**

None

## **Recommendation 2**

### **The Committee recommends that**

The Welsh Government should engage the UK Government around the content and quality of HGV drivers' continuous professional development training to ensure any new programme is high quality, useful to drivers and relevant to Welsh drivers and industry.

### **Response: Accept**

We are doing what we can to support the industry despite the majority of powers relating to these issues not being devolved. We continue to work DVLA, DVSA, DWP, training providers and industry to ensure the highest possible standards are held when it comes to continuous professional development training.

### **Financial Implications**

None

## **Recommendation 3**

### **The Committee recommends that**

The Welsh Government should carry out an audit of rest facilities for drivers and create a national inventory similar to that available for England.

### **Response: Accept**

We will factor this into our new Logistics and Freight Plan for Wales commitment under the Wales Transport Strategy.

### **Financial Implications**

None

**Recommendation 4**  
**The Committee recommends that**

The Welsh Government should urgently work with partners to improve HGV driver rest provision in areas where it is found to be lacking.

**Response: Accept**

We were disappointed to learn that the £32.5m of new funding to improve lorry parking facilities will only be made available for England but will continue to work with the UK Government to ensure the sector is given the support it needs to continue delivering for the whole of the UK.

We will work with the UK Government, the sector and other partners on improving HGV driver rest provision where it is found to be lacking as part of our Logistics and Freight Plan for Wales.

**Financial Implications**

None

**Recommendation 5**  
**The Committee recommends that**

The Welsh Government should work with hauliers, local authorities, drivers representatives and rest stop operators to introduce a voluntary standards system which indicates to drivers the comfort level and security of rest stops and consider how to encourage their uptake.

**Response: Accept**

We will work with the UK Government, the sector and other partners to look into a voluntary standards system which indicates to drivers the comfort level and security of rest stops and consider how to encourage their uptake as part of ongoing engagement with our stakeholder and the Logistics and Freight Plan for Wales.

**Financial Implications**

None

**Recommendation 6**  
**The Committee recommends that**

The Welsh Government should update planning policy so that planning permissions granted to warehouse facilities and other developments expecting regular deliveries or collections (e.g. industrial estates and retail parks) are required to provide high quality driver facilities. It should also consider whether building regulations can be used to drive up standards in new facilities.

**Response: Accept**

We have extended the relaxation of curfew times for deliveries to provide more operational flexibility. We will ensure freight and logistics are integrated into wider transport and land-use planning policy at local, regional and national levels

**Financial Implications**

None

## **Recommendation 7**

### **The Committee recommends that**

Welsh Government should engage with the UK Government on any review of legislation which affects the working conditions of HGV drivers. As part of this Welsh Government should engage with the sector and drivers in Wales to ensure their voices are heard in the review.

### **Response: Accept**

We continue to work with the UK Government on reserved legislation which affects the working conditions of HGV drivers to ensure the sector and its drivers in Wales are given the support they needs to continue delivering for the whole of the UK.

We have regular contact with the Welsh branches of the Road Haulage Association and Logistics UK to gather industry intelligence on industry issues and feed this back to UK Government.

In the longer term, there is an opportunity to reverse the problems that have been building in the industry over many years and to create a more sustainable and resilient sector that offers fairer pay and working conditions for drivers. The UK Government's stopgap measures should not undermine this longer term aspiration.

### **Financial Implications**

None

## **Recommendation 8**

### **The Committee recommends that**

Haulage companies should ensure their drivers feel the hours they are asked to drive are safe.

### **Response: Accept**

HGV driver hours are a reserved matter for the UK Government and the Secretary of State for Transport. We continue to work with the UK Government to ensure the sector is given the support it needs to continue delivering for the whole of the UK. We continue to encourage UK Government to consult the industry to make longer term efforts to create a more sustainable and resilient UK haulage sector that offers fair pay and working conditions for drivers.

### **Financial Implications**

None

## **Recommendation 9**

### **The Committee recommends that**

Anyone managing a facility that receives drivers should ensure they are aware of the experience of those drivers when on their premises.

### **Response: Accept**

The Highway Code, road safety and vehicle rules are a reserved matter for the UK Government and the Secretary of State for Transport. We have committed to strengthen relationships between the Traffic Commissioner, Driver and Vehicle Standards Agency and Welsh Government to improve safety across the sectors under the Wales Transport Strategy. We will also workwith the Traffic Commissioner and Freight and Logistics sector operators to improve understanding of safety issues and compliance

**Financial Implications**

None

**Recommendation 10****The Committee recommends that**

The Welsh Government should expedite development of a freight plan which incorporates the recommendations from this report. Regional freight plans should be developed in harmony with the national strategy.

**Response: Accept**

We have committed to develop a new Logistics and Freight Plan for Wales under the Wales Transport Strategy. We will incorporate this recommendation from this report into the plan.

**Financial Implications**

None

**Recommendation 11****The Committee recommends that**

The Welsh Government should set out a timeline for the development of the freight plan and keep this committee informed.

**Response: Accept**

The Logistics and Freight Plan for Wales will be complete by 2024, with decarbonisation at the heart of the document. We will keep committee informed of its progress.

**Financial Implications**

None



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: MA-LG-0037-22

Paul Davies MS  
Chair  
Economy, Trade and Rural Affairs Committee

[Paul.Davies@senedd.wales](mailto:Paul.Davies@senedd.wales)

27 April 2022

Dear Paul,

## The Animal Welfare (Miscellaneous Amendments) Regulations 2022

I wish to inform the Committee I am giving consent to the Secretary of State for Environment, Food and Rural Affairs to lay The Animal Welfare (Miscellaneous Amendments) Regulations 2022 on 19 May 2022. The Regulations are scheduled to come into force the day after they are laid.

The Regulations make minor technical amendments to retained direct EU law relating to animal welfare in transport and official controls, to ensure that it operates effectively following the withdrawal of the United Kingdom from the European Union. The Regulations involve no transfer of European Commission functions

The Regulations amend:

- Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations; and
- Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products.

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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.

The amendments are summarised below:

- **Role and definition of the Competent Authority:** A mandatory requirement for the competent authority to recover the costs of any enforcement action(s) it undertakes in relation to official control functions. The Welsh Ministers are the competent authority for certain official control functions. The power to recover costs has been changed to a discretionary action, so that it is not always necessary to take action. This allows for situations whereby the recovery of costs would be impractical, uneconomic, or not otherwise in the public interest. Other minor drafting changes have been made.
- **Removal of references to EU institutions and recording systems:** References to EU “member states” have been replaced with “Great Britain”. A requirement for a UK competent authority to provide details of intended long journeys via an EU information exchange system has been removed. References to a system of national contact points and mutual assistance scheme used by EU member states have been removed. A requirement to provide an annual report on inspections carried out under these regulations, to the EU Commission, has been removed. An errant reference to an EU oversight committee, whose functions were removed from these regulations by a previous instrument, has been removed.
- **Penalties:** A requirement to lay down rules on penalties for infringements by the 5 July 2006, has been removed. This is no longer required, as rules on penalties and infringements to these regulations were laid by that deadline and are currently in force.
- **Updating references to outdated legislation:** References to other regulations in the context of training for competent authority staff, other veterinary legislation, and animal welfare inspections for animals destined for slaughter, have been updated to refer to current legislation appropriate for those subjects.

It is normally the policy of the Welsh Government to legislate for Wales in matters of devolved competence. However, in certain circumstances there are benefits to working collaboratively with the UK Government where there is a clear rationale for doing so. I am giving my consent to these Regulations, which make corrections in relation to, and on behalf of, Wales for reasons of efficiency and expediency, and to ensure consistency and coherence of the statute book. The amendments have been considered fully and there is no divergence in policy. Our position on the protection of animals during transport is consistent with that of the UK Government.

I am copying this letter to the Legislation, Justice and Constitution Committee.

Regards,



**Lesley Griffiths AS/MS**

Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd  
Minister for Rural Affairs and North Wales, and Trefnydd



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: LG/0237/22

Paul Davies MS  
Chair  
Economy, Trade and Rural Affairs Committee

[Paul.Davies@senedd.wales](mailto:Paul.Davies@senedd.wales)

27 April 2022

Dear Paul,

I am writing to inform you of my consent being granted for a Statutory Instrument being made by the UK Government which contains elements within the competence of Welsh Ministers.

The Common Agricultural Policy (Cross Compliance Exemptions and Transitional Regulation) (Amendment) (EU Exit) Regulations 2022 (henceforth the Regulations) will amend Regulation (EU) 1308/2013 to alter the effect of the amendments made by Regulation (EU) 2020/2220, insofar as they concern Article 55 on apiculture programmes and Article 167a on olive oil marketing rules. As there were no practical changes made during the period in which Regulation (EU) 2020/2220 applied in Wales, no monitoring of the delivery of this SI will be required.

I am agreeing, in this case, to give consent to Victoria Prentis, the Minister for Farming, Fisheries and Food, to make provision to remedy the failure of retained EU law to operate effectively in Wales. This is through the powers granted in section 8 of the European Union (Withdrawal) Act 2018. The Welsh Ministers are the Appropriate Authority for REUL 1308/2013 in relation to Wales, but the Secretary of State can legislate in relation to Wales with the consent of the Welsh Ministers.

The period for which I am giving consent is limited to the passage of the Regulations. These regulations do not have a practical impact over a period of time, they only make retained EU law operable in Wales. As such, no review mechanism is needed and longer-term constitutional arrangements will not be affected.

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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.

We anticipate the Regulations being the last of the corrective SIs which relate to the Common Organisation of the Markets in Agricultural Produce. Their policy rationale is, therefore, to maintain the operability of retained EU legislation in Wales. This SI applies to Wales with regards to apiculture programmes and olive oil marketing rules because of the small impact of these two aspects of the legislation, and the expediency of working on a UK-wide basis to correct inoperable retained EU legislation.

Wales' interests remain protected with the passage of the Regulations, as Welsh Ministers retain the option of amending them in future on a Wales-only basis.

Welsh Government officials discussed and refined the Regulations over a period of weeks with counterparts in DEFRA, the Scottish Government and DAERA. The UK Government continue to recognise the areas in which the Regulations apply to Wales as within the competence of Welsh Ministers. DEFRA officials have been aware of the need to seek the consent of Welsh Ministers for these Regulations, insofar as they apply to Wales, throughout their development.

Regards,

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

**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 2.4

**Pwyllgor yr Economi,  
Masnach a Materion Gwledig**

**Economy, Trade and  
Rural Affairs Committee**

**Senedd Cymru**

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Lesley Griffiths MS

Minister for Rural Affairs and North Wales, and Trefnydd

30 March 2022

Dear Minister,

Supplementary Legislative Consent Memorandum (Memorandum No.2) for the Animal Welfare (Kept Animals) Bill

The Committee considered the SLCM for the above Bill at its meeting on 3 February. The Committee's report on the SLCM has been laid in advance of the extended reporting deadline of 31 March. I write to draw your attention to the Committee's views as set out in paragraphs 76 onwards, and in particular to further information requested by the Committee in advance of plenary debate, as set out in paragraph 80:

The Committee has previously noted the benefits of legislating on a UK-wide basis for a consistent approach to animal welfare, and saw no reason to object to Senedd consent to the LCM for this Bill that was considered on 30 September 2021. It would welcome Members receiving further updates from Welsh Government on the situation regarding Part 2 of the Bill - dogs worrying livestock - and whether or not the pet theft provisions are expected to be extended to Wales.

Kind regards,



Paul Davies MS

Chair: Economy, Trade and Rural Affairs Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg | We welcome correspondence in Welsh or English.



Ein cyf/Our ref: MA/LG/1410/22

Paul Davies MS  
Chair  
Economy, Trade and Rural Affairs Committee

[Paul.davies@senedd.wales](mailto:Paul.davies@senedd.wales)

28 April 2022

Dear Paul,

Thank you for your letter of 30 March, regarding the Supplementary Legislative Consent Memorandum (Memorandum No 2) on the Animal Welfare (Kept Animals) Bill ("the Bill").

I would like to thank the Committee for its scrutiny of Memorandum No 2 and I have noted its conclusion and recommendations. In your letter, you have drawn my attention to the Committee's views from Paragraph 76 onwards, and the request for further information in Paragraph 80.

May I firstly offer my sincerest apologies to the Committee for our failure to provide a final version of Memorandum No 2 before 3 March when the relevant amendments were tabled on 10 November 2021. I regret the Senedd scrutiny Committees were not provided with sufficient time to consider a final version of Memorandum No 2. The volume and complexity of the amendments tabled for consideration at House of Commons Committee Stage hampered our efforts.

I fully acknowledge the importance of full and effective scrutiny by the Senedd of legislation where the Senedd is being asked to agree to the UK Parliament legislating on its behalf in areas of devolved competence. I will endeavour to ensure any further Legislative Consent Memoranda on the Bill is accurate and laid before the Senedd within a reasonable period.

The Bill is complex but has real value for Wales and we have been working in partnership with the UK Government on much needed animal welfare reforms which are a priority for the Welsh Government.

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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.

Overall, I welcome the Committee's comments in relation to the benefits of legislating on a UK-wide basis for a consistent approach to animal welfare. The First Minister's principles for legislating in UK Bills make it clear we follow the principle that primary legislation in devolved areas should be enacted by the Senedd. However, the principles also acknowledge there are, and will continue to be, circumstances in which it is sensible and advantageous if provision, which would be within the Senedd's legislative competence, is sought for Wales in UK Parliament Bills, with the consent of the Senedd, and such provision will not infrequently include conferring new delegated powers on the Welsh Ministers.

My support for the inclusion of devolved provision in this Bill aligns with those principles as taking provision in a UK Bill will enable pragmatic solutions to be reached in a timely fashion, while simultaneously respecting the legislative competence of the Senedd through the legislative consent process.

In relation to Part 1 of the Bill on Primates, I agreed the application of these provisions ought to extend to Wales as the legislative proposal is appropriate for Welsh circumstances and bringing forward similar provisions in the Senedd could not have been achieved in a timely way. It will enable closer alignment on enforcement, especially on the borders.

We are committed to not creating loopholes in this type of legislation whereby owners of primates can cross borders to avoid the licensing requirements. Inclusion of Wales in the Bill ensures this would be avoided. While the Bill itself sets out clear requirements in relation to the licensing standards; applications process; roles and responsibilities, the powers for the introduction of secondary legislation to provide for a licensing scheme for primates (kept in a domestic setting) rest with Wales.

My officials will continue to work closely with their Defra counterparts in relation to the Welsh Ministers' powers to commence provisions in Part 1 with a view to establishing an appropriate date for the introduction of a licensing scheme for primates (kept in a domestic setting). In terms of the precise commencement date in respect of Part 1 and whether the provisions will be commenced in England and Wales on the same date, this is a matter that will be kept under review

You asked for further information on our approach to consulting on licence conditions and supporting Local Authorities with implementing the new licensing regime for primates. You also asked whether or not we have plans to apply Part 1 of the Act to other wild animals, in accordance with the powers in clause 22. Firstly, we have no immediate plans to apply clause 22 to other wild animals. However, this clause will future proof the legislation and enable it to be utilised should there be either scientific or moral and ethical reasons to extend a licensing scheme to other wild animals kept in a domestic setting.

In relation to our approach to consulting and supporting Local Authorities, consultation is ordinarily undertaken on any new regulations in line with our consultation policy and this commitment will be met in full. My officials have strong working arrangements with the key animal welfare third sector organisations via the Animal Welfare Network Wales and the Companion Animal Welfare Group Wales. They also work closely with the Local Authority Enforcement Project led by Trading Standards Wales and will be engaging with them throughout the process of defining, refining and enforcement of a licensing scheme for Wales.

The Local Authority Enforcement Project itself is funded by the Welsh Government and was established, originally, to support the enforcement of the regulations relating to dogs across Wales. Its role has now been expanded to support the vision in both our Programme for Government and the Animal Welfare Plan for Wales to introduce a national model of licensing and enforcement for animal welfare

Finally, on Part 1, the Welsh Ministers will determine the commencement date for Part 1 of the Bill in relation to Wales.

The Rt. Hon. Lord Goldsmith of Richmond Park wrote to me, on 25 April, to formally offer to extend the pet abduction offence to Wales and also to respond to my letter of October last year to the Secretary of State for Environment, Food and Rural Affairs regarding Part 2 of the Bill (dogs attacking or worrying livestock) and the UK Government's assessment of legislative competence in relation to those provisions. It remains the UK Government's position that Part 2 of the Bill relates to the reserved matter of dogs dangerously out of control, and Lord Goldsmith has confirmed the UK Government does not intend to transfer the powers in Part 2 to the Welsh Ministers insofar as they relate to Wales. I will need some time to consider next steps regarding this matter and the offer to extend the pet abduction offence to Wales. I will write to update the Committee on the outcome of both matters.

In addition to the views of the Committee you have also drawn to my attention paragraphs 51 and 52 of the Committee's Report which refers to the statement in Memorandum No 2 that consent is *not* required in relation to clause 51 of the Bill, namely the provisions which amend the Government of Wales Act 2006 in relation to concurrent functions. I agree, in accordance with Standing Order 29.1 (ii), consent *is* required for any provision which, in relation to Wales, modifies the legislative competence of the Senedd. With thanks to the Committee, and on this basis, a Legislative Consent Memorandum including this issue will therefore be laid in due course.

Committee stage in the House of Commons concluded on 1 November 2021, but no further stages for consideration of the Bill were scheduled. On 25 April the House of Commons agreed a carry-over motion on the Bill. The Bill will therefore progress into the next Parliamentary session.

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**

Julie James AS/MS  
Y Gweinidog Newid Hinsawdd  
Minister for Climate Change

Paul Davies MS  
Chair: Economy, Trade and Rural Affairs Committee  
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28 April 2022

Dear Paul,

### **Provisional Common Frameworks for Plant Health and Plant Varieties and Seeds**

Thank you for your letter of 30 March requesting further information and/or clarification on a number of matters relating to provisional Common Frameworks for Plant Health and Plant Varieties and Seeds. Responses to the questions posed by the Committee are set out below.

#### General Points

#### ***Why are Common Frameworks needed for plant health and plant varieties and seeds?***

The four Governments agreed separate Common Frameworks are required for both these areas to ensure consistency and coherent approaches between administrations and to help manage divergence across regimes.

#### ***Both frameworks are in policy areas with close links to other common framework areas, such as animal health and welfare, public health protection and health security, and food and feed safety and hygiene. How will the connections between these frameworks be managed?***

Connections can be identified and managed through representation in the different governance structures which support other Frameworks. Within the wider EFRA portfolio, structures are in place to allow matters shared across or affecting a number of Frameworks to be discussed as needed. This can be undertaken through the Inter-Ministerial Group for Environment, Food and Rural Affairs (IMG-EFRA) or the Senior Officials Programme Board which supports it.

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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.

## Making decisions and managing divergence

### ***Can you describe how decision-making processes in this area have changed since the UK's exit from the EU?***

#### Plant Varieties and Seeds:

Decision making processes have had to take into account UK-wide, GB-wide and England, Northern Ireland, Scotland and Wales only statutory instruments (SIs) and rules (SRs) which have been amended or developed so that the existing statute book on Plant Varieties and Seeds legislation remains operable. In response to the Northern Ireland Protocol legislation has been introduced to separate the variety list for the UK so that two lists now apply on a GB basis and on a Northern Ireland basis. Decisions are therefore taken to add varieties to the GB and / or NI list by the GB administrations jointly and by Northern Ireland rather than on a joint UK basis. GB-wide legislation has been made which brings across powers to grant equivalence recognition of another country's certification processes on an administrative basis, by Ministers, for the main food and feed crops through an authorisation. It also brought across a number of specific legislative functions previously exercisable by the European Commission and the European Council in relation to EU marketing legislation for fruit, vegetable and ornamental plant material. These functions were missing from domestic law and enable each GB Government to make legislative changes to domestic legislation for fruit, vegetable and ornamental plant material.

Principal decision-making remains with the Plant Varieties and Seeds Committee (PVSC) to coordinate a UK approach for Plant Breeders' Rights, variety registration, and marketing and certification of seeds and other plant propagating material. It has responsibility for the National Lists and Seeds Committee (NLSC). The NLSC now manages the variety registration process explained above on a GB and NI basis and advises on technical aspects of listing referred to it by the PVSC.

#### Plant Health:

Decision making processes have had to take into account UK-wide, GB-wide and England, Northern Ireland, Scotland and Wales only statutory instruments (SIs) which have been amended so that the existing statute book on plant health legislation remains operable. The four Governments have committed to work together to develop policy on matters of mutual interest, through consensus-based decision making.

To that end, Welsh Government officials attend a number of working groups to discuss plant health regulation and policy and to coordinate responses to plant health threats. The UK Plant Health Risk Group (PHRG) and the UK National Plant Protection Organisation (NPPO) group are the two main decision-making bodies within the Plant Health Framework. Both existed in some form before the UK left the EU. However, additional resources and reorganisation of existing structures were needed to manage the functions returned to the UK from the EU. Activities and responsibilities of the PHRG were delegated to sub-groups to allow the PHRG to focus on decision making, with detailed and technical discussions taking place in these sub-groups. These technical discussions would have previously taken place at EU plant health working groups.

New groups have been created to capture all functions that returned to the UK following the UK's exit from the EU. These include, the Plant Health Outbreak Readiness Board and its sub-groups, the Plant Health Market Access Working Group, the Free Trade Agreement and Trade and Co-operation Agreement Coordination Group, the Science Coordination Working Group and the Forest Reproductive Material Working Group.

***Both Frameworks provide for the governments to take decisions jointly on law and policy. How will you ensure that this does not limit the role of the Senedd or stakeholders in making law and policy for Wales?***

Some existing domestic legislation regulating aspects of plant varieties and seeds require 'the National Authorities' (Welsh Ministers, the Secretary of State, Scottish Ministers and the Northern Ireland Department) to act jointly. However, the majority of legislation covering plant health and plant varieties and seeds is made on a Wales only basis, or by the Secretary of State with the consent of Welsh Ministers. The Senedd is engaged through these legislative processes as normal.

Welsh stakeholders will continue to input into policy development and discussions, for example through the Plant Health Advisory Forum or the Wales Plant Health Evidence and Advisory Group. Stakeholders are generally consulted at an early stage of policy development. The sub-groups to the UK PHRG frequently engage with stakeholder groups, for example to inform options for new/amended measures against pests or to inform priorities for market access.

***If a government wishes to diverge, the Frameworks provide for there to be different impact assessments for plant health and plant varieties and seeds. On what basis have these criteria for assessment been chosen?***

The Parties to the Plant Varieties and Seeds Framework have jointly concluded that any investigation into the impacts of potential divergence should at least consider impacts on the functioning of the internal market, international trade, and international obligations. This approach will allow the Parties to consider how divergence would affect the domestic marketing of seed and plant material and to ensure that we meet our international commitments via UPOV (The International Union for the Protection of New Varieties of Plants) and OECD. It will also allow us to assess what the implications would be for international trade and obligations. If one Party identifies a new policy or measure will have an unacceptable impact on any of these areas, and the matter cannot be resolved by the PVSC, this may trigger the dispute resolution mechanism.

For Plant Health, divergence needs to be technically justified, for example as a result of the threat posed by particular pest risks. A pest risk assessment could show that a particular pest would have greater impacts on one Party than the others, for example because of the plants or trees at risk, geography or climate. The UK Plant Health Service will take account of differences in pest and disease prevalence across the UK which justify different protective measures, and this may result in divergence being preferable. Any divergence would need to be in line with the JMC (EN) Frameworks principles and take into account impacts on consumers, UK trade and international obligations, and plant health protection in GB/UK, including biosecurity considerations.

***Who will carry out the assessments?***

For plant varieties and seeds, the PVSC will be tasked with considering the impacts of divergence and agreeing an approach. This might also include commissioning assessments from the NLSC or its sub-groups.

For Plant Health, the UK Plant Health Risk Group is the decision-making body regarding pest risk assessments.

***Would stakeholders be involved in making the assessment?***

The involvement of stakeholders would be on a case-by-case basis as necessary.

***The frameworks provide for relevant arm's length bodies to participate in decision-making groups. Some of these bodies (such as the APHA and the Forestry Commission) operate in Wales, but are not formally accountable to the Senedd. How will you ensure that the responsibilities and lines of accountability for different bodies are clear?***

There is an agreement in place between APHA and Welsh Ministers, under Section 83 of the Government of Wales Act 2006 which covers both Plant Varieties and Seeds and Plant Health. This is in the process of being updated. The Memorandum of Understanding for the Cross-Border provision of Forestry Functions and Research Delivery establishes an agreed Framework for the roles, responsibilities, relationships and cooperation between Welsh Government and the Forestry Commissioners in relation to the regulation of Plant Health (Forestry) and Forest Reproductive Materials in Wales.

#### Plant Health

***The framework states that it aims to maintain common rules on plant health. What scope for divergence does this offer compared to the position under EU membership?***

The Parties to the Framework commit to common plant health rules across GB/UK, whilst continuing to allow divergence in line with the JMC (EN) Frameworks principles.

***Unlike the plant varieties and seeds framework, this framework does not set an ambition for there to be minimum standards. Why is this?***

Rather than setting minimum standards, the Plant Health Framework outlines shared objectives for all Parties. These relate to protecting plant health and facilitating trade in plant materials. Through the Framework, parties are committed to work together to achieve these objectives and are guided by them.

Plant health legislation is amended in response to the threat posed by certain pests, where technically justified. Where the risk level of a particular pest is considered high, or there are uncertainties, a detailed Pest Risk Analysis is conducted, following internationally prescribed standards. Through this process, several criteria will be considered before an assessment of the risk is developed and decisions about legislative change are made.

***How have you engaged with the development of the Plant Biosecurity Strategy for Great Britain through the framework?***

Welsh Government officials have been working closely with officials in Defra, Scottish Government and DAERA through the Biosecurity Strategy Working Group and Steering Group to develop the biosecurity strategy. Officials have contributed to drafting the consultation on the strategy, engaging Welsh stakeholders and shaping the joint Government response to the consultation. Officials will continue to work together through the Framework to finalise the strategy in the coming months.

***Can you describe the role of Natural Resources Wales in plant health policy?***

Natural Resources Wales (NRW) delivers Welsh Ministers' plant health (forestry) functions through an arrangement under Section 83 of the Government of Wales Act 2006. NRW carries out terrestrial disease control in relation to woodlands and trees on the public forest estate.

***Why is Natural Resources Wales not represented in the framework's governance groups?***

As NRW acts as a delivery body for Welsh Ministers, it attends appropriate delivery level meetings, For example Incident Management Team meetings in relation to tree disease outbreaks.

Plant Varieties and Seeds

***The framework states that it aims to maintain minimum standards for seed marketing, and to enable a functioning UK internal market for seeds and plant propagating material. What scope for divergence does this offer compared to the position under EU membership?***

The Framework will make no changes to the scope of existing divergence. The Parties to the Framework commit to maintaining minimum standards for seeds marketing, as set out in legislation, providing reassurance for our trading partners, whilst continuing to allow freedom for Parties to flex above these minimum standards in line with the JMC (EN) Frameworks principles.

***The framework provides that the governments must inform each other at the earliest opportunity of proposals for changes to law and policy, before any public consultation. How will you ensure that this does not limit the role of the Senedd or stakeholders in making decisions about law and policy for Wales?***

Changes to law or significant changes to policy would always be subject to consultation and the views of Welsh stakeholders will be taken into account. When making legislation using powers within the Plant Varieties and Seeds Act 1964 there is a duty on Ministers to consult with representatives of such interests as appear to be concerned before making regulation.

***Four protocols on decision-making through the framework have not been published. Why is this, and when can publication be expected?***

The protocols are still under development. The intention being that they are issued for technical stakeholder engagement later in 2022 and will be available in due course.

***What does the review of the terms of reference for the National Lists and Seeds Committee and the Plant Varieties and Seeds Committee include, and when will revised terms of reference be published?***

The review of the Terms of Reference aims to ensure the roles and responsibilities of both Committees align with the Framework. There is no plan to publish the Terms of Reference but they can be made available on request.

UK Internal Market Act 2020

***What impact could the UK Internal Market Act 2020 have on Welsh law on plant health and plant varieties and seeds?***

Future policy changes will be considered on a case by case basis to determine where the UK Internal Market Act 2020 "UKIMA" will intersect.

***Do you intend to request any exclusions from the Act on plant health and plant varieties and seeds?***

There are currently no intentions to request an exclusion.

### International bodies and standards

***With regards to the international elements of the frameworks, can you describe any new opportunities provided to the Welsh Government by the frameworks?***

The development of Frameworks has increased the scope for such interaction between the relevant policy teams of the four Governments.

Decisions made under Framework on Plant Varieties and Seeds must be in line with the UK's international obligations. These includes being a signatory to the International Convention for the Protection of New Varieties of Plants (UPOV) and its membership of the Organisation for Economic Co-operation and Development (OECD) schemes for the Varietal Certification of Seed. The Framework sets out to establish common policy objectives and positions for engagement in international organisations. One of the four protocol documents (the international protocol document (in development)) will describe in more detail how coordination of UK positions at international fora is achieved via pre-meetings, in order to agree positions to proposals via designated representatives at international meetings.

Influence at UPOV is a key example for Plant Varieties and Seeds. Under the EU regime the UK were part of the Community Plant Variety Office (CPVO) representation to UPOV. The UK is now a standalone member so if the UK influences UPOV policy, other contracting parties such as the CPVO, and therefore other EU member states, will follow the agreed decisions at the international level.

### EU and Northern Ireland

***Can you describe how you will seek to influence UK positions at international bodies through each of these frameworks?***

Each Framework sets out to establish common policy objectives and positions for engagement in international organisations.

For Plant Varieties and Seeds, one of the four protocol documents in development (the international protocol document) will outline how coordination of UK positions at international fora is achieved via pre-meetings, in order to agree positions to proposals via designated representatives at international meetings.

***Can you provide an overview of how retained EU law on plant health and plant varieties and seeds in Wales has changed since the end of the transition period?***

For both Plant Varieties and Seeds and Plant Health, a number of SIs were made in 2021 to make minor corrections and to remove references to Northern Ireland from previous EU Exit SIs. For example:

- The Animal Health, Plant Health, Seeds and Seed Potatoes (Miscellaneous Amendments) Regulations 2021 make operability amendments to ensure plant and animal health controls can operate effectively to protect biosecurity and support trade between Great Britain and the relevant third countries. For plant varieties and seeds this included minor corrections to domestic legislation on national listing and seed potatoes.
- The Fodder Seed, Vegetable and Ornamental Plant Propagating Material (Amendment) Regulations 2021 amend legislation concerning vegetable and ornamental plants and plant propagating material and fodder seeds to remove provisions relating to Northern

Ireland which are no longer necessary in consequence of EU legislation added to paragraph 42 of Annex 2 to the Protocol.

- The Food, Animal Feed and Seeds (Miscellaneous Amendments and Transitional Provisions) (Wales) (EU Exit) Regulations 2021 insert transitional provisions into subordinate legislation applying in relation to Wales in the field of food and animal feed standards and labelling and relate to amendments to legislation made by other EU Exit statutory instruments. For seeds the regulations make a minor correction to the Seed Marketing (Wales) Regulations 2012.

***How will you continue to monitor changes to EU law on plant health and plant varieties and seeds and assess the implications of divergence from the EU and Northern Ireland?***

As EU Plant Varieties and Seed certification and marketing law continues to be applicable in Northern Ireland, officials regularly monitor updates coming out of the EU to enable consideration of future legislation. This could include further corrections to EU exit legislation, transferring missing powers from EU legislation into domestic law and making changes where EU decisions have been taken since the end of the transition period. Through the PVSC, the four Governments will consider implications of new EU legislation for Northern Ireland.

Divergence can be necessary in plant health as pest threats are often different for different geographical areas. Although GB legislation is only changed in response to pest threats to GB, new EU legislation is reviewed to understand what impacts there may be for GB and the Northern Ireland Protocol. Where rules in Northern Ireland change in alignment with the EU, the Framework enables the four Governments to consider the changes and to determine any impacts and subsequent actions arising from them.

***How will you assess the risks and benefits of keeping pace with EU law compared to maintaining the status quo?***

The risk and benefits to any potential changes in EU law will be assessed through the governance groups in each Framework. For Plant Varieties and Seeds, this will be through the PVSC with advice from its subgroup. The Plant Health Risk Group and its subgroups will consider and assess changes to EU law related to pests and diseases, alongside the evidence relating to those pest measures.

***Are you content that the frameworks will provide for adequate Welsh Government engagement in discussions through the UK-EU institutional framework on plant health and plant varieties and seeds?***

The development of Frameworks has increased the scope for interaction between the relevant policy teams of the four Governments. The Welsh Government will continue to promote Welsh interests in these areas through the Frameworks groups.

International Trade

***Both frameworks provide that they will enable the governments to “consider any implications stemming from international trade which have a direct bearing on the operation of a Common Framework.” Do you consider that this gives the Welsh Government adequate involvement in UK positions on plant health and plant varieties and seeds during international trade negotiations?***

The Frameworks are not intended as tools to influence international policy. However, Common Framework policy teams will assert Welsh interests in these areas through the Frameworks groups.

In relation to the UK-EU Trade and Cooperation Agreement, we understand that where a UK-EU meeting agenda includes an item concerning implementation in an area of devolved competence, the UK Government should facilitate Devolved Governments' attendance of a similar level to that of the UK Government representatives with final discretion as to the UK delegation a matter for the UK co-chair. We also understand that UK Government should engage the Devolved Governments as fully as possible in preparation for these meetings (such as meetings of the Specialised Committees) regardless of attendance, and on all relevant implementation matters.

***The UK Plant Health market access working group will coordinate trade promotion and cooperation. Can you provide more information on the remit, membership and activities of this group?***

This group progresses and tracks the priority actions for awareness raising identified through the Risk Register and Pest Risk Analysis process. It coordinates shared campaign strategy and intelligence between the four Governments, APHA, and the Forestry Commission. The group also advises and makes proposals on awareness raising as requested by the PHRG and to proactively raise opportunities.

***Could disagreements on UK positions in trade negotiations be escalated through either of these frameworks?***

Both Frameworks allow the Welsh Government to influence and input to the UK wide position on trade. This includes the opportunity to escalate these discussions to the overarching EFRA portfolio governance structures including IMG-EFRA for Ministerial consideration.

For Plant Varieties and Seeds, seed and plant material is traded via OECD seed schemes where these apply and participants are bound by the rules of these schemes.

***The plant health framework refers to an operating model on engagement between the UK and Devolved Governments on the WTO SPS Agreement, and Department for International Trade guidance on devolved engagement with WTO Committees. Can you provide us with details of these arrangements?***

There is positive official level engagement and the arrangements include regular meetings and commitments to share information between UK Government and Devolved Governments in relation to WTO committees.

***Are you content that this model and guidance offers adequate engagement with the WTO SPS Agreement and WTO Committees?***

The UK is the member state at the WTO and as such, the Welsh government does not engage directly with the any WTO committees. The arrangements set out do offer adequate engagement on WTO and SPS matters.

#### Governance and Dispute Resolution

***Do you consider the dispute resolution mechanisms in the frameworks robust enough for their intended purpose?***

The dispute resolution mechanisms are considered to be robust and proportionate. These have been jointly developed and agreed by the four nations. The dispute resolution mechanism allows for disagreements to be escalated as disputes to Ministers, where appropriate and necessary, for timely resolution.

***The plant health framework states that the dispute resolution process should only be used when genuine agreement cannot be reached, such as when divergence would impact negatively on the ability to meet the JMC (EN) principles. However, it also says disputes may be raised if a policy proposal conflicts with the policy of any party. What are the risks and benefits of setting strict criteria for escalation of disputes, and do you consider that the framework strikes the right balance?***

The Parties to the Plant Health Framework are all bound by the same international obligations and have shared objectives. For these reasons, we expect disputes to be rare. However, if required, the dispute resolution process outlines when it may be used with the intention that disputes are settled at the earliest stage possible.

***The framework does not set time limits for dispute resolution. Is there a risk that this could lead to delays to Welsh legislation or policy?***

The dispute resolution mechanisms are considered robust and proportionate. These have been jointly developed and agreed by the four Governments. The mechanism allows for escalation to Ministers, where appropriate and necessary, for timely resolution.

***What role will there be for external input into dispute resolution?***

It will be considered on a case-by-case basis.

#### Development

***How did the Welsh Government engage with stakeholders on the development of the frameworks?***

For each Framework, stakeholders from industry groups/bodies were engaged during the drafting process and provided with an infographic with information on the Framework. These stakeholders were engaged again following the publication earlier this year.

***How do the frameworks reflect the responses of stakeholders in Wales?***

For Plant Varieties and Seeds, stakeholders requested the ability to contribute to the development of the four protocols as they have the potential largest impact on their activities. For Plant Health, the main feedback was for further clarity on how the stakeholder groups interacted with the wider UK Plant Health Service Structure. This has been reflected in the governance structure diagram included in both the Concordat and Framework Outline Agreement.

#### Review and amendment

***How will the Senedd and stakeholders be able to contribute to the review and amendment process for the frameworks?***

Discussions are currently underway to agree the process for the monitoring and governance of Common Frameworks following their finalisation. This includes development of a standard template for reporting to be used across all Frameworks. This will be part of the recently published Intergovernmental Relations Review and involve the new Inter-ministerial Standing Committee (IMSC) with Ministers from the four nations.

Stakeholders will continue to be consulted on developments in policy in the usual way. The Welsh Government commits to notifying stakeholders of the upcoming review points of Common Frameworks and of any recommendations by the Senedd.

Yours sincerely



**Julie James AS/MS**  
Y Gweinidog Newid Hinsawdd  
Minister for Climate Change

Paul Davies MS  
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28 April 2022

Dear Paul,

Thank you for your letter of 30 March, regarding the Fertilisers Common Framework ('the Framework').

I am pleased to provide responses to the questions raised. Questions have been grouped where they have been addressed by a single response.

### Scope of the Framework

***To clarify the scope of the framework and whether it relates solely to the management of regulation previously governed by the EU or all fertiliser regulation and policy?***

The Framework has been drafted to support the effective regulation of fertilisers across the UK, now that the Transition Period has ended, including in relation to:

- retained EU legislation;
- domestic legislation;
- communication and decision-making processes between the Parties (the four Governments of the UK) in relation to fertilisers; and
- the functioning of EU legislation as applicable in Northern Ireland under the Northern Ireland Protocol.

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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.

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Fertiliser policy and legislation covers the rules on the import, export, sale or use of fertilisers in the UK, including:

- definitions;
- compositional limits;
- detonation resistance;
- labelling requirements;
- sampling and analysis procedures;
- processes for compliance and enforcement relating to fertilisers; and
- requirements that apply to importers and exporters.

The Framework also covers the gathering of technical and scientific evidence around fertilisers, stakeholder engagement, policy making processes and design, as well as enforcement and market surveillance coordination.

Any materials applied to land to enhance crop growth have the potential to fall under the scope of the Framework. The focus of the Framework relates to the manufacture and marketing of fertilisers. Organic fertilisers would need to be considered on a case-by-case basis by the UK Fertiliser Regulatory Committee (UKFRC).

***To confirm whether regulations related to the control of agriculture pollution would come within the scope of the common framework?***

In respect of the development of policies and legislation relating to the type of controls on the use of fertilisers prescribed by the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021, it is expected these would be shared with Members of the UKFRC, in accordance with the ways of working and procedures established by the Framework. However, this would generally be for information purposes only. Members of the UKFRC are aware of these Regulations, and of similar regulatory regimes in England, Northern Ireland and Scotland, and no matters have arisen in respect of these in the operation of the provisional Framework to date.

***If all, to explain how this differs from how fertilisers law and policy was governed prior to the UK's exit from the EU?***

The Framework formalises existing governance arrangements. Officials from each UK nation had already been holding meetings and discussing fertiliser policy developments before the creation of the Framework, but without any written governance mechanism.

***To confirm if the Welsh Government has the same flexibility to develop fertilisers law and policy it had before the end of the transition period?***

The Welsh Government's ability to legislate and develop policy in respect of fertilisers has not diminished following the end of the transition period.

***To set out what other frameworks this framework interacts with and how those interactions will be managed?***

This Framework may interact with other Common Frameworks, including those on air quality, chemicals and pesticides, organic production and integrated pollution prevention and control. The members of the UKFRC will be responsible for identifying and managing any interactions, in line with the procedures set out in the Framework.

## Decision-making in the Framework

### ***To provide examples of the kinds of decisions on policies and laws that will be taken through the framework?***

EU Regulation 2019/1009, on the making available on the market of EU fertilising products (the FPR), which has a staggered application, will replace Regulation (EC) No 2003/2003 in the EU once it fully applies in July 2022. This will introduce a new conformity assessment regulatory regime for EU fertilising products, which will regulate a broader range of materials than are currently regulated as EC fertilisers. The FPR will establish contaminant limits on particular fertilisers within the EU. This represents a major shift in fertiliser regulations in the EU, which the UK was involved in developing prior to leaving the EU.

It is generally accepted domestic legislation for the manufacturing and marketing of fertilisers, including retained EU law, needs to be updated, bringing a wider range of products into scope and embedding consistent standards into production and marketing rules. Some articles of the FPR applied before the end of the Transition Period and action was taken to implement those articles in GB where required by way of the Fertilising Products Regulations 2020.

Updating domestic legislation on fertilising products, for the manufacturing and marketing of a wider range of fertilisers and to maintain access to fertiliser supplies from the EU, is anticipated to be the focus of the work carried out under the Framework over the coming years. Policy and legislation development will be needed in respect of controls over the import, export, sale or use of fertilisers in the UK, including limits on contaminants, sampling and analysis procedures and enforcement.

### ***To give an example of how the six objectives outlined in the framework will be used to make decisions under the framework?***

The development of any domestic legislation will need to take account of the overarching objectives. Consideration will need to be given to the composition requirements of fertilisers to ensure levels of potentially harmful contaminants allowed are appropriate in the development of any revised legislative regime. Fertilising materials not currently covered by fertiliser legislation may be considered for inclusion, to ensure the safety of those materials.

This could include the potential of including standards for organic fertilising products to provide an improved regulatory framework, to facilitate innovation and a circular economy approach. The composition requirements provided by any new legislation should take into account the human health and environmental implications of potentially harmful contaminants.

Any revised fertiliser regime would need to ensure producers, users and enforcement bodies understand and comply with the requirements. Such an approach necessitates the creation and maintenance of a suitable regulatory environment. The development of new legislation would be informed through consultation with stakeholders, to ensure legislation is fit for purpose, practicable and enforceable.

The following three questions have been grouped:

***To clarify which will be the main groups involved in decision making and why the framework makes inconsistent references to them?***

***The descriptions of who will be involved in dispute resolutions are unclear. Can you set out which structures and groups will be involved in dispute resolution?***

***Can you clarify the role of the UK Fertilisers Regulatory Committee (UKFRC) versus the role of the Fertilisers Liaison Group? Who will chair the UKFRC?***

There are a number of decision-making processes, each requiring the involvement of different groups. The UKFRC is the only group involved in relation to policy or legislative decisions, where members of the UKFRC agree and which do not involve divergence. Where there is disagreement or divergence, this is escalated to the Fertiliser Liaison Group.

Officials routinely involve their own senior officials on issues of potential importance and would continue this normal working practice in relation to framework matters, including issues surrounding divergence even where all officials agreed at UKFRC level. In terms of dispute resolution, any dispute between parties would not proceed directly from policy officials (the UKFRC) to the Senior Officials Programme Board (SOPB), hence the establishment of the Fertiliser Liaison Group. The Fertiliser Liaison group, comprising senior officials (Grade 5 level), would seek to mediate any disputes before any further escalation. The membership of the Fertiliser Liaison Group is dependent on whether the disagreement relates to policy or the functioning of the Framework. Defra policy officials will take on the responsibility for chairing meetings of the UKFRC.

The role of senior officials and, where called upon, the Fertiliser Liaison Group is to provide an additional layer of support between officials who form part of the UKFRC and the escalation route of decisions or disputes to the SOPB or Ministers and is part of each government's normal working arrangements.

No new group will be formed to only deal with fertiliser related decisions or disputes since an existing group, the SOPB, already provides this function across multiple policy areas. Senior officials will be involved in decision making on policy and legislative decisions. They will not be required to communicate or meet during the decision making process. They would however be required to meet as a group during any dispute resolution. The formal senior officials Fertiliser Liaison Group will only be called upon for dispute resolution.

All governments are committed to promoting collaboration and the avoidance of disagreements, facilitated by new intergovernmental machinery, including circumstances where governments disagree about the interpretation of, or actions taken in relation to, matters governed by intergovernmental agreements, rules or procedures, which includes Common Framework Agreements.

Managing divergence through the framework

***Different terms are used to describe divergence in the framework. On what basis will parties to the framework decide whether any proposed divergence is 'acceptable' or 'harmful'?***

When a decision taken by one Party has the potential to undermine the policy objectives of another, the divergence would be regarded as harmful. An example would be where less stringent compositional standards in one of the nations could lead to environmental pollution of cross-border waterbodies. Acceptable divergence could occur, for example, where different compositional standards would not have any significant implications.

***Can you explain how divergence between Great Britain and Northern Ireland will be managed through the framework, given that Northern Ireland will be required to follow new EU regulatory structures on fertilisers?***

The Framework reflects the specific circumstances in NI that arise as a result of the Protocol and remains UK wide in its scope. As such, decision making and information sharing will always respect the competence of all Parties to the Framework and in particular the provisions in Article 18 of the Protocol on democratic consent in Northern Ireland.

Where one or more of UK Government, the Scottish Government or the Welsh Governments propose to change rules in a way that has policy or regulatory implications for the rest of the UK, or where rules in Northern Ireland change in alignment with the EU, the Framework provides governance structures and consensus-based processes for considering and managing the impact of these changes.

As rules evolve to meet the emerging regulatory needs of the Welsh, Scottish and UK Governments, the Framework will ensure the full participation of Northern Ireland in discussions such that the views of the relevant Northern Ireland Executive Minister(s) are taken into account in reaching any policy or regulatory decisions by the UK, Scottish or Welsh Governments.

Where rules in Northern Ireland change in alignment with the EU, the Framework will form the basis of a mechanism to ensure consideration by the four governments of any changes, and will enable them to determine any impacts and subsequent actions arising from these changes.

The Dispute resolution process detailed in the Framework can be triggered, should it be considered necessary.

***To explain why the framework doesn't provide timeframes for decision making and if there is a risk this could delay decision making processes?***

The Framework underpins ongoing policy development in the area of fertilisers, potentially covering changes from minor guidance amendments to wide-ranging, innovative approaches. Timeframes for decision making and regulatory interventions will be subject specific and it would not be appropriate to establish these within the Framework. The setting of timescales for specific work areas would usually be shared with or determined and agreed by the UKFRC.

***Other frameworks outline that the parties should consult each other on proposed policy changes even before they conduct stakeholder engagement on proposed changes. Is this the case for this framework?***

The 'Ways of Working' established by the Framework recognise the importance of communication between the four governments, including the implementation of a 'no surprises' policy. As such, it is expected the UKFRC would be consulted prior to stakeholder engagement where possible.

***The Welsh Government has said they expect the MoU on Devolution to become ‘dormant’ as new IGR structures are put in place. Can you explain implications of this for this framework?***

In January 2022, the Welsh Government, along with the UK Government, the Scottish Government, and the Northern Ireland Executive, agreed to use the package of reforms which emerged from the joint Inter-Governmental Relations Review (IGRR) as the basis for the conduct of intergovernmental relations. While the reform package does not entirely replace the existing Memorandum of Understanding on Devolution, it is anticipated this will become a largely dormant document. In future, we hope that the Review and the package of reforms will be codified in a new MoU and, if all governments agree, underpinned in statute. For the time being, policy formulation will be developed in line with the current Devolution MoU. Alongside this, there may be minor amendments made to the Framework during its finalisation or following review to ensure it aligns with the definitions and processes outlined in the outcome of the IGRR.

Dispute resolution

***No timescales are set for dispute resolution. Is there a risk this could impact delivery of policy and law in Wales?***

Timescales for the resolution of any disputes will be subject to the nature and complexity of the dispute. The dispute resolution process may play an important role in challenging and testing policy and legislative proposals, which should be seen as potentially beneficial for the delivery of outcomes in Wales. Welsh agriculture relies heavily on cross-border supply chains, so if the Welsh Government were not to adequately discuss policy proposals with the other UK nations, it could harm Welsh businesses or consumers and then may require policy revision, lengthening the process. However, where disputes are referred to the Inter-Governmental Relations Secretariat, timescales have been established for consideration of the referrals.

***In which circumstances will parties be able to ‘agree to disagree’? What risks have you identified with this approach?***

Ministers are able to act in accordance with available powers. The Framework does not fetter the ability of Welsh Ministers to make decisions in a timely manner.

UK Internal Market Act 2020

***How does the framework interact with the UK Internal Market Act?***

Future policy will consider on a case-by-case basis whether there will be an intersect with the UK Internal Market Act (UKIMA) and what the effect will be. It is still too early to fully understand the impact of the UKIMA on the Framework.

***Does the Welsh Government intend to seek an exclusion for this framework from the UK Internal Market Act?***

There are no intentions to request an exclusion.

Impact on Law and Policy

The following two questions have been grouped:

***Will the Agriculture Bill contain provisions on fertilisers? If so, have these proposals been through the framework process? If not, is this because of decisions taken through the framework?***

***If provisions are being made in the Bill, how will these align with the commitment in the framework to use regulatory powers on fertilisers in line with the frameworks principles?***

The Agriculture Act 1970, as amended by the Agriculture Act 2020, provide adequate provision for changes to be made to fertilisers regulations, including by Welsh Ministers.

Transparency and accountability

***Did you consult stakeholders in the development of the framework?***

Stakeholders were consulted in February 2021 on a summary of the Framework. No concerns were raised. Further stakeholder engagement is planned following the elections in Northern Ireland on 5 May 2022.

***Stakeholder engagement is included as a key objective for the framework but no processes are contained within it for stakeholders to be involved in decision-making, evidence gathering or review and amendment. Can you explain why and how this will be addressed?***

The Welsh Government has established processes for stakeholder engagement, which differ from those of other nations. It would not be appropriate for a different process to be established for the purposes of the Framework. The Framework objective to develop strong and fruitful stakeholder relationships complements and builds upon the commitment of the four governments to involve stakeholders in policy and legislation development.

***The framework outlines that wholesale reform of fertilisers regulation is forthcoming and the framework will be reviewed in light of this. How will you involve the Senedd in any review and amendment process?***

There is a commitment to consistent reporting on Common Frameworks post-finalisation. The details are currently being worked through at an official level. Review points are scheduled into each Common Framework. It is expected that these will give the Senedd additional opportunities to engage in the development and evolution of Common Frameworks. The Interministerial Standing Committee will monitor the progress of the Common Frameworks programme to fulfil the role given to it by the joint Review of Intergovernmental Relations to 'Provide oversight of the Common Frameworks programme and its governance arrangements'.

The expectation is that reports on Common Frameworks will be public documents once they are signed off by portfolio Ministers and will be made available to the relevant committees in the four nations as well as relevant stakeholders.

In addition there is a commitment to inform the Senedd:

- of disputes raised through the Common Frameworks
- when disputes are escalated to Ministers
- and stakeholders of upcoming review points and consider recommendations by the Senedd and stakeholders as part of the same review process
- of any new legislation affecting the Common Frameworks; and
- of any applications for an exclusion under UKIMA.

Other Questions

***The framework consists of a number of errors, unexplained and inconsistent terms. Can you explain why these were not addressed through internal sign off processes prior to publication?***

Time constraints may have been a factor behind textual errors and inconsistencies. Any such errors will be corrected in the final version of the Framework.

I trust the responses provide sufficient detail and clarity on the scope and operation of the Framework and I look forward to further discussions with you on Common Frameworks in the future.

Regards,

A handwritten signature in cursive script that reads "Lesley Griffiths". The signature is written in a light grey or blue ink.

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

Paul Davies MS  
Chair  
Economy, Trade and Rural Affairs Committee

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29 April 2022

Dear Paul,

Thank you for your letter of 30 March raising a number of queries in regard to the provisional Organic Production Common Framework. My responses are set out below.

General points

***The framework includes a number of errors and inconsistent terminology and diagrams. Can you explain why these were not addressed through internal sign off processes prior to publication?***

In publishing the framework in draft, it is recognised some minor drafting errors and inconsistencies may yet remain. Any such issues will be fully corrected during the process of agreeing the final version of the framework.

***The framework says that there is on-going disagreement between the governments about what is reserved and what is devolved. Can you clarify what this disagreement is, and explain why it does not affect the operation of the framework?***

The disagreement is over who has the power to recognise third-country organic certification systems as equivalent to the standards set in the UK. The UK Government argues that this power is reserved, while the Welsh Government views it as devolved. It does not affect the operation of the framework, as most organic policy discussions are not directly linked to this topic, and should this issue be central to discussions, the dispute resolution mechanisms in the framework may be used.

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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.

## Scope

***To clarify the scope of the framework and whether it relates solely to the management of regulation previously governed by the EU, or organics policy in its entirety?***

The framework relates to organics policy in its entirety.

***If the framework does relate to all organics policy, to explain how this differs from how organics policy was governed prior to the UK's exit from the EU?***

The Organic Production Common Framework formalises existing governance arrangements. Officials from each UK nation had already been holding meetings and discussing organic policy developments before the creation of the framework, but without any written governance mechanism.

***To confirm if the Welsh Government has the same flexibility to develop organics law and policy that it had before the end of the transition period?***

The Welsh Government technically now has more flexibility to develop organics law and policy than it had before the end of the transition period. This is because organic standards were previously set at the EU level. Organics stakeholders have however stressed the need for consistency in standards both among the four nations and between Great Britain and the EU and to which Welsh Government will have regard in considering organics law and policy.

***The framework sets out that it interacts with a number of other frameworks. How will these interactions be managed?***

Frameworks have been developed in a way to maintain consistency on areas such as dispute resolution. Occasionally organic policy will impact upon other policy areas, such as agricultural support. For example, questions on organic products may be raised in the UK Agricultural Market Monitoring Group. In these instances, officials will discuss any issues with colleagues working in those policy areas.

## Decision-making: Four Nations Working Group

***Is the group a new governance structure of collective decision-making on all organics policy, or is it only a mechanism for managing divergence?***

There is much agreement over many aspects of organics policy between the Four Nations, so the Four Nations Working Group often facilitates discussions over joint or joined-up policy making. For example, the Welsh, Scottish and UK Governments may agree on joint minor updates on technical aspects of legislation to maintain consistency for organic producers, or legislation which is mirrored in each nation to reach the same ends. In other matters where the programmes for government diverge in each nation and such divergence relates to organics, the group is a place where such policy decisions are announced and explained. This allows for such divergence to be managed effectively.

***Will any assessment of a proposed policy change in the UK developed by one of the Parties be shared with stakeholders?***

If there is a proposal from another UK administration which would have a significant impact on Wales, the Welsh Government may carry out an assessment of it. Sharing such an assessment with stakeholders would have to be determined on a case-by-case basis.

***Will the decision-making process requiring notification and collaborative assessment delay the policy-making process?***

The decision-making process including notification and collaborative assessment should not delay the policy-making process. If policy proposals were not adequately discussed between the Four Nations, there is a high chance of unintended negative consequences and greater delay and disruption as a result. Welsh agriculture relies heavily on cross-border supply chains, so if the Welsh Government were not to adequately discuss policy proposals with the other UK nations, it could harm Welsh businesses or consumers and then may require policy revision, lengthening the process.

***If proposals are changed as a result of the decision-making process in the framework, will you inform the Senedd and stakeholders?***

If proposals are changed as a result of the decision-making process in the framework, the reasons for this will be explained to the Senedd and stakeholders.

Decision-making: UK Expert Group on Organics

***Can you explain why the Expert Group has not yet been set up and what the timeframe for its establishment is?***

Other urgent work on organics has meant the establishment of the Expert Group has progressed to a slower timetable than originally anticipated. The terms of reference and application packs for the group have now been drafted, and it is expected the recruitment campaign will be launched within the next few months.

***Can you clarify on what evidence base decisions are being made in the absence of this Group?***

The Organic Control Bodies have a technical working group which provides information, when requested, on issues such as the availability of organic products and the practical implementation of organic regulations. Welsh Government officials regularly attend the meetings of the UK Organic Certifiers Group and the Welsh Organic Forum, where other issues affecting the organics sector may be raised and acted upon. Information on the organics sector may also be gathered through officials' attendance at the UK Agricultural Market Monitoring Group, the Livestock Chain Advisory Group and the EU Transition Agri-food Supply Chain Stakeholder Group, the latter of which is a Wales-only group.

Decision-making: Competent Authority

***In its Competent Authority role will Defra be acting as the government for the whole of the UK or as the government for England?***

In its Competent Authority role, Defra, rather than acting as a government itself, acts to implement the decisions of ministers of the Devolved Governments with regards to matters of devolved competence. As such, in this instance Defra carries out its work for the whole of the UK rather than England alone, as set out in the Framework.

***The framework states the Competent Authority will play a role in government business. Can you clarify what this means and on whose behalf would they be acting in this role?***

The Welsh Government will continue to handle government business on organics, such as communication from elected representatives and members of the public, in the normal way. The Competent Authority, DEFRA, will be consulted by the Welsh Government when such communication is related to actions undertaken by the Competent Authority on behalf of Welsh Ministers. Replies to such communication will continue to be sent from the Welsh Government.

***The framework implies the Competent Authority will be responsible for labelling and logo decisions but also that the Parties will be involved. Can you clarify how decisions on logos and labelling will be made?***

The Competent Authority co-ordinates the discussions within the Four Nations Working Group on organics policy in relation to logos and labelling issues, and it would be expected that consensus would be reached within these discussions.

#### Divergence

***Different terms are used to describe divergence in the framework. Can you clarify on what basis the Parties will decide if divergence is harmful or acceptable?***

When a decision taken by one party has the potential to undermine the policy objectives of another, the divergence would be regarded as harmful. An example would be where less stringent production standards in one of the nations would lead to producers in another not having access to the market on the same terms.

#### UK Internal Market Act

***How does the framework interact with the UK Internal Market Act?***

Future policy discussed in this Framework and how this will interact with the UK Internal Market Act will be considered on a case-by-case basis to determine the effects. The Framework provides the flexibility to consider divergence.

***Does the Welsh Government intend to seek an exclusion for this framework from the UK Internal Market Act?***

There is no intention to request an exclusion from the Act in the common framework area.

#### Northern Ireland Protocol

***To explain what if any risks there are for divergence with Northern Ireland on organics regulation and how this will be managed through the framework?***

There is already divergence between Great Britain and Northern Ireland in organics regulation, as Northern Ireland has had to implement EU Regulation 848/2018, which establishes the principles of, and lays down rules for, organic production. Great Britain has retained EU Regulation 834/2007, the predecessor of 848/2018. There are already risks such as producers in Northern Ireland not having a level playing field to compete with producers in the rest of the UK. This is being managed through the framework in discussions at the Four Nations Working Group on how organics policy in Great Britain can be made in a way which lessens any detrimental impact on Northern Ireland.

#### Transparency and accountability

***The framework states that stakeholder consultation will continue for 'major' regulatory changes. Can you clarify what would constitute a major change and explain what kind of changes stakeholders would not be consulted on?***

A major regulatory change would be any where producers have to substantially change their ways of managing and operating their business, or where organic products are changed in a way which would likely affect consumer understanding or confidence. Any change would have some level of stakeholder engagement. Where such changes are minor, such as granting a derogation for the use of a non-organic product as a small component in a composite organic product when there are no organic alternatives available, engagement would likely be limited to discussions with the Control Bodies and the Expert Group on Organic Production. This is in contrast to a full stakeholder consultation, which would be undertaken for major regulatory changes.

***The framework states that the governments will keep the parliaments in their respective countries informed 'where appropriate'. Can you clarify what this term means in practice?***

Parliaments in each nation will be informed of any Ministerial decisions on any statutory instruments containing devolved provisions which are laid in the UK Parliament. Written or Oral Statements will be made should the Welsh Government make major policy decisions affecting the sector.

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 of the name.

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



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Welsh Government

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29 April 2022

Dear Paul,

Thank you for your letter of 30 March regarding the Common Framework on Agricultural Support. My response to your specific questions are set out below.

## Scope of the Framework

### ***To confirm what the scope of the framework is, and whether it would apply to sustainable land management schemes?***

The Framework is a non-legislative agreement which covers working arrangements for future agricultural support now the UK has left the EU and the Common Agricultural Policy (CAP). The specific elements of agricultural support covered in the Framework are:

- Agricultural spending and associated regulation and enforcement
- Marketing standards
- Crisis measures, Public Intervention (PI) and Private Storage Aid (PSA)
- Cross border holdings
- Data collection and sharing

Agriculture is a devolved policy area and therefore each government can design and implement agricultural policies for their own territories. Sustainable land management schemes would fall within scope of the Framework.

## Decision-making in the framework

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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.

***The Agriculture Policy Coordination Group (PCG) has a large number of responsibilities in relation to the framework. Can you clarify how this will be resourced and supported within Welsh Government, and how frequently the group will meet?***

The Policy Collaboration Group (PCG) is resourced and supported by officials within my portfolio. The group is currently meeting monthly with a rotating Chair from each Government, and a standing Defra secretariat.

***Whether the Senedd will be informed when crisis management groups are set up and what their terms of reference are?***

Crisis-specific sub-groups will be established as and when necessary, within the existing governance structures under the framework. I would be happy to update the Senedd on this at the appropriate time.

***Whether any of the data and information gathered by the Market Monitoring Group (MMG) will be published or shared with the industry?***

A meeting note is published on the following web page each month, along with a report of the data considered - [UK Agriculture Market Monitoring Group \(UKAMMG\) - GOV.UK \(www.gov.uk\)](http://www.gov.uk).

***Can you clarify how the MMG will decide a Market of Principal Importance is no longer such, or on what basis it might decide new areas should become Markets of Principal Importance, and how will you inform the industry about any such decisions?***

All marketing standards are within scope for the MMG and PCG, however any amendments to the list of markets of principal importance would be made by consensus between the Parties to the Framework. This would be communicated to stakeholders via the regular meetings held with officials.

***To explain who the UK Agriculture Market Policy Group (UKMAPG) are, and how they relate to the framework?***

The UKAMPG was the previous name for the Policy Collaboration Group (PCG). The final Framework documentation will be updated to correct this.

Managing divergence through the Framework

***Different terms are used to describe divergence in the framework. Can you clarify on what basis the parties to the framework will decide if divergence is 'harmful' or 'unwanted', or 'necessary' or 'acceptable'?***

The PCG's role is to enable sharing of knowledge, information, and good practice proactively between the Parties. Its members will jointly consider if a new or changing policy leading to divergence would have a harmful or unwanted impact on another party. An example could include one country introducing lower marketing standards. The impact of divergence will be assessed based on an appropriate evidence base – this may include further evidence from analysts including the MMG, evidence from legal teams, or externally from external bodies or industry engagement.

***To explain how divergence between Great Britain and Northern Ireland will be managed through the framework, given that Northern Ireland will be required to follow EU marketing standards? What, if any, risks are there for divergence with Northern Ireland on marketing standards?***

The Framework reflects the specific circumstances in Northern Ireland arising from the Northern Ireland Protocol and remains UK wide in its scope. Decision making and information sharing will respect the competence of all Parties.

Where one or more of UK, Scottish or Welsh Governments propose to change rules in a way which has policy or regulatory implications for the rest of the UK, or where rules in Northern Ireland change in alignment with the EU, the Framework is intended to provide governance structures and consensus-based processes for considering and managing the impact of these changes.

As rules evolve to meet the emerging regulatory needs of the UK, Scottish and Welsh Governments, the Framework will ensure the full participation of Northern Ireland in discussions so the views of the relevant Northern Ireland Executive Minister(s) are taken into account in reaching any policy or regulatory decisions.

Where rules in Northern Ireland change in alignment with the EU, the Framework will form the basis of a mechanism to ensure consideration by the four governments of any changes and will enable them to determine any impacts and subsequent actions arising from these changes.

***To explain how the framework interacts with the UK Internal Market Act?***

Future policy discussed in this Framework and how this will interact with the UK Internal Market Act will be considered on a case by case basis to determine the effects. The Framework provides the flexibility to consider divergence.

***Does the Welsh Government intend to seek an exclusion for this framework from the UK Internal Market Act?***

There are no intentions to request an exclusion.

**Dispute Resolution**

***To clarify if dispute resolution processes could lead to delays in Welsh Government policy making decisions?***

The dispute resolution mechanisms are considered to be robust and proportionate. These have been jointly developed and agreed by the four nations. The dispute resolution mechanism allows for disagreements to be escalated as disputes to Ministers, where appropriate and necessary, for timely resolution.

Processes exist to manage disputes at an official and Ministerial level. In the event a dispute arises, the Framework includes dispute avoidance principles and processes. It is expected only a very small number of cases will need dispute resolution approaches.

***Can you clarify the timescales for resolving disputes?***

It is recognised disputes may vary in nature, complexity, and operational context and therefore a set time limit would not be conducive to reaching the best outcomes for all administrations.

### Practical impact on law and policy

***Has the Welsh Government's Agriculture Bill gone through, or will it go through, any of the common framework processes? If so, what was the response of other governments and were any changes made as a result?***

Officials are keeping counterparts in the other governments updated on progress with the Agriculture (Wales) Bill via the Policy Collaboration Group. No concerns have been raised and no changes have been made on the basis of discussion with the other governments.

### Transparency and accountability

***How stakeholders will be engaged in the decision making and review structures in the framework?***

Stakeholders will continue to be consulted on developments in policy in the usual way. The Welsh Government commits to notifying stakeholders of the upcoming review points of Common Frameworks.

Review points are scheduled into each Framework which give stakeholders additional opportunities to engage in the development and evolution of Frameworks. Once finalised, the Agriculture Support Framework will be reviewed every 12 months. Third parties can be used by any Party to the Framework to provide advice at any stage in the process. This may include seeking views from relevant stakeholders as appropriate.

***Can you explain what the UK Farming Conference is and how it relates to the framework?***

The UK farming conference has since become the UK Agriculture Partnership (a Defra initiative). Following similar queries during the House of Lords scrutiny, it has been agreed the reference to the UK Farming Conference will be removed from the Framework documentation.

### Monitoring, review and amendment

***To clarify the timescales for the review of the framework: when will they take place annually, and when will this transfer to every three years?***

Reviews will take place annually, until the reviewers agree a three year period between reviews is satisfactory. The framework will be updated to reflect this.

***Can you set out what processes will be put in place for stakeholder engagement in decision-making, amendment and review of the framework?***

There is a commitment to consistent reporting on Frameworks post-finalisation. The details are currently being worked through at an official level. Review points are scheduled into each Framework. It is expected these will give the Senedd additional opportunities to engage in the development and evolution of Frameworks. The Interministerial Standing Committee will monitor the progress of the Frameworks programme to fulfil the role given to it by the joint Review of Intergovernmental Relations to 'Provide oversight of the Common Frameworks programme and its governance arrangements'.

The expectation is reports on Frameworks will be public documents once they are signed off by portfolio Ministers and will be made available to the relevant committees in the four nations as well as relevant stakeholders.

In addition there is a commitment to inform the Senedd:

- of disputes raised through the Frameworks
- of upcoming review points and consider recommendations by the Senedd and stakeholders as part of the same review process
- of any new legislation affecting the Frameworks
- of any applications for an exclusion under UKIMA.

### Other Questions

***The framework consists of a number of errors, unexplained and inconsistent terms. Can you explain why these were not addressed through internal sign off processes prior to publication?***

Time constraints may have been a factor behind textual errors and inconsistencies. Any such errors will be corrected in the final version of the Framework.

***Can you clarify when the Concordat associated with the regulations on the agreement on agriculture will be published?***

Defra are leading on the publication process for the Concordat which is currently being considered by portfolio Ministers in all four governments. The timetable for publication will be determined once all four governments have approved the Concordat.

***Can you clarify how, if at all, the framework interacts with the Trade and Cooperation Agreement and why parts of the framework appear to have not been updated since the Agreement was ratified?***

Agricultural subsidies are excluded from the Trade and Cooperation Agreement. Therefore, there is little interaction between the Agreement and the Framework.

***Can you clarify the relationship between the framework and the UK Coordination Body and the Rural Payments Agency group?***

The UK Co-ordination Body (UKCB), established for EU Common Agricultural Policy schemes has been identified as a provider of UK/GB wide functions, where collaboration, co-ordination or co-operation is mutually beneficial.

The Parties to the Framework agree to continue to submit to Defra, Rural Payments Agency (RPA) and the UKCB data which was previously compiled and sent to the EU. The Parties are also responsible for identifying notifications which are not sent collectively through a single UK-wide body.

Connections will be maintained between policy and operational teams via informal but regular mutual updates between the Agricultural Support Framework's Policy Collaboration Group and the Paying Agency groups under the auspices of UKCB.

The UKCB fulfil a legislative role under retained EU law required for ongoing payments made under the European Agricultural Fund for Rural Development (EAFRD). This legislative role will be a requirement until the 2024/2025 financial year at the earliest.

I trust the responses provide sufficient detail and clarity on the scope and operation of the Framework and I look forward to further discussions with you on Common Frameworks in the future.

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 of the name.

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



Paul Davies MS  
Chair  
Economy, Trade and Rural Affairs Committee

[Paul.Davies@senedd.wales](mailto:Paul.Davies@senedd.wales)

29 April 2022

Dear Paul,

Thank you for your letter of 30 March raising a number of queries in regards to the provisional Animal Health and Welfare (AH&W) Common Framework. My responses are set out below.

### Scope of the Framework

***The framework states that the whole of animal health and welfare law and policy will be in scope. Why is it appropriate for all planned changes to animal health and welfare law and policy to be in scope of this framework, even where the Welsh Government would have had regulatory flexibility in the EU context?***

The majority of domestic regulation in AH&W consists of retained EU law. As all AH&W regulation is interlinked in nature it would not make practical sense to have separate structures under the Framework for discussions and decision-making on both retained EU law and non-retained AH&W law.

The Welsh Government always had regulatory flexibility while we were in the EU and will continue to have so under the Framework arrangements.

***Can you set out what impact this will have on the way that the Senedd and Welsh Government can exercise their competence?***

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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.

The Framework does not impinge upon the ability of Welsh Government to make separate policy or legislation for Wales. Divergence in policy or legislation in devolved areas will continue to be possible with the Framework providing a more formal route for early discussion of either joint or separate policy making.

The Senedd will continue to be consulted and notified in the usual way when the Welsh Government is developing policy and making regulatory changes.

***Can you set out how the process for making changes to Welsh law and policy on animal health and welfare is different under the framework compared to during EU membership?***

It is important to emphasise that significant cooperation and collaboration in AH&W between the four governments existed prior to our exit from the EU, given the complexity and interdependencies of the area covered by this Framework. Therefore, the processes for policy and legislative change are not significantly different.

The main difference is that Ministers in all governments acquired new functions previously held by the European Commission so the Framework created the mechanism to govern policy development and decision making in those new areas.

For example, to support those new functions relating to assuring standards of imported goods, the creation of the UK Office for Sanitary and PhytoSanitary Trade Assurance (UKOSPSTA), provides a technical role on behalf of all governments, using common resources and enhancing decision making by making the same technical and scientific data and advice available by default to policy decision makers.

Decision-making in the Framework

***To explain how you have been working through the common framework to consider and agree changes to animal health and welfare law, and how this is different from the policy development process when Wales was in the EU?***

It is important to emphasise that significant cooperation and collaboration already existed between the four governments prior to EU Exit. The Framework has strengthened our working relationship with the other governments of the UK.

Specific examples include:

- Over the past year, we have utilised the Framework mechanisms (as set out within the Framework itself) to improve engagement with UK Government and raise awareness of proposed changes to UK border policy.
- There have been a number of changes to the EU's Animal Health Regulations (AHR) with an impact on the UK's ability to export to the EU. The Framework created a cross government programme board to run various successful projects to address those changes in EU law and amended our own regulations and policies in order to preserve trade with the EU.

***The framework requires that the governments notify each other of any matters (including policy formation, proposal for legislation, public announcements and emergency responses) as soon as they are considered, so that joint discussions can take place before final decisions are taken. To explain what impact (if any) you anticipate this will have on the role of the Senedd and stakeholders in developing Welsh law and policy?***

The Framework does not prevent or inhibit the Welsh Ministers' executive competence to implement new policies or the Senedd's competence to pass legislation. There are times, given the nature of animal disease and other emergencies, that the Welsh Government needs to act very quickly, and there is provision for this in our legislation.

The Framework does not impinge upon the role of the Senedd and stakeholders as we will consult and notify them in the usual manner.

### Managing divergence

***The framework requires that if a government is proposing to diverge, there should be an assessment of the implications for the UK internal market, the negotiation and implementation of international agreements, and biosecurity. How will this work in practice?***

Parties must first see if they can agree a common approach that accommodates the desired outcomes of individual Parties in order to minimise divergence.

The Parties have agreed not to diverge from baseline standards in a manner harmful to biosecurity, welfare or the UK Internal Market across relevant policy areas. The impact of any change and whether it is harmful will be determined by the CVOs and Senior Policy Officials. Where there is the potential for divergence this will be transparently discussed with all parties included in the Framework, evidence will be shared and if appropriate a consensus may be sought on a policy direction.

***To explain how the Welsh Government will continue to monitor changes to EU law on animal health and welfare and assess the risks and benefits of keeping pace with EU law?***

The Welsh Government continues to keep track of any changes to EU law through our own investigations and via collaborative work with the other Parties. Mechanisms were created to serve all governments (and share common resources) and keep track of changes at EU level. The changes to the EU Animal Health Regulations (AHR) mentioned above are an example of this.

***To explain how the impact of the UK Internal Market Act will be managed in the framework?***

The implications of the UK Internal Market Act (UKIMA) will be considered when developing legislation in many areas and Welsh Government officials continue to monitor its effect in Wales and across the UK. Welsh Government policy teams are continuing to develop Welsh legislation in line with our devolved competence, following our normal procedures.

***The framework requires that the governments notify each other of any matters (including policy formation, proposal for legislation, public announcements and emergency responses) as soon as they are considered, so that joint discussions can take place before final decisions are taken. What impact will this have on the role of stakeholders in developing Welsh law and policy?***

We will continue to engage with stakeholders in the usual way in the development of Welsh law and Welsh policy.

***The framework provides for relevant arm's length bodies to participate in decision-making groups. Some of these bodies (such as the APHA and the Fish Health Inspectorate) operate in Wales, but are not formally accountable to the Welsh Government or the Senedd. How will you ensure that the responsibilities and lines of accountability for different bodies are clear?***

Arms' length bodies participate in decision making groups in an advisory capacity, and in the spirit of transparency. For instance, the Animal and Plant health Authority (APHA) has many veterinary, scientific and field experts and units who provide specialist advice to policy makers. While it is true that APHA is an executive agency of Defra, the Welsh Government has a Service Level Agreement (SLA) with APHA for Wales, so APHA in Wales is accountable to the Welsh Government.

The UK Office for SPS Trade Assurance (UKOSPSTA) is a key example of a new Framework governance mechanism to ensure engagement of relevant bodies such as the Food Standards Agency and Centre for Environment Fisheries and Aquaculture Science (Cefas). It provides a technical service to all governments and is hosted by Defra with a joint governance board and various other governance layers. It is playing a key role within the AH&W Framework governance arrangements and is primarily tasked with administering new market access requests to the UK on behalf of the four governments.

Additionally, there is clear separation between the Framework structures that are advisory from those that are decision makers (such as the Animal Disease Policy Group [ADPG] and the Animal Welfare Policy Group [AWPG]).

***The framework requires that if a government is proposing to diverge, there should be an assessment of the implications for the UK internal market, the negotiation and implementation of international agreements, and biosecurity. Why have these criteria been chosen, and what would happen if there was any perceived conflict between them?***

These criteria are not exhaustive; they are the core considerations which drive policy decision making in this area and reflect the Common Framework principles established by the JMC in October 2017 as set out in the text of this Framework.

These matters are designed to be agreed through discussion and appropriate levels of escalation, as set out in the Framework documents. The assessment is made through the governance structures e.g. the Animal Disease Policy Group (ADPG) on a case-by-case basis and any disputes would be taken through the Dispute Resolution mechanisms.

It should also be noted that the Interministerial Standing Committee, established under the Intergovernmental Relations Review, will monitor the Frameworks programme including any obstacles to progress.

***Who would carry out the assessment?***

Any assessments deemed necessary are made or commissioned jointly through the decision-making structures e.g. ADPG.

***Would stakeholders be involved in making the assessment?***

Any relevant stakeholders would be identified and invited to participate in making the assessment.

### ***Would the results of the assessment be made public?***

We would not make assessments public by default (unless required by the legislation).

### **UK Internal Market Act 2020**

### ***What impact could the UK Internal Market Act 2020 have on Welsh law on animal health and welfare?***

Future policy will be considered on a case-by-case basis as to whether there is an intersect with the UK Internal Market Act (UKIMA) and the potential effect.

### ***Do you intend to request any exclusions from the Act on animal health and welfare?***

There are no intentions to request an exclusion.

### **EU and Northern Ireland**

### ***Can you provide an overview of how retained EU law on animal health and welfare in Wales has changed since the end of the transition period?***

Since the end of the transition period, a number of changes have been made to retained EU law. These include:

- An amendment to the method of rabies vaccination testing used. This is specifically to deal with the crisis in Ukraine, and the need to quickly test pets that accompany refugees.
- Amending pieces of legislation to ensure an effective approach to the current and future outbreaks of Avian Influenza (AI), namely:
  - **The Avian Influenza (H5N1 in Wild Birds) (Wales) (Amendment) Order 2021** came into force on 19 November 2022. Principally, this order replaces the duty for Welsh Ministers to declare wild bird disease zones in the event of an outbreak of subtype H5N1 in wild birds, with powers to do so on a risk-basis.
  - **The Avian Influenza (Wales) (Amendment and Revocation) Order 2022** came into force on 10 March 2022. It amends the Avian Influenza and Influenza of Avian Origin in Mammals (Wales) (No 2) Order 2006 which applies to cases of Avian Influenza (AI) in Wales. It covers:
- Amendments strengthening disease control measures provided in domestic legislation since the UK's exit from the EU, clarifying diagnostic and surveillance processes where disease is suspected or confirmed.
- Amendments increasing flexibility in relation to certain types of bird and egg movements within disease control zones in response to industry experience during the previous and ongoing avian influenza outbreaks.
- Revocation of specific legislation regarding AI of the subtype H5N1 in order to streamline AI legislation for poultry to enable a risk-based approach to outbreaks of any strain-type.

Several further amendments are being considered in relation to Imports and Borders policy and legislation in relation to Sanitary and Phytosanitary (SPS) goods.

***Can you provide an overview of the main differences between current EU law on animal health and welfare and the law in Wales?***

Please see the answer to the previous question.

***How will you continue to monitor changes to EU law on animal health and welfare and assess the implications of divergence from the EU and Northern Ireland?***

Horizon-scanning and legislation tracking processes are in place to monitor upcoming EU changes that will need to be implemented in Northern Ireland (NI) and be assessed for its impact on Great Britain. The Framework ensures that any proposals for divergence among the GB nations are subject to four nation consideration and that Ministers in all four nations have the opportunity to raise a dispute with their counterparts.

The Framework has been drafted and agreed on a four-nation basis with sensitivity to the issues affecting NI and the unique situation that arises from the EU Withdrawal Act. GB nations regularly work with NI to implement changes e.g. most recently in relation to licences for animals moving between NI and GB.

***How will you assess the risks and benefits of keeping pace with EU law compared to maintaining the status quo?***

This will be considered on a case-by-case basis, taking into account the ability of Welsh Government to retain regulatory flexibility in Wales, alongside the emphasis in the Framework on promoting consistent policy approaches across the UK through collaborative working.

Outside the EU, we can diverge in either direction; however, this Framework sets out commitments from all governments not to erode standards, which is one of the Welsh Government's most important objectives in relation to AH&W.

***Are you content that the framework will provide for adequate Welsh Government engagement in discussions through the UK-EU institutional framework on animal health and welfare?***

I would expect Frameworks policy teams in the Welsh Government to promote Welsh interests in these areas through the Frameworks groups. The development of this Framework has increased the scope for interaction between the relevant policy teams of the four governments. It has formalised many governance structures, created new information sharing mechanisms and more collaborative policy development, including where they may be relevant to the negotiation or implementation of a trade agreement.

International Obligations

***The framework provides that it will enable the governments to “consider any implications stemming from international trade which have a direct bearing on the operation of a Common Framework.” Do you consider that this gives the Welsh Government adequate involvement in UK positions on animal health and welfare during international trade negotiations?***

The Frameworks are not intended as tools to influence international policy. However, I expect Common Framework policy teams will assert Welsh interests in these areas through the Framework groups.

The AH&W Framework creates the mechanisms for engagement in a timely manner so Welsh views can be expressed, and representations made in devolved matters relating to the international trade space, including Sanitary and PhytoSanitary (SPS) standards, antimicrobial resistance and animal health and welfare.

Welsh Government Officials are represented in, and regularly engage with, various trade-focused fora including, but not limited to, Trade Engagement Group (TEG), Trade Measures and WTO Operations Board and Defra's DA Rest of World SPS committee.

***Could disagreements on UK positions in trade negotiations be escalated through this framework?***

The Framework allows the Welsh Government to influence and input to the UK wide position on trade in relation to AH&W. This includes the opportunity to escalate these discussions to the overarching EFRA portfolio governance structures including IMG-EFRA for Ministerial consideration.

Please also refer to the answer provided to the previous question.

Governance and dispute resolution

***Do you consider the dispute resolution mechanism robust enough for its intended purpose?***

I believe the mechanisms are robust and proportionate. These have been jointly developed and agreed by the four UK nations.

***The framework provides that actions under disagreement or dispute should normally be paused pending resolution. Is there a risk that this could lead to delays to Welsh legislation?***

The initial pausing of any actions under dispute is an agreed part of the dispute resolution mechanism in frameworks, but it would depend on the case as the nature of diseases might mean pausing action pending a dispute could leave risks unmitigated.

***Why are no time limits for dispute resolution set?***

It is recognised that disputes may vary in nature, complexity and operational context and therefore a set time limit would not be conducive to reaching the best outcomes for all governments.

How the Framework was developed

***How did the Welsh Government engage with stakeholders on the development of the framework?***

Stakeholder engagement on the Framework was coordinated between all governments.

Prior to the implementation of the AH&W Framework, stakeholders were provided with a summary of the proposed Framework, accompanied by a letter signed by all four CVOs and given the opportunity to provide any comments or questions for discussion in November 2020.

Technical stakeholder engagement targeted industry bodies and NGOs identified by the four Governments as being those with the greatest interest in/those who would be impacted most by the Frameworks.

Wales specific stakeholders consulted included, but were not limited to:

- Aberystwyth School of Veterinary Science
- Animal Welfare Network Wales
- Future Farmers of Wales
- Farmers' Union of Wales
- Hybu Cig Cymru
- Iechyd da
- NFU Cymru
- Royal Welsh Agricultural Society
- RSPCA Cymru
- Wales Animal Health and Welfare Framework Group (a publicly appointed group which provides support and advice for the Welsh Government's animal health and welfare policy and delivery).
- Welsh Lamb and Beef

### ***How does the framework reflect the responses of stakeholders in Wales?***

It is important to note that the Framework is primarily about ways of working within Government and between the four governments, rather than policy proposals as such. For that reason, perhaps, stakeholder feedback has been very limited. This has also been the case in a number of other Frameworks.

Stakeholders will continue to be consulted on developments in policy and legislation in the usual way.

### **Review and amendment**

### ***This framework does not include standard text found in other frameworks on how the review and amendment process should work. Why has this text been omitted?***

Section 3.4 of the Framework 'review and amendment' sets out the process agreed by the Parties for this specific Framework. As noted in previous answers, this Framework has formalised significant pre-existing collaboration and governance structures in this policy area and the agreed Framework review and amendment processes reflect this. Any changes to align text with other Frameworks could be considered as part of the process of finalising the Framework.

### ***How will the Senedd be able to contribute to the review and amendment process for the framework?***

There is a commitment to consistent reporting on Frameworks post-finalisation. The details are currently being worked through at official level. Review points are scheduled into each Framework. It is expected that these will give the Senedd additional opportunities to engage in the development and evolution of Frameworks. The Interministerial Standing Committee will monitor the progress of the Frameworks programme in order to fulfil the role given to it by the Joint Review of Intergovernmental Relations to 'Provide oversight of the Common Frameworks programme and its governance arrangements'.

The expectation is that reports on Frameworks will be public documents once they are signed off by portfolio Ministers and will be made available to the relevant committees in the four nations as well as relevant stakeholders.

In addition there is a commitment to inform the Senedd:

- of disputes raised through the Frameworks
- when disputes are escalated to Ministers
- and stakeholders of upcoming review points and consider recommendations by the Senedd and stakeholders as part of the same review process
- of any new legislation affecting the Frameworks
- of any applications for an exclusion under UKIMA.

### International Affairs

***To confirm whether discussions on UK Government positions in trade negotiations relating to animal health and welfare will be taken through the framework.***

The Framework formalises a number of new governance mechanisms and forums which enable all four governments to engage and discuss trade as it impacts AH&W.

### Other Questions

***This framework is closely connected to other common frameworks, particularly food and feed safety and hygiene and public health protection and health security. How will the connections between these frameworks be managed?***

Where issues or decisions span across or impact other policy areas, whether or not they have their own Common Frameworks, then officials within the four governments will engage with their counterparts to consider how best to address the wider issues and balance different considerations, or the different decision-making structures within the different policy areas.

Within the Framework the Food Standards Agency and Food Standards Scotland are observing members of ADPG, as is Public Health Wales and its counterparts where necessary.

Additionally, UKOSPSTA meetings and its attendant sub-committees include representatives from FSA, FSA Wales, Cefas and Plant Health who have roles in other Frameworks, reflecting the complex and interconnected nature of the AH&W Framework.

The overarching governance structures established across the wider EFRA portfolio, such as Senior Officials Programme Board (SOPB) and the IMG-EFRA also provide an opportunity for matters which impact across a number of Frameworks to be raised and discussed.

***The House of Lords Common Frameworks Scrutiny Committee has drawn attention to numerous errors and inconsistencies in this framework. Can you explain how you ensure the quality of framework documents before Ministerial sign-off and Senedd scrutiny?***

Time constraints may have been a factor behind textual errors and inconsistencies. Any such errors will be corrected in the final version of the Framework.

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 of the name.

**Lesley Griffiths AS/MS**

**Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd  
Minister for Rural Affairs and North Wales, and Trefnydd**



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: MA/RE/0044/22

Paul Davies MS  
Chair of the Economy, Trade, and Rural Affairs Committee  
Senedd Cymru  
Cardiff Bay  
CF99 1SN

By Email: [SeneddEconomy@senedd.wales](mailto:SeneddEconomy@senedd.wales)

03 Mai 2022

Dear Paul,

## **The Public Procurement (International Trade Agreements) (Amendment) Regulations 2022.**

### **Policy Overview of the SI**

The above titled SI is necessary for procurement legislation (detailed below) to be amended so as to effect in domestic legislation implementation of the United Kingdom's (UK) procurement obligations covered by the Free Trade Agreement between the UK and Iceland, Liechtenstein and Norway (the EFTA Agreement);.

### **The Law which is being amended:**

- The Public Contracts Regulations 2015
- The Concession Contracts Regulations 2016
- The Utilities Contracts Regulations 2016

together referred to as the 'Domestic Procurement Regulations'

### **The purpose of the amendments**

The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (the EU Exit SI) made under the European Union (Withdrawal) Act 2018 preserved the UK's procurement obligations contained in existing international agreements, for 12 months from the end of the Implementation Period.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
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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.

The EFTA Agreement was laid before UK Parliament on 16 July 2021, and the scrutiny period ended on 26 October 2021. As such, the procurement obligations covered by the EFTA Agreement need to be implemented into Domestic Procurement Regulations. In relation to Wales, the amended legislation will ensure that international procurement obligations under the EFTA Agreement are appropriately implemented within the Domestic Procurement Regulations, and consequently allow authorities across Wales to comply with the same.

### **Why consent was given**

Section 2 of the Trade Act 2021, which is being relied upon for the current SI, provides the Welsh Ministers with regulation making powers, subject to the restrictions contained in the Act. However, exercising these powers in this instance is not recommended for the reasons set out below.

It is normally our policy that where powers lie with the Welsh Ministers, it is the responsibility of the Welsh Ministers to legislate for Wales. However, the purpose of the SI is to make technical amendments to existing procurement legislation to ensure that international procurement obligations are implemented fully across the UK. Therefore, on this occasion I consider it is appropriate for the UK Government to legislate in this devolved area. Legislating at pace is also important in order to mitigate the risk of a gap in Domestic Procurement Regulations being compliant with our international obligations; if Domestic Procurement Regulations remain unaligned to international obligations then this would open the risk of legal challenge against the UK from a third country.

There is no policy divergence between the Welsh Government and the UK Government and the substance of the amendments are not, in my view, controversial. Further, although the Domestic Procurement Regulations being amended extends to Wales, there is no equivalent legislation made by the Welsh Ministers in this area. Updating Domestic Procurement Regulations in alignment with England and in one piece of legislation is logical so as to ensure that the current constancy of position is maintained.

The SI will have no impact on the Welsh Ministers' executive competence, or on the Senedd's legislative competence.

As such, I have given my consent to the Minister for Brexit Opportunities and Government Efficiency to make this SI in relation to Wales, which the UK Government has requested in line with the UK Government's non-statutory commitments to ensure the powers in the Trade Act 2021 are not normally used to legislate in areas of devolved competence without the consent of the relevant devolved governments, and not without first consulting them. I have laid a Written Statement, which can be found at:

[Eich cyf \(senedd.wales\)](https://www.senedd.wales).

The SI is subject to the affirmative procedure, and was laid before the UK Parliament on 25 April 2022.

I have written in similar terms to the Chair of the Legislation, Justice and Constitution Committee, Huw Irranca-Davies MS.

Yours sincerely,

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

**Rebecca Evans AS/MS**

Y Gweinidog Cyllid a'r Trefnydd  
Minister for Finance and Trefnydd

**Pwyllgor yr Economi,  
Masnach a Materion Gwledig**

**Economy, Trade and  
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Vaughan Gething MS  
Minister for Economy

3 May 2022

Dear Minister,

## UK-Australia Free Trade Agreement - impact on Wales

The Committee has undertaken a short inquiry into the likely impact of the UK-Australia Free Trade Agreement (FTA) on Wales, following its signing in December 2021.

As this is the first trade deal the UK has negotiated and finalised 'from scratch' since EU-exit, the Committee was keen to scrutinise the deal and seek stakeholder views on its likely economic, environmental and social impacts. This includes the likely impacts on the Welsh agri-food sector, and what support businesses or organisations need from the Welsh and UK governments to prepare for implementation.

We received seven responses to our public [consultation](#) which ran from 21 January to 28 February. We then took evidence from a panel of UK trade experts (Professor Michael Gasiorek, Sam Lowe and Emily Rees) on [3 March](#), and from the National Farmers Union (NFU Cymru), Farmers Union of Wales (FUW), and Meat Promotion Wales (MPW), on [17 March](#), as well as discussing the FTA with you and the Minister for Rural Affairs and North Wales in general scrutiny at that same meeting. We would like to thank everyone that has contributed to the Committee's inquiry.

Below are the Committee's main findings and recommendations. We look forward to your response as we look ahead to scrutiny of the UK-New Zealand FTA in the summer term, following the announcement on 28 February that negotiations on that deal have concluded.

Negotiating and signing trade agreements with other countries is a reserved matter. This letter is therefore being copied to the Chair of the House of Commons International Trade



Committee, the Chair of the House of Lords International Agreements Committee and the Chair of the Environment, Food and Rural Affairs Select Committee. We trust that our findings will inform their scrutiny of the Agreement during the ratification process in the UK Parliament.

I have also copied in the Minister for Rural Affairs and North Wales, and Trefnydd, as certain issues raised by sector representatives, for example taking account of the impact of the deal in relation to the forthcoming Welsh Agriculture Bill, fall within her portfolio.

### Impact Assessment

The Committee carefully considered the information provided in the UK Government's impact assessment of the FTA. Professor Michael Gasiorek points out that the level of detail about the potential impact of the Agreement on the Welsh economy is very small and that "more could be done" to assess its regional impacts. Emily Rees said that what the impact assessment does not do very well is outline the potential sub-sectoral impacts, including at a regional level. She also referred to modelling used by the European Union in its impact assessments of trade agreements as an example of how this can be done.

The UK Government's impact assessment estimates that the Agreement will lead to "a reduction in gross output of around 3% for beef and 5% for sheep meat". The FUW says this would equate to a fall in the gross output of Wales's cattle and sheep sectors of £29 million (£13 million for the cattle industry and £16 million for the sheep industry).

The FUW also emphasise that *"...such adverse impacts may well be concentrated and inflated in Welsh communities, given the particular reliance of Wales on the beef and sheep industry and the upland nature of much of Wales, which makes alternative forms of agriculture impossible."*

The NFU also refer to UK Government figures which show that the primary agriculture and semi-processed foods sectors are expected to experience a reduction of around 0.7% (£94m) and 2.65% (£225m) in their GVA respectively, relative to baseline growth in the sectors.

The [Welsh Local Government Association](#) shares these 'grave concerns' of the farming unions that agreements signed to date *"undermine UK farming and food security in return for negligible benefits to the economy."*

The NFU and WLGA have also called for a Wales-specific impact assessment, however we note that the UK Government has previously rejected this. We also note that the Welsh Government is conducting its own analysis of the agreement and intends on publishing a

Wales-focused assessment, though that assessment has not yet been published at the time of this letter being sent.

### *Maximising opportunities for Welsh SMEs and manufacturing*

The Federation of Small Businesses (FSB) generally welcomes the “tremendous benefits” the agreement presents for smaller firms already trading with Australia or considering doing so. It says 31 per cent of FSB members engaged in international trade have indicated that Australia will be important for their exporting ambitions over the next three years. However it states that success ultimately depends on implementation and enforcement. The FSB also said it would have liked to see provisions for the establishment of an SME committee in the FTA to represent its interests and deal with issues arising for particular sectors or geographical areas.

The FSB stated that: *“Given Wales’s reliance on exports on large companies, and the untapped potential of exports for SME growth in Wales, an SME chapter and focus on all trade deals has potentially more relative benefits to Wales than elsewhere.”*

Make UK’s evidence pointed to the longer-term benefits to the manufacturing sector in Wales of reduced barriers to trade, but that *“more can be done to help the industry understand the benefits of recent and upcoming trade agreements.”*

### *Sharing of Trade Data*

We note the Minister for Rural Affairs’ disappointment that detailed trade data held by DEFRA and the UK Government has not been shared with Welsh Government. We were told that this data would provide Welsh Government with additional insight into potential impacts on the agriculture sector in Wales.

This is disappointing given that food and agriculture are devolved areas within the legislative competence of the Senedd, and as such mitigating any adverse impacts on devolved areas will likely be the responsibility of the Welsh Government. It is imperative therefore that Welsh Government has full access to the data in order to understand where support is needed and allow for more specific and equitable policy interventions. It would also allow the Welsh Government to produce a more detailed analysis of the impact of trade deals on specific sectors in Wales as part of its Wales-focused assessment.

The Committee does not believe that the UK Government impact assessment provides sufficient information to fully understand the likely impacts of the FTA on Wales, and on individual sectors and sub-sectors. We believe that future impact assessments, as well as

pre-negotiation scoping assessments, should include more detailed information on the likely impacts of a trade agreement on specific sectors in Wales.

Recommendation 1. We recommend that the Welsh Government makes representations to the UK Government through the Ministerial Forum for Trade, or any other forum it deems appropriate, to:

- a) request full access to the trade data held by the UK Government, in order to provide Welsh Government with additional insight into potential impacts of the UK-Australia FTA on sectors in Wales; and
- b) provide a full assessment of the likely impacts on sectors and sub-sectors within the UK's nations and regions in impact assessments for future trade agreements.

We expect the Welsh Government to keep the committee informed of any discussions it has with the UK Government on these issues, including any progress made or any implications for the Welsh Government if it is unable to progress these issues.

Recommendation 2: In order to ensure the Committee is able to consider Welsh Government's Wales-focussed assessments of future trade agreements as part of its scrutiny, we recommend that the Welsh Government complete and publish its assessments in advance of agreements being laid before the UK Parliament.

Agri-food sector

#### *Tariff Rate Quotas and safeguard measures*

The Committee heard a range of views on the potential impact of the tariff liberalisation provisions in the FTA on the agriculture sector. NFU Cymru, the FUW and Meat Promotion Wales expressed concerns about the impact of the FTA on Welsh farmers and the red meat sector. In particular, they noted concern at Welsh beef and sheep meat losing market share in the UK due to increased competition as a result of the elimination of UK tariffs on Australian agricultural goods.

Huw Thomas of NFU Cymru also said that the thresholds set for the safeguard mechanisms – designed to protect the sector - are so high that *"by the time the safeguards are triggered I would suggest that the industry would be in some pretty dire straits."*

Trade experts did not identify an immediate negative impact from the FTA, when considered in isolation. Professor Michael Gasiorok stated that the impact of the UK's new

trading relationship with the EU and changes to agricultural support schemes are likely to have bigger impact on the sector in Wales than the FTA.

Sam Lowe stated that the FTA will result in some increased competition for Welsh producers, however it is unlikely to result in 'huge inflows' of Australian imports of agricultural produce. Professor Gasiorek and Sam Lowe acknowledged the Agreement's quota is bigger than the current import level, however they said data for recent years show Australia has rarely fulfilled its existing quota with the UK. You told the Committee that the increases in tariff-rate quotas represent a future risk for the agriculture industry in Wales, a view shared by both Welsh farming unions.

Meat Promotion Wales noted its disappointment at the lack of 'future-proofing' to protect the farming industry from changes in trade volumes. They further stated that production in antipodean countries (Australia and New Zealand) has been low due to drought over recent years and that forecasts for production to increase over the next five years are "*a very significant worry*" for the rural economy and rural communities in Wales.

The NFU stated that although most Australian agri-food exports are currently destined to China, factors such as geopolitical tensions, worsening of diplomatic relations and currency movements could result in changes to future trade flows.

### *Cost of production*

NFU Cymru have stated that "*in signing this agreement, the UK Government is asking Welsh farmers to go toe-to-toe with some of the most competitive and export focused farmers in the world.*" It further stated that "*the cost of production for Australian beef farmers is around 2.5 times less than UK farmers and Australian sheep farmers can produce sheep meat for 65% less than in the UK.*"

### *Monitoring Mechanism*

FUW emphasised the importance of monitoring mechanisms, and that it was essential for those to be in place in the text of the deal "*to be able to act on changes in market prices or agricultural output, or imports and exports.*" Huw Thomas of NFU Cymru pointed to the market monitoring group set out under the Agricultural Support Common Framework as a potential vehicle, with support from levy bodies and the farming unions. Huw Thomas also noted that some of the data sets that could be used were "*..lagging indicators, so damage may already have been done to the industry by the time we get the data through.*"

We note the points made by trade experts that it is unlikely the tariff liberalisation provisions will lead to 'huge inflows' of Australian imports of agricultural produce, at least in the short-term.

However, we also share the concerns raised by the Agri-food sector regarding the potential impact of geopolitical events on trade flows, as has been shown by the war in Ukraine.

Monitoring the impact of this agreement on trade flows between the UK and Australia is vital in order to support the agriculture and other sectors of the Welsh economy. In order to monitor the ongoing impacts of trade agreements after implementation, the Committee would like to see market monitoring mechanisms strengthened and given more prominence in the work around future trade deals.

**Recommendation 3.** The Committee urges the Welsh Government to continue working with other governments across the UK, and with the agri-food sector in Wales, to ensure effective market monitoring mechanisms are in place. This approach should also be adopted for other sectors of the economy as well.

#### Cumulative impact of trade deals

A big concern expressed by Welsh Government and the agri-food sector is the cumulative impact on Wales's agricultural sector as a result of a number of free trade agreements that will be signed by the UK, and the precedent set by the market access provisions in this FTA for future agreements. You described the challenge of the UK-Australia deal setting "*a baseline not a ceiling*" for other trade deals.

FUW told the Committee that it estimates a fall in the gross output to Wales's beef and sheep sectors at £29 million for this FTA. However, it expects that the cumulative impacts from trade deals with New Zealand and others within the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) to be much greater in the longer term.

The Committee notes that Welsh Government is working with stakeholders to identify these impacts. We also note that the Minister for Rural Affairs and North Wales was not aware of any intention by the UK Government to conduct its own analysis.

Given the large number of trade agreements the UK Government aims to conclude over the coming years, the Committee believes it is important that assessments are regularly conducted on the cumulative economic impacts of the UK's free trade agreements.



Recommendation 4. We recommend that the Welsh Government establish mechanisms for keeping the cumulative impacts of FTAs on the Welsh economy under review. It should consult different sectors on how this work should be developed and periodically publish findings from these assessments.

Recommendation 5. We recommend that the Welsh Government also makes representations to the UK Government to ensure that an analysis of the cumulative impact of trade deals is undertaken on a regular basis to inform on-going and future trade negotiations

### Animal welfare

The Committee notes the provisions in the Agreement relating to animal welfare. The former Minister of State for the Department for International Trade, Greg Hands MP previously stated that the UK Government has agreed a “ground-breaking non-regression clause on animal welfare”, which would mean that neither country could lower their animal welfare standards to undercut the other.

However, based on the evidence the Committee has received it is questionable whether the non-regression provisions go far enough. Emily Rees stated that upon consideration of the legal text the provisions do not amount to non-regression provisions. The UK and Australia will be required to “endeavour” to ensure that they are not waiving or otherwise derogating from laws and regulations in a way that would reduce the protection of animals.

### *Conditionality around animal welfare standards*

Evidence received from RSPCA Cymru and Four Paws highlights there are no guarantees around the equivalency of standards for products being imported into Wales and the rest of the UK from Australia. They cite examples of Australian animal welfare standards prohibited in Wales, including long distance transport of animals and hot branding. It has been suggested to the Committee that the UK Government could have insisted on making tariff liberalisation conditional on meeting certain animal welfare rules. For example, no sheep that have been subject to practices such as ‘mulesing’, or ‘hot branding’ of cattle would qualify for tariff-free trade under the Agreement. Sam Lowe told the Committee that including conditionality requirements could have been a UK Government negotiation position “because of how good the UK's offer is”, but it would have made the process of negotiating the FTA longer.

The Minister for Rural Affairs and North Wales told us that this was something the Welsh Government was pushing for in future negotiation mandates. You also told us that you were disappointed that differential in standards was not seen as “a real risk” by the UK Government in light of current tariff quota uptake.

The Committee notes Welsh Ministers’ position on including conditionality around animal welfare standards in future trade negotiations.

### *Labelling standards*

The Minister for Rural Affairs and North Wales expressed concerns regarding the labelling of meat and seafood. In particular, she stated that Australian meat could find its way into ready meals where the same labelling requirements do not apply. The NFU identified this as a big risk to the Welsh agricultural sector with a lot of Australian meat destined for the foodservice sector for hospitality and ‘out of home’ consumption.

Meat Promotion Wales noted the need for improved labelling regulation in the UK to allow consumer choice. RSPCA Cymru is also urging both the UK and Welsh governments to introduce clear labelling on all imported products to give consumers certainty on where their food originated.

The Committee notes the role of the provisional Common Framework on Food Compositional Standards and Labelling, published in March 2022, which will establish a mechanism for the UK and devolved governments to work together and manage divergence regarding food labelling.

The Committee supports further discussions between the UK and Welsh governments on the issue of labelling for food and drink products imported and sold in the UK, including in the foodservice sector.

Recommendation 6. The Committee requests that it be updated by the Welsh Government on any discussions which take place around labelling of imported food and drinks, including in the food service area.

### Engagement with Welsh Government

The Committee notes that the UK Government has stated that the devolved governments were consulted regularly after each negotiation round and that their priorities were registered throughout the process. We also note that the Treaty text and the impact assessment were also shared before signature, as well as an embargoed copy of the final Treaty text.



We welcome your reporting of some “really positive and constructive engagement” between the Department for International Trade and the Welsh Government in some areas. However we note the your concerns that earlier engagement and involvement in future trade negotiations would allow issues impacting on devolved responsibilities to be identified and dealt with constructively at an earlier stage.

The Committee shares the Welsh Government’s view that there should be increased engagement between the UK and devolved governments at an earlier stage in trade negotiations. This should also include active engagement during the formulation of negotiating objectives for future trade agreements.

### Governance

The Committee notes that the FTA establishes a number of committees and joint working groups to support its implementation. We heard from trade experts who in their view believed the Welsh Government should be engaged in the FTA’s governance arrangements where they relate to areas of devolved competence.

The Committee also notes the Welsh Government’s interest in engaging in the FTA’s governance arrangements. You told us that Welsh Government was still seeking clarity on implementation arrangements.

**Recommendation 5.** The Committee recommends that the Welsh Government make representations to the UK Government to ensure it is engaged in the FTA’s governance arrangements. The Committee also asks the Welsh Government to keep it updated on decisions relating to this, including any attendance at, or engagement with, the various committees and working groups established by the FTA.

I look forward to your response on the issues raised by our inquiry.

Kind regards,



Paul Davies MS

Chair: Economy, Trade and Rural Affairs Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg | We welcome correspondence in Welsh or English.

# Agenda Item 3

Document is Restricted

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



Llywodraeth Cymru  
Welsh Government

Paul Davies MS  
Chair  
Economy, Trade and Rural Affairs Committee

[Paul.Davies@senedd.wales](mailto:Paul.Davies@senedd.wales)

25 April 2022

Dear Paul,

Thank you for your request for a paper in advance of the session to be held on 11 May, in respect of the Committee's inquiry into The Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021.

Please find attached a briefing, which I trust will be of help to members of the Committee. I look forward to attending the session and answering any questions members may have.

Regards,

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

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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.

# The Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021

## Introduction

1. Agricultural pollution continues to affect the environment across the whole of Wales, which is detrimental to public health and biodiversity. The Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 (the CoAP Regulations)<sup>1</sup>, which came into force on 1 April 2021, are based on long-standing good practice recommendations designed to prevent agricultural pollution. The CoAP Regulations include the following measures:
  - Nutrient Management Planning;
  - Sustainable fertiliser applications linked to the requirement of the crop;
  - Protection of water from pollution related to when, where and how fertilisers are spread;
  - Manure storage standards; and
  - A review clause enabling alternative proposals to be made.
  - Transitional periods for most elements to allow farmers time to adapt and ensure compliance.

## Purpose of the Regulations

2. The CoAP Regulations are designed to tackle the causes of agricultural pollution in Wales, to contribute to the delivery of a wide range of our international and domestic obligations. They support Wales' continued commitment to the United Nations Framework Convention on Climate Change<sup>2</sup>, the Convention on Biological Diversity<sup>3</sup>, the UN's Sustainable Development Goals<sup>4</sup> and the Gothenburg Protocol<sup>5</sup>. They will contribute to the delivery of the goals of the Well-being of Future Generations Act (Wales) 2015<sup>6</sup> and the aims of the Environment Act (Wales) 2016<sup>7</sup>.
3. The CoAP Regulations recognise the limits of the global environment by promoting resource efficiency and protecting our health and natural environment through healthy, functioning ecosystems that support ecological resilience. They will help farms to reduce harmful emissions and improve the management of our natural resources. They will support farms to tackle and reverse the damage to our natural resources identified in the State of Our Natural Resources Report

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<sup>1</sup> [The Water Resources \(Control of Agricultural Pollution\) \(Wales\) Regulations 2021 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>2</sup> [What is the United Nations Framework Convention on Climate Change? | UNFCCC](#)

<sup>3</sup> [Home | Convention on Biological Diversity \(cbd.int\)](#)

<sup>4</sup> [THE 17 GOALS | Sustainable Development \(un.org\)](#)

<sup>5</sup> [Gothenburg Protocol | UNECE](#)

<sup>6</sup> [well-being-of-future-generations-wales-act-2015-the-essentials.pdf \(gov.wales\)](#)

<sup>7</sup> [Environment \(Wales\) Act 2016: overview | GOV.WALES](#)

(SoNaRR) for Wales 2020<sup>8</sup> and reduce the negative impacts of agriculture on biodiversity.

4. While the primary aim of the CoAP Regulations is to reduce water pollution, the measures are designed to avoid pollution swapping and to prevent or minimise increased losses of nutrients to the environment. This includes nitrates, phosphorous, greenhouse gases and ammonia. By taking this approach, the CoAP Regulations deliver against a wide range of Wales' responsibilities and provide a holistic response to environmental challenges related to agricultural production.
5. The risks associated with exiting the European Union were taken into account in the design of the CoAP Regulations. The approach aims to address the risks associated with retrospective infringement proceedings and the level-playing field requirements of the EU-UK Trade and Co-operation Agreement<sup>9</sup>. The CoAP Regulations were designed to secure access to European and global markets by enabling the Welsh agricultural sector to demonstrate food in Wales is produced to recognised baseline standards.
6. The CoAP Regulations are comparable to those in the rest of the UK and most of Europe. The Regulations are proportionate to the risks of pollution from agricultural practices. They are based on good practice recommendations, so some farmers will see minimal impact, particularly those already following good practice, whilst others will need time and support to improve. Many of the requirements replicate, or are closely aligned to standards contained within cross compliance<sup>10</sup>, Red Tractor<sup>11</sup>, FAWL<sup>12</sup> and the Water Resources (Control of Pollution) (Silage and Slurry) (Wales) Regulations 2010<sup>13</sup>.

## **Agricultural Pollution in Wales**

7. There are two major categories of water pollution. Point source pollution refers to pollution coming from a pipe or ditch or other discrete mechanism. In contrast, diffuse pollution does not have a point-source, and can occur, for example, where soluble nutrients are carried through soil to ground and surface waters by rainfall.
8. Agricultural diffuse pollution is one of the main reasons waterbodies in Wales fail to achieve good status in accordance with obligations derived from the Water

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<sup>8</sup> [Natural Resources Wales / State of Natural Resources Report \(SoNaRR\) for Wales 2020](#)

<sup>9</sup> [The EU-UK Trade and Cooperation Agreement | European Commission \(europa.eu\)](#)

<sup>10</sup> [Cross compliance 2022 | GOV.WALES](#)

<sup>11</sup> [Red Tractor Assurance | Assured Food Standards](#)

<sup>12</sup> [FAWL](#)

<sup>13</sup> [The Water Resources \(Control of Pollution\) \(Silage, Slurry and Agriculture Fuel Oil\) \(Wales\) Regulations 2010 \(legislation.gov.uk\)](#)

Framework Directive (WFD). During Natural Resources Wales (NRW) river walks in failing WFD catchments (undertaken between 2010-2015), poor agricultural land management practices and infrastructure were found to be contributing 37% of the diffuse pollution issues identified.

9. NRW's 2019 Challenges and Choices consultation<sup>14</sup> identified diffuse pollution from agriculture as the reason for 113 water bodies failing to meet good status (see Figure 1 at Annex 1). NRW is currently reviewing the status of waterbodies in Wales. The latest available data confirms 140 waterbodies in Wales fail to achieve good status due to agriculture, with a further 232 probably related to agriculture and 118 suspected as failing due to agriculture, indicating agriculture is the main cause of failure (see Figure 11 at Annex 1, for further details).
10. The catchments failing standards in respect of the Nitrates Directive covers approximately 8% of Wales (see Figure 2, Annex 1). Private groundwater drinking supplies are particularly vulnerable to pollution, with 8.7% of tests failing to meet the standards in 2014 due to microbiological and chemical parameters.
11. Nitrate pollution affecting biodiversity is not limited to the areas recommended by NRW to be designated as Nitrate Vulnerable Zones. In 2016, NRW recommended a minimum of 8% of Wales should be designated as Nitrate Vulnerable Zones, to meet statutory obligations, in accordance with a very restricted methodology established through Wales' implementation of the Nitrates Directive. This process, and NRW's recommendation, did not consider or take account of the wider impacts of agricultural pollution.
12. Whilst the CoAP Regulations fulfil obligations derived from the Nitrates Directive, they move away from a Nitrates Directive approach and take account of wider obligations and objectives. They are not Nitrate Vulnerable Zone (NVZ) regulations. A discrete Nitrates Directive approach does not protect waterbodies across Wales from failing to meet other safety and ecological standards, reduce atmospheric pollution or tackle and mitigate climate change.
13. Ecological change can occur below the thresholds established by the Nitrates Directive, particularly in combination with other agricultural pollutants, including phosphorous. Phosphorous pollution in our rivers is detrimentally affecting housing and economic developments, including agricultural developments, in river Special Areas of Conservation (SAC)<sup>15</sup>.

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<sup>14</sup> [Natural Resources Wales / Challenges and Choices Consultation 2019](#)

<sup>15</sup> [Natural Resources Wales / Advice to planning authorities for planning applications affecting phosphorus sensitive river Special Areas of Conservation](#)

14. There are nine river SACs in Wales – Cleddau, Eden, Gwyrfai, Teifi, Tywi, Glaslyn, Dee, Usk and Wye. These rivers support some of Wales’ most special wildlife, including Atlantic salmon, freshwater pearl mussel, white-clawed crayfish and floating water-plantain. NRW’s assessment of these rivers has identified phosphorus breaches are widespread within Welsh SAC rivers, with over 60% of these waterbodies exceeding phosphorous thresholds<sup>16</sup>.
15. Assessments of the River Wye SAC carried out by Dŵr Cymru Welsh Water in co-operation with NRW indicates agriculture contributes approximately 66% of the phosphorous pollution. The data used does not take account of significant recent increases in poultry numbers in the catchment. Figures 8 and 9 at Annex 1 provide further information. Figures 2-4 in Annex 1 and NRW’s Compliance Assessment of Welsh River SACs against Phosphorus Targets<sup>17</sup> provide maps of waterbodies in Wales affected by agricultural pollution.
16. As well as providing baseline standards to tackle agricultural pollution affecting waterbodies, it is recognised regulations which apply throughout the whole of Wales will help to meet other key objectives on biodiversity, air quality, related to ammonia and particulate matter, and reducing greenhouse gas emissions.
17. Over 90% of ammonia emissions in Wales are caused by agriculture, which is the cause of over 87% of Wales’ sensitive habitats exceeding statutory thresholds for acidification and eutrophication<sup>18</sup>. Fine particulate matter (PM2.5, particles with a mass median aerodynamic diameter of less than 2.5 micrometers) in the atmosphere is associated with severe negative impacts on human health. Ammonia is one of the main PM2.5 precursors and the cause of approximately 60% of the UK’s atmospheric PM2.5<sup>19</sup>.
18. Reducing ammonia emissions is essential if we are to protect public health and our most important environment features, and achieve statutory emission reduction commitments established by the National Emission Ceilings Regulations 2018<sup>20</sup>, in accordance with the Gothenburg Protocol. As well as detrimentally impacting on the health and well-being of Welsh citizens and Wales’ environment, ammonia and PM2.5 are transboundary pollutants. Taking action to prevent transboundary pollutants is key to Wales’ delivering its obligations as a globally responsible nation.

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<sup>16</sup> [compliance-assessment-of-welsh-sacs-against-phosphorus-targets-final-v10.pdf \(cyfoethnaturiol.cymru\)](#)

<sup>17</sup> [compliance-assessment-of-welsh-sacs-against-phosphorus-targets-final-v10.pdf \(cyfoethnaturiol.cymru\)](#)

<sup>18</sup> [2006181057\\_Trends\\_Report\\_2020.pdf \(defra.gov.uk\)](#)

<sup>19</sup> <https://www.science.org/doi/10.1126/science.abf8623>

<sup>20</sup> [The National Emission Ceilings Regulations 2018 \(legislation.gov.uk\)](#)

19. The Regulations will contribute to reductions in emissions which cause climate change, in line with recommendations of the UK Committee on Climate Change<sup>21</sup> and the aims of the Environment (Wales) Act 2016. One of the main benefits of the CoAP Regulations will be reduced emissions of nitrous oxide, a greenhouse gas approximately 300 times more potent than carbon dioxide<sup>22</sup>.
20. The CoAP Regulations will also help to reduce water pollution from organic chemicals and antimicrobial resistance found in materials spread to land; faecal bacteria and pathogens (all livestock farming and some off-farm wastes are sources); and microplastics (present in sewage sludge, compost and other organic manures).

### Agricultural pollution incidents

21. The impact of point source agricultural pollution incidents can be devastating and they are cumulative. It can take many years for the ecosystem to fully recover, if they are able to. If the organic material contained in manure, slurries, silage effluents, waste milk or vegetable washings enters a water course, it is broken down by micro-organisms. This process removes oxygen from the water and in severe cases of contamination, aquatic life can be killed through oxygen starvation rather than direct poisoning. Wastes from agriculture tend to have a high Biological Oxygen Demand (BOD) when compared with domestic sewage:

<b>Pollutant</b>	<b>BOD (mg O2/litre of pollutant)</b>
Raw domestic sewage	300
Cattle slurry	20,000
Pig slurry	30,000
Silage effluent	80,000
Milk	140,000

Source: Code of Good Agricultural Practice for Wales<sup>23</sup>

22. NRW records the number of substantiated agricultural pollution incidents occurring in Wales. 154 agricultural pollution incidents were substantiated by NRW in 2021. The average number of annual pollution incidents occurring over the last 10 years is 155.
23. Between 2012 and 2016, the total number of substantiated agricultural pollution incidents was 734. In January 2017, the Wales Land Management Forum established a sub-group to focus on tackling agricultural pollution. The total number of substantiated pollution incidents in the following 5 years, 2017 to 2021,

<sup>21</sup> [Land use: Policies for a Net Zero UK - Climate Change Committee \(theccc.org.uk\)](https://theccc.org.uk)

<sup>22</sup> [EM template for sub leg \(senedd.wales\)](https://www.senedd.wales)

<sup>23</sup> [Code of good agricultural practice | GOV.WALES](https://gov.wales)

was 816, representing an 11% increase. This is not a reflection of the work of the group, which has made considerable efforts to help address this issue. However, it demonstrates voluntary approaches alone are not sufficient. Whilst there is some fluctuation in incident numbers, only 1 out of the last 21 years has seen fewer than 100 incidents (Figure 6 at Annex 1 provides further details).

### **Other water pollution sources**

24. Agriculture is not the only source of water pollution, figure 1 of Annex 1 outlines a number of sources. The CoAP Regulations are designed to be part of a suite of measures to reduce the overall impact of pollution to Welsh rivers.
25. Water companies operating in Wales are heavily regulated with strict permit conditions for their assets. Water companies are responsible for the self-reporting of pollution incidents to NRW. The majority of incidents are self-reported by the water industry including any potential pollution incidents which do not have an impact. These are recorded on the NRW database.
26. In comparison, the agriculture sector does not have requirements for self-reporting pollution incidents to water and NRW reports the sector the frequency of self-reporting is substantially less. NRW's pollution incident recording system made a compulsory field on the database to capture self-reporting, however data prior to August 2018 is limited. The total number of pollution incidents caused by agriculture is likely to be greater than recorded.
27. In 2019, 26 pollution incidents resulted from Combined Storm Overflows (CSOs) across Wales, all of which were categorised as Low. CSOs are permitted under the Environmental Permitting Regulations (EPR) to discharge during storm events to prevent flooding of properties with sewage. In 2019, of 166 substantiated pollution incidents attributed to the water industry, 8 were categorised as High, the rest were Low. In comparison, in the same year, 27 out of 163 substantiated agricultural pollution incidents were categorised as High.
28. Investments being made by DCWW (2020 – 2025) include over £100 million in improving CSOs alone, with a total investment of £836 million in its wastewater infrastructure. DCWW also has monitors on 99% of their CSOs and the data is openly reported on the company's website.

### **All-Wales approach**

29. On the basis of the evidence available, a geographically targeted approach would not be effective in tackling the range of agricultural pollution issues caused by poor agricultural practices in Wales. Waterbodies failing to achieve WFD good status and those exceeding phosphorous limits would not be protected by

discrete NVZs. Designating discrete NVZs would do little to tackle ammonia and nitrous oxide emissions or PM2.5 caused by agriculture and Waterbodies and biodiversity would not be protected from the impacts of pollution incidents.

30. It can take decades for improvements in some waterbodies to be observed because of the complexities of catchment functioning. For example, one study indicated nitrate concentrations at monitoring points associated with carboniferous limestone in North Wales (in the areas of the Anglesey and Flintshire NVZs) will continue to increase until 2051 due to nutrient loadings occurring over many years<sup>24</sup>. This effect is often referred to as the Nitrate Time Bomb<sup>25</sup>.
31. A lag between applications of manures to land and the observation of the pollutant in waterbodies also occurs in relation to phosphorous. The RePhoKUs<sup>26</sup> (The Role of Phosphorus in the Resilience and Sustainability of the UK Food System) project has identified a substantial phosphorous surplus accumulating in agricultural soils in the River Wye catchment (Wales and England). The study indicates bringing the catchment into a net-zero phosphorous balance will require significant change in phosphorous use practice, roughly equivalent to not applying any phosphorous fertiliser, 80% of the poultry manure, and 50% of cattle manure<sup>27</sup>.
32. The RePhoKUs team, presenting to the Wales Land Management Forum sub-group in March 2022, reported intensive dairy farms in the River Wye catchment could farm with zero phosphorus inputs (which would include livestock manures) for an average of 8 years before the level of phosphorous in the soil would become deficient for agronomic purposes. This soil phosphorous legacy presents a significant, long-term risk of pollution.
33. Waiting for pollution to be detected at monitoring sites is not an effective mechanism for preventing agricultural pollution. It can take decades before a problem is identified and then decades to rectify the issue. This approach would not be compatible with protecting the well-being of future generations.
34. Geographical targeting of regulations would not prevent pollution occurring in areas where regulations do not apply, including through unsustainable intensification, and would do little to address atmospheric emissions. Areas which have lower environmental standards are at a greater risk from unsustainable practices. These areas are also more likely to be seen as areas for

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<sup>24</sup> [\(PDF\) The changing trend in nitrate concentrations in major aquifers due to historical nitrate loading from agricultural land across England and Wales from 1925 to 2150 \(researchgate.net\)](#)

<sup>25</sup> [Nitrate time bomb - British Geological Survey \(bgs.ac.uk\)](#)

<sup>26</sup> [Resilience Phosphorus UK – Re-focusing phosphorus use in the UK food system \(lancs.ac.uk\)](#)

<sup>27</sup> [Water Quality in Rivers \(parliament.uk\)](#)

development, due to lower regulatory requirements. A geographically targeted approach would not protect the well-being of future generations. This is why an approach which prevents pollution occurring, as opposed to reacting once significant damage has been caused, has been taken.

35. Pollution is not restricted to any one sector, farm type or size. Figure 6 in Annex 1 provides information on pollution incidents caused by different farm types. The Wales Land Management Forum sub-group report<sup>28</sup> refers to poor slurry management and lack of sufficient slurry storage as a cause of inappropriate spreading of slurry to land during unfavourable weather and soil conditions, which leads to pollution. Insufficient slurry storage capacity in the dairy sector is an issue affecting all farm sizes (See figures 5 and 9 at Annex 1). The cumulative impact of pollution from many small farms can be just as significant as pollution caused by a large farm.
36. The approach taken means the regulatory baseline will be the same for all farmers in Wales, providing a level playing field, greater certainty for farmers on which regulations apply to them and making the rules easier to understand, comply with and enforce. However, as the regulations target the causes of pollution, individual farms will be proportionately affected, according to the type of activities being carried out and the risks they present to human health and the environment.

Welsh Government, April 2022

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<sup>28</sup> [interim-report-from-wlmf-subgroup-on-agricultural-pollution-final.pdf \(cyfoethnaturiol.cymru\)](https://www.gov.wales/sites/default/files/2022-04/interim-report-from-wlmf-subgroup-on-agricultural-pollution-final.pdf)

## Annex 1

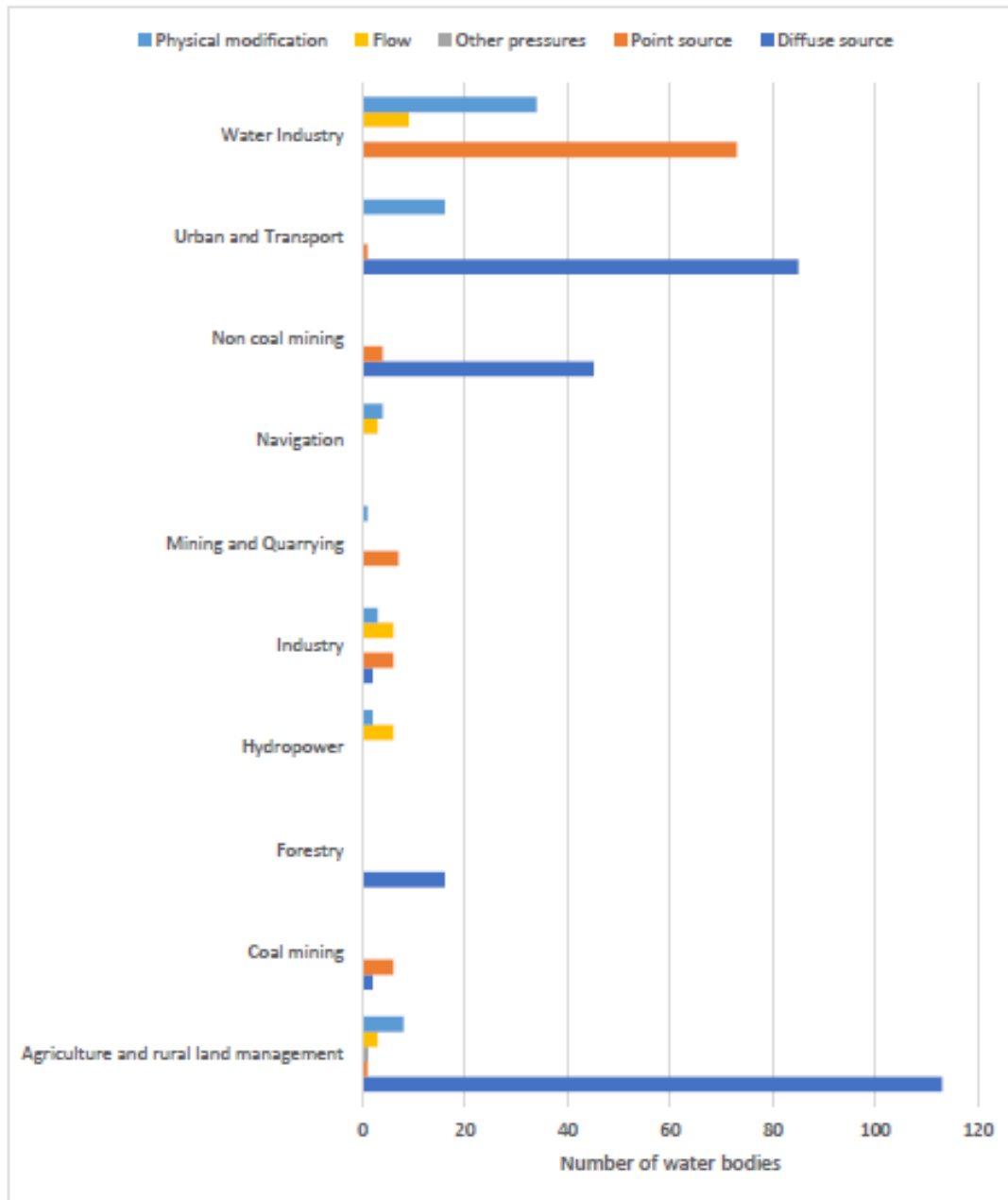
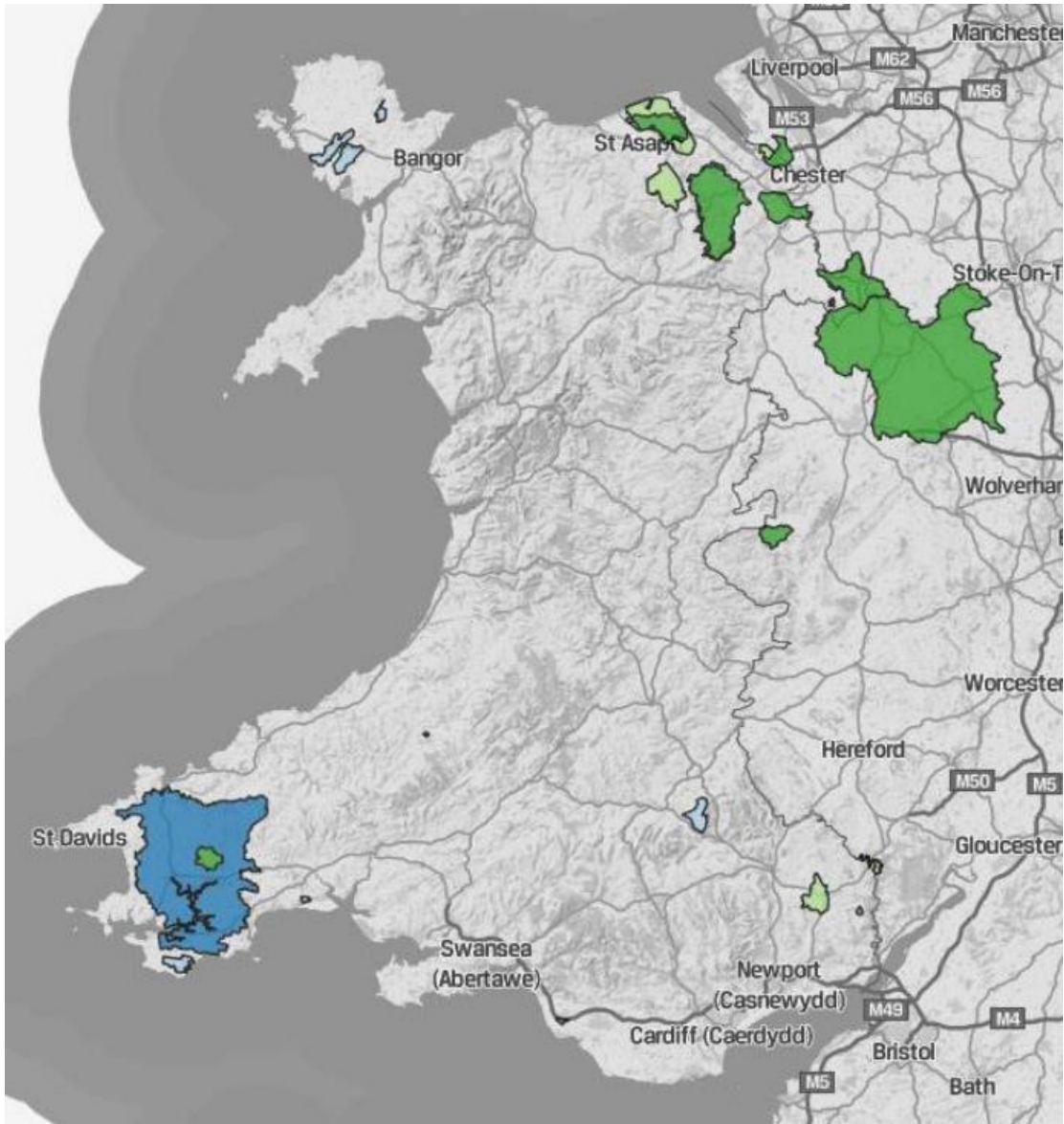
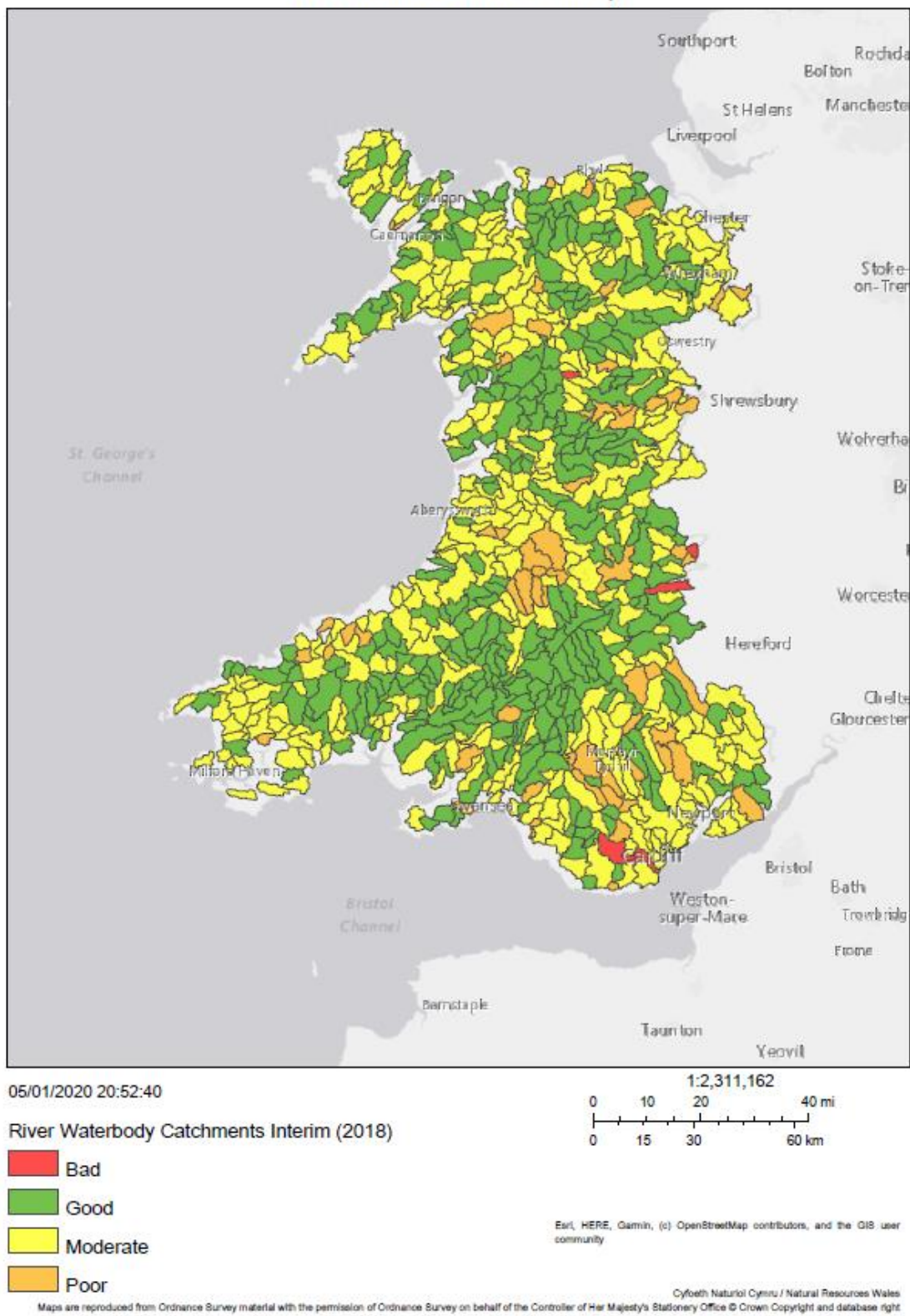


Figure 1: Number of waterbodies in Wales failing to achieve WFD good status by sector

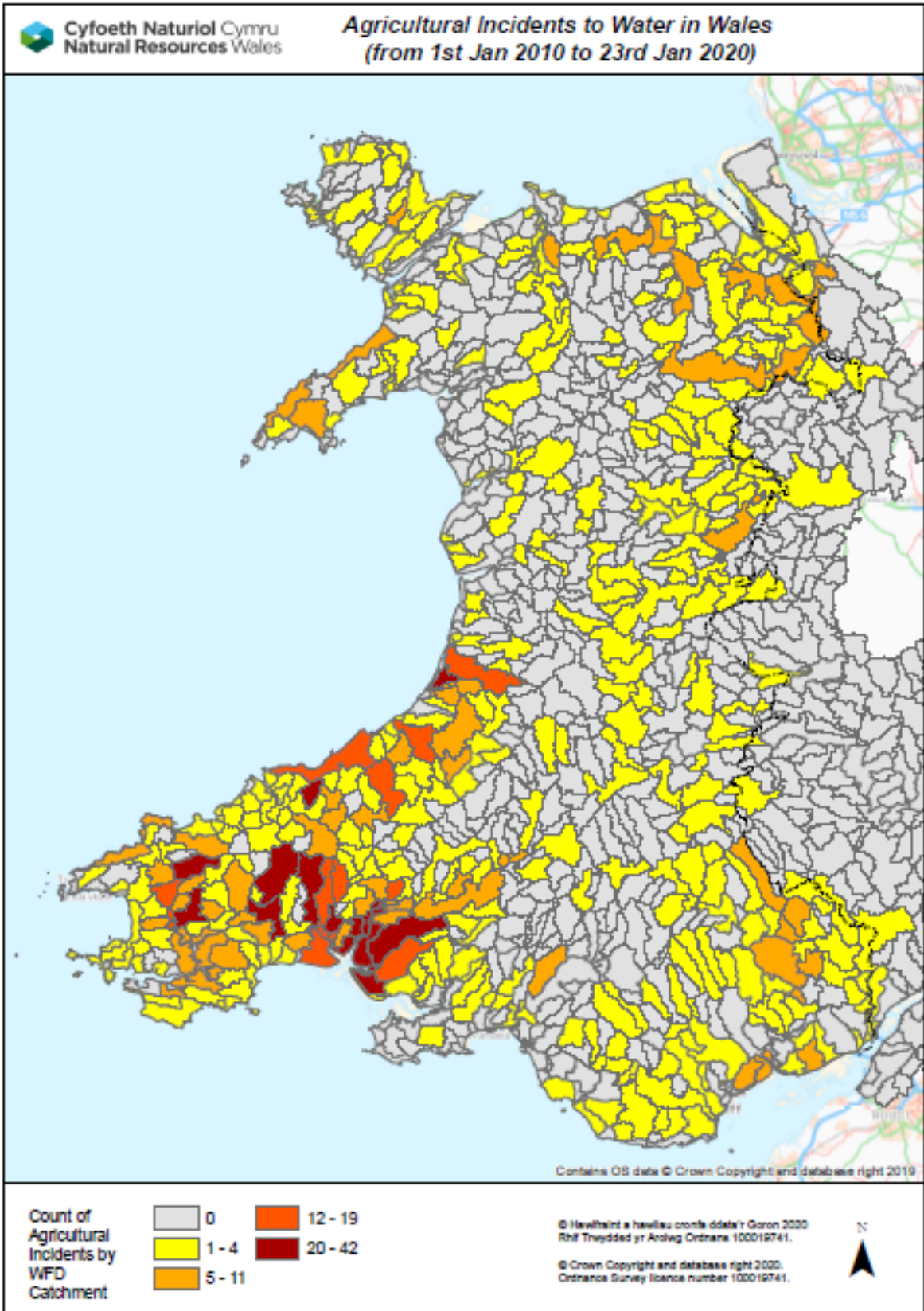


**Figure 2: Map of the areas recommended by NRW to be designated as Nitrate Vulnerable Zones in 2016 (approximately 8% of Wales).**

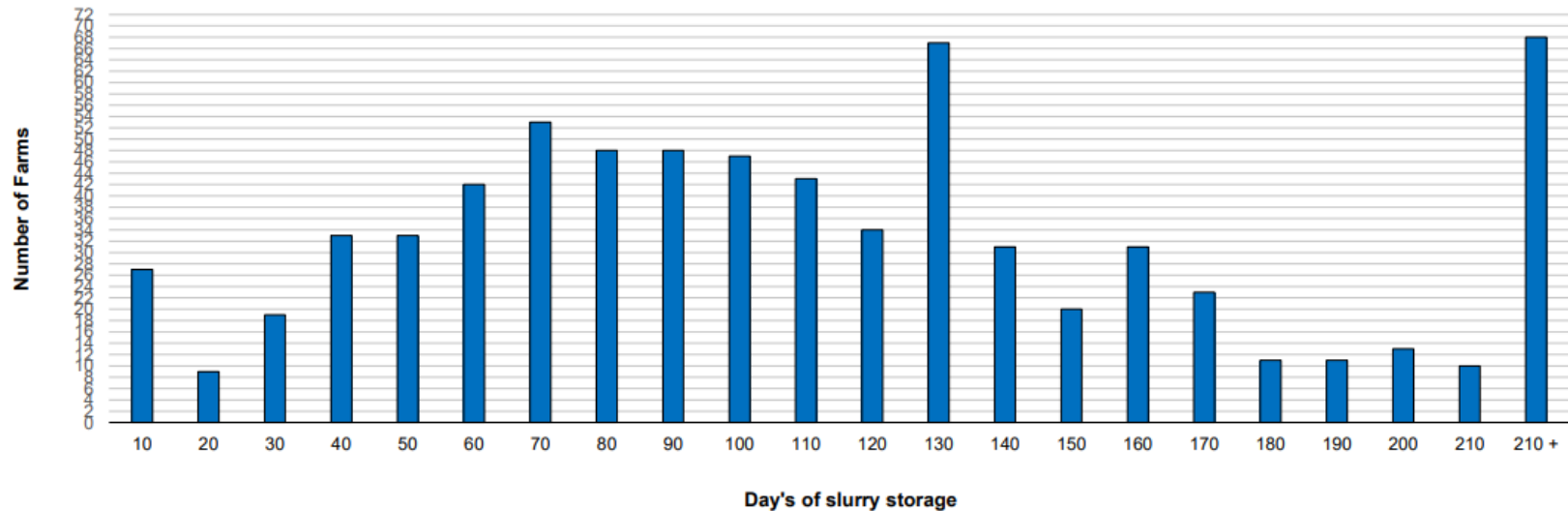
### Water Watch Wales Map



**Figure 3: WFD River waterbody catchment status. Any catchment not coloured green fails to achieve the required WFD standard.**



**Figure 4: Catchments which have been affected by agricultural pollution incidents.**

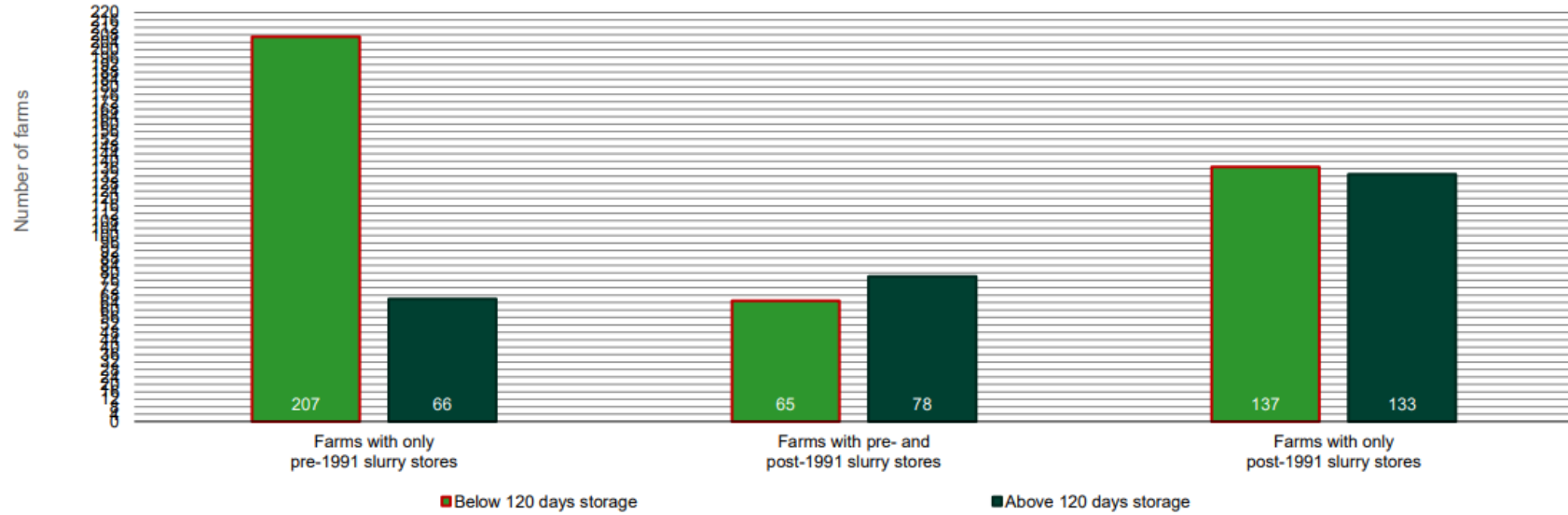


**Figure 5: Storage capacity on 721 farms.**

The latest information reported by NRW from the Dairy Project on the slurry storage capacity of dairy farms is from 31 October 2021. NRW had visited 824 dairy farms, with a further 700 farms remaining.

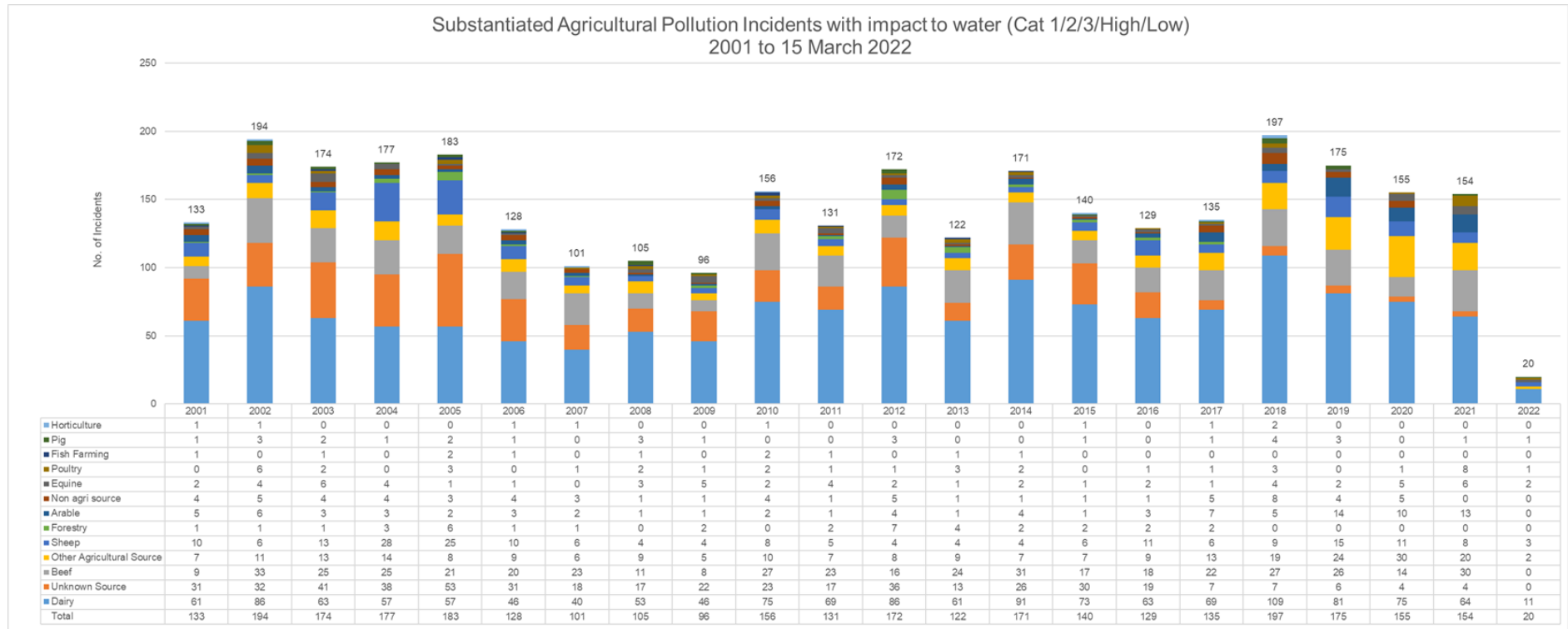
Figure 1 provides the storage capacity of 721 farms. The minimum storage capacity requirement of the Water Resources (Control of Pollution) (Silage and Slurry) (Wales) Regulations 2010 is 4 months (120 days). The data indicates 56% (402) of the farms assessed did not meet the storage capacity requirement of the existing 2010 Regulations.

The slurry storage requirements and exemptions which apply to the construction requirements of slurry storage systems of the 2010 Regulations are identical to those of the preceding Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) Regulations 1991. The exemptions ensured stores constructed or in the process of being constructed at the time the 1991 Regulations were introduced can continue to be used. However, the requirement to provide a minimum of 4 months slurry storage, contained within the 1991 Regulations and carried forward into the 2010 Regulations, applies to the person with custody or control of slurry and is not covered by the exemptions.



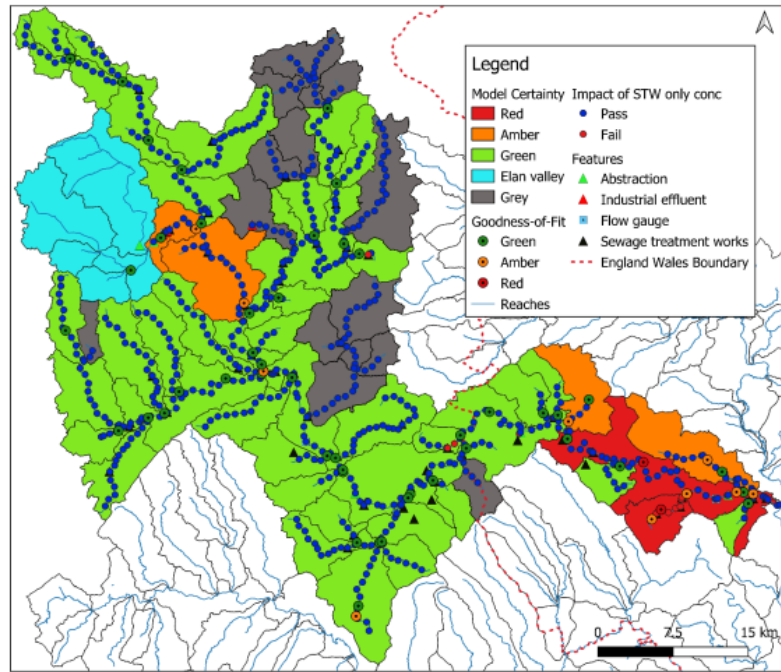
**Figure 6: Information on storage capacity and the age of the store for 686 farms from the NRW Dairy Project.**

The data indicates 60% (409) of the farms assessed do not meet the storage capacity requirements of the Water Resources (Control of Pollution) (Silage and Slurry) (Wales) Regulations 2010.

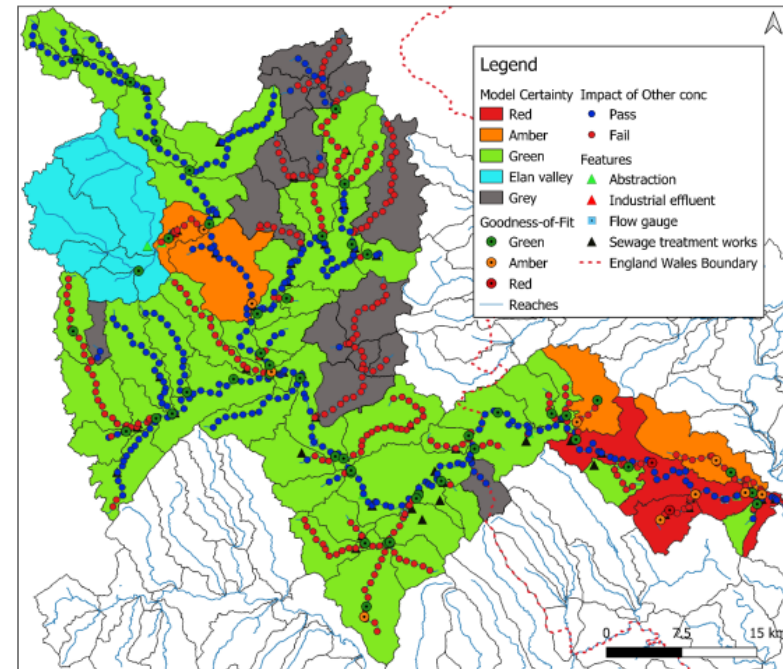


**Figure 7: Substantiated Agricultural Pollution Incidents recorded by NRW.**

# STW only vs no STW



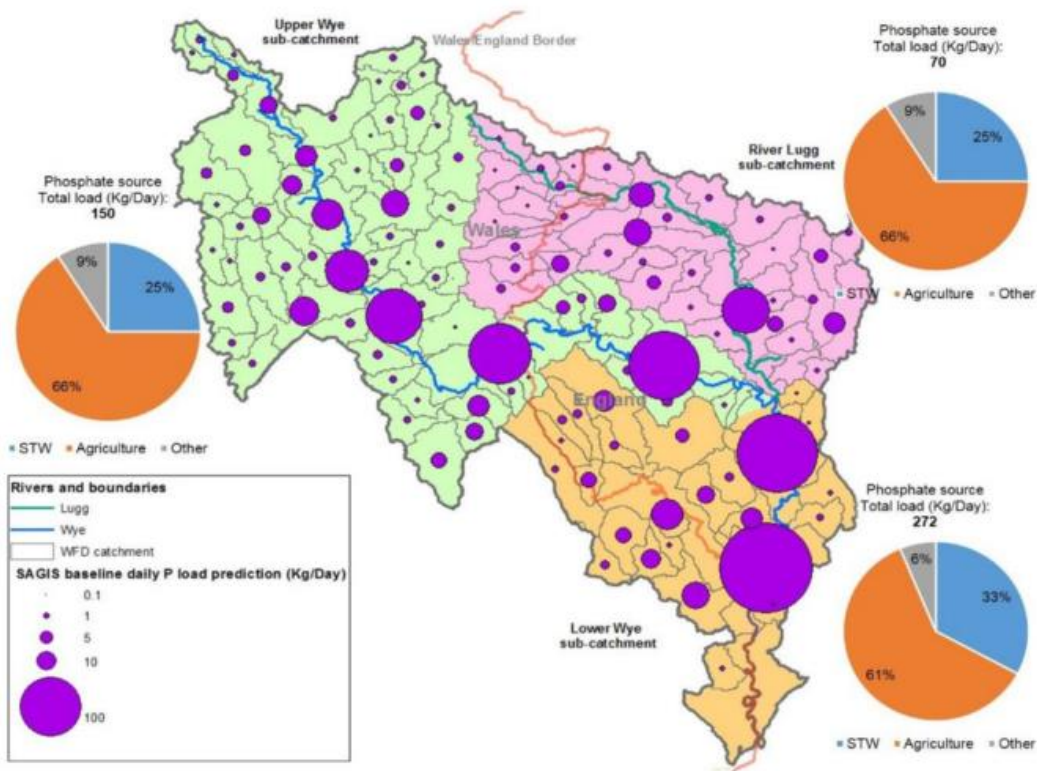
Compliance within the upper Wye for STW inputs only.



Compliance within the upper Wye for non-STW inputs only.

**Key message - compliance with the JNCC WQ targets cannot be met by improvements to DCWW assets only.**

Figure 8: River Wye SAC River Modelling Update from DCWW and NRW



**Figure 9: Sectoral contribution to phosphorous in the River Wye catchment from DCWW and NRW.**

# Storage capacity and herd size

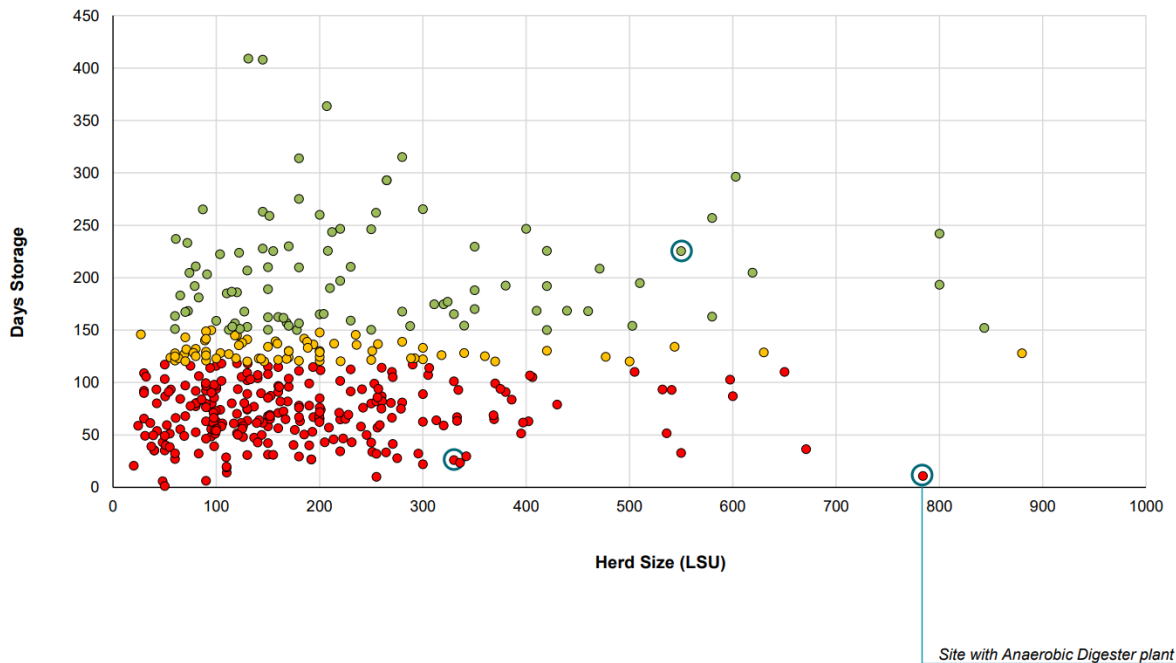


Figure 10: Storage capacity of dairy farms from the NRW Dairy Project.

Sector (Business Category)	Confirmed	Natural	Not applicable	Probable	Suspected	(blank)	Grand Total
Agriculture and rural land management	140		4	232	118	3	497
Angling					1		1
Angling and Conservation	1						1
Central Government				12	1		13
Domestic/General public	2			14	43		59
Forestry	1			2	1		4
Hydropower	9			1			10
Industry, Manufacturing and other Business	17			28	14	1	60
Local Government				1	3		4
Mining and Quarrying	105			164	14		283
Navigation	8			2	1		11
NGO	1						1
Non Coal Mining	3			2	3		8
Not applicable	44		108	8	6	6	172
NRW	2		1	3	2		8
Other (not in list)	6		6	19	6		37
Unknown (pending investigation)	15	9	438	53	5	1	521
Urban and Transport	100			148	41		289
Water Industry	85			141	136	3	365
<b>Grand Total</b>	<b>539</b>	<b>9</b>	<b>557</b>	<b>830</b>	<b>395</b>	<b>14</b>	<b>2344</b>

**Figure 11: The most recent data available, from 2021, on waterbodies failing to achieve good status in Wales and the cause.** Four water bodies have been confirmed as not achieving good status due to CSOs, with 27 probable and 4 suspected. CSO discharges are attributed to the Water Industry. However, in rural areas, CSO discharges can be caused by overland flows associated with land management practices and can contain agricultural pollutants.